



Manual for  
**Human Rights Defenders**  
in Papua New Guinea  
Working with Survivors of  
Gender Based Violence





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COVER PAGE GRAPHIC: Bamboo lime container motifs from the Chambri Lakes area, East Sepik Province; published in Dennet, H. Mak Bilong Sepik, 2012

PART ONE & TWO TITLE PAGES: Illustrations by Salvatore Brere

ANNEX TITLE PAGE GRAPHIC: Bamboo lime container motifs from Aibom village, East Sepik Province; published in Dennet, H. Mak Bilong Sepik, 2012



Empowered lives.  
Resilient nations.

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## Foreword

This Manual for Human Rights Defenders in Papua New Guinea Working with Survivors of Gender Based Violence acknowledges the invaluable work done by Human Rights Defenders in Papua New Guinea to protect and promote the rights of women, men, girls and boys.

It is widely recognized that violence against women is endemic in Papua New Guinea. What is less talked about is the presence in communities throughout the country of brave and committed individuals – men and women – who challenge such violence. They work in all paths of life, inside and outside government, often in difficult circumstances and with limited support. In many cases, the work they do is life-saving.

This Manual seeks to acknowledge and empower individuals and organizations that work to protect and promote the rights of women. It seeks to provide guidance and advice, and to develop a consistent, effective and ethical approach among those who work to combat gender based violence.

The Manual is one component of the joint Government and UNDP project, "Coordinated and sustainable response to Gender Based Violence and Family and Sexual Violence". The project aims to ensure that women, men, boys and girls have increased opportunities to access services, resources, rights and decision-making processes without discrimination, through equal participation and benefits from economic, social and political development in Papua New Guinea.

We are therefore proud to introduce this manual, and hope that it will serve as a widely used and practical tool for those seeking to promote and protect the rights of women, girls and most at risk populations.



MS GAYLE TATSI

*Executive Director of the Office for the Development of Women*



MS UME WAINETTI

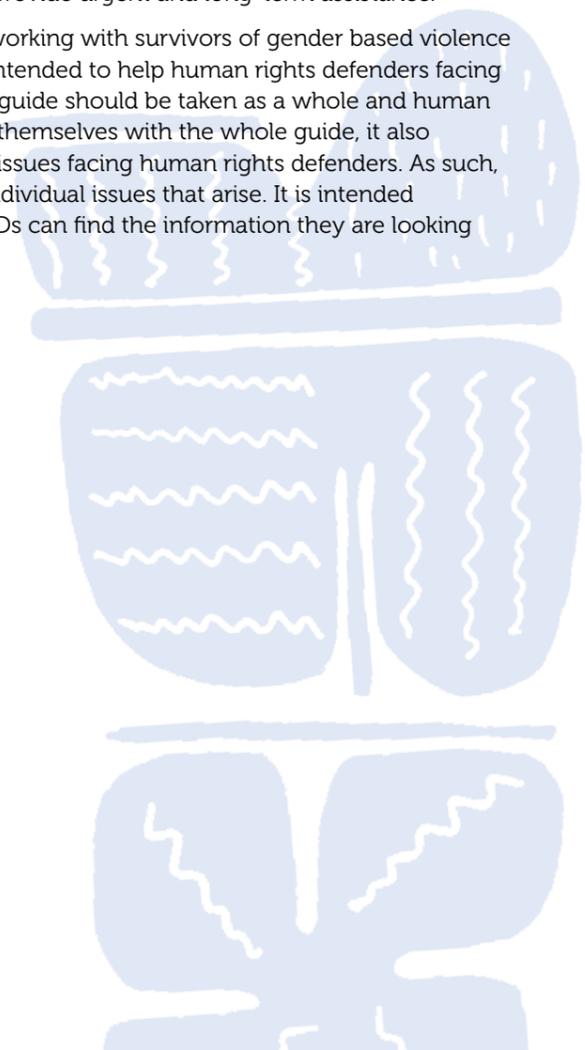
*National Coordinator for the Family and Sexual Violence Action Committee*

## Introduction

Gender based violence (GBV) in Papua New Guinea (PNG) has become endemic and needs to be addressed at the grassroots, regional and national levels.

Human rights defenders (HRDs) are people who, individually or with others, act to promote or protect the human rights of others, often putting themselves at risk and standing up and speaking out when others are too afraid to do so. They often operate in difficult circumstances with limited support from the authorities and with little money or resources. In some cases they may be opposed by powerful people like professional, political, business, cultural, religious or gang leaders and even sometimes police, who do not want cases known or brought to justice. Human Rights defenders are often the first people to come into direct contact with survivors, or to hear their story and offer them support, and are therefore called upon to provide urgent and long-term assistance.

This manual is intended for use by HRDs working with survivors of gender based violence in PNG. It is a practical resource which is intended to help human rights defenders facing different types of situations. Although this guide should be taken as a whole and human rights defenders are advised to familiarize themselves with the whole guide, it also includes separate chapters on the various issues facing human rights defenders. As such, the guide can be used as a reference for individual issues that arise. It is intended to be practical and easy to use, so that HRDs can find the information they are looking for quickly and easily.



## Structure of the Manual

The first part of the manual is theoretical and includes important information on human rights, human rights defenders and women's rights. It outlines the main international protection mechanisms, as well as domestic laws and policies.

The second part of the manual includes practical information for HRDs when dealing with survivors of gender based violence, from basic interview skills to case management. In addition, it includes practical information to create advocacy strategies and networks for HRDs. It also includes information related to protection of HRDs.

The annexes at the end of the Manual are practical resources for HRDs. They include sample forms (survivor interviews, case management, referrals etc.). These are intended to be used as guidelines and HRDs should amend them as needed when working within their own particular context. The Annexes also include scorecards that can be used by HRDs in their daily work to remind them of key issues. Finally, the annexes include key documents, including simplified versions of international human rights standards and national standards.

### Terminology

This manual seeks to use gender-neutral language, in recognition of the fact that survivors may be female or male.

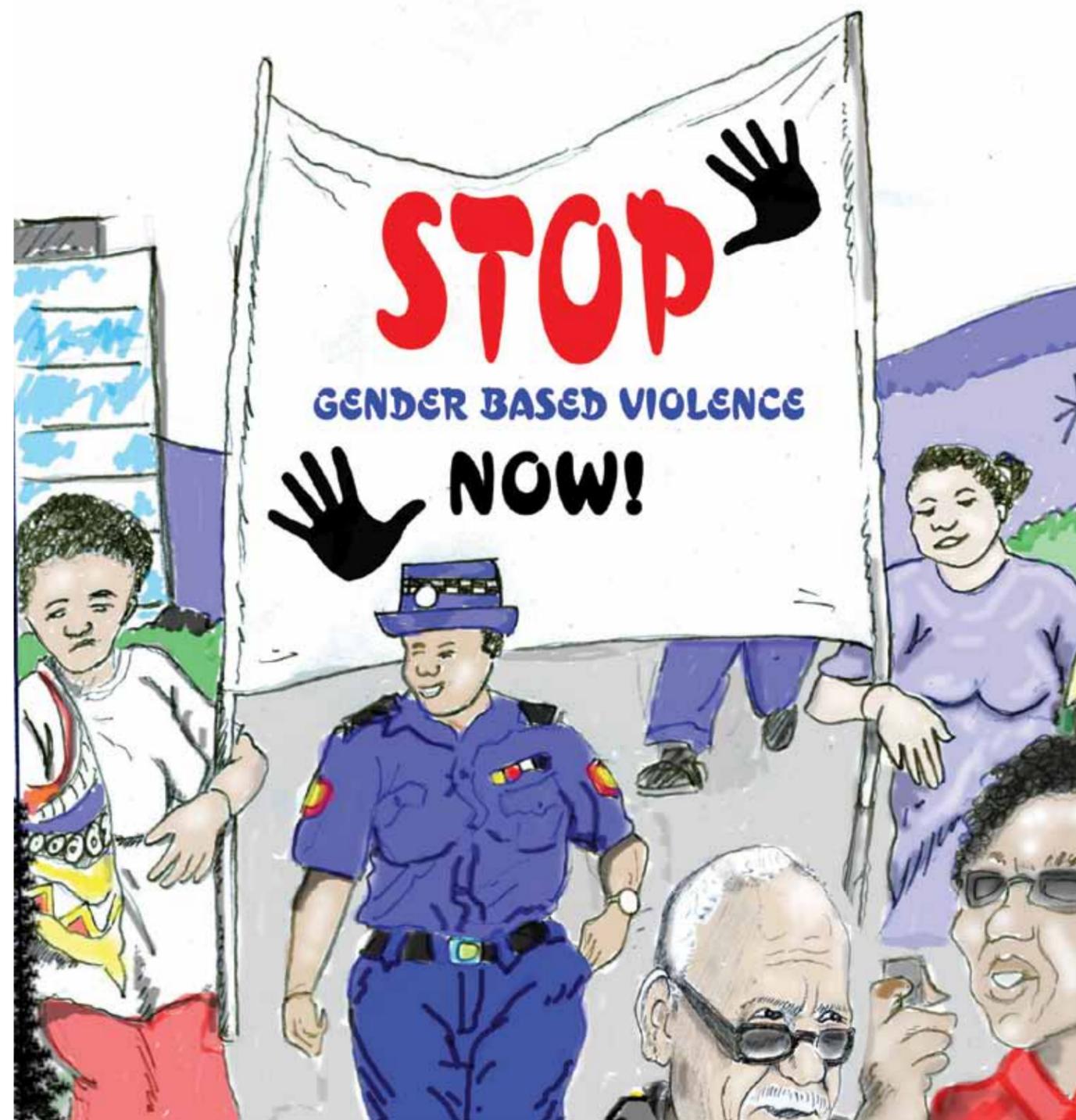
In practice, most survivors you encounter are likely to be female.

This manual uses the term "survivor" rather than "victim" to refer to those who have experienced GBV.

Some other manuals, legislation and policy may use the term "victim". It is felt that the term "survivor" indicates that, with relevant assistance and time, those who have experienced gender based violence can take action and move toward healing.

# PART 1.

## The International and National Framework





### The United Nations (UN)

The United Nations is an international organization made up of most of the world's countries. Its aims are to achieve world peace, and to promote human rights and development.

The atrocities of the Second World War (1939-1945) drove world leaders to create a forum of all governments, the United Nations, to prevent violations of fundamental rights and freedoms in the future. Human rights were part of the founding Charter of the United Nations (1945) and have been a central part of its work since this time.

The United Nations has a number of specialized agencies that undertake particular areas of work. Some of these agencies are present in Papua New Guinea, including the United Nations Development Programme (UNDP), the UN Office of the High Commissioner for Human Rights (OHCHR), the UN Fund for Children (UNICEF) and UN Women (UNW).

### The Universal Declaration of Human Rights (UDHR)

Member states of the United Nations reaffirmed their commitment to human rights when they adopted the Universal Declaration of Human Rights (UDHR) in 1948.

Some of the rights enshrined in the Universal Declaration of Human Rights are:

- The right to life
- The right to freedom from discrimination
- The right to health
- The right to freedom from slavery
- The right to education
- The right to freedom from torture and ill-treatment
- The right to an adequate standard of living
- The right to freedom of expression, association and conscience
- The right to freedom of religion
- The right to vote
- The right to a fair trial
- The right to a family life.

## Women's Rights

Gender equality is at the very heart of human rights and United Nations values. Yet millions of women around the world continue to experience discrimination. Some groups of women face multiple forms of discrimination due to factors such as their age, ethnicity, marital status, disability, or socio-economic status.

### Gender based violence

Gender based violence (GBV) is violence that is directed against someone specifically because of their gender. Gender does not refer to the biological/physical characteristics of men and women. It refers to the learnt cultural and social attributes associated with men and women. Both women and men can be survivors of gender based violence. While most survivors are female, male survivors should be given the same level of assistance as female survivors.

Examples of gender based violence include sexual violence, forced prostitution, trafficking in persons, and harmful practices. Harmful practices include violence related to sorcery allegations, forced marriage and early marriage. State actors may also commit acts of gender based violence, for example sexual abuse in detention. All of these practices may cause serious harm.

### EXAMPLE

#### Gender based violence and violence against women

Ruth was a woman who had many family and financial problems and ended up living on the street with her ten year old son. One night, she was taken by some men, raped and beaten to death.

Sara works as a HRD in the area and she became aware of the case. She helped obtain the necessary medical certificates for the deceased. She then attended the police station repeatedly to demand that the matter be properly investigated.

She was told by police officers that the case could not be investigated because there was no one to investigate and because the victim lived on the street and was not worth the investigation. The police also asked Sara for money to carry out the investigation. To date, the police have not done anything to investigate this case.

“Violence against women means any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”

UNITED NATIONS DECLARATION ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN, 1993

“...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.”

CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (1979)

### Violence against women (VAW)

Violence against women involves an act or a threat of an act against a female which results in physical, sexual or mental harm to her. It does not need to happen within the home and can occur in public spaces.

The United Nations Declaration on the Elimination of Violence Against Women (1993) was the first international instrument explicitly addressing violence against women, providing a framework for national and international action. Although not legally binding, it is a strong statement by governments, outlining their commitments to combat violence against women.

According to the Declaration, states should develop legal and policy programs to prevent violence against women, train government actors and collect statistics to prevent violence against women.

### Domestic violence

Domestic violence is one of the most common types of gender based violence. When directed against women, it is also a form of violence against women. It is broadly defined as one or more incidents between intimate partners or family members. It includes different types of behaviour, such as controlling, coercive and threatening behaviour. This behaviour results in physical, emotional, sexual, financial and psychological harm. While women and girls are most commonly the survivors of domestic violence, men and boys may also be affected, but much less frequently.

Because domestic violence occurs within a private setting, it is sometimes difficult for others to know whether or not it is going on and whether they have a right to intervene or report. Some of the signs that domestic violence is happening are verbal criticism by one partner of the other, including shouting, swearing or mocking. Disrespect, intimidation, threats, harassment, isolation of the survivor, physical or sexual violence and denial of money or private property or movement are also indicators of domestic violence within a relationship.

It is often very difficult for survivors of domestic violence to speak out about it, ask for help, and take action to end it. Survivors of domestic violence and others in the

community may feel that this is a matter that should be resolved inside the family. Family members, friends or neighbours may be unsure about their right to interfere in what many consider to be a “private matter”. Some women survivors may be reluctant to speak out because they are financially or emotionally dependent on the person carrying out the violence, they feel ashamed of the situation and blame themselves, they fear losing their children, or due to community perceptions and stigma. However, human rights and the law are intended to protect intimate partners from violence, just like everyone else.

### Discrimination against women

Discrimination against women means any distinction or restriction against women, based on their sex, which interferes with their enjoyment of basic rights. Gender based violence and violence against women are examples of discrimination against women. Other examples include laws and policies which favour men and boys, for example in relation to ownership of land or property and employment. Harmful perceptions that girls do not need an education or should not hold certain jobs are also examples of discrimination.

The Government of Papua New Guinea became a state party (member) of the Convention on the Elimination of Discrimination Against Women (CEDAW) in 1995. This means that it is legally bound by the provisions in CEDAW. In addition, all state parties are required to report on their progress in eliminating violence against women every four years. The Government of PNG submitted its latest report in 2009, and therefore is currently behind in its treaty reporting.

#### What is Domestic Violence?

Peter and Mary have been living together for 5 years, although they are not married. A few years ago, Peter started to demand sex from Mary every night. Although she does not want to, she feels that she has to agree to it because they are living together. More recently, Mary started working as a teacher. Peter forces Mary to give him her money, and spends most of it on alcohol.

#### What acts constitute domestic violence?

- Peter demanding sexual intercourse and Mary feeling forced to comply.
- Peter taking Mary's money.

# Human Rights Defenders

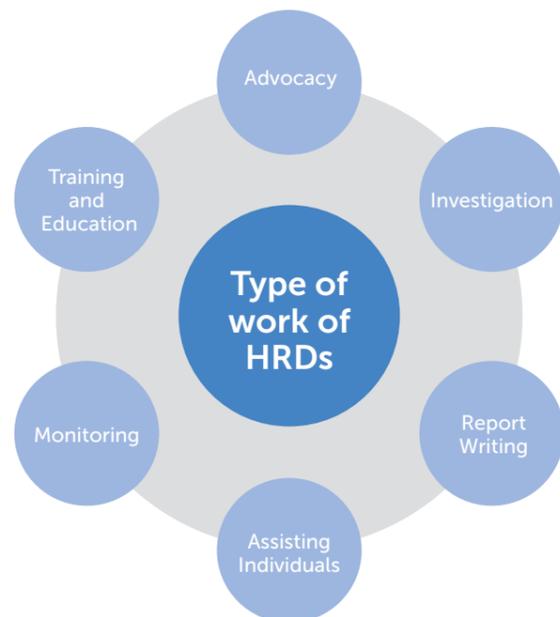
## Who are human rights defenders?

Human rights defenders are individuals who work to promote and protect human rights. They can do so individually or with others, for examples in non-governmental organizations or faith based organizations. HRDs can also work within governments, providing that they work to protect and promote human rights. They can work both at the local and grassroots level, as well as at the national, regional and international level. HRDs do many different kinds of work, including advocacy, report writing, counseling, education, provision of legal assistance or monitoring. They work on a range of issues, from the right to life, to freedom of expression and the right of children.

HRDs must accept the universality of human rights and should uphold and demonstrate human rights in their own lives and relationships. Everyone is entitled to protection and promotion of their human rights. HRDs cannot work to restrict the rights of certain people. For example, someone cannot be a human rights defender if he or she believes that women are not entitled to the same rights as men.

HRDs must work in a nonviolent and peaceful manner. Individuals who use verbal or physical violence or threats of violence in their work cannot be HRDs even if they insist the message is the promotion and protection of human rights.

Women HRDs are either men or women who work to promote and protect women’s human rights and gender equality, or women who work to protect and promote any human rights.



### Human rights defenders:

- Promote and protect human rights.
- Believe in the universality of human rights (human rights belong to all).
- Work in a peaceful manner.

## The United Nations Declaration on Human Rights Defenders

The UN Declaration on Human Rights Defenders was adopted by the United Nations General Assembly in 1998. It states that Human Rights Defenders have certain rights to enable them to carry out their work.<sup>1</sup> For example, they are entitled to meet and assemble, to form NGOs, to communicate with others, to access and disseminate information, to have opinions, and to submit proposals to the government for change.

HRDs themselves are also entitled to protection. For example, they are entitled to protection from human rights abuses by state actors<sup>2</sup> and non-state actors. If their rights are violated, they are entitled to an effective remedy which involves a prompt and impartial investigation by the state. In addition, they are entitled to access legal advice and to communicate with international agencies.

### Challenges and risks facing HRDs

HRDs often work in challenging situations, without much funding, access to services or support from the communities they work in.<sup>3</sup>

HRDs are sometimes at risk of threats and violence, as they are agents of change and certain individuals and communities may view change as a challenge to their power or way of life. Women HRDs often face further levels of threat including sexual violence, stereotypes about their role and status, and exclusion from their communities.

### EXAMPLE

#### Threats to human rights defender in PNG

Ana lives in a small community. A woman in the community was raped by a group of three men.

Ana took the victim to the health clinic to help her access the medical care she needed.

The next day, the three men went to Ana’s house and threatened her because she had helped the woman who was not part of their tribe.

<sup>1</sup>The official title of the declaration is the *UN Declaration of the right and responsibility of individuals, groups and organs of society to promote and protect universally recognised human rights and fundamental freedoms*, (1998). It is commonly referred to as the Declaration on Human Rights Defenders.

<sup>2</sup>State actors refers to representatives of the Government. This includes national and local government officials, police, military, courts, magistrates, teachers in public schools etc. Non-state actors includes individuals who work outside the government. This includes people working for private companies, family members (in the context of domestic violence); civil society actors, and others.

<sup>3</sup>Although the lack of funds and resources is a main challenge to most individuals and groups working to protect human rights, it is beyond the scope of this manual. This manual focuses on the risks that human rights defenders face as a result of their work.

Abuses faced by HRDs and their families in different parts of the world have included:

- Threats and intimidation
- Restrictions of freedom of movement, expression and assembly
- Mob violence
- Destruction of property
- Physical violence
- Sexual violence
- Defamation, accusation of being a sorcerer or other forms of negative labeling / stereotyping
- Arbitrary detention or legal prosecution based on false and made up allegations
- Unfair trials
- Enforced disappearance
- Death, death threats, or threats of harm to family members.

Part 2 of the manual will set out some strategies for minimizing the risks to HRDs.

### The Special Rapporteur on the Situation of Human Rights Defenders

The Special Rapporteur on the Situation of Human Rights Defenders is an independent expert, appointed by the United Nations Human Rights Council, who monitors the situation of human rights defenders around the world.

The main roles of the Special Rapporteur are:

- To examine and respond to information on the situation of human rights defenders;
- To establish cooperation and conduct dialogue on the promotion and effective implementation of the Declaration on Human Rights Defenders;
- To recommend effective strategies better to protect human rights defenders; and
- To integrate a gender perspective throughout his work.

The Special Rapporteur presents annual reports to the United Nations General Assembly, undertakes country visits and takes up individual cases of concern.

Human Rights Defenders who are experiencing threats can make direct complaints to the Special Rapporteur by sending information about their situation on email: [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org). The email should be in English and contain information about the date and type of threats, as well as the reason for the threats and how they are linked to the human rights work that the threatened human rights defender is carrying out.<sup>4</sup>

<sup>4</sup>For further information on submitting information to the Special Rapporteur on the situation on Human Rights Defenders, see: <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx>. You may also contact the United Nations Human Rights Adviser's Unit in Papua New Guinea for further advise on this.

## The Legal Framework

### International framework

As a member of the United Nations, Papua New Guinea is required to protect and uphold the rights enshrined in the Universal Declaration on Human Rights (UDHR).

Papua New Guinea is also bound by international human rights treaties it has ratified. The most relevant treaty for the purpose of this manual is the Convention on the Elimination of Discrimination Against Women (CEDAW), which PNG became a party to in 1995. CEDAW creates a positive obligation on states to end discrimination against women, including violence against women.

Papua New Guinea is also a party to the Convention on the Rights of the Child (CRC). The CRC creates different obligations for the government including an obligation to protect children against discrimination and to ensure their well-being.

In addition to conventions, which are legally binding, a number of declarations are also relevant to the work of human rights defenders. These include the Declaration on Human Rights Defenders and the Declaration on the Elimination of Violence against Women. While these declarations are not legally binding, they express the common aspirations of the international community.

These international conventions and declarations provide a structure through which the government should frame its domestic policies and legislation, including on violence against women.

<sup>5</sup>Available at: [http://www.treasury.gov.pg/html/publications/files/pub\\_files/2011/2011.png.vision.2050.pdf](http://www.treasury.gov.pg/html/publications/files/pub_files/2011/2011.png.vision.2050.pdf)

<sup>6</sup>Available at: [http://www.health.gov.pg/publications/PNGDSP\\_Final%20Version%20for%20Print.pdf](http://www.health.gov.pg/publications/PNGDSP_Final%20Version%20for%20Print.pdf)

<sup>7</sup>Available at: <http://www.aspistrategist.org.au/wp-content/uploads/2014/08/2013-PNG-National-Security-Policy.pdf>

### Domestic framework

**The Constitution of Papua New Guinea**  
The principle of non-discrimination is enshrined in the Constitution of Papua New Guinea. The Constitution is the highest law of the land, and all other laws should conform to the principles in the Constitution.

**PNG's strategic development policies**  
The Government of PNG has formulated a long term vision for the country in its policy document Vision 2050. Vision 2050 includes the principle of equality between men and women.<sup>5</sup>

As part of Vision 2050, a number of government policies are in place to progress the rights of women and to combat gender based violence. The PNG development strategic plan 2010-2030, sets a goal of zero tolerance for violence against women to be achieved by 2030.<sup>6</sup> Further, the national policy National Policy on Women & Gender Equality 2011 -2015, sets the elimination of gender based violence as one of its ten priority areas. It calls for increased advocacy against gender based violence and access to services for survivors. Finally, the national security policy 2013 includes gender based violence as a national security threat.<sup>7</sup> By adopting these policies, the Government of PNG has recognized that it has obligations to take proactive steps to end violence against women.

**Zero tolerance for violence against women by 2030.**

### Criminal law and policies

The PNG criminal code defines a number of crimes related to sexual violence. This includes rape, sexual assault, procuring sex, abduction of an unmarried girl with intent that she should have sexual intercourse with a man, unlawful detention of a woman in a brothel, and incest. The criminal code therefore prohibits many acts of gender based violence and provides remedy through prosecution of these crimes in the courts.<sup>8</sup>

The Family Protection Act 2013 creates a new offence of domestic violence. Domestic violence is defined as action against a family member, including physical assault, sexual abuse, psychological abuse, harassment, indecent or offensive behavior, damage to property and threats to commit physical or sexual assault or to damage property.<sup>9</sup>

The Family Protection Act 2013 provides a broad definition of family members and includes a spouse, an unmarried partner, a child, a parent, a grandparent, a sibling, and any other person who is treated as a family member. It also includes the spouse's relations. Although the penalties are low (a maximum fine of PGK 5,000 or two years' imprisonment or both), it is undoubtedly very important that domestic violence is now recognized and considered a criminal offence.

In addition, policies on prosecuting violence against women are in place and should ensure that all offences are investigated thoroughly. For example, the Royal PNG Constabulary Response

to Offences of Family and Sexual Violence (Circular no. 06/2007) creates an obligation on police officers to record, investigate and treat all complaints of sexual and family violence as criminal offences, and to charge perpetrators. It directs police officers not to encourage settlements or compensation payments for these cases instead of prosecution.

The Royal PNG Constabulary Commissioner's Circular (No. 04/2009) creates obligations for police officers and station commanders who receive complaints of sexual violence. It mandates officers to carry out interviews of survivors in a certain way and to preserve medical evidence. It also sets up the procedure for withdrawal of complaints. Failure to comply with this policy can result in disciplinary action for the police officer.

Serious acts of violence against women are serious crimes that should be tried in the criminal courts. Crimes involving rape and serious physical injury should not be mediated at the village court level. The state is obliged to take steps to bring to justice the perpetrators of such crimes.

In PNG village courts sometimes mediate or hear cases that are of a serious nature, including rape cases. Filing cases in higher courts can be challenging, especially if there is little support from law enforcement and other key actors. As a human rights defender, you are likely to face a number of dilemmas about how to advise clients and bring cases forward. Cases heard in village courts may fall short of bringing justice to the survivors of violence.

<sup>8</sup>Available at: [http://www.paclii.org/pg/legis/consol\\_act/cca1974115/](http://www.paclii.org/pg/legis/consol_act/cca1974115/)

<sup>9</sup>Some of the actions described could be tried as assault or threatening behaviour before the law came into effect. However, the particular nature of such actions as they occur within a domestic setting was not previously explicitly recognized.

'We accordingly call for...every citizen to have equal access to legal processes and all services, governmental and otherwise, that are required for the fulfilment of his or her real needs and aspirations.'

PREAMBLE TO THE CONSTITUTION

### Civil Law

As discussed above, the Family Protection Act 2013 creates a new offence of domestic violence and entitles the court to issue an interim protection order (IPO) or a protection order (PO) where the complainant (survivor) is in danger of domestic violence. The substance of both types of orders is the same. The difference is in the length of the order. The order can be made on application of the survivor, or a police officer, lawyer or a third party on behalf of the survivor provided they have the complainant's written consent. The application can be made orally. The defendant does not need to be present. There is no fee payable to make the application to the court.

Protection orders and interim protection orders can include conditions that the defendant not commit acts of domestic violence, not contact the complainant, and not damage the complainant's property. It can also include a condition of mediation or counseling for the defendant and the complainant.

Breach of a protection order or interim protection order is a criminal offence, carrying a maximum penalty of 10,000 Kina or three years imprisonment or both. Interim protection orders can be issued by the district court and village courts. They can therefore provide a framework for immediate and long term protection for a survivor of domestic violence.

### Divorce

The Matrimonial Causes Act 1963 sets out various grounds for divorce, including adultery, cruelty (although this has to be for over a year) and rape. Depending on the situation, this law may enable a woman to get out of an abusive relationship. The court may also make orders in relation to maintenance and custody of the children.

### Children

The Child Protection (Lukautim Pikinini) Act 2009 provides the specific framework for the protection of children. A child in need of protection is defined as a child who has been or is likely to be physically harmed or sexually abused or exploited.

The Act imposes certain obligations on the state to protect these children, including a duty to ensure their safety and welfare, and to investigate particular situations that come to the attention of the authorities. It also obliges communities and community, district and provincial leaders to monitor, intervene and report.

## Referral Pathways

### The Family and Sexual Violence Action Committees (FSVAC)

The Family and Sexual Violence Action Committee (FSVAC) is the principal national body established to coordinate national organizations to take action in relation to family and sexual violence. It works through a holistic and integrated approach, addressing a number of areas including legal and policy reform, referral networks, service provision, access to justice, addressing child sexual violence, advocacy, monitoring and research, and promoting male champions. It takes a human rights based approach in all its programmes.

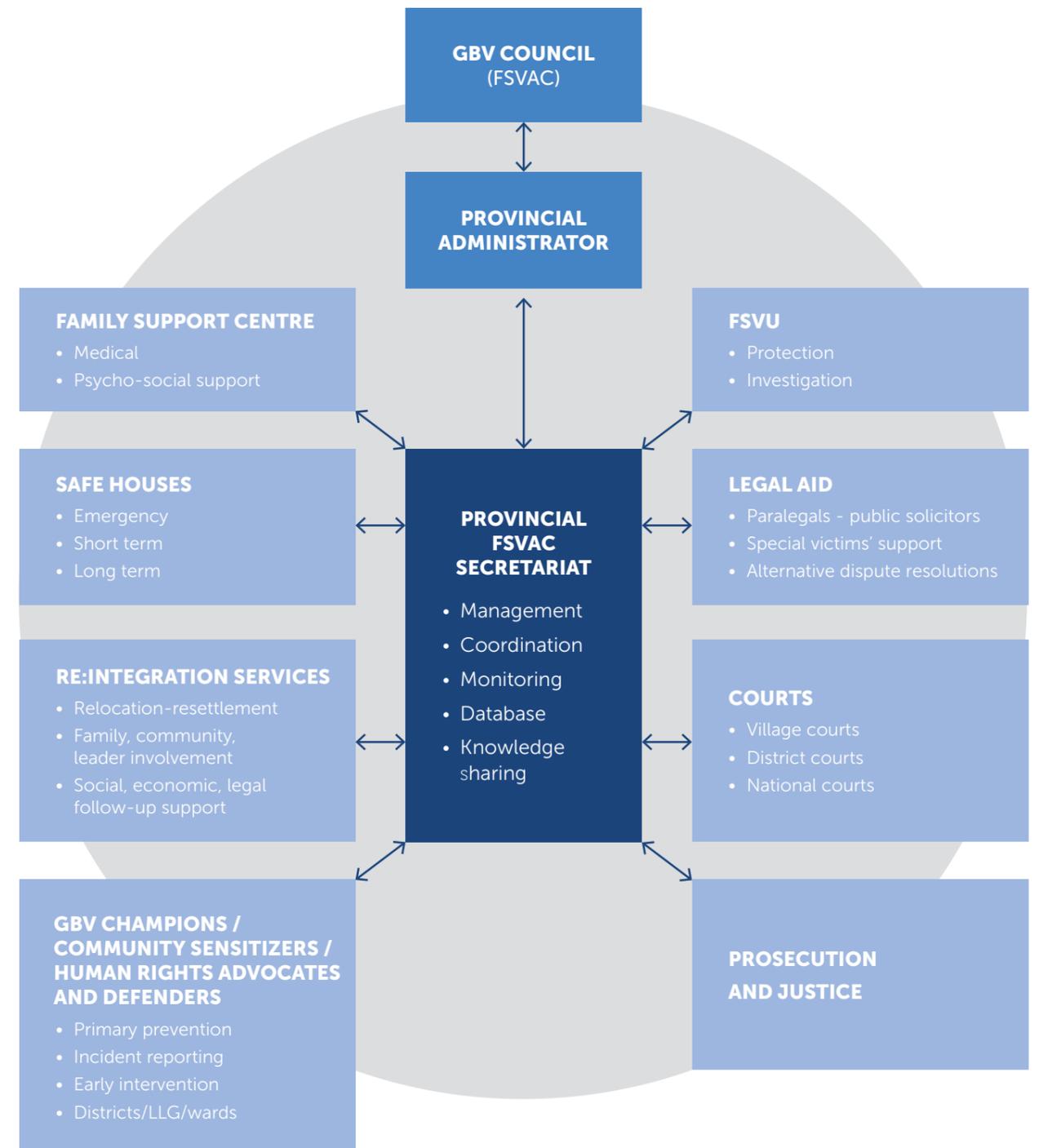
The FSVAC is made up of government actors, non-government actors, the private sector, human rights defenders, civil society actors, donors and churches.

The FSVAC has established provincial FSVAC Secretariats in all provinces. The government and other actors are currently working together to strengthen and improve the FSVAC Secretariats. However, in some provinces, FSVAC Secretariats face challenges as they often have limited resources and may have a heavy caseload. As FSVAC Secretariats are being strengthened, they will continue to build networks with different actors to have a coordinated, effective and consistent approach to assisting survivors of gender based violence. In some provinces and areas, this system is not yet fully effective.

From March 2015, the provincial FSVAC's in eight pilot provinces will coordinate and begin to create a database of all cases of gender based violence that comes to their attention. If a case is reported to the police, it will automatically be included in the provincial FSVAC database. This way, it will be possible to track and know what happened in each case. As this is a pilot project, it is anticipated that its development will be gradual.

Civil society will be able to feed information to provincial FSVAC Secretariats through an SMS system. If there is a situation which requires immediate attention, civil society actors will be able to send an SMS free of charge to the FSVAC Secretariat. The Secretariat will return the call and take appropriate action, for example, contacting the nearest police station.

The following is a diagram of how these new referral pathways will function from March 2015.



# PART 2.

## Practical Guidelines

The second part of this manual is a practical guide. It includes guidelines on how to deal with survivors, managing cases and record keeping. It also includes guidelines on information sharing, creating networks with other HRDs, and advocacy strategies. Finally, it provides practical information for improving the safety of HRDs. As a result, this part is written more informally.





## Safety

Safety includes the survivor's safety and your safety. If the survivor is reporting a case of violence, the perpetrator is likely to be violent; therefore you should consider the survivor's safety and your safety.

A short risk assessment should be carried out in relation to the survivor's safety, including some basic information about the survivor and the perpetrator. The survivor may be at risk from the perpetrator, but she or he may also be at risk from herself, as he or she may want to harm himself or herself as a result of the incident. Finally, if there are children and this is a domestic situation, then the safety of the children should be considered.

Some indicators that the survivor is at risk from the perpetrator are:

- The survivor fears the abuser and, in a domestic situation, is afraid of going home
- The survivor has physical injuries (current and past)
- The perpetrator or his family/friends/supporters, have made threats to kill or harm the survivor and her or his family
- The violence has increased in severity in the last few months
- Children are involved
- The survivor is considering separation or has just separated from the perpetrator
- The perpetrator was under the influence of alcohol or drugs during the dispute
- The perpetrator is in a position of power or authority in the community, or is likely to be protected by those who are.

Indicators that the survivor may be at risk of hurting herself or himself are:

- She has previously tried to self-harm
- She says she wants to die
- She is suffering from anxiety, depression or deep anger.

Finally, it is important to consider whether or not the children might be at risk, including whether the perpetrator has made threats against them or they were present during the incident between the survivor and the perpetrator.

Once you have assessed the risk to the survivor, it is important to keep that risk in mind for the duration of time that you deal with the case. Keep in mind that risk to the survivor may change over time, as the situation changes. You may need to revisit your initial assessment, for example if you learn additional information or if the perpetrator makes new threats.

If you believe that the survivor is in immediate danger, you should ask for help from authorities (police).

You should also consider your own safety because you might be at risk if the perpetrator considers that you are helping the survivor. This will be explored in more details below.

## Confidentiality

Many survivors are concerned with confidentiality. This is often linked to safety as there may be an increased risk if the perpetrator becomes aware that the survivor is seeking help.

It is very important that you are upfront with the survivor about confidentiality. You cannot guarantee the survivor's confidentiality; you can only assure her that you will not share her information with anyone without her express consent and that you will keep all records of your meetings with her in a locked and safe place.

You cannot guarantee confidentiality because certain things are outside of your control. For example, someone might have seen the survivor coming into your office to speak to you. However, you can minimize the risks of a breach of confidentiality, for instance by finding somewhere private to talk, or by arranging a meeting in a different location than your office. Further, you could agree that for follow up, you will do so at specific times to ensure that the survivor is alone when you call her.

## Respect

All survivors who come to you are entitled to your respect. They are entitled to make their own choices, even if you disagree with them. Your job is to help survivors make their own choices by providing them with information about all the options available to them. You should not be judgmental about the choices they make.

## Non-discrimination

The survivor has come to you for assistance. This is often a very difficult step for the survivor. As a human rights defender, you should adhere to the principle that human rights are universal and as such all survivors of gender based violence are entitled to your assistance without discrimination, regardless of their gender, the choices they have made, their sexual orientation, their socio-economic class, or marital status.

## No criticism

The principle of no criticism is linked to respect. You should not criticize the survivor, but listen with an open mind. Be aware that everyone, including human rights defenders, may have their own prejudices. It is also very important in cases of domestic violence not to criticize the survivor's partner. In many cases, this puts the survivor in a defensive position and he or she may end up supporting his or her partner as opposed to telling you what happened.

## Referral

Depending on the situation, survivors may need a wide range of services. In many cases, you will not be able to provide the survivor with all the assistance he or she needs. You should tell her or him about the different service providers that exist (counseling, medical treatment - family support centres, police assistance - family sexual violence units, public solicitor, IPOs), and refer the survivor to service providers who can help, as long as this is what the survivor wants.

## The Initial Interview

Although this section gives basic information on how to conduct interviews, interviews with survivors should as much as possible be conducted by human rights defenders who have received basic training in conducting interviews and have some previous experience. This is particularly the case when interviewing groups with special needs, such as child survivors, survivors of sexual violence, persons with disabilities and other groups. In some cases, you may need to refer individuals to professionals.

When carrying out an initial interview, you should ensure that you are in a safe location, where the survivor feels as free as possible to talk. If at all possible, the interview should be conducted by someone of the same sex as the survivor. This is likely to make it easier for her to talk about sensitive issues, including sexual violence. Try to provide a space where the survivor can speak privately, for example without children in the room.

It is important to be patient as it is likely to be very difficult for the survivor to tell you what has happened. Take time to build trust, and enable the survivor to provide you with all the information she or he wants to give you. In some cases, it may be helpful to start with talking about every-day issues to build trust and put the survivor at ease.

Before you begin, it is also important that you consider your own relation, if any, to the case. If you are from the same community as the victim, or if you are related to the victim or perpetrator, you may face additional challenges in handling the case in an open and fair way. Even if you think you can be objective, others may perceive that the actions you take are biased. If this is the case, consider whether there are other human rights defenders who may be better suited to handle the case.

Before asking substantive questions about what happened, you should obtain the survivor's personal details and contact information, together with an agreement as to when it might be best to contact him or her.

It is often useful to start by allowing the survivor to tell what happened to her in her own words. Survivors do not always explain what has happened in a chronological or organized way. Try to avoid frequently interrupting the survivor. You can fill in gaps or clarify issues at a later stage of the interview. If a survivor does not answer a question, try asking it in a different way rather than repeating it the same way again. If a survivor gets visibly upset during the interview, ask if she or he wants to take a break, or offer the survivor a glass of water. Do not insist on obtaining information the survivor is not ready or willing to give.

### OPEN questions:

**Q:** What did you do last night?

**A:** Last night, I ...

### CLOSED questions:

**Q:** Did you leave your home last night?

**A:** yes/no

Generally you should believe what the survivor is telling you. It is rare for a survivor of gender based violence to lie and in reality, the survivor is more likely to minimize what has happened.

When asking substantive questions, you should ask open-ended questions, to ensure that the survivor gives a description of the incident in her own words. Open-ended questions are questions that do not require a yes or no response. They usually start with "Who, What, Where, When, Why or How". If you ask closed question, starting with "Did you", you may be suggesting the answer in the question.

At the end of the interview, it may be useful to summarize what the survivor has told you. This will help the survivor to know that you have listened, and may also help identify any misunderstandings so that these can be corrected.

Once you have gathered the relevant information about what happened, you will need to advise the survivor about her or his options. When doing so, you should remember some of the key principles discussed above. You should respect his or her wishes and the survivor should be in control of what happens. You should not tell the survivor what you think should happen next. Your role is to provide the survivor with the information he or she needs to make a choice about what to do.

This will include services that might be available (for example legal or medical) and different options for dealing with the situation (for example obtaining a protection order or moving away from the family home).

Once the survivor has made a decision about what to do, your role is to support the survivor in reaching that goal. For example, if she or he wants to make a complaint to the police, you can assist by taking the survivor to the police station or by referring him or her to one of the officers you know at the police station. Before you refer the survivor for other services, you should always consider confidentiality and make sure that the survivor actively consents to you sharing the information with the other service provider. You should keep a record of the outcome of your interview. Finally, you should agree on how you will follow up with the survivor.

## Case Management

As a service provider, having standardized case management forms allows you to assess all cases with the same tools. It promotes accountability in relation to each case, as it allows you to record exactly what has happened. It makes cases more manageable as all of the information is in one place. This makes it easier to follow up on cases and to review the work that you have done. If you work with colleagues, this will help them follow up on cases when you are away.

Case management at the very basic level requires a willingness to complete a number of standardized forms. This means that for each client or survivor, you will complete the same forms. At a bare minimum, these forms should include the initial interview form, a risk assessment, a further contact form, a referral form, a case closure form, a data collection form and a confidentiality agreement. Examples of these forms are provided in annex A. The types of form and the content should be amended to fit your needs.

Finally, in order to safeguard the confidentiality of your client, you should ensure that your files are kept safely and securely. You need to ensure that only those who need to see the files to follow up have access to the files. You will also need to consider how long you should archive files once they are closed, who may retrieve the files, and how to dispose of files to ensure confidentiality. The provincial FSVAC Secretariat may be able to give you advice on information management.

## Follow Up

As a service provider, you should provide follow up to find out what happened to individuals who came to see you. This is important because it will allow you to know if the work you are doing is effective. Further, if you refer cases to other entities, following up will allow you to know how those entities dealt with the cases.

Following up can be done with the client directly, for example by phoning them or arranging to see them. It can also be done with the entities to which the client has been referred. In both cases, you must obtain the client's consent.

The Provincial FSVAC Secretariat will be one avenue for following up. Due to confidentiality, they may not be able to provide full information on individual cases, once a case has been referred by HRDs to official channels. However, they should be able to provide overall information on what action, if any, was taken. In addition, FSVACs and HRDs can work together, as HRDs can in many cases play an important role in the reintegration of victims into the community.

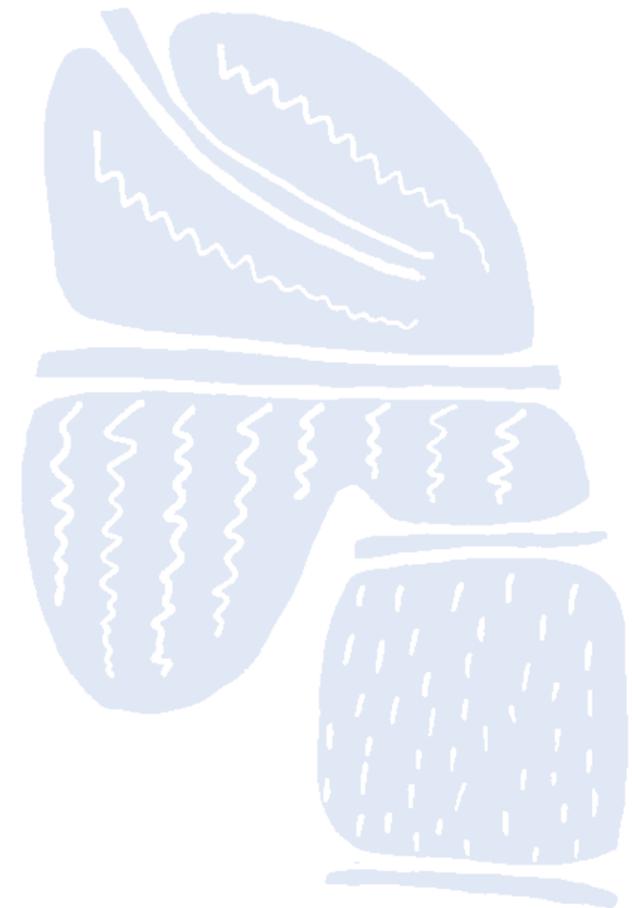
You should keep in mind that you must at all times respect the wishes of the survivor, and this may include not wanting to be contacted once initial assistance is provided.

## Data Collection

Data collection allows you to gather information about the number and type of cases you are dealing with. This enables you to know what impact you are having and what type of people you are helping. It may help you to do better outreach as you can target your work based on the information you have about the number and type of cases that are most likely to occur. Because it gives an overview without revealing information about individuals, data collection is also useful for reporting on your work to other stakeholders and to funders.

You will need to decide what type of information you want to gather, including information about the survivors or the perpetrators, the number of incidents, the types of services received, or the types of cases worked on. In addition, you will need to decide how often you will collect this information. Given the many pressing demands facing human rights defenders at the local level, data collection can be a difficult task. Provinces with FSVAC secretariats will manage a service database and will liaise with HRD to secure reliable information.

You must always obtain the survivor's consent to use information related to them even if you are not using their personal details. Data can be collected anonymously (without personal details) but consent is nonetheless required to do so because you are still using their information.



## Case Studies

Case studies are narratives that illustrate the kind of work you do, or the kind of cases you work on. It may be useful to write up case studies in order to describe to others what kind of work you do, to show the kind of problems you have encountered, and to analyze how these were addressed. Case studies are a powerful tool in describing the work you do on an individual basis, rather than through data and numbers. If you are writing reports, you may consider including general data, and showing what this means by including a case study.

Case studies may be detailed or general. They can range from one paragraph to several pages. How you write up cases will depend on what you intend to use them for.

When you write up case studies you must take steps to ensure the confidentiality of the victim and security. One way of doing this is by changing the names of individuals involved. In many cases this is not sufficient, as people may still be able to identify the survivor or others described in the case study. You may have to delete or change names of locations, certain details of the case, or other facts. In some cases, where the confidentiality and security of the individuals involved cannot be guaranteed, you should choose a different case. Even though you ensure that the identity of the survivor and others cannot be identified, you must still have her or his informed consent to use the case study. In all cases, consider the impact that using the information will have on the survivor.

### EXAMPLE

#### Case Study

**W is in her late 20s. She lost her right hand when her former partner attacked her with a bush knife after accusing her of adultery.**

**The incident was reported to the police but no action was taken, even though she visited the police station on several occasions.**

**Her relatives claimed a compensation of K800 and 6 small pigs, for the loss of her hand. W still sees him in the community and this disturbs her greatly.**

This example is taken from the Report of the UN Special Rapporteur on violence against women, its causes and consequences, who visited Papua New Guinea in 2012. (A/HRC/23/49/Add.2, Appendix, p.23)

It is important to not exaggerate when you write your case studies. You will usually want to illustrate typical work you do, rather than describe the worst kind of case you have encountered. However, the type of case you choose will depend on what you will use the case study for.

## Working with Perpetrators

Working with perpetrators is an area which requires specific skills and techniques, which may be different than those required when working with survivors. It also carries a big responsibility for the individuals involved in this work. Before you embark on a programme working with perpetrators, you should ensure that you have the relevant skills, knowledge and procedures required for your work to be effective. Among other things, skills required for working with perpetrators will include knowledge about changing beliefs and behaviors, understanding of various dimensions of gender based violence, risk assessment, counseling and assessment of the programme.

In order to ensure the safety of the survivor(s), those working with perpetrators should ensure that the survivors are informed about the programme. The HRD should also make it clear that the programme cannot guarantee that the perpetrator will change his ways. The survivor should be able to decide whether to be in contact with the programme, and efforts to contact her or him should keep in mind her safety. The survivor should be informed if the perpetrator drops out of the programme or is perceived to be a risk.

A risk assessment should be conducted when the work with the perpetrator starts. As far as possible, information from the survivor should be part of the risk assessment. Other sources of information for the risk assessment could include information from police or other agencies the family has been in contact with,

keeping in mind the need for confidentiality and security. The security of children should be taken into account at all stages.

Work with perpetrators is essentially based on the belief that people can change. It may be hard for perpetrators to take responsibility for their violence: some perpetrators try to justify their violence and blame the survivor. Perpetrators should be treated with respect, based on their worth as a person. At the same time, human rights defenders working with perpetrators must make clear that perpetrators must take responsibility for the violent behavior, and that such violent behavior is unacceptable. One of the difficulties when working with perpetrators is being able to identify if they are actually changing their behavior or if they are simply saying that they will change their behavior.

You should also consider whether there is a need to refer perpetrators to other services that may be more appropriate, such as counseling or substance misuse programs. Some perpetrators may themselves be survivors.

Another way of addressing perpetrators and preventing individuals from becoming perpetrators is through awareness-raising and education. This can include working with men and boys' groups on gender based violence. It can also include doing radio interviews, drama skits or working through community leaders and churches.

## Referral Networks

A “referral network” is a network of actors that provide different services. These organizations work together so that survivors can access a range of different services, depending on their individual needs.

The Government of Papua New Guinea will be rolling out its referral network for survivors of gender based violence in 2015. This will be a network involving government agencies, such as the police and the courts. The network will also link with civil society and faith based organizations. The Provincial FSVAC Secretariats will be central to this network.

Provincial FSVAC Secretariats will develop formal agreements with civil society actors through a memorandum of understanding (MoU). As human rights defenders, you are likely to work closely with the Provincial FSVAC Secretariats for a range of activities, including service provision, advice, strategic approaches, documentation, training, coordination and referral.

In addition, as a civil society organization working at the grassroots level, you may decide that you need to create your own referral network with other agencies to ensure that survivors have the best and fastest access to care.

Before setting up a referral service, it is important to identify the overall purpose and scope of the network. You can then analyze of the types of services available in your area and identify gaps. This will help you identify the organizations that might be involved in the network. A referral network for survivors of GBV will likely involve different service providers. This could include organizations providing the following types of services: counseling, advice, health services, financial services, legal advice, child protection expertise or shelter.

Once there is agreement on which agencies will be part of the network, you will have to determine each agency’s role. You should develop clear terms of reference for each agency so that there is accountability and transparency about the services each agency is expected to provide. The provincial FSVACs can help facilitate the development of clear terms of reference and standard operating procedures.

Agreeing on terms of reference will help avoid disagreements and ensure that the best services are available to those using the network.

The MoU should include some guiding principles, such as the rights of the survivor, confidentiality, privacy and a code of conduct for those working within the network. The MoU should also set out how each organization will cooperate with the others and what their role is. It may also include information on how the network will function, for example through monthly coordinating meetings, the creation of focal points within each organization, the manner in which referrals will take place, and record keeping.

The MoU should include provisions for review and monitoring the effectiveness of the network. This should be done regularly to ensure that procedures are changed, as needed, to better address the needs of survivors.

Once the MoU is signed and the network designed, you will need to raise awareness in your community to ensure that those who might need the network are aware of it. You should also make sure that others who play a role that might relate to the network are aware of it, for example members of the local authorities, health workers, counselors, the police and courts.

### EXAMPLE

#### Creating a network of HRDs

##### What is the purpose of the network?

- Sharing information OR
- Enhancing HRDs’ protection OR
- Providing better services for victims

**Consultation with other HRDs is needed to decide on the best way of creating the network in their province.**

## Advocacy

Advocacy is a process by which individuals and organizations take action to promote a particular outcome or point of view. The first issue to consider when designing an advocacy campaign is the purpose of your advocacy. Effectively, you need to answer the question:

- **What are you expecting to achieve?**

This could include a variety of outcomes such as amendments to legislation, adoption of new policies, raising awareness about services, or assistance for an individual survivor of violence.

Before starting on an awareness raising campaign, you should consider the risks involved and challenges you are likely to face. Considering the risk will enable you to develop strategies to minimize those risks including answering some of the criticism or disagreements.

### Outreach and awareness raising tools

Examples of tools for community outreach are:

- Community meetings
- Pamphlets
- Videos or images
- After school programmes
- Plays or role plays

You will also need to ensure that you have all the information you need to be effective and respond to questions related to why you are conducting advocacy on a particular issue. This should be packaged in a way that is easy to understand. Do ensure that the information you give out is accurate, not exaggerated and reflects the situation. If possible, you should present statistics and case studies that show why you are advocating for a certain outcome. For example, if you are advocating for the creation of a shelter, such information could include statistics about the number of beds in existing shelters and the occupancy rate, women who have been unable to find shelters, etc.

You should identify people who are likely to be sympathetic to what you are doing. This can include local government actors, journalists, or other leaders, international NGOs as well as groups of people. Engage these people actively to speak out about your cause.

You should consider what other tools or strategies you can use. If you are advocating with the government, consider using the fact that the government itself has set targets for dealing with gender based violence. They have taken on the responsibility themselves and you as an advocate are simply reminding them of their own policies. Similarly, you can use the international treaties signed by the government to advocate for change because they have willingly taken on these obligations.

Cooperation with others, for example through a network, is also likely to make your advocacy more convincing. You should make sure that all network members agree on basic messages and approaches.

Your resources will determine how you carry out your advocacy. You should only undertake advocacy that supports goals that you have the capacity to undertake and that reflects your expertise. You may plan various activities which support your long-term advocacy goal. Before carrying out any activities, you should consider how each activity impacts on the long term strategy.

There are a wide range of advocacy activities HRDs can carry out.

Some of these include,

- Public events, for example in connection with certain days
- Speaking to relevant government actors, including local officials
- Producing reports and distributing these
- Producing other information, such as posters or leaflets
- Using the legal system
- Using pilot projects to show how the system should or could work
- Working with the media (radio, newspaper, TV, social media) to send out messages.

### EXAMPLE

#### Creating an advocacy strategy:

- **What is the expected outcome?**  
The government should train village court magistrates in GBV.
- **What is your message to the government?**  
Frame it within the government's own responsibilities and policies.
- **What are the risks?**  
This is not a priority for the government.
- **How will you manage the risks?**  
Identify someone/organization within the government who supports this idea, collect the relevant information about the need for this training.
- **What are your resources?**  
Financial and human.
- **What information do you need to strengthen your case?**  
Data to show why it is important for village court magistrates to receive this training (i.e. - what is the impact of village court magistrate not being trained on GBV and what harm is being caused by this lack of training – for example, they don't know how to speak with victims, or don't understand the government zero tolerance policy on GBV).
- **Are other groups trying to obtain this outcome from the government?**  
If so, consider cooperation with these other groups.
- **Who will you direct your advocacy towards?**  
Identify champions within the local or national government.
- **What activities will you do to support your advocacy?**  
Set up meetings with government officials, have an event to highlight this problem, use the media.

## Your Safety

Human rights defenders face a number of risks linked to the work they do. This is because they often challenge the current situation, call for change, and represent individuals with limited power within communities.

As outlined in Part One of this manual, human rights defenders can face a number of different abuses including threats and intimidation, limitations on their freedom of expression and association, physical attacks and in some cases even killings. People associated with human rights defenders – their families or communities – have also at times been targets of such abuses.

Threats can come from a number of sources, including local leaders, police, perpetrators of gender based violence, community members, private businesses, and also the families and communities of human rights defenders.

### Examples of threats against human rights defenders in Papua New Guinea:

- In November 2014, police officers allegedly beat, intimidated and destroyed property belonging to individuals (human rights defenders) testifying in a trial against police officers. The police officers reportedly warned the witnesses not to testify.
- In late 2014, political activist and anti-corruption advocate Noel Anjo claimed that he was prevented from staging peaceful protests. He brought a case against to police to the Human Rights Court. The Court ordered the police not to interfere with his constitutional right to freedom of expression, gathering and movement.
- In December 2013, a human rights defender was threatened, physically assaulted and unlawfully detained by police when she assisted a survivor of alleged rape by police officers. She was held in the police cell for eight days. Human rights defenders in her area mobilized national, regional and international networks to free her and arrest the alleged perpetrators. The HRD was charged with assaulting police officers, but eventually the charges against her were dropped.

The United Nations Human Rights Adviser's Unit in Port Moresby keeps an overview of the situation of human rights defenders in Papua New Guinea. If you are receiving threats because of your work to defend human rights, you may consider contacting the Human Rights Adviser's Unit. The Human Rights Adviser's Unit will not be able to physically protect human rights defenders. However, the Unit may be able to provide advice on national and international protection mechanisms, including the Special Rapporteur on the situation of human rights defenders.

### How can you evaluate threats and minimize risk?

In general, the people who have the best knowledge of how to handle threats are human rights defenders themselves. Human rights defenders working at the local level are likely to have in depth knowledge of their environment and of possible risks. However, a full understanding of threats and risks require analysis of the situation.

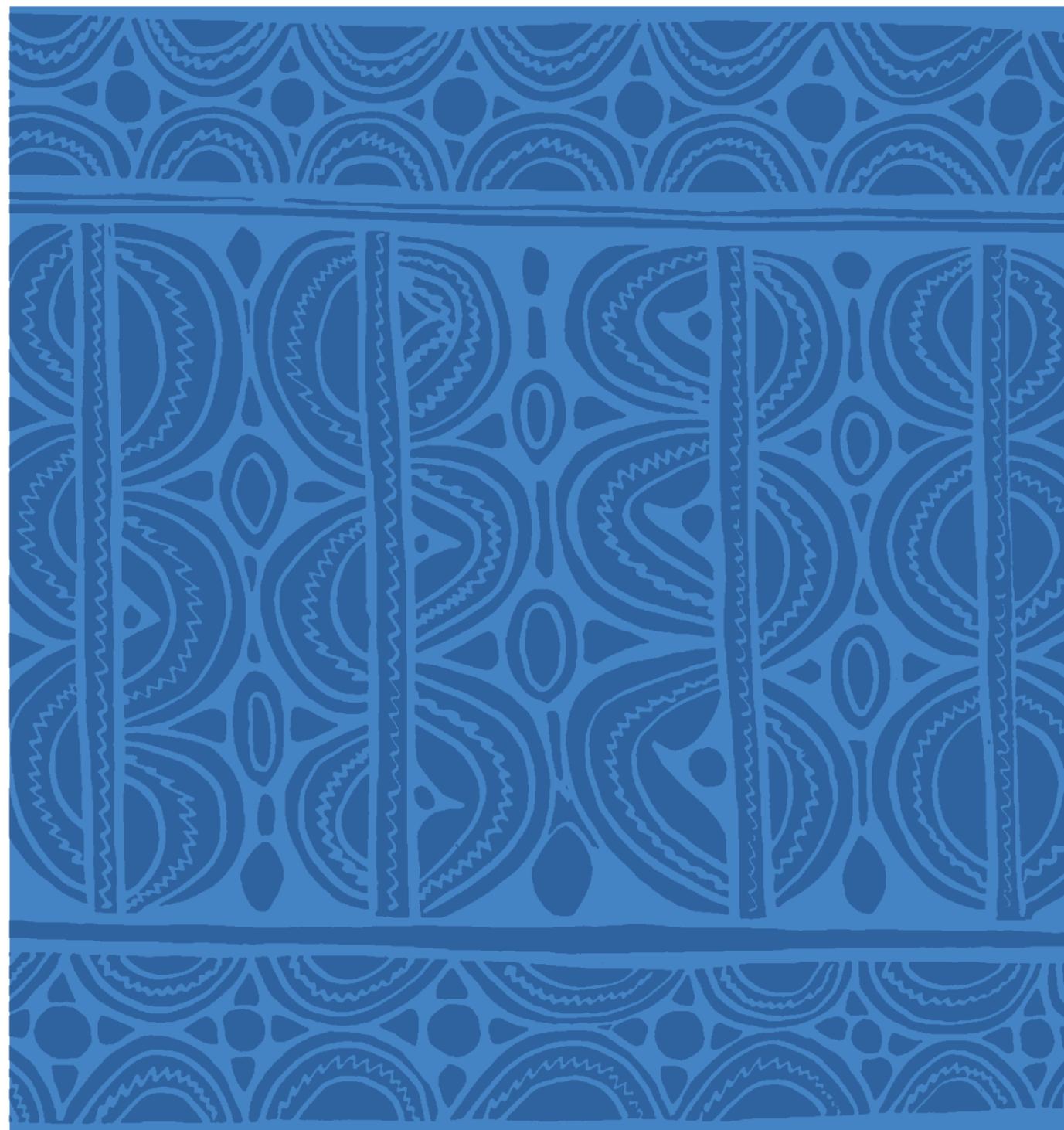
While it is not always possible to foresee events, the risk faced by human rights defenders can be minimized. This requires human rights defenders to take a proactive approach to their own protection. The following are strategies that you may use to analyze and manage risk.

- Keep a written record of incidents, however small, that may indicate unusual activity or threats. If you are part of an organization, have a system in place for recording these and ensure that the information is shared.
- Keep relevant members of the authorities informed of your work, and of possible risks you face. Have the numbers of relevant authorities recorded in your phone so that they can be contacted quickly.
- Use a "buddy system" to ensure that whereabouts of human rights defenders are known to someone, especially in times of heightened risk.
- Ensuring that you have access to communication at all times if possible. For example, this would include ensuring that you have credit on phone and that it is charged.

- Put in place procedures for how to address threats, who to contact and what to do in an emergency.
- Ensure that you inform the Provincial FSVAC Secretariat about any threats you receive, and about any security incidents you encounter as part of your work.
- Use the legal system if aggressors are breaking the law, report them to police.
- Consider if there are particular actions or times when you are at particular risk and take steps to address these. For example, are you at higher risk if staying in your office late at night or on your own. You may also face higher risk in connection with particular types of interventions, or in connection with any publicity you carry out. Change your behavior to minimize risk.
- If risk is too high, consider whether you need to suspend your activities for some time, or even remove yourself from the area or situation, temporarily or permanently.
- Work with national and international networks that have knowledge about human rights defenders and may be able to assist.

In all of the above, consider also the impact on your family or community, and clients you work with and consider the impact of threats on them in any preventive measures you undertake. Your safety should be a main consideration at all times. You, as a HRD, are doing important work, but you should not have to compromise your safety to do so.

# ANNEXES



## Annex A: Interview Form

### First Interview

Name:	Date of Birth:
Address:	Phone number, best time to contact:
Incident date:	Date of interview:
Are you reporting on behalf of someone else?	Who?
Perpetrator's name:	Relationship between perpetrator and survivor:
Description of what happened:	
<b>IF THE SURVIVOR WAS RAPED, SEXUALLY ABUSED, OR HAS SUSTAINED INJURIES, OFFER TO REFER THE SURVIVOR TO MEDICAL SERVICES IMMEDIATELY. IF THE SURVIVOR WAS RAPED OR SEXUALLY ABUSED, ADVISE THE VICTIM NOT TO WASH.</b>	
If Domestic violence, are there are children? If so: ages/names of children	
Where are your children now?	
Do you believe they are at risk there? From what?	
Who witnessed the incident?	
Do you have any injuries? Please describe your injuries?	
Have there been previous incidents? If yes, when and what happened?	
Outcome of interview (including referral):	

## Annex B: Risk Assessment

### Risk Assessment

Name:	Date of Birth:
Address:	Phone number:
Incident date and time:	Incident place:
Short description of the incident	
Perpetrator's name:	
Relationship to the survivor:	
Did you sustain any injuries?	
Have there been previous incidents? When?	
Has the number and seriousness of the incidents increased?	
Have you been threatened? With what? By whom?	
Were weapons involved?	
Were alcohol/drugs involved?	
Are you afraid? Of what or of whom?	
Where are you staying now?	
Does the perpetrator know where you are staying now/ live?	
If domestic violence, are there children involved?	
What are their names, sex and ages?	
Where are the children now?	
Has there been any violence towards the children?	
Do you have any support from relatives? Who/What?	
Do you want to hurt yourself?	
Do you think you are at risk? Of what?	
Outcome:	



## Annex E: Referral Form

### Referral Form

Name of person referring:	
Contact details:	
Date of referral:	
Survivor's name:	
DOB:	
Address:	
Phone number:	Best time to call:
Any children? Age/name	Where do they live?
Perpetrator's name	Relationship with survivor:
Address:	
Has a risk assessment been carried out? If so, what is the risk?	
Reasons for referral:	
Any other agencies involved? If so, which ones? Include name/contact details of person dealing with this case.	
Survivor agrees that I can follow up with your agency? Yes/No	
Name and signature of person referring:	

## Annex F: File Closing Form

### File Closing Form

Name of client/survivor:
Contact details (if changed):
Best time to call/way to contact client:
Address (if changed):
Incident date:
Date of closing the file:
Reasons for closing the file:
Follow up requested/not requested (delete as appropriate) in 6 months:

## Annex G: Data Collection Form

### Data Collection Form

Date of incident:	Relationship of survivor to perpetrator:
Type of incident (you may tick more than one): <input type="checkbox"/> Domestic violence <input type="checkbox"/> Physical assault <input type="checkbox"/> Sexual violence <input type="checkbox"/> Sexual harassment in the workplace <input type="checkbox"/> Stalking <input type="checkbox"/> Forced prostitution <input type="checkbox"/> Trafficking in persons <input type="checkbox"/> Violence perpetrated by state actors <input type="checkbox"/> Sorcery related <input type="checkbox"/> Other:	If domestic violence, did it involve (you may tick more than one): <input type="checkbox"/> Rape <input type="checkbox"/> Sexual assault <input type="checkbox"/> Physical assault <input type="checkbox"/> Violence against children <input type="checkbox"/> Threats <input type="checkbox"/> Intimidation <input type="checkbox"/> Harassment/stalking <input type="checkbox"/> Financial abuse <input type="checkbox"/> Isolation <input type="checkbox"/> Other:
Have there been previous incidents between survivor and perpetrator? If so, what type?	
What services did the survivor receive (you may tick more than one)? <input type="checkbox"/> None <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Counseling <input type="checkbox"/> Police <input type="checkbox"/> Financial <input type="checkbox"/> Housing/shelter <input type="checkbox"/> Other:	
How quickly was the survivor able to access these services?	
If the survivor could not access the services needed, why not?	
What was the outcome of your intervention (you may tick more than one)? <input type="checkbox"/> Nothing <input type="checkbox"/> Survivor returned home <input type="checkbox"/> Mediation <input type="checkbox"/> Police involvement <input type="checkbox"/> Prosecution <input type="checkbox"/> Protection order <input type="checkbox"/> Other:	

## Annex H: Sample Memorandum of Understanding

### Sample Memorandum of Understanding

#### 1. The parties:

The parties to this MoU are:

- 
- 

#### 2. The Purpose

The purpose of this MoU is:

- 
- 

#### 3. The roles of the parties

The roles of the parties who have signed this MoU are:

- List the role of each agency

#### 4. Guidelines for each party (as needed, these are only a few examples):

- The parties agree to maintain confidentiality and only share information in accordance with this MoU.
- The parties will obtain consent from clients before sharing any information.
- All individuals employed by the parties who provide services within the context of this MoU must be trained and deal with GBV in a sensitive manner.
- The parties agree to provide the services as indicated above.
- The parties agree to cooperate with the other parties.
- Each party will nominate a focal point within its organization who will be responsible for the implementation of the MoU.
- Each party will provide quarterly/yearly reports on its work.
- Each party will collect data and share data as agreed with the other parties.
- Each party is committed to helping survivors of gender based violence, without discrimination.
- Parties cannot speak to the media in relation to this MoU or any substantive work falling under this MoU, unless by common agreement with the other parties.

Annex H: Sample Memorandum of Understanding

5. Confidentiality:

The parties agree not to share or disclose information unless consent to do so is expressly given by the survivors.

The parties must use relevant and appropriate security measures to ensure that the information they have is kept securely, including for example, keeping all files in locked cabinets.

6. Governance:

The \_\_\_\_\_(depending on your purpose) will be managed by a committee/an individual/etc.

The role of this committee/individual is \_\_\_\_\_.

If a committee, set out the membership of the committee, number of times they meet, how chairperson will be chosen, for how long, reporting mechanisms, decision making process, etc.

If an individual, set out how they will be chosen, for how long, what their duties are, reporting, decision making powers, etc.

7. Monitoring and review of this MoU

The parties agree to review this MoU 6 months after its signature, including to decide if any aspect of it should be changed.

The parties agree to collect information for the purpose of gathering data on GBV, its impact, and the work being done under this MoU.

All changes to this MoU must be agreed by all parties.

8. Entry into force

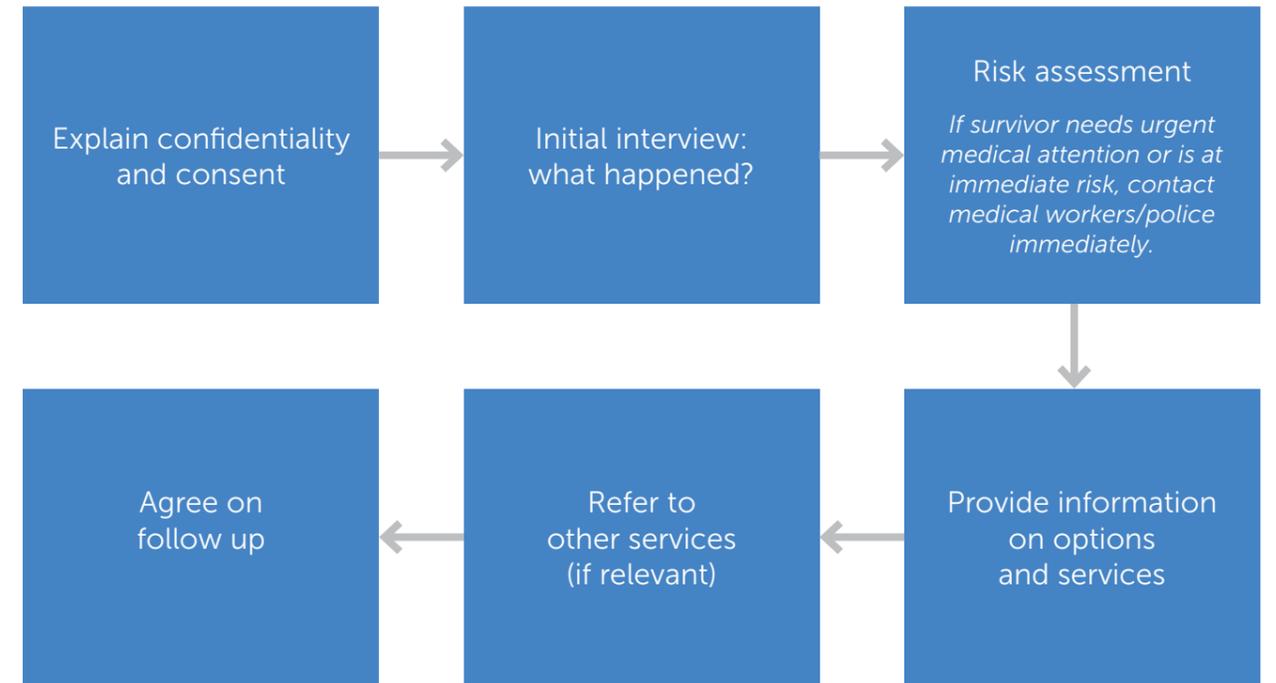
This MoU will enter into force on signature by all parties and for an initial period of one year. It can thereafter be extended by the parties by agreement.

Any party can withdraw from this MoU giving \_\_\_\_ months notice.

9. Signatures and date of signing

Annex I: Scorecards

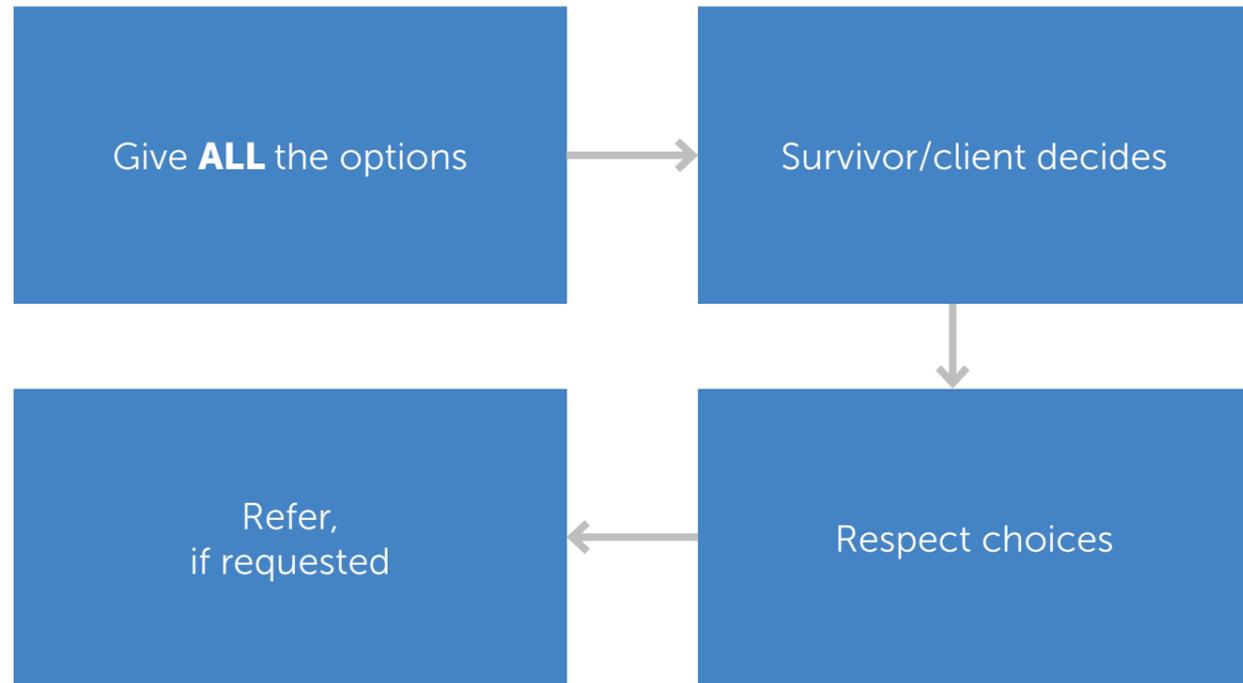
Outline of initial meeting with a survivor/client



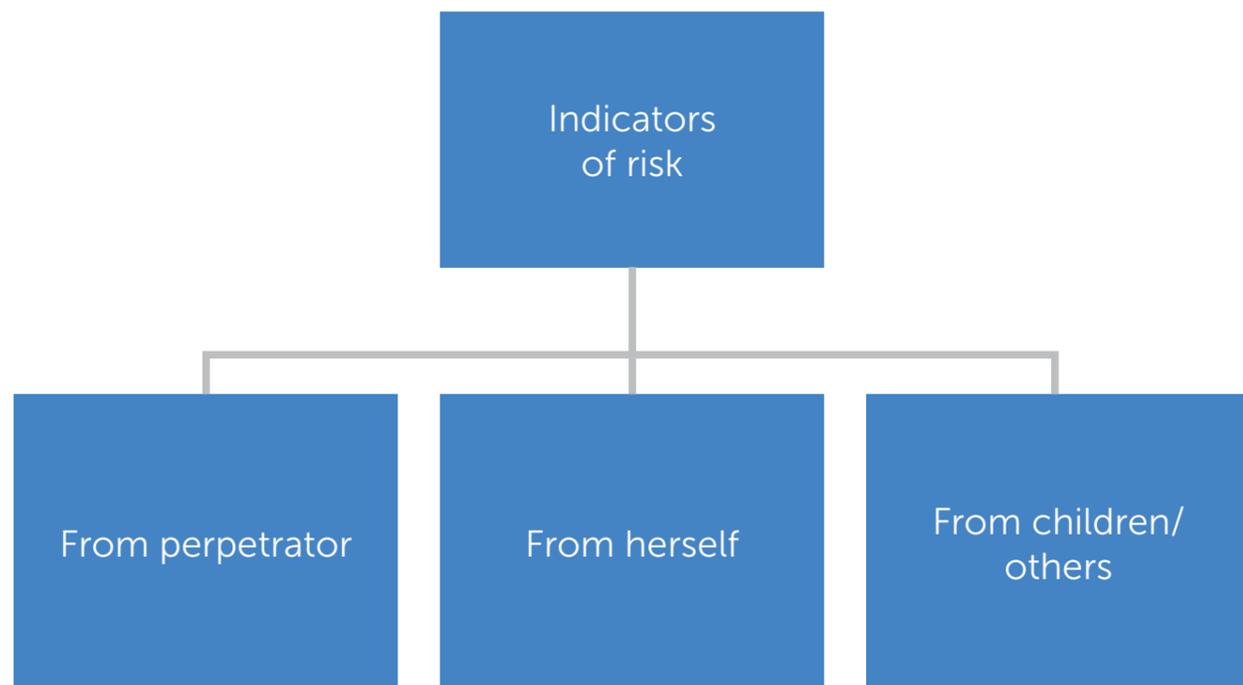
Guidelines for substantive survivor/client interviews



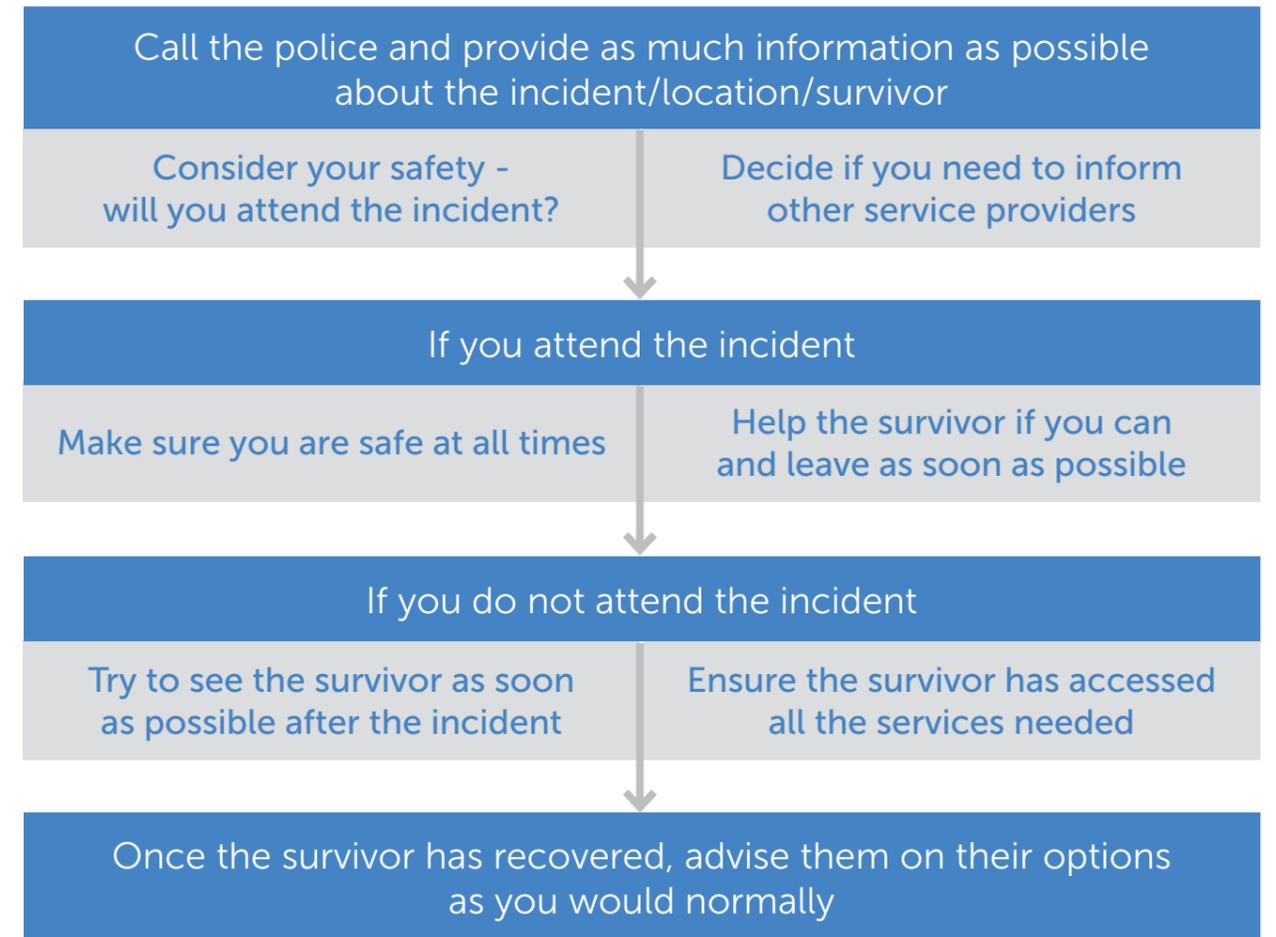
### Giving options to survivor/client during an interview



### Guidelines for substantive survivor/client interviews



### Helping a survivor in an emergency



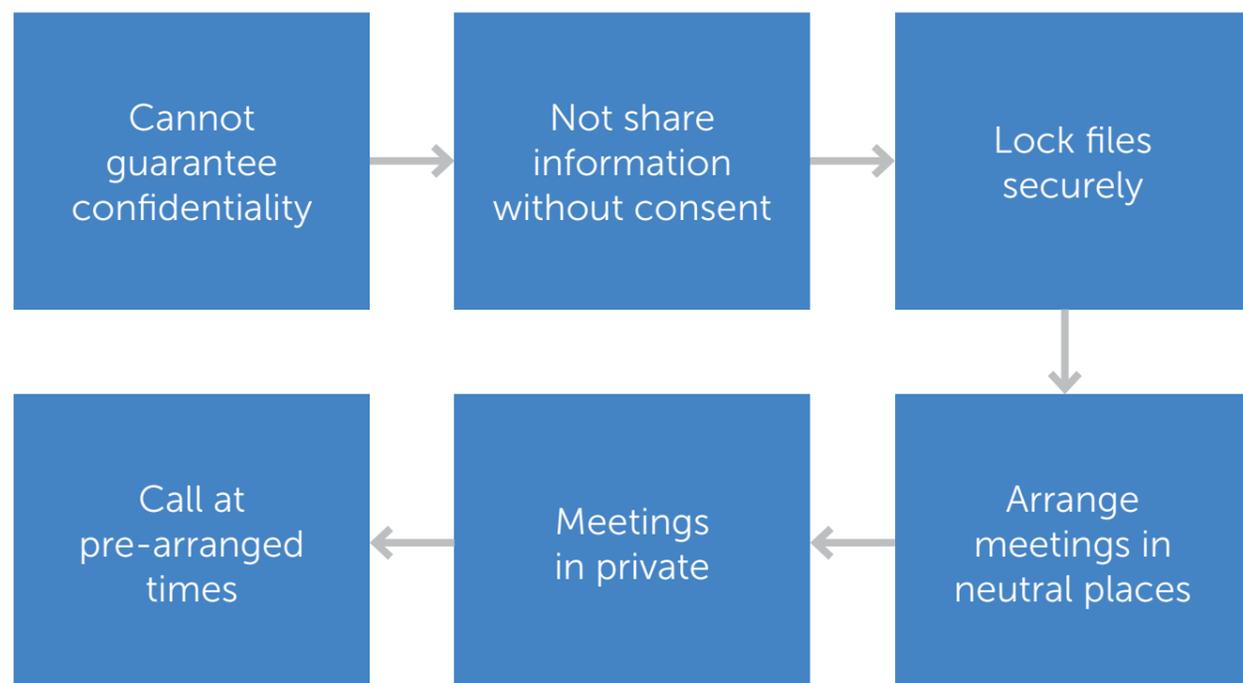
### Risk Assessment: Indicators of risk from perpetrator



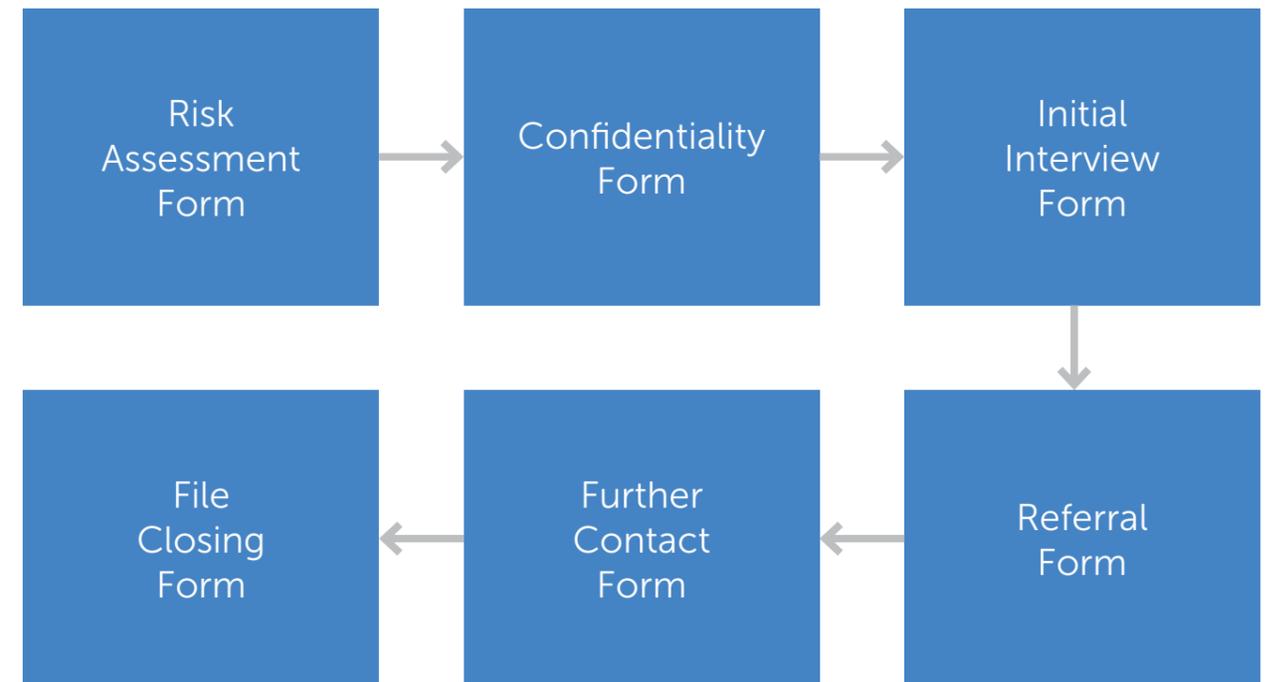
### Risk Assessment: Indicator of risk of self-harm by survivor



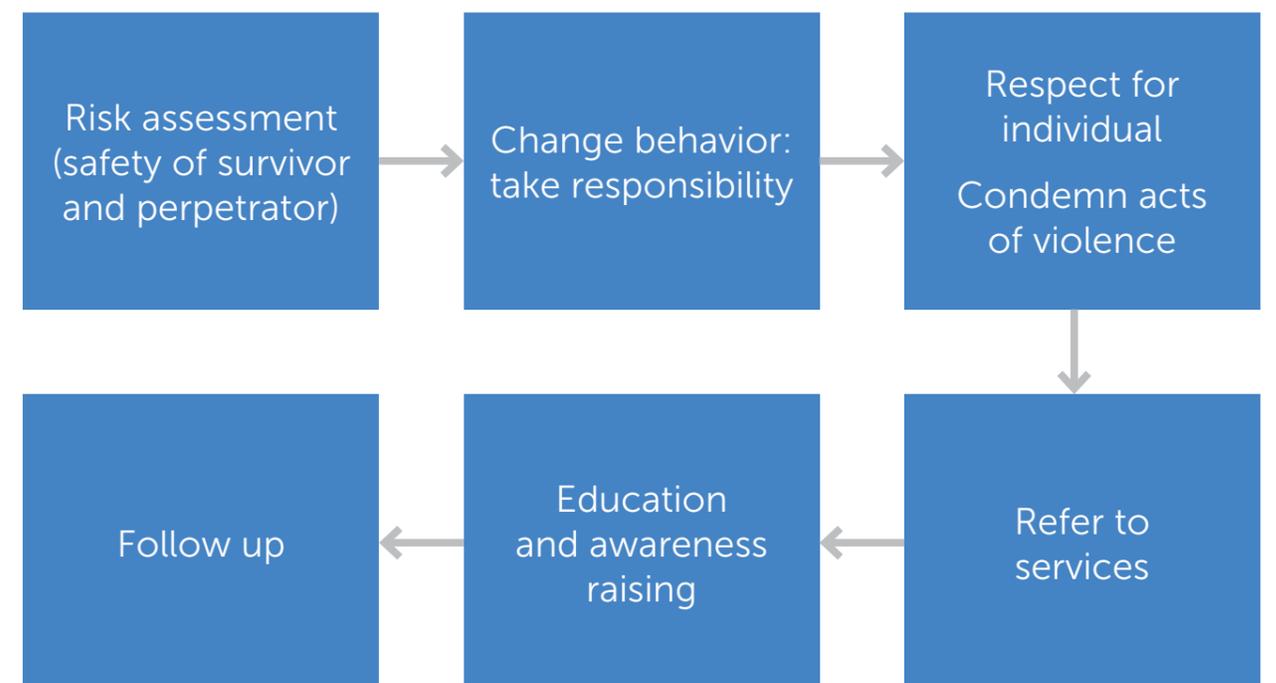
### Confidentiality



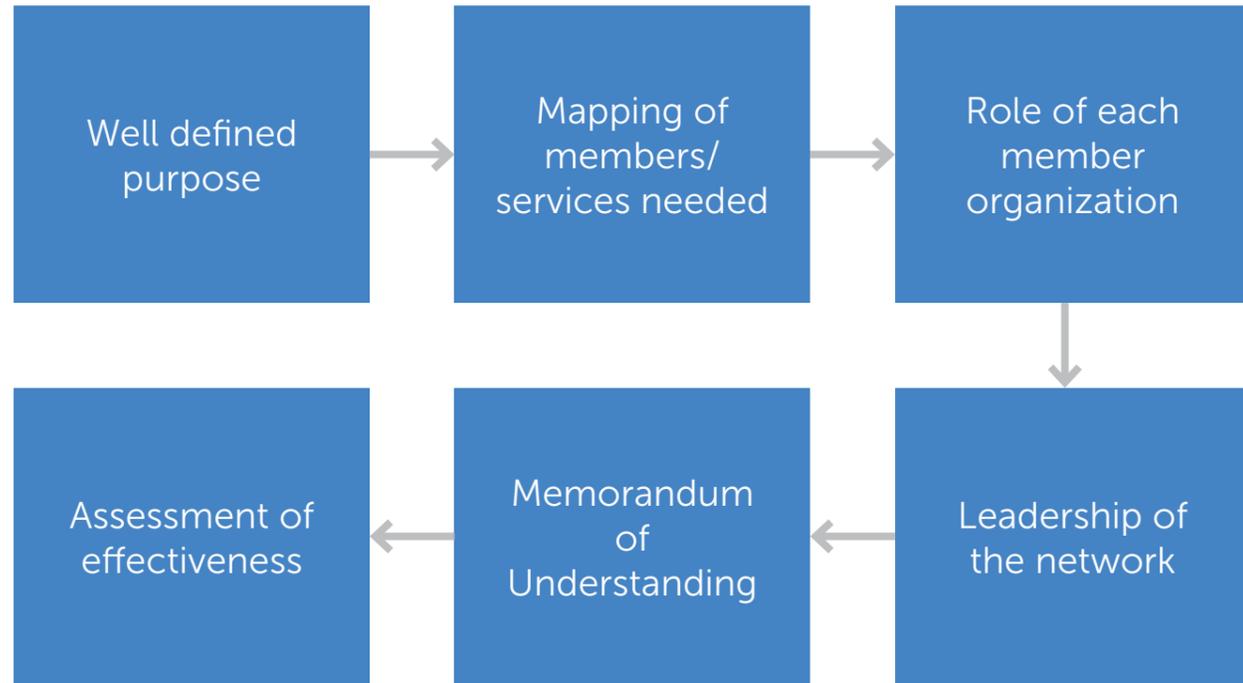
### Case Management



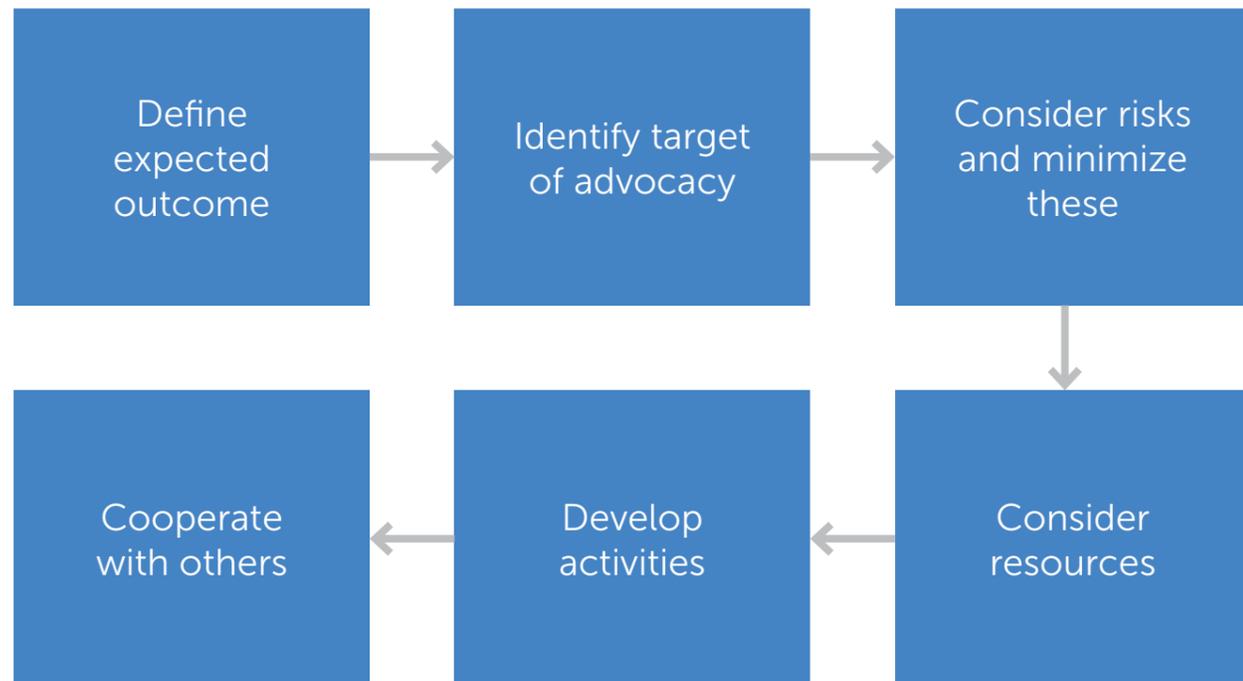
### Working With Perpetrators



### Creating a Network



### Advocacy



### Annex J: Resources

Claiming Rights, Claiming Justice: A guidebook for Women Human Rights Defenders, Asia Pacific Forum on Women, Law and Development, 2007  
[www.apwld.org](http://www.apwld.org)

Frontline Workbook on Security: Practical Steps for Human Rights Defenders at Risk  
[http://www.frontlinedefenders.org/files/workbook\\_eng.pdf](http://www.frontlinedefenders.org/files/workbook_eng.pdf)

Frontline Protection Manual for Human Rights Defenders, 2005  
<http://www.frontlinedefenders.org/manuals/protection>

New Protection Manual for Human Rights Defenders, Protection International, 2010  
<http://protectioninternational.org/publication/new-protection-manual-for-human-rights-defenders-3rd-edition/>

Women Human Rights Defenders International Coalition  
<http://defendingwomen-defendingrights.org/>

Civil Society Space and the United Nations Human Rights System, UN Office of the High Commissioner for Human Rights, 2014  
[http://www.ohchr.org/Documents/AboutUs/CivilSociety/CS\\_space\\_UNHRSystem\\_Guide.pdf](http://www.ohchr.org/Documents/AboutUs/CivilSociety/CS_space_UNHRSystem_Guide.pdf)

Human Rights Defenders: Protecting the Right to Defend Human Rights, Fact Sheet 29  
<http://www.ohchr.org/Documents/Publications/FactSheet29en.pdf>

Reprisals Handbook, International Service for Human Rights, 2013  
[http://www.files.ishr.ch/public/ishr\\_handbook\\_web.pdf](http://www.files.ishr.ch/public/ishr_handbook_web.pdf)

## Annex K: Police Commissioner's Circulars

### Circular No: 06/2007

**ROYAL PAPUA NEW GUINEA CONSTABULARY**



Police Headquarters  
P.O. Box 85  
KONEDOBU, N.C.D.

Circular No: 06/2007

File No: 1-1-3                      Date: 20 May 2007

**SUBJECT: CONSTABULARY RESPONSE TO OFFENCES OF FAMILY AND SEXUAL VIOLENCE**

The policy of the Royal PNG Constabulary is to prosecute those who commit crimes of family and sexual violence. Serious crimes, including offences of assault (in all its forms), unlawful wounding, attempted murder, willful damage or willful destruction, rapes, sexual assault, incest, and other such offences, should be recorded and investigated.

Where evidence exists that these types of offences have occurred, charges should be laid against a suspect. Violence of this kind is never acceptable. We should all adhere to our Oath of Office, regardless of the occupation of a suspect, and regardless of the status of a person (in the case of police, their rank).

Divisional Commanders, Provincial Police Commanders, Metropolitan Superintendents and Police Station Commanders are to strictly ensure that members of the Constabulary undertake the following actions to help end family and sexual violence. They are to:

- Ensure that all members under their command appropriately respond to, and then record all complaints of family and sexual violence in the occurrence book;

- 2 -

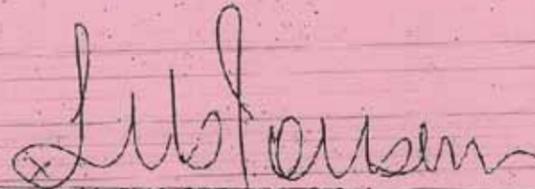
- Ensure that all members under their command thoroughly investigate complaints of family and sexual violence and complete crime reports as required;
- Ensure that police treat complaints of family and sexual violence as criminal offences and not civil or family matters; and
- Ensure that following proper investigation and upon availability of evidence, police charge people with such crimes, regardless of their status in society.

Members are not to encourage settlement of these types of offence through payment of compensation. Payment of compensation is only relevant in terms of sentencing by a court. It should not be used to stop charges being laid or prosecutions from proceeding.

The Constabulary stands committed to ensuring that the criminal laws of Papua New Guinea are enforced including offences of family and sexual violence.

Divisional Commanders, Provincial Police Commanders, Metropolitan Superintendents and Police Station Commanders should ensure that both proactive and reactive measures are taken in their areas of operation to reduce the number of cases of these forms of violence.

Members of the Community Policing Units should be actively engaged with personnel of Non Government Organizations, Family Base Organizations, Community Base Organizations and other Government Departments to actively present programs aimed to reducing these forms of violence across Papua New Guinea.



**Gari L. Baki, OBE, DPS, O.St.J.**  
Commissioner of Police

## Circular No: 4/2009

 <b>Royal Papua New Guinea Constabulary Commissioner's Circular</b>			
Circular No	4/2009	File No	
Subject	SEXUAL OFFENCES		

**POLICY**

The law of Papua New Guinea recognises a range of sexual offences which covers both consensual and non-consensual activities. This policy applies to all types of sexual offences but focuses on offences committed on an unwilling victim, and particularly on the offences of rape and sexual assault.

While sexual offences are committed against both males and females, the overwhelming majority of offences are committed against females. In many of those cases the offender is known to the victim, and offenders can include the husband or other family member of the victim. Sexual offences are one of the most traumatic and feared crimes in Papua New Guinea and one of the most serious survivable criminal offences. As such all complaints of a sexual offence will be investigated fully and thoroughly regardless of the social standing or status of the offender or victim and regardless of whether the victim and offender are known to each other.

The Constabulary strongly encourages the reporting of sexual offences. In the normal course of events, police officers enjoy a wide discretion when making decisions about undertaking or continuing an investigation or when making decisions about prosecuting an offender. It must be clearly understood that it is the intention of this policy to severely curtail the discretion of police officers in respect of sexual offences. All complaints will be documented, all offenders will be prosecuted where there is sufficient evidence, all victims will be treated with respect and dignity and all victims will be referred to any available support services, regardless of whether the victim makes or continues a complaint. It is also immaterial if the alleged offence is

not recent. To the greatest extent possible, officers will treat historical offences in the same manner as an offence which was recently committed.

When taking complaints or when otherwise involved in the investigation of sexual offences all officers will act in a professional, objective and unbiased manner. In particular, members of the Constabulary will:

- i. treat all victims with respect and courtesy;
- ii. ensure the dignity of the victim is protected;
- iii. not attempt in any way to discourage a victim from making a complaint;
- iv. not attempt in any way to resolve a complaint of a sexual offence as a family dispute, a civil matter or in any way other than as a complaint of a serious criminal offence.

Compensation paid to the victim has, in the past, been used as an excuse by police officers to cease an investigation or not take a complaint. Police officers have also sought to resolve complaints of a sexual offence by means which have been suggested were restorative justice initiative. This constitutes a disciplinary offence and such practices will cease immediately. Whether compensation has been paid or not, or whether compensation has been promised, is not to be considered when making decisions about the investigation of the offence or about the prosecution of the offender. The matter of compensation, whether paid or promised, or the matter of whether any restorative justice initiative has been pursued, has no bearing whatsoever on any police response, on the any investigation, or on the prosecution of an offender.

Failure to comply with any aspect of this policy represents a clear breach of discipline and will be viewed as disobeying a lawful direction of the Commissioner. Any departure from this policy, either specifically or generally, will render the officer subject to disciplinary action.

## PURPOSE

The purpose of this circular is to clarify the position of the Constabulary in relation to the investigation of sexual offences. It is recognised that currently, a range of practices exists across the Constabulary when responding to complaints of this type, some of which are quite clearly unacceptable. The purpose of this circular is to clarify the expectations on any officer who receives a complaint of a sexual offence, or who is involved in the investigation or prosecution of sexual offence.

All police officers and their supervisors must clearly understand that current practices which do not meet the standards of this policy are no longer acceptable and will not be tolerated.

This circular is also intended to provide procedural guidelines to assist officers who receive a complaint of a sexual offence or who are involved in any aspect of the subsequent investigation.

## DEFINITIONS

In this circular the following terms have the meanings shown:

"*complainant*" means the victim of a sexual offence who has made a complaint about the offence.

"*police station commander*" means the person appointed to the position of police station commander and includes any person for the time being acting in that role.

"*sexual offence*" means a criminal offence in which sexual activity is an essential element of the offence.

"*welfare service*" is a generic term applied to any organisation, government or otherwise, which provides a service of any nature to victims of sexual offences.

## REFERENCES

*Arrest Act 1977*

*Criminal Code Act 1974.*

*Evidence Act 1975*

## CONTENTS

### 1. General Requirements

The law of Papua New Guinea creates numerous offences which are of a sexual nature. Some of those offences can be committed on an unwilling victim (such as rape and sexual assault) and some can be committed by consensual activity between two people (such as unnatural offences and indecent practices between males). All police officers, like other members of the community have their own beliefs and values relating to sexual activity. However when dealing with either the victims or offenders in sexual offence matters, police officers will put aside their own standards and act professionally, objectively and in an unbiased manner.

It is recognised that in a country as diverse as Papua New Guinea it is impossible to provide a set of procedures which will apply to all cases. It is also recognised that in remote locations where there is no police presence, sexual offences may be dealt with by local procedures involving traditional remedies. It is further recognised that the location at which an offence occurred might make it impossible for police officers to attend the crime scene. For these reasons the attachment to this circular sets out the procedures that should be followed in an ideal case. In any specific case the procedures set out in the attachment will be complied with to the extent it is possible to do so under the circumstances.

Police officers are placed in a difficult position when investigating sexual offences. Police are required to fully investigate the offence, and this includes gathering all available evidence which may assist with the identification of the offender or the prosecution of the matter. At the same time however police will ensure that the emotional and psychological needs of a victim are met. This means assuring the victim of the support of the police and making arrangements to ensure their safety and welfare.

### 2. Receiving a Complaint of a Sexual Offence

The impact of a sexual offence on a victim can be one of the most traumatic events a victim will ever suffer. Each victim will react in a different way and the behaviour of

the victim can not be used as an indicator of his or her truthfulness or otherwise. Police officers will not make assumptions about the truthfulness of a complainant based on their own perceptions of the victim's behaviour. When a police officer receives a complaint of a sexual offence the officer will:

- i. Immediately take all action necessary to secure the physical safety of the victim;
- ii. Attempt to put the victim at ease by assuring them they are safe, they are not to blame for the offence and that their complaint is being taken seriously;
- iii. Put in place the first response procedures set out in the attachment; and
- iv. Immediately advise the Police Station Commander by the most expedient means available.

The specifics of taking action to respond to a serious criminal offence will vary from case to case, but will normally entail obtaining personal particulars of the victim and details of the offence, the offender and the location. The intention at this point is not to obtain full particulars, but to obtain sufficient information to identify and secure the crime scene, identify and secure any relevant evidence and to assist in the identification and location of the offender.

### 3. Responsibilities of Police Station Commander

Police Station Commanders will maintain at the police station a contact list of local welfare agencies and the nature of the service each welfare agency is able to provide to a victim of a sexual offence. The contact list will also include the names of the relevant contact people, their telephone numbers and any other means of contacting the agency.

On being notified of a report of a sexual offence the Police Station Commander will:

- i. Ensure all appropriate first response procedures are put in place immediately. This includes following the procedures set out in the attachment to this circular to the extent that it is possible to do so under the circumstances;
- ii. Ensure the matter is entered in the Occurrence Book and that a crime report is completed and furnished;
- iii. Appoint a specific officer to act as the investigating officer for the matter;

- iv. Treat the victim with dignity and respect and arrange referral to local welfare agencies that can provide a service to the victim.

A victim who has received immediate crisis counselling and support will almost certainly be a better witness than one who is left without any support and counselling.

### 4. Interviewing Victims

When a statement is taken from the victim of a sexual offence or the victim is being interviewed a person who is of the same sex as the victim will be present at all times. The statement may be taken or the interview conducted by a police officer of the opposite sex, but a person of the same sex as the victim must also be present. That person does not necessarily have to be a police officer. Any departure from this aspect of this policy will be treated as a serious discipline offence.

In addition all victims should be advised they have the right to have a support person with them while being interviewed or providing a statement. When a victim nominates a support person to be with them, the investigating officer will arrange for that person to be present.

The interview is to take place in a private and comfortable location, where the victim feels comfortable to talk. Under no circumstances should any interview take place in the presence of the alleged offender.

It is vital that the victim describe the sexual offence in his or her own words. Police should use the language that the victim is familiar with. Where language is an issue, police should obtain the services of an interpreter.

If the victim is a child or juvenile, police officers should always focus on the welfare and interest of the child or young person. The child should never be further traumatised by the interview process. Investigators should pay particular attention to the body language of the child and respond appropriately. It is important to establish the child's level of understanding in relation to sexual matters. Investigators should be mindful of the fact that establishing the level of understanding of the child may be of assistance in confirming the child's story. Children will not usually have knowledge

and understanding of sexual matters unless they have been victims of sexual offences.

#### 5. Medical Examinations

Investigating officers will make arrangements for a medical examination to be conducted on the victim to treat any possible injuries or wounds, carry out tests for any sexually transmitted diseases and/or pregnancy and provide medicines as appropriate.

Medical examinations should also be conducted to collect any physical or forensic evidence that may be directed to establishing whether a victim has been sexually penetrated to any extent or sexually assaulted, all possible evidence of the commission of the crime should be obtained from the examination of the complainant including signs of injury corroborating lack of consent (these signs may consist of bruises, lacerations, scratches etc, on any part of the body, including the thighs and genital area). Arrangements should be made as soon as practicable to ensure that any evidence is obtained.

Prior to medical examination police officers will:

- i. Fully inform the victim of the importance of retaining forensic evidence;
- ii. Ensure that the victim is fully aware of the procedures involved in the medical examination;
- iii. Ensure written and signed consent is obtained for any forensic examination; and for the taking of necessary evidentiary photographs;
- iv. Advise the victim that she may have a support person/worker present during the examination;
- v. Arrange transport for the victim to the nearest Medical Centre.
- vi. Contact Medical Staff in advance and advise that a victim of a sexual offences will be attending;
- vii. Advise Medical Staff that a purpose of the examination is to obtain evidence to support a prosecution and that an affidavit will be obtained from them at a later date.

If the victim is a child, police officers must inform the child, their parents or carers that the child will be treated and examined by a doctor.

If the suspect is detained soon after a complaint is made, a medical examination of the suspect will be conducted. When a suspect does not consent to a medical examination immediate action will be taken under section 22 of the Arrest Act to obtain a court order for a medical examination.

#### Responsibilities of Prosecutors

Sections 37D to 37I of the Evidence Act 1975 provide a range of measures intended to protect the interests of vulnerable and intimidated witnesses. Victims of sexual offences are always to be considered vulnerable and open to intimidation. As such prosecutors will, in every case, seek to obtain the protections of those sections for every victim of a sexual offence.

#### 7. Withdrawal of complaints

Police are expected to support and encourage victims of sexual offences throughout the legal process. Under no circumstances should a member of the Constabulary encourage a victim of sexual violence to withdraw a complaint.

If a request to withdraw a complaint is made after the investigation has commenced the police investigator in charge of the case must obtain a written statement from the complainant setting out that the:

- i. complainant reported a particular incident to the police;
- ii. complainant wishes no further police action in the case and the reasons for the withdrawal of the complaint; and
- iii. request is made in the exercise of the complainant's free will, and not under duress or intimidation by any person.

Prior to ceasing an investigation the investigator will refer the victim to any relevant and available local welfare service and if necessary, assist the victim to access the service. The investigating officer will attempt to ensure the victim accesses counselling, before the withdrawal of the complaint is acted on.

If after counselling the victim still wishes to withdraw the complaint, or if the victim refuses to take part in counselling the investigating officer will report on the matter to his or her Police Station Commander. The Police Station Commander will authorise ceasing the investigation.

Prior to authorising the ceasing of an investigation the Police Station Commander will ensure that:

- i. All efforts have been made to provide the victim with counselling and other available welfare service;
- ii. The decision to withdraw the complaint has been made by the victim of their own free will and not under duress.

8. Compliance with this Policy

Divisional Commanders, Provincial Police Commanders, Metropolitan Superintendents and Police Station Commanders, are to ensure this circular and the accompanying attachment are brought to the attention of all police officers under their command.

Gary L Baki, OBE, DPS, C.St.J.  
Commissioner of Police

## Annex L: Practice Directions: FSV Protection Order Rules



### THE PNG MAGISTERIAL SERVICE

DISTRICT COURTS OF PAPUA NEW GUINEA

### PRACTICE DIRECTIONS

## Family and Sexual Violence Protection Order Rules

FEBRUARY 2014

*DISTRICT COURTS ACT CHAPTER 40*

PRACTICE DIRECTIONS FOR FAMILY & SEXUAL VIOLENCE  
 PROTECTION ORDER RULES  
 NO. 1 of 2014

1. *Application*
2. *Interpretation*
3. *Interim Protection Order*
4. *Clerk of court's Responsibility*
5. *Legal Representation*
6. *Joinder of Parties*
7. *Protection of Service Providers*
8. **Hearing** of the Application for Protection Order
9. *Standard of Proof*
10. *Service of Process and Protection Order*
11. *Substantive Hearing*
12. **Breach of the Protection Order**

## ANNEXTURES

## SCHEDULE of Forms

<i>Form I</i>	<i>Application for Protection Order</i>
<i>Form II</i>	<i>Sworn Statement</i>
<i>Form III</i>	<i>Protection Order</i>
<i>Form IV</i>	<i>Information</i>
<i>Form VI</i>	<i>Summons Upon Information</i>
<i>Form VII</i>	<i>Proof of Service</i>

***DISTRICT COURTS ACT CHAPTER 40***  
**PRACTICE DIRECTIONS FOR FAMILY AND SEXUAL VIOLENCE**  
***PROTECTION ORDER RULES***  
***NO 1. of 2014***

T. JOHN NUMAPO LLB (Honours); LL.M., Chief Magistrate of Papua New Guinea, pursuant to Section 21A of the *District Courts Act Chapter 40* and all other powers enabling me, hereby make this Protection Order Rules 2014 (**Rules**) to provide for the practice and procedure of granting Interim Protection Orders in the District Courts.

These rules are intended to provide consistency in the District Courts and to enable the District Courts to issue Interim Protection Orders expeditiously at any time and at no cost to the applicant.

**1 Application.**

These Rules apply to a person seeking immediate protection from:-

- (a) Actual, and or threatened physical and sexual violence; and or
- (b) Actual, damage and or threatened damage to property.

**2. Interpretation**

In these Rules:-

"family" includes a person who is accepted as a member of a family, whether or not that person is related by blood or marriage.

"Protection Order" means an interim order or a Permanent Order issued by the District Court.

**3. Interim Protection Orders.**

- 3.1 A person may apply to the court for a Interim Protection Order at any time upon the, laying of an information.
- 3.2 The magistrate shall:-
  - (a) hear the application as soon as practicable; and
  - (b) dispense with the requirement for the service of the application upon the defendant.

- 33 No filing fee is required for an application under these Rules.
- 3.4 An application for an Interim Protection Order shall:-
- (a) set out the order sought and the grounds for which such order may be made; and
  - (b) be in the form prescribed in the schedule annexed to these Rules; and
  - (c) be supported by a sworn statement that is in the form prescribed in the schedule annexed to these rules;

#### **4 Clerk of Court's Responsibility.**

- 4.1 The Clerk of Court shall immediately:-
- (a) attend to a person seeking an Interim Protection Order; and
  - (b) make all necessary arrangements for an application for a Protection Order to be heard before a Magistrate.
- 4.2 The Clerk of Court shall ensure that the following documents are filed in support of an application for a Interim Protection Order and are in the forms prescribed in *the schedule annexed to these Rules*:-
- (a) Application for a Protection Order;
  - (b) Sworn Statement;
  - (c) Interim Protection Order;
  - (d) Information; and
  - (e) Summon Upon Information.

- 43 The Clerk of Court shall ensure that-
- (a) the documents referred to in Subsection 4.2 are fully and accurately completed by the applicant and, if necessary, are accompanied by a medical certificate; and
  - (b) an information contains a substantive course of action yet to be determined by the court.

#### **5. Legal Representation**

At the hearing of an application for a Protection Order before a magistrate, the applicant may;

- (a) appear in person;
- (b) be represented by a lawyer; or
- (c) by written or oral consent be represented by any of the following persons;
  - (i) a person in whose care the Complainant is in; or
  - (ii) a person who has control of the Complainant; or
  - (iii) an adult member of the Complainant's family; or
  - (iv) any other person with the leave of the court.

#### **6. Joinder of Parties**

6.1 Where a person or institution who provides security and/or counseling to the applicant receives threats in relation to an application for a Protection Order, that person or institution may apply to the court to be joined in the proceeding and the court may accord that person or institution with the same protection as it gives to the Complainant.

#### **7. Protection of Service Providers**

Where a service provider's safety is at risk, in particular during the course of a proceeding, they may apply for a Protection Order for a specified period.

#### **8. Hearing of the Application for Protection Order**

- 81 Upon hearing an application for an Interim Protection Order, a court may, if satisfied, grant the Order to the complainant pending the determination of the substantive cause of action contained in the complaint or information.
- 82 The court may grant one or more of the following orders:
- (a) an order restraining the defendant or any other person from harassing, intimidating, using or threatening to use or apply force against the applicant;

- (b) an order restraining the defendant or any other person from entering the premises in which the applicant dwells; and or,
- (c) an order restraining the defendant or any other person from entering the premises where the applicant works, and or.
- (d) an order restraining the defendant from contacting the applicant by any form of communication: and or
- (e) any such order that the Court deems fit, or
- (f) may dismiss the application

### 8.3 In granting a Protection Order, a court shall:-

- (a) fix a return date, not later than 14 days after the date of the order for a hearing of the substantive matter; and
- (b) endorse the return date on the Interim Protection Order; and or
- (c) (i) In the event when an IPO is breached, a warrant of arrest is to be issued pursuant to Section 214 to bring the defendant before the Court.  
(ii) Subsection (i) does not in any way stop the Police from charging the defendant for a new offence.

8.4 Any application to set aside the Interim Protection Order may be made before a Magistrate.

### 8.5 Variation

The parties are at liberty to apply for variation of the order at any time before the expiry date.

- a. Application in writing
- b. Affidavit
- c. Copy of the Order

9. The Standard of Proof is on the “the balance of probability”

## 10. Service of Process and Protection Order

10.1 The order and the commencement process shall be served on the defendant as soon as practicable.

10.2 The Court shall direct a person (other than the complainant) to serve the Protection Order and commencement process on the defendant.

10.3 A sealed copy of the Protection Order shall be served on the Officer-In-Charge at any Police Station that is located within reasonable proximity to the residences of the applicant and defendant respectively.

10.4 Proof of service of the Protection Order and commencement process shall be filed in court as soon as practicable after service is effected.

10.5 If, by statement on oath or by affidavit for any reason personal service cannot be promptly effected the court may extend the return date and *order for* substituted service in accordance with Section 48 of the District Courts Act.

## 11. Substantive Hearing

11.1 The substantive hearing of the application shall be held on the date fixed by the magistrate unless an application is made by way of a motion by either of the parties to bring forward the date of the hearing..

11.2 At the hearing, the court may extend, amend or revoke the interim protection order.

11.3 Upon the hearing of the substantive application the court may issue permanent protective orders pursuant to sections 209 and 210 of the District Courts Act for keeping the peace and surety towards the complainant and be of good behavior for a period of time as determined by the court.

11.4 Surety of an amount to be ordered to be paid forthwith or upon breach

## 12. Breach of the Protection Order.

12.1 An interim Protection Order shall have the same effect, as if it were a permanent Protection Order.

12.2 If an interim Protection Order is breached the court shall issue a warrant of arrest for the defendant to be arrested and brought before the court to be dealt with according to law.

12.3 Pursuant to Section 214 of the District Courts Act, a Warrant of Arrest may be issued

- a. Oral or written application
- b. Affidavit/ Sworn Statement
- c. Warrant of Arrest
- d. In the event that an application is made orally, the Magistrate is to be put it down into writing

**DATED, this. . . . . day OC.. . . . . 2014**

**JOHN K. NUM/PO LLB (Honours); 'LLM.  
Chief Magistrate**

**ANNEXTURES  
SCHEDULE of forms**

<i>Form I</i>	<i>Application for Protection Order</i>
<i>Form II</i>	<i>Sworn Statement</i>
<i>Form III</i>	<i>Protection Order</i>
<i>Form IV</i>	<i>Complaint</i>
<i>Form V</i>	<i>Information</i>
<i>Form VI</i>	<i>Summons (on Complaint)</i>
<i>Form VII</i>	<i>Summons Upon Information</i>
<i>Form VIII</i>	<i>Proof of Service</i>

## Annex M: Family Protection Act 2014

No. 29 of 2013.

*Family Protection Act 2013.*

Certified on: **11 MAR 2014**



No. of 2013.

*Family Protection Act 2013.*

**ARRANGEMENT OF SECTIONS.**

**PART I. - PRELIMINARY.**

1. Compliance with constitutional requirements.
2. Interpretation.
3. Objectives of the Act.
4. Underlying principles.

**PART II. - DOMESTIC VIOLENCE OFFENCE.**

5. Meaning of domestic violence.
6. Domestic violence offence.

**PART III. - FAMILY PROTECTION ORDERS.**

*Division 1. - Applications.*

7. Application for a family protection order.

*Division 2. - Conditions.*

8. Conditions relating to good behavior.
9. Conditions relating to individual protection.
10. Conditions relating to property.
11. Conditions relating to counseling and mediation.

*Division 3. - Interim Protection Orders.*

12. Court may make interim protection order.
13. Form of an interim protection order.
14. Commencement and duration of interim protection orders.
15. Evidence.

*Division 4. - Protection Orders.*

16. Court may make protection order.

17. Absent defendant.
18. Form of protection order.
19. Commencement and duration of protection order.

*Division 5. - Offence and Compensation.*

20. Offence to breach family protection order.
21. Compensation.

**PART IV. - MISCELLANEOUS.**

22. Power of Court to make order on own initiative.
23. Spouse may give evidence.
24. Variation and revocation of orders.
25. No application fees.
26. Regulations.



No. of 2013.

An Act

entitled

*Family Protection Act 2013,*

Being an Act to -

- (a) provide for an offence of domestic violence; and
- (b) establish a regime for family protection orders in cases of domestic violence; and
- (c) preserve and promote harmonious family relationships; and
- (d) prevent and deter domestic violence at all levels of society in the country, and for related purposes.

MADE by the National Parliament.

**PART I. - PRELIMINARY.**

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

- (1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution* namely -
- (a) the right to liberty of the person conferred by Section 42; and
  - (b) the right to the freedom of expression and publication conferred by Section 46; and
  - (c) the right to peaceful assembly and to associate and to form or belong to, or not to belong to, political parties, industrial organizations or other associations conferred by Section 47; and
  - (d) the right to freedom of choice of employment in any calling for which a person has the qualification (*if any*) lawfully required conferred by Section 48; and
  - (e) the right to reasonable privacy in respect of his or her private and family life, his or her communications with other person and his or her personal papers and effects conferred by Section 49; and
  - (f) the right to vote and stand for public office conferred by Section 50; and
  - (g) the right to reasonable access of official documents conferred by Section 51; and
  - (h) the right to freedom of movement conferred by Section 52,

is a law that is made for the purposes of complying with Section 38 of the *Constitution*, taking into account the National Goals and Directive Principles on integral human development and equality and participation called for in the Preamble to the *Constitution*, and for the purpose of giving effect to the public interest in public welfare, and to the protection of families as the core of the society and to promote harmonious family relationships.

*Family Protection*

**2. INTERPRETATION.**

In this Act, unless the contrary intention appears -

“child” means an individual under the age of 18 who is-

- (a) a biological, adopted, step or foster child of the person; or
- (b) in the care or custody of the person;

“communication” means written, oral, sign or electronic forms of communication;

“complainant” means the alleged victim of domestic violence;

“court”, unless otherwise indicated, means the District Court;

“defendant” means a person against whom a family protection order is sought under this Act;

“domestic violence” has the meaning given by Section 5;

“domestic violence offence” means an offence under Section 6;

“family member” means each of the following:

- (a) the spouse of the person; or
- (b) a child of the person or a child of the person’s spouse; or
- (c) a parent of the person or a parent of the person’s spouse; or
- (d) a grandparent; or
- (e) a brother or sister of the person or a brother or sister of the person’s spouse; or
- (f) any other person who is treated by the spouse as a family member.

“family protection order” means a protection order or an interim protection order issued under Part III;

“interim protection order” means an order made under Section 12;

“Minister” means the Minister responsible for national justice administration;

“property of a person” means property that:

- (a) the person owns; or
- (b) the person does not own, but -
  - (i) is used and enjoyed by the person; or
  - (ii) is available for the person's use or enjoyment; or
  - (iii) is in the person's care or custody;

“protection order” means an order made under Section 16;

“spouse of a person” means an individual of the opposite sex to the person who:

- (a) is or has been married to the person; or
- (b) although not married to the person, is living with the person in a marriage-like relationship or has lived with the person in such a relationship; or
- (c) is a biological parent of a child with the person (whether or not they are or have been married or are living or have lived together); and

“well-being” includes adequate food, shelter and access to fresh water.

**3. OBJECTIVES OF THE ACT.**

The objectives of this Act are -

- (a) to promote safe, stable and strong families; and
- (b) to prevent and deter domestic violence at all levels of society; and
- (c) to recognize that domestic violence of any kind is not an acceptable behaviour; and
- (d) to ensure that there is effective legal protection for the victims of domestic violence; and

### *Family Protection*

- (e) to provide for the punishment of persons who commit acts of domestic violence or who breach family protection orders.

#### **4. UNDERLYING PRINCIPLES.**

To achieve the objectives of the Act, all persons exercising functions, powers and duties under the Act, will recognize and take into account the following underlying principles:

- (a) that freedom from violence is every person's right; and
- (b) that violence is often a learned behaviour which can be unlearned; and
- (c) that violence in marriage is not a private matter, but a social problem of public concern; and
- (d) that stopping domestic violence will strengthen marriages and improve family life; and
- (e) that stopping domestic violence will help create a more peaceful society; and
- (f) that it is the responsibility of every person to take a strong stand against domestic violence for the benefit of the whole society.

#### **PART II. - DOMESTIC VIOLENCE OFFENCE.**

##### **5. MEANING OF DOMESTIC VIOLENCE.**

(1) A person commits an act of domestic violence if he or she does any of the following acts against a family member:

- (a) assaults the family member (whether or not there is evidence of a physical injury); or
  - (b) psychologically abuses, harasses or intimidates the family member; or
  - (c) sexually abuses the family member; or
  - (d) stalks the family member so as to cause him or her apprehension or fear; or
  - (e) behaves in an indecent or offensive manner to the family member; or
  - (f) damages or causes damage to the family member's property; or
  - (g) threatens to do any of the acts in Paragraphs (a), (c) or (f).
- (2) Without limiting Paragraph (1) (d), a person may stalk another person by -
- (a) following the person; or
  - (b) watching the person; or
  - (c) loitering outside the premises where the person lives, works or frequents for the purposes of any social or leisure activity; or
  - (d) making persistent telephone calls, sending persistent text messages or other forms of communications to the person or to the premises where the person lives or works.
- (3) For avoidance of doubt -
- (a) a single act may amount to an act of domestic violence; and
  - (b) a number of acts that form part of a pattern of behaviour may amount to domestic violence even though some or all of those acts when viewed in isolation may appear to be minor or trivial.

### *Family Protection*

#### **6. DOMESTIC VIOLENCE OFFENCE.**

- (1) A person who commits an act of domestic violence is guilty of an offence.

Penalty: A fine not exceeding K5, 000.00 or imprisonment for a term not exceeding two years or both.

- (2) It is not a defence to an offence under Subsection (1) that the defendant has paid an amount of money or given other valuable consideration, in accordance with his or her custom, to the complainant.

#### **PART III. - FAMILY PROTECTION ORDERS.**

##### *Division 1. - Applications.*

#### **7. APPLICATION FOR A FAMILY PROTECTION ORDER.**

- (1) An application for a family protection order may be made by:
- (a) the complainant; or
  - (b) any person on behalf of the complainant if the complainant has given his or her written consent for that person to make the application; or
  - (c) a qualified legal practitioner on behalf of the complainant if the complainant has given his or her written consent for that practitioner to make the application; or
  - (d) a police officer on behalf of the complainant if the complainant has given his or her written consent for that officer to make the application.

(2) Subject to Subsection (3), an application for a family protection order must be made in the prescribed form.

(3) A failure to comply with Subsection (2) does not invalidate the application.

(4) An application to a court for a family protection order may be made -

- (a) orally; or
- (b) in writing.

(5) If the application is made orally, the court must reduce the application into writing as soon as practicable in the prescribed form.

##### *Division 2. - Conditions.*

#### **8. CONDITIONS RELATING TO GOOD BEHAVIOR.**

A court may include all or any of the following conditions in a protection order:

- (a) the defendant must be of good behaviour towards the complainant or any other family member named in the order; or
- (b) the defendant must not commit acts of domestic violence.

#### **9. CONDITIONS RELATING TO INDIVIDUAL PROTECTION.**

A court may include all or any of the following conditions in a protection order:

- (a) prohibiting the defendant or complainant from approaching each other; or

*Family Protection*

- (b) prohibiting the defendant or complainant from communicating with each other; or
- (c) prohibiting the defendant or complainant from being in or near specified premises, including premises where the other lives, works or frequents, even though he or she has a legal or equitable interest in the premises; or
- (d) prohibiting the defendant or complainant from causing another person to engage in conduct referred to in Paragraphs (a) to (c).

**10. CONDITIONS RELATING TO PROPERTY.**

A court may include all or any of the following conditions in a protection order -

- (a) prohibiting the defendant from damaging the property of the complainant; or
- (b) directing the defendant -
  - (i) to return any specified personal property of the complainant; or
  - (ii) to allow the complainant to recover, have access to, or make use of, any specified personal property; or
- (c) granting the complainant exclusive occupancy to a residence or specified part of a residence whether or not the residence is solely owned or leased by the defendant; or
- (d) prohibiting the defendant or complainant from causing another person to engage in conduct referred to in Paragraph (a).

**11. CONDITIONS RELATING TO COUNSELLING AND MEDIATION.**

A court may direct either or both the defendant and the complainant to participate in -

- (a) counselling; or
- (b) mediation; or
- (c) both counselling and mediation.

*Division 3 - Interim Protection Orders.***12. COURT MAY MAKE INTERIM PROTECTION ORDER.**

(1) In this division "court" includes the Village Court.

(2) A court may make an interim protection order if the court believes on reasonable grounds that the complainant is in danger of any form of domestic violence.

(3) The court may impose conditions in an interim protection order in the same way that it may impose conditions in a protection order issued under Division 2 of this Part.

(4) A court may make an interim protection order whether or not the defendant or complainant is in court.

(5) In avoidance of doubt, a court may make an interim protection order even though an application was also made under Section 7 for a protection order.

(6) A court may include the name of a family member in an interim protection order made for the benefit of the complainant if the court believes on reasonable grounds that the family member is in danger of any form of domestic violence.

*Family Protection***13. FORM OF AN INTERIM PROTECTION ORDER.**

(1) Subject to Subsection (2), an interim protection order is to be made in the prescribed form.

(2) A failure to comply with Subsection (1) does not affect the validity of the interim protection order.

**14. COMMENCEMENT AND DURATION OF INTERIM PROTECTION ORDERS.**

(1) An interim protection order or a renewed interim protection order commences at the time it is served on the defendant.

(2) An interim protection order remains in force for not more than 30 days, and may be renewed only once for a further 30 days.

(3) An interim protection order remains in force for 30 days unless -

- (a) it is revoked; or
- (b) it is renewed; or
- (c) it is replaced by a protection order.

**15. EVIDENCE.**

(1) A court may make an interim protection order on such evidence as the court considers sufficient and appropriate having regard to the interim nature of the order.

(2) Without limiting Subsection (1), if the complainant is unable to attend the court because of his or her injuries, the court may accept affidavit evidence on behalf of the complainant.

**16. COURT MAY MAKE PROTECTION ORDER.**

(1) Following an application made under Section 7, a court may make a protection order against a defendant if the court believes on reasonable grounds that -

- (a) the defendant has committed an act of domestic violence against the complainant; or
- (b) the defendant is likely to commit an act of domestic violence against the complainant.

(2) In deciding whether to make a protection order, the court must take into account the following:

- (a) the need to ensure that the complainant is protected from domestic violence; and
- (b) the safety and well-being of the complainant; and
- (c) the safety and well-being of other family members; and
- (d) any other matter the court considers relevant.

(3) The court may include the name of a family member in a protection order made for the benefit of the complainant, if the court believes on reasonable grounds that the defendant has committed, or is likely to commit, an act of domestic violence against that family member.

*Family Protection***17. ABSENT DEFENDANT.**

(1) Subject to Subsection (2), a court may proceed to hear and determine an application for a protection order if the defendant is not present.

- (2) The court must be satisfied on reasonable grounds that -
- (a) the defendant has been served with a summons to appear at the hearing; or
  - (b) the defendant was required by conditions of bail to appear at the hearing; or
  - (c) having regard to the circumstances of the case, all reasonable efforts have been made to give the defendant notice of the hearing.

**18. FORM OF PROTECTION ORDER.**

- (1) Subject to Subsection (2), a protection order is to be made in the prescribed form.
- (2) A failure to comply with Subsection (1) does not affect the validity of the protection order.

**19. COMMENCEMENT AND DURATION OF PROTECTION ORDER.**

- (1) A protection order or an extension to an existing protection order commences at the time it is served on the defendant.
- (2) A protection order continues in force for the period specified in the order, unless it is revoked or the period of the order is varied.
- (3) The period specified in a protection order must not exceed two years and is to be for such period as the court considers necessary to protect a person.
- (4) Where a period is not specified in an order, the order remains in force for six months.

*Division 5. - Offence and Compensation.***20. OFFENCE TO BREACH FAMILY PROTECTION ORDER.**

(1) A person who breaches a condition or conditions of a family protection order or an interim protection order is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding three years or both.

(2) It is not a defence to an offence under Subsection (1) that the defendant has paid an amount of money or given other valuable consideration in accordance with his or her custom to the complainant.

(3) It is a defence to an offence under Subsection (1) that the defendant establishes a reasonable excuse.

*Family Protection***21. COMPENSATION.**

In addition to any order for protection, a court may order the defendant to pay compensation in accordance with custom or otherwise to the complainant if the complainant as a result of an act of domestic violence suffered -

- (a) personal injury; or
- (b) damage to property; or
- (c) financial loss.

**PART IV. - MISCELLANEOUS.****22. POWER OF COURT TO MAKE ORDER ON OWN INITIATIVE.**

- (1) A court may, on its own initiative, make a family protection order against a person if -
- (a) the person pleads guilty to, or is found guilty of, an offence under Section 6 or an offence under any other law that involves conduct that amounts to domestic violence; and
  - (b) the court is satisfied that the order could be made against the person under this Act.
- (2) If a family protection order is already in force, the court may vary the order.

**23. SPOUSE MAY GIVE EVIDENCE.**

- If a person is charged with an offence under this Act -
- (a) the person's spouse is a competent and compellable witness in any legal proceedings in connection with the offence; and
  - (b) the person's spouse may be called to give evidence without the consent of the person.

**24. VARIATION AND REVOCATION OF ORDERS.**

- (1) An application to vary or revoke a family protection order may be made by any person to whom the order applies.
- (2) An application under Subsection (1) must be made to the court that made the order.

**25. NO APPLICATION FEES.**

Notwithstanding the provisions of any other law, policy, practice or procedure, no fees or charges are payable to a court in relation to the making of an application for a family protection order.

**26. REGULATIONS.**

The Head of State, acting with, and in accordance with the advice of the National Executive Council, may make regulations not inconsistent with this Act prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

*Family Protection*

I hereby certify that the above is a fair print of the *Family Protection Act 2013* which has been made by the National Parliament.

  
Clerk of the National Parliament.  
11 MAR 2014

I hereby certify that the *Family Protection Act 2013* was made by the National Parliament on 18 September 2013, by an absolute majority in accordance with the *Constitution*.

  
Speaker of the National Parliament.  
11 MAR 2014

**Annex N: International Standards****The Universal Declaration of Human Rights (1948)**

## PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

**Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS** as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

**Article 1.**

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

**Article 2.**

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

**Article 3.**

Everyone has the right to life, liberty and security of person.

**Article 4.**

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

**Article 5.**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

**Article 6.**

Everyone has the right to recognition everywhere as a person before the law.

**Article 7.**

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

**Article 8.**

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

**Article 9.**

No one shall be subjected to arbitrary arrest, detention or exile.

**Article 10.**

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

**Article 11.**

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

**Article 12.**

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

**Article 13.**

(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

**Article 14.**

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

**Article 15.**

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

**Article 16.**

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

**Article 17.**

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

**Article 18.**

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

**Article 19.**

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

**Article 20.**

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

**Article 21.**

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

**Article 22.**

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

**Article 23.**

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

**Article 24.**

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

**Article 25.**

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

**Article 26.**

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

**Article 27.**

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

**Article 28.**

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

**Article 29.**

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

**Article 30.**

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

## Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

*The General Assembly,*

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

*Reaffirming also* the importance of the Universal Declaration of Human Rights<sup>2</sup> and the International Covenants on Human Rights<sup>3</sup> as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

*Stressing* that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfil this obligation according to the Charter,

*Acknowledging* the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

*Recognizing* the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

*Reiterating* that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

*Stressing* that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

*Recognizing* the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

*Declares:*

**Article 1**

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

**Article 2**

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

**Article 3**

Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

**Article 4**

Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International 2 Covenants on Human Rights and other international instruments and commitments applicable in this field.

**Article 5**

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non-governmental or intergovernmental organizations.

**Article 6**

Everyone has the right, individually and in association with others:

- (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

**Article 7**

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

**Article 8**

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.
2. This includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

**Article 9**

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, inter alia:

- (a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;
- (b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;
- (c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

**Article 10**

No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

**Article 11**

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

**Article 12**

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.
2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.
3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

**Article 13**

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

**Article 14**

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, inter alia:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

**Article 15**

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

**Article 16**

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, inter alia, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

**Article 17**

In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

**Article 18**

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.

2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.

3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

**Article 19**

Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.

**Article 20**

Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.

## Convention on the Elimination of all Forms of Discrimination Against Women 1979

### *The States Parties to the present Convention,*

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights,

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

Affirming that the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

### **PART I**

#### **Article 1**

For the purposes of the present Convention, the term "discrimination against women" shall mean 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.

#### **Article 2**

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

#### **Article 3**

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

#### **Article 4**

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.
2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

**Article 5**

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

**Article 6**

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

**PART II****Article 7**

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

**Article 8**

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

**Article 9**

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

**PART III****Article 10**

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- (g) The same Opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

**Article 11**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
- (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

- (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
- (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;
- (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

**Article 12**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

**Article 13**

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;
- (c) The right to participate in recreational activities, sports and all aspects of cultural life.

**Article 14**

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.
2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
  - (a) To participate in the elaboration and implementation of development planning at all levels;
  - (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
  - (c) To benefit directly from social security programmes;
  - (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
  - (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
  - (f) To participate in all community activities;
  - (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
  - (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

**PART IV****Article 15**

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

**Article 16**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
  - (a) The same right to enter into marriage;
  - (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
  - (c) The same rights and responsibilities during marriage and at its dissolution;
  - (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
  - (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
  - (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
  - (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
  - (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

**PART V****Article 17**

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.

7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.

9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

**Article 18**

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

- (a) Within one year after the entry into force for the State concerned;
- (b) Thereafter at least every four years and further whenever the Committee so requests.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

**Article 19**

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.

**Article 20**

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.
2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

**Article 21**

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.
2. The Secretary-General of the United Nations shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

**Article 22**

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

**PART VI****Article 23**

Nothing in the present Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- (a) In the legislation of a State Party; or
- (b) In any other international convention, treaty or agreement in force for that State.

**Article 24**

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

**Article 25**

1. The present Convention shall be open for signature by all States.
2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

**Article 26**

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

**Article 27**

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

**Article 28**

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

**Article 29**

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.
3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

**Article 30**

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed the present Convention.

**Annex O: HRDs Code of Conduct**

1. Maintain confidentiality at all times.
2. Ensure that the best interest of the survivor or potential victim informs all your actions; do not engage out of self-interest and/or gain.
3. Follow protocols, standard operation procedures and referral pathways; do not engage in corrupt or harmful practices.
4. Use positive conflict resolution models; do not use violent words or violent actions at any point in time.
5. Ensure your own safety; do not engage or put yourself in possibly dangerous situations; reach out to people in distress without jeopardizing your safety.
6. Accountability (respect, responsibility) must be maintained in all areas of working as a HRD
7. Participate in the FSVAC meetings.
8. Communicate with the FSVAC and submit requested data to be shared with relevant government entities and stakeholders.
9. Follow up, wherever possible, on requests coming from the FSVAC.
10. Attend relevant workshops and trainings.
11. Make it your business to promote gender equality.
12. HRD must be a role model in his/her community.



For further information contact:

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