

FRICITIONLESS JUSTICE FOR GENDER BASED VIOLENCE

Strengthening Access to Justice for
Women and Girls in Response to
Gender-Based Violence in Fiji

REPORT BY

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ACRONYMS AND ABBREVIATIONS

ADB	Asian Development Bank
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
COVID-19	Coronavirus -19
DV	Domestic Violence
DVRO	Domestic Violence Restriction Order
FWCC	Fiji Women Crisis Center
FWF	Fiji Women's Fund
FWRM	Fiji Women's Rights Movement
GBV	Gender-Based Violence
PIC	Pacific Island Countries
UNDP	United Nations Development Program
UNFPA	United Nations Population Fund
UNHCR	United Nations Human Rights Council
VAWG	Violence Against Women and Girls
WaCH	Women and Children



INTRODUCTION

Fiji has one of the highest rates of Gender-Based Violence (GBV) in the world, which affects women and children in particular (Neimila, 2020). Domestic Violence (DV) is the most prevalent form of GBV. It is deemed that 72% of women in Fiji (aged between 18-64) have experienced physical, emotional, or sexual violence by their intimate partners in their lifetime. Additionally, 73% of children directly or indirectly experience GBV, usually by male family members (FWCC, 2021). During the COVID-19 lockdown, DV cases in Fiji increased and intensified (Freedomhouse, 2021).

Fiji has ratified all relevant international conventions and instituted national-level laws and initiatives to address GBV and its social and economic impact. Despite these Government efforts, high rates of GBV persist, and access to justice for victims remains a challenge; with only 24% of GBV victims accessing support through Government institutions (Thomas, 2020). As an alternative, some GBV cases are addressed through 'bulubulu' ceremonies (a conciliatory forgiveness ritual within informal customary practices).

This policy report examines the barriers faced by GBV victims* when seeking justice and recommends a reform proposal to strengthen future access to justice. We do this by first reviewing the current formal justice system and informal justice practices in Fiji (**Part I**). From this, we identify four key barriers GBV victims face when accessing justice and examine their impact (**Part II**). Finally, we leverage international standards and practices to propose three key recommendations (and their enabling interventions) to overcome the barriers (**Part III**).

* Because of the specific nature of gender violence, our recommendations are focused on women and girls.



PART I: CURRENT STATE OVERVIEW

Fiji constitutes 300 islands, of which 110 are permanently inhabited, and boasts a strong customary culture (Britannica, 2022). Following the end of military rule in 2014, Fiji has held regular democratic elections. Notwithstanding, independent agencies have documented evidence of political influence in the Judiciary (Freedomhouse, 2021).

The democratic Constitution of Fiji guarantees equal rights and protection to all citizens including women and children. However, the prevalence of GBV reflects a different reality – one of deep-seated gender discrimination, patriarchy, and culturally harmful norms and practices.

Within this context, GBV cases prevail, often beginning in childhood. In addition to the high rates of GBV for adult women, 16% of women have experienced violence before the age of 15, and 1-in-10 adolescent girls have experienced sexual violence (FWCC, 2021). The impact of GBV is multi-dimensional. It diminishes physical and mental well-being by debilitating reproductive health and impacting children’s development. It also has lasting impacts on victims’ productivity and can affect their financial situation (Raghavendra, Duvvury & Ashe, 2019).

Effective access to justice ensures reparations for victims and can be a deterrent against GBV. However, in Fiji, these formal justice mechanisms are not often used. Instead, 90% of GBV cases are either resolved outside the courtrooms or abandoned (UNDP, 2019).

Fiji’s Government has focused on addressing GBV through various actions and reforms as illustrated in Figure 1. Nevertheless, GBV persists and access to justice in such cases remains under-utilised.

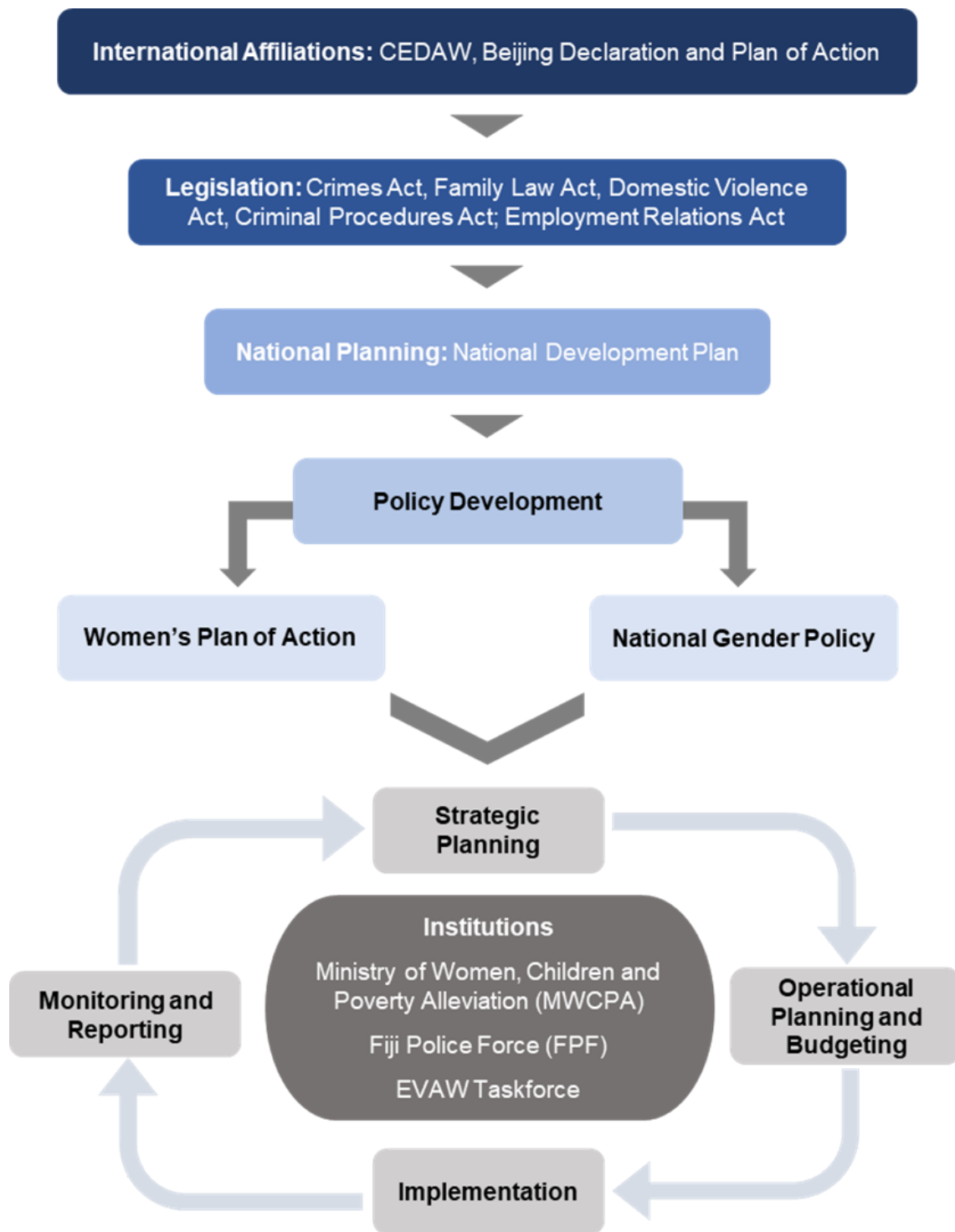


Figure 1: Overview of Fijian Government Laws and Initiatives



PART II: KEY BARRIERS TO ACCESSING JUSTICE

We identified four key barriers currently faced by victims when accessing justice: (i) cultural prejudices, (ii) lack of adequate information available to victims, (iii) capacity limitations in formal institutions, and (iv) prohibitive procedures that impact the effective delivery of justice. These are detailed below.

1. Cultural Barrier

Cultural values against women and girls, including harmful patriarchal attitudes, impact the informal and formal justice systems.

Informal justice practices, namely bulubulu, focus on village harmony above protecting victims or providing reparations. In bulubulu, female victims are commonly represented by male family members before the Village Head; often resulting in the removal of victims' voices from proceedings. The quality of the outcome is often dependent on personal traits, biases, and relationships that the Village Head has with each party and the community (UNDP, 2019). Victims of domestic violence commonly consider informal systems to be more accessible, less expensive, and more user-friendly than formal justice mechanisms (UNDP, 2019). These informal justice practices are predominantly used in rural areas where access and trust in formal institutions is limited.

Cultural biases also influence the formal system, commonly resulting in the unfair treatment of victims in terms of how hearings are conducted, evidence is used, and laws are applied. Police Officers have been seen to ignore legislation that requires them to investigate cases (this “non-drop policy” is explained further below), instead preferring individuals to reconcile or access bulubulu (ADB Conference, 2023; UNDP, 2019). This has discriminatory and harmful outcomes for the victim, who may be redirected back into environments where they will have continued interactions with the perpetrator.

2. Informational Barrier

Executive Director of the Fiji Women's Rights Movement, Nalini Singh, identified the perceived complexity of the formal justice system as a key deterrent to victims commencing proceedings. This is especially an issue for Fijians with less formal education (ADB Conference, 2022).

In rural and remote settings, accurate sources of legal information and advice are limited. Consequently, victims in these settings lack information on basic concepts, such as their rights and options for justice. This leads to distrust and disengagement by victims.

3. Institutional Barrier

GBV victims outside the two main islands of Fiji often face difficulties in physically accessing courts and supporting services (including competent legal support). For instance, rural and remote islands have limited entry points to access formal justice pathways (e.g., refuge and advice centres) (FWRM, *Balancing the Scales*, 2017).

As such, they must travel to another location which can cost them nearly one-week salary per trip. Alternatively, they can wait for Maritime Circuit Tribunals, which only visit 2-3 times a year and also cover cases beyond GBV. This low frequency is attributed to the administrative backlogs and reduced capacity of qualified lawyers and judges to support the caseload (Asia-Pacific conference, 2022). Lastly, many Fijian Courts do not provide critical support services for victims (e.g., childcare, and private facilities) (CEDAW, 2015).

The cumulation of these shortcomings leaves victims feeling excluded and unsupported.

4. Procedural Barrier

Formal justice system protocols and procedures are often perceived as unfair and partial, which can jeopardise the effective delivery of justice for victims. For example, the legislated 'non-drop policy' (which requires Police to investigate and pursue all DV cases, even if the victim withdraws the complaint) is not always enforced. Additionally, Court Clerks have been known to reject DV Restraining Order (DVRO) applications based on their own discretion (FWCC, 2013).

Additionally, a study of sentencing practices by Judges in GBV cases across the Pacific (including Fiji) found that gender stereotypes, customary reconciliation, and other contentious factors (e.g., women's sexual history) were unduly considered. In 75% of cases analysed these factors were considered and resulted in a reduced sentence in two-thirds of such cases (ICAAD, 2015). These mitigating factors are considered despite the legislative rights given to Judges to consider specific characteristics of DV cases during sentencing (s3 Sentencing and Penalties Act 2009).

These procedural limitations impact access to quality justice services received by the victim.



PART III: RECOMMENDATIONS TO OVERCOME BARRIERS

The underlying causes of the key barriers outlined above are often deeply ingrained in society, highly complex to navigate, and inextricably connected. As such, prior to recommending any reform proposals, it is important to understand what has worked against these ‘wicked issues’ in comparable contexts. Additionally, we must acknowledge expert recommendations made by leading international bodies and GBV Judicial specialists.

As such, we conducted a review of international standards and practices through desk-based research, discussions with global specialists, and by attending the Asia-Pacific Conference on addressing GBV hosted by ADB and UNDP in May, 2022.

Using this information, we developed a series of potential reform proposals which we prioritised based on: (a) their anticipated impact on diminishing the barriers to accessing justice; and, (b) their political, financial, and operational feasibility.

Those proposals we believed to be high impact and feasible* are packaged in three key recommendations:

1. Increase the engagement of the formal justice system;
2. Ensure the formal justice system has the capacity to better support current and increased engagement; and
3. Provide safeguards to ensure GBV victims within the formal justice system receive effective access to justice.

These interventions and the relevant case studies and international standards are detailed below.

*For all proposals, including those that were not prioritised, see graph in the Appendix.

1. Recommendations to Increase Engagement of the Formal Justice System

1.1. Increased Availability of Critical Information (short-term)

International Standard: CEDAW recommends ensuring the distribution of information about available justice mechanisms and procedures in various formats (CEDAW/C/GC/33, para 17(c), 2015).

Based on CEDAW's recommendation we advise creating more fit-for-purpose informational artefacts, on topics such as the different entry points to access justice, explanations of the legal process, and social programs for victims. The content should be previously socialised with advocacy groups.

To ensure victims can access these artefacts, we recommend leveraging the well-established Fijian Women Crisis Centre (FWCC) website and awareness initiatives. FWCC is a key stakeholder and advocacy group in Fiji (Asia-pacific Conference, 2022) and this recommendation is aligned with their objectives. It is likely to be easily executed and can be funded through existing informational budgets.

To further disseminate the artefacts, FWCC could initiate a Youth Advocacy Network (YAN) similar to a voluntary program in Pakistan. In that case study, university students are trained and employed to engage their local communities as advocates against GBV (ADB, 2014).

For this program to be sustainable in time for FWCC, a bigger investment in terms of time and resources is needed. The Fijian Ministry of Youth and Sports could lead the initiative by inviting some YAN Pakistan advocates to Fiji for sharing their experiences and lessons learned.

1.2. Support existing religion-based gender-sensitisation programme (medium-term)

International Standard: CEDAW recommends that, in cooperation with non-State actors, States take immediate steps, including capacity-building and training programmes on the Convention and women's rights for the providers of justice, to ensure that religious, customary, indigenous, and community justice systems harmonize their norms, procedures, and practices with the human rights standards enshrined in the Convention and other international human rights instruments (CEDAW/C/GC/33, para 64(a), 2015).

Some gender-sensitisation programmes focused on men and led by religious groups in Fiji have been proven to be effective. For instance, the 'Preventing Violence in Fiji's Faith Settings' project from the NGO House of Sarah, collaborates with clerics that have adapted human rights discourse into a local idiom, including using biblical interpretations to counter patriarchal values, norms, and practices (Fiji Women's Fund, 2020). Similar programs are successfully operating in Papua New Guinea as well (Biersack, Jolly & Macintyre, 2016).

Fiji is predominantly Christian and preachers are often present in settings where formal institutions cannot reach. We recommend that previously identified training programmes and leaders with these skills are officially supported by the Government as they offer a persuasive mechanism to challenge gender biases in rural areas. This may include Government acknowledgment and reward to the prominent individuals delivering training, and financial support for their missions to reach and train other isolated communities.

1.3. Withdraw any admissibility analysis from Court Clerks (long-term)

International Standard: CEDAW states that countries are under the obligation to eliminate social bias and stigmas toward GBV victims to provide adequate access to justice. The CEDAW insists on strengthening mechanisms to ensure that under no circumstances are victims forced to accept reconciliation with the perpetrator (CEDAW/C/GC/33, para 15(c), 2015).

To address the refusal of DVRO applications by Court Clerks, we recommend eliminating any subjective analysis in charge of them that can create arbitrary barriers for the case to reach the specialised judges. Similar to the 'non-drop policy', we propose Clerks not be allowed to refuse DVRO claims registrations. This should be done by amending the DV Act, which currently states:

Listing an application and service by police

42.—(1) Subject to subsection (2), each Court exercising jurisdiction under this Decree must make arrangements for applications under this Decree to be heard as soon as is reasonably possible after filing and in any event within 7 working days of the application being filed.

(2) Where an applicant is applying to proceed urgently the Clerk of the Court must—

- (a) consider the urgency of the case having regard to the objects and principles of this Decree and the circumstances of the case, and
- (b) where the urgency of the matter requires it the Clerk of the Court must allocate a time for an interim hearing that, if possible, is on the day that the application is filed and in any event is within 2 working days of the application being filed.

We propose amending section 42-(2) to state:

“(2) Where an applicant is applying to proceed urgently the Clerk of the Court must allocate time for an interim hearing that, if possible, is on the day that the application is filed and in any event is within 2 working days of the application being filed.”

This amendment will require Clerks to register all DVRO applications that are presented to them and call for an interim hearing so the judge -and only she or he- can determine its admissibility.

Amendments to legislation require Parliamentary approval. The Attorney-General or Solicitor-General's Office can lead this process. Nevertheless, legislative lobbying is key to influencing changes in the law, as seen in FWCC's successful lobbying efforts (including media campaigns and stakeholder meetings) that resulted in the initial 'non-drop policy' (FWRM, 2010).

1.4. Institutional spaces for dialogue between informal and formal justice systems (medium-long-term)

International Standards: CEDAW recommends States to enact legislation to regulate the relationships between the different mechanisms of plural justice systems in order to reduce potential conflict (CEDAW/C/GC/33, para 64(b), 2015). Beside, CEDAW only allows GBV to be adjudicated through alternative dispute resolution processes if the procedures empower victims or survivors (CEDAW/C/GC/33, para 58(b), 2015).

CEDAW has determined that bulubulu violates women's rights by limiting their agency and inadequately repairing the victim. Moreover, CEDAW has expressed concerns about the Government's inaction in managing this practice (CEDAW/C/FIJI/CO/4, para 20, 2010). This contravenes Fiji's international duties and signals tolerance of sub-standard justice for women (IDLO, 2020).

In Peru, the Judiciary set conditions to harmonise indigenous population customary law with human rights standards. We recommend the Fiji Judiciary adopt a similar initiative and better engage with the informal justice system. This includes organising regional encounters between traditional leaders and judges, ultimately leading to working groups where they can discuss their justice-delivery practices. This indirectly will open conversations on gender issues.

To encourage participation, we recommend framing it as a learning exchange, through which the Judiciary can support more professionalism and consistency in informal justice decisions (IDLO, 2020). This can improve the treatment women receive under bulubulu. Ultimately, a 'Traditional Leaders Act' should be established which regulates the role, responsibilities, and jurisdiction of traditional leaders. It is anticipated that this would provide the Judiciary a hook into ensuring traditional practices align with Fiji's international obligations and creates a referral pathway for criminal cases into the formal justice system (IDLO, 2020).

2. Recommendations to Ensure the Formal Justice System has Capacity

The capacity barriers in Fiji were similarly faced by other countries, such as Pakistan and Afghanistan. In these countries separate specialised GBV courts have been established to accelerate and adequately address GBV cases (ADB, 2021 and ADB 2014). However, this intervention is not easily feasible for Fiji, as it will require reform of the Judiciary, and the introduction of technical, infrastructure, and human resources across the dispersed geographies; which is already a major challenge for traditional courts (Asia-Pacific Conference, 2022). Instead, we recommend the following interventions to overcome the capacity limitations of the formal institution.

2.1. Judges and lawyers training on legal standards (short-term)

International Standard: CEDAW recommends strengthening training programmes on the relevant GBV laws for justice system personnel to ensure practices and advice for GBV victims are aligned with international women's rights (CEDAW/C/GC/33, para 64(a), 2015).

Fijian legal experts have remarked on the critical challenge posed by the lack of knowledge lawyers, members of the judiciary, and police forces involved in GBV cases have of relevant laws and protocols (Asia-Pacific Conference, 2022).

In Papua New Guinea a training program on GBV laws was delivered, resulting in increased availability and quality advice to GBV victims (Biersack, Jolly & Macintyre, 2016). Using this blueprint, we recommend a similar mandatory training programme be implemented. This could be done through a single workshop that brings together all lawyers, judges, and police engaged in GBV cases.

This training should be easily executed, for example as an additional module in the existing training received by these professionals. The training should include a GBV Handbook for ongoing reference. This could be created by volunteers from initial training and should align with the need for informational artefacts proposed above. To incentivise training compliance and attendance, we recommend accrediting attendees with appropriate recognition in relevant continuing professional education programmes.

2.2. Increasing Frequency of Maritime Tribunals (medium-term)

International Standards: CEDAW recommends States ensure the availability of legal services for women, in order to enable them to claim their rights by engaging qualified local support staff to provide that assistance (CEDAW/C/GC/33, para 64(e), 2015).

We recommend increasing the frequency of maritime courts, in order to reach victims in isolated geographies within a reasonable timeframe and without placing economic burdens on victims to travel. This requires substantial human and economic resources.

We anticipate that training on legal standards proposed above will increase the pool of GBV-qualified professionals who can be deployed in these maritime tribunals. Additionally, these lawyers and judges can be supported by law graduates completing a practical placement as part of their Graduate Diploma in Legal Practice, as in-line with Legal Practitioners Decree 2009, these law graduates must only act under the supervision of an admitted lawyer.

Funding for this recommendation will need to be appropriated by the Judiciary and will likely require lobbying efforts by the Judiciary and advocacy groups.

2.3. Online Judicial Process (long-term)

International Standards: CEDAW requires States to institutionalise accessible, sustainable, and responsive services for GBV victims (CEDAW/C/GC/33, para 37(a) and 64, 2015).

To address the geographical challenge outlined above in a more comprehensive and sustainable way, we recommend making official the use of online judicial platforms and processes. This encompasses a digital platform that connects judicial professionals and victims and allows for proceedings to be conducted virtually. This system can also be used for victims to receive virtual legal support.

Online judicial processes have been successfully implemented in countries such as Colombia (during the COVID-19 lockdown) for cases of GBV. Whereby pro-bono lawyers were virtually connected with victims and arbitration hearings were held online (Alcadía Mayor de Bogotá, 2020; Abogados en Cuarentena, 2020).

This proposal requires funding to ensure the digital infrastructure is adequate. Arguably, the budget required to ensure this infrastructure will likely require fewer resources than the ones needed to create additional physical facilities across geographies or continuously operate Maritime Tribunals. Moreover, the Fijian population already makes good use of mobile phones and internet services (World Bank Group, 2018). In fact, 95% of Fiji's population has access to mobile connectivity 3G, 4G, and 4G+ (Fiji Times, 2022), so the digital connection and its accessibility support this proposal.

To operationalise this recommendation, the DV Act will need to be amended to allow online proceedings. This Act currently allows applications and hearings via telephone as follows:

Hearing in person or by telephone

41. — (1) Subject to this section, a Court may hear an application under this Decree in person or by telephone.
- (2) This section does not affect the operation of section 25.
- (3) An application, or part of an application, may be heard by telephone where this is technically possible, and—
- (a) the presiding judicial officer gives a direction that a hearing by telephone may take place;
 - (b) during the hearing the presiding judicial officer is sitting in a court room or office in a court house;
 - (c) the telephone used by person appearing or giving evidence by telephone is in a court room or a court house.

As already mentioned in this Report, legislative amendments will require Parliament's approval and lobbying efforts. Finally, to make this truly comprehensive, refuge centres and other relevant organisations, like FWCC, can help victims in person at their facilities by indicating how to use the online judicial services.

3. Recommendations to Provide Safeguards against Ineffective Justice

Using a victim-focused lens, we recommend the following proposals to ensure fair, impartial, and neutral justice for the victim:

3.1. Gender-sensitisation training (short-term)

International Standards: To ensure victims are not shamed, blamed, or doubted due to their gender, CEDAW emphasises that judges, lawyers, and police officers must execute their duties in a gender-sensitive manner (CEDAW/C/GC/33, para. 15(c) 2015).

We recommend providing gender-sensitisation training to professionals in the justice system specialised in GBV cases. This intervention was successfully executed in Pakistan, where ADB with the Ministry of Justice trained over 600 judges and 100 prosecutors (ADB, 2021) through online modules and handbooks.

Whilst gender-sensitisation training has been delivered to Fijian Parliamentarians; it has not been provided to professionals in the justice system. By leveraging this political understanding of the importance of gender-sensitisation training by the Legislative, we recommend this training is expanded to the Executive and Judiciary (i.e., all Police Officers and any Prosecutor or Judge who is involved in GBV cases). Each session could be tailored to the unique features of the various professions within the judiciary, whilst creating a sense of a 'network' of professionals focused on facilitating justice pathways for GBV victims (such a network was successfully implemented across the Nepalese police force)

This proposal can be easily funded and implemented in the short term as a 'train-the-trainer' program, especially with the support of the ADB Technical Assistance, who have already done it in Pakistan (ADB, 2021).

3.2. Physical infrastructure and enabling services (mid-long term)

International Standards: CEDAW requires states to make available hospitable physical environments and support services for victims in GBV cases (CEDAW/C/GC/33, 2015). This is intended to reduce the risk of anxiety, confusion, and re-traumatisation for victims.

Previous ADB Technical Assistance Programs have highlighted the importance of addressing the infrastructure needs of GBV victims. In Pakistan, the lauded GBV reforms included the development of specific infrastructure and facilities necessary to separate victims from respondents during proceedings (e.g., separate waiting rooms, screens, and video conferencing facilities) (Aziz, 2020). Conversely in Mongolia, it was determined that local communities required investment into facilities such as shelters, transitional houses, early-childhood education and childcare facilities for victims and dependents (Begzsuren and Joffre, 2018).

Fiji has similar needs. Separate facilities for victims and witnesses can be replicated in Fijian Courts and Maritime Tribunals by repurposing any facilities that are under-utilised or vacant (even part-time). We think this is feasible in the medium-term as it can be executed through the execution of internal court protocols that require better manage the use of physical spaces inside the Courts.

As for the enabling infrastructure beyond the Courts, the FWCC currently provides the critical services identified in the Mongolia case study. As the Government lacks the capacity, expertise, and will to in-house these services, they must support financially FWCC to keep managing the refugee centres. This funding may be challenging to appropriate when measured against the other recommendations as support services are often considered ancillary to access to justice. This extends the timeframe for this intervention as political lobbying might be required to prioritise this intervention (financing a civil society organisation) by the treasury.

Alternatively, we envision that the funding gap could be bridged through applications for infrastructure grants from Development Banks and through bilateral aid.

3.3. Sentencing Appeals Pathways (long-term)

International Standards: CEDAW stipulates that the Judiciary must act with impartiality and without impunity and provide remedies that are adequate, appropriate, and proportional to the harm suffered (CEDAW/C/GC/33, 2015).

We suggest that Fiji implements a procedure scheme to appeal/monitor GBV sentences that are considered by the victim, their families, or the public to be disproportionate to the offence.

Such an appeals mechanism has been introduced in the United Kingdom known as the 'Unduly Lenient Sentence Scheme'. This scheme allows for an appeal motion to be made to the Attorney-General if it is believed that the sentence ruling made by the trial judge was unreasonably lenient. The Attorney-General may then request the Court of Appeal to hear the sentencing appeal. This scheme does not preclude either party from appealing the case itself to the Court of Appeal (s36-37 Criminal Justice Act UK 1988). Since its commencement, over 780 sentencing appeals have been registered, of which 12.3% were referred to the Court of Appeals; of these appeals, 65% were returned with an increased sentence (ULS Case Data, 2022).

As such we envision a similar scheme to the UK, to safeguard appropriate sentencing. To do so, Fiji's Government must design a new law that creates this procedure. Going through Parliament, the Government may face strong resistance and lobbying by the Judiciary which could arguably conceive this scheme exceeds Executive powers. Hence, legislative lobbying would be key to making this bill pass. Additionally, we anticipate considerable effort to operationalise and fund this scheme as it will require additional sessions of the Court of Appeals and dedicated administrative staff both from the Judiciary and the Attorney-General. We believe that these costs are small compared to the impact that such a system will make on societal trust in the institution and strengthen access to quality justice.

There may be concerns that the creation of this appeals pathway through the Attorney General, a political appointment, could weaken the separation of powers. However, arguably the Attorney-General or delegated authority has the right to intervene in such a manner under the Constitution, in order to ensure that the law is applied without 'favour or prejudice' and to uphold the rights given to women and children. If there are concerns over the systematic degradation of the separation of powers through this process, standard checks and balances (e.g., governmental inquiries) should be carried out.



CONCLUSION

This Policy Report has brought to light the cultural, informational, institutional, and procedural impediments which hinder the access and effective delivery of justice for GBV victims in Fiji. To identify these barriers, we focused on the experiences of GBV victims at each point of their journey towards justice; from the point at which they recognise their experiences as GBV, through their entry into a justice pathway, to the delivery of a final outcome by the adjudicators. With this understanding of the current state, we examined international standards and global and regional best practices, to develop a set of strategic reforms. We believe this reform agenda if implemented, has the potential to bring structural and systemic changes toward ensuring frictionless access to justice for GBV victims.

It is our hope and belief that through the analysis presented in this Policy Report, and the reform proposals that are recommended, we are not only assisting ADB in their Technical Assistance Program in Fiji but also representing the best interests of our primary stakeholder, the victims of GBV in Fiji.

We believe that our proposed recommendations bear external validity as they have achieved impactful social development outcomes in comparable contexts. In these contexts, the economic, political, and operational support requirements, that ensure successful implementation of the interventions, have been successfully delivered. Using the ADB network, we suggest that the reformers who led these initiatives are engaged to further understand the detailed process of implementation and any lessons learned. Additionally, ADB could support the Government in its efforts to collaborate across all stakeholders in the process, judiciary, and key advocacy groups to ensure the benefits realised from the proposed reforms are sustained.

In considering the key proposals the ADB, and ultimately the Fijian Government, will need to balance the need for short-term relief offered by some of the interventions and the long-term investment required to create sustainable changes in the formal justice system. We strongly believe these changes will ultimately contribute to the Fijian Government's ability to meet its Constitutional obligation to prioritise the end of GBV in Fiji.

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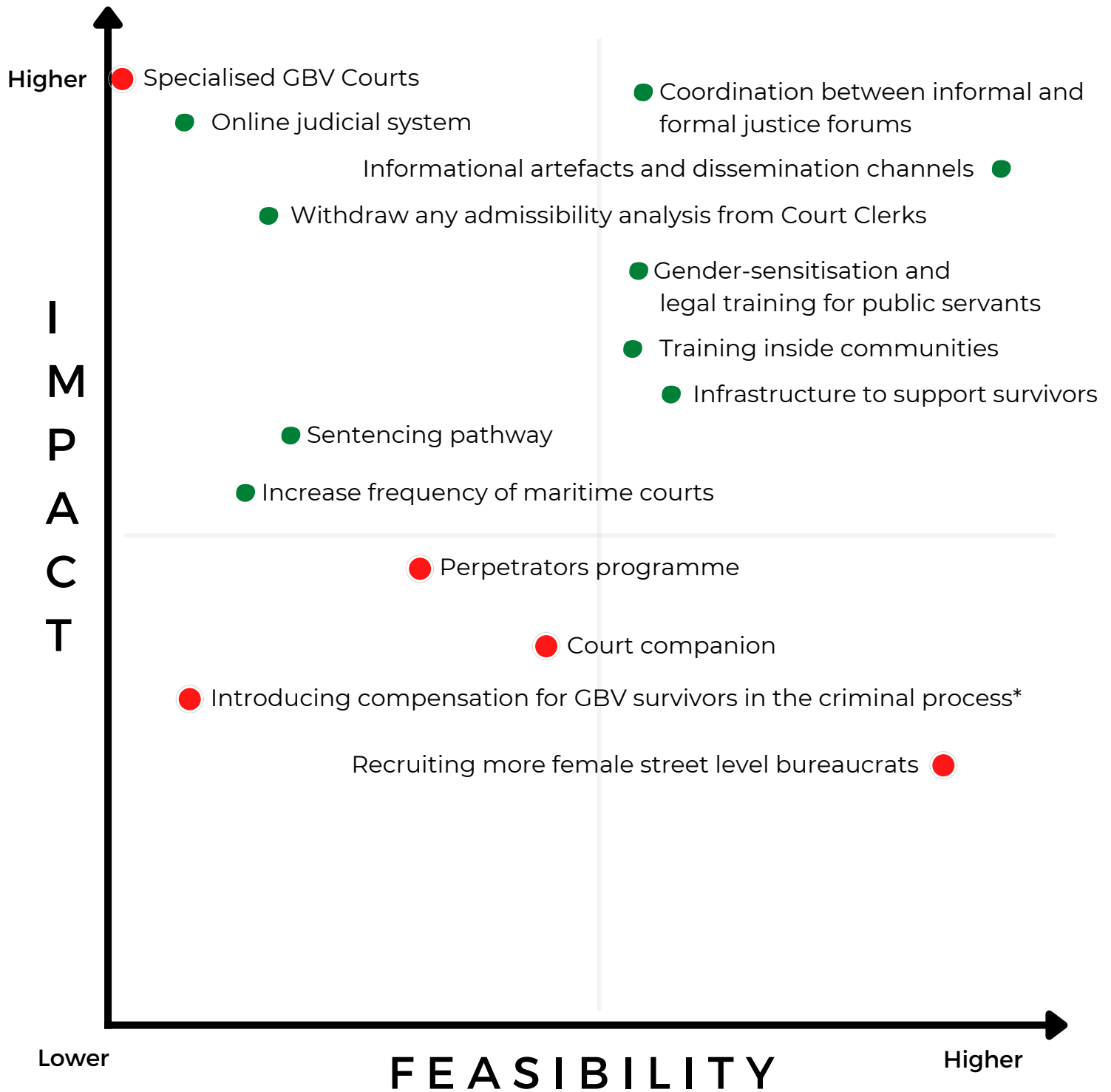
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APPENDIX

The following graph presents the ideas that emerged from an initial brainstorming process. Only 9 were prioritised and developed further in the Report.



- Prioritised
- Not prioritised

*In order to claim compensation for the damage suffered by the GBV victim due to physical or psychological aggression requires changes to the Criminal system and laws. This introduction of a compensation process entails complexities that make it infeasible in the short term and exceeded the scope of our report.

Since compensations are civil in nature, it would be challenging to adjust the current criminal proceedings to this without systematic change. For instance, various laws will need to be passed, funding will need to be earmarked, and training programmes for all the justice stakeholders would be required.

Whilst compensation would definitely have a positive impact on the protection of the victim's rights, these operational limitations make it a challenging undertaking. Especially as the addition of economic compensation as an outcome sought in GBV cases requires a comprehensive process to calculate suitable compensation and the availability of funds to pay it out. This funding could be made by the partner individually responsible for the aggressions; or from the government for failing at its duty to protect fundamental rights and freedoms, including women living without violence; or both in an order of precedence.

For more on this debate, see the report of Special Adviser Joëlle Milquet to the President of the European Commission on "Strengthening victims' rights: from compensation to reparation".

https://ec.europa.eu/info/sites/default/files/strengthening_victims_rights_-_from_compensation_to_reparation.pdf