

Monitoring and Case Observations in Gender Based Violence Court

Analysis Report

Developing gender-responsive courts is globally recognized as a necessity for the promotion of equality and gender justice. This includes both the establishment of special courts to deal with specific gender based crimes/issues and upgrading the capacities of regular courts. Sensitized judicial actors play a key role in achieving a sturdy protection and response system for tackling gendered violence. Establishment of a model Gender Based Violence (GBV) Court in Lahore has been one such step in Punjab to attain gender justice in the province and is a main part of the WPS in the province.

Observations and Review of Judgements

Output/Outcome	Goals and Description	Status of Completion and Other Comments
Output 3	Monitoring protocols established for the GBV Courts and other mechanisms of the GBV Protection System	<ul style="list-style-type: none">• Since the previous reporting period 44 judgements of the GBV Court from 2018 through 2022 were reviewed• 14 observation visits of the GBV court were carried out

In furtherance of Output 3 of the Project, Dastak set out to monitor the protocols established for the GBV Court in Lahore via a series of court observations and study of selected judgements. The aim of this exercise was to not only monitor and assess the implementation of the specialized protocols designed for the functioning of the Court but to also evaluate the performance of the Court and propose recommendations for its improved operations. Dastak monitored proceedings in the GBV Court to mark trends in the application of the human rights-based approach and gender sensitivity in the prosecution of GBV cases. This monitoring also included eliciting feedback from judges, prosecutors and other relevant actors present within the Court. Judicial decisions of the GBV court were also collected for an evidence-based study of trends such as rate of convictions and acquittal and the time taken to decide a case etc. These observations and monitoring will be used for advocacy on legislative and/or procedural reform.

Thus far, since the institution of the Court at the end of 2017 till March of 2022 a total of 5063 cases have been instituted. Out of these 974 cases were disposed off, in 875 cases accused were acquitted, in 549 accused were convicted and 91 cases are currently pending before the Court.

Dastak successfully carried out 14 Court observations and reviewed 44 judgements during the project period, learnings from which are consolidated and provided below.

A. Review of Judgements

While the GBV Court set up in Lahore in 2017 is a specialised court that specifically presides over cases of sexual violence its rate of conviction is staggeringly low. Out of the 44 judgements reviewed only 7 resulted in successful convictions. The remaining 37 judgments saw acquittals, 18 of which were due to the Prosecution's failure to prove the case beyond a reasonable doubt and the remaining 19 due to resiling of victims. Only one case led to a conviction despite resiling of victim.

Some basic information relating to the judgements reviewed is contained in the following table:

No.	CASE TITLE	OFFENCE UNDER PPC	DATE RECEIVED	DATE OF DECISION	OUTCOME
1.	<i>The State Vs. Vikram</i>	Sections 376/365B	11/02/2021	06/01/2022	Accused was Acquitted
2.	<i>The State Vs. Usman Faqir Hussain</i>	Section 376	18/06/2021	05/03/2022	Accused was Convicted
3.	<i>The State Vs. M. Ijaz Hussain</i>	Section 376	09/02/2019	04/04/2022	Victim resiled and accused was acquitted
4.	<i>The State Vs. Akbar Ali</i>	Section 376	18/06/20	02/04/2022	Accused was Acquitted
5.	<i>The State Vs. Umar Jamil</i>	Section 376	13/04/2019	01/04/2022	Accused was Acquitted
6.	<i>The State Vs. M. Khalid</i>	Section 376	15/06/2021	06/04/2022	Victim resiled and accused was convicted
7.	<i>The State Vs. Muhammad Pervaiz</i>	Section 376	24/06/2019	18/02/2021	Accused was convicted
8.	<i>The State Vs. Mohsin Amin</i>	Sections 376/506	19/02/2021	19/02/2021	Victim resiled and accused was acquitted
9.	<i>The State Vs. Saeed Ahmad</i>	Section 376 (iii)	03/06/2019	27/02/2021	Accused was convicted
10.	<i>The State Vs. Haroon Masih</i>	Section 376	16/04/2019	30/03/2021	Victim resiled and accused was acquitted
11.	<i>The State Vs. M. Amin</i>	Sections 376/511	24/09/2019	16/03/2021	Accused was Acquitted
12.	<i>The State Vs. Muhammad Aslam</i>	Section 376(iii)		24/05/2021	Accused was Convicted
13.	<i>The State Vs. Muhammad Usman</i>	Sections 376/365B		27/05/2021	Victim Resiled and accused was acquitted
14.	<i>The State Vs. Kabir Akhtar</i>	Section 376		28/05/2021	Victim Resiled and accused was acquitted
15.	<i>The State Vs. Istikhar Ali and M. Zeeshan</i>	Section 376		31/05/2021	Accused was Acquitted
16.	<i>The State Vs. M. Nawaz</i>	Sections 376/496A/371A		31/05/2021	Accused was Acquitted
17.	<i>Mst. Somia Muzaffar Vs. M. Akram</i>	Sections 354/450/376/511	18/01/2018	02/09/2021	Accused was Acquitted

18.	<i>The State Vs. Muhammad Akram</i>	Sections 354/451/376/511	27/11/2018	02/09/2021	Accused was Acquitted
19.	<i>The State Vs. M. Arslan</i>	Section 376	29/07/2019	24/09/2021	Accused was Acquitted
20.	<i>The State Vs. Aurangzeb</i>	Section 376	16/04/2019	30/09/2021	Accused was Acquitted
21.	<i>The State Vs. Muhammad Rashid</i>	Section 376	11/03/2019	27/10/2021	Victim resiled and accused was acquitted
22.	<i>The State Vs. M. Naveed</i>	Sections 376/337L2	20/08/2019	27/10/2021	Accused was Convicted
23.	<i>The State Vs. Tanvir Hussain</i>	Section 376	25/05/2019	29/11/2021	Accused was Acquitted
24.	<i>The State Vs. Malik M. Zaheer etc.</i>	Sections 376/337A1/337L2	28/09/2019	13/12/2021	Accused was Acquitted
25.	<i>The State Vs. Abid Masood</i>	Sections 365B/376	28/09/2019	14/12/2021	Accused was Acquitted
26.	<i>The State Vs. Danish Masih</i>	Sections 365B/376	18/05/2019	23/12/2021	Accused was Acquitted
27.	<i>The State Vs. Ali Murtaza</i>	Sections 376/365B	06/10/2020	14/11/2020	Victim resiled and accused was acquitted
28.	<i>The State Vs. Umair Muzamil</i>	Section 376	19/08/2020	02/11/2020	Victim resiled and accused was acquitted
29.	<i>The State Vs. Muhammad Farooq</i>	Section 376	14/09/2019	07/11/2020	Victim resiled and accused was acquitted
30.	<i>The State Vs. Muhammad Ishtiaq</i>	Sections 376/496 A		22/02/2019	Victim Resiled and accused was acquitted
31.	<i>The State Vs. Muhammad Shafique</i>	Section 376		20/02/2019	Accused was Acquitted
32.	<i>The State Vs. Muhammad Aslam Pervaiz</i>	Section 376		18/02/2019	Victim Resiled and accused was acquitted
33.	<i>The State Vs. Muhammad Illyas</i>	Section 376		08/02/2019	Victim Resiled and accused was acquitted
34.	<i>The State Vs. Safdar Ali</i>	Sections 376/337F		16/04/2019	Accused was Acquitted
35.	<i>The State Vs. Muhammad Yousaf, Liaqat Ail, Muhammad Yaqoob, Ali Hassan</i>	Sections 376/496		10/04/2019	Accused was Acquitted
36.	<i>The State Vs. Allah Rakha</i>	Section 376/511		09/04/2019	Victim resiled and accused was acquitted
37.	<i>The State Vs. Pervaiz Iqbal Khokar</i>	Section 376/511		08/04/2019	Victim resiled and accused was acquitted
38.	<i>The State Vs. Zain Ali and Ali Raza</i>	Sections 376/363		24/05/2018	Victim Resiled and accused was acquitted
39.	<i>The State Vs. Ghulam</i>	Sections 376/511		17/05/2018	Accused was Acquitted
40.	<i>The State Vs.</i>	Sections 376/365		08/05/2018	Victim Resiled

	<i>Shehroze Aslam</i>				and accused was acquitted
41.	<i>The State Vs. Arsalan Mehmood</i>	Section 376		27/04/2018	Victim Resiled and accused was acquitted
42.	<i>The State Vs. Muhammad Javed Sheikh</i>	Section 376		27/04/2018	Accused was Convicted
43.	<i>The State Vs. Muhammad Arif</i>	Section 376/365B		24/04/2018	Victim resiled and accused was acquitted
44.	<i>The State Vs. Muhammad Naveed, Malik Shahzad, Iqra, Shahid, Wasif</i>	Section 376/365B/371A		21/04/2018	Victim Resiled and accused was acquitted

To understand this table better it is important to clarify and explain its heads and the data entered. The first column is titled 'No.' to denote the number of cases that have been reviewed. The second column is titled 'CASE TITLE' and contains the name of each case. The third column is titled 'OFFENCE UNDER PPC' to reflect what section of the Pakistan Penal Code (PPC) the accused was tried under or the charge/s made against the accused. The fourth column is labeled 'DATE RECEIVED' to mark when the case was moved to the GBV Court and the fifth column titled 'DATE OF DECISION' denotes when the case was concluded and the final judgement was passed. The last column titled 'OUTCOME' refers to whether the case led to a conviction or acquittal or whether the victim resiled.

The table above reflects that all the cases that were reviewed were tried under section 376 of the PPC and some have additional charges against the accused. Section 376 deals with rape and defines the punishment for it. Additionally, the table shows 20 cases of 'resiled victims' which refers to victims who have retracted their original charges and statements and declared that the accused was named in the present case by way of a misunderstanding and they are satisfied if the charges against the accused are dropped and he is acquitted. Acquittal refers to dropping charges against the accused upon the honourable judge's satisfaction that the accused is non-guilty based on lack of evidence, contradictions, resiling of victim etc. Conviction indicates that the accused is found guilty and sentenced according to the punishment laid out in the PPC.

The reviewed judgements revealed the following trends in court cases, many of which contribute to the low rate of conviction.

1. Delays:

According to the judgements reviewed cases in the GBV court were decided from anywhere between over 3 years to 3 months. Cases of convictions and acquittals were often decided in over 2 years while those of resiled victims were mostly concluded in less than a year and sometimes as early as 2-4 months.

Despite summoning of witnesses, the accused, victims and complainants through unobtainable warrants of arrest adjournments for a plethora of reasons were granted. The most common out of these were; absence of counsel of either party, absence of complainant, accused or witnesses, lawyers strike, leave of presiding officer, Covid'19, lack of preparation of counsel, sickness etc.

20-30 adjournments were common in each case and even in cases of resiled victims often 10 or more adjournments were granted. As a model and specialized Court, the GBV Court is tasked with providing justice fastidiously and must do without granting excessive adjournments.

In an interview with the Court Prosecutor, it was shared that the trial begins after the *challan* (investigation report) under Section 173 of Criminal Procedure Code is submitted by the police. The Prosecutor is authorized to raise objections if the *challan* has not been drafted according to law and contains serious errors. The Prosecutor claimed that the police are slow to respond to these objections, which causes unnecessary delays and in special cases, the Prosecution even offers help to Investigation Officers in preparing accurate *challans*. The Prosecutor was of the opinion, that the Prosecution Department should authorize them to supervise and guide the IOs prior to submission of the *challan* in the interest of time and quality of evidence. Timely and swift coordination between the prosecution and police will help reduce delays and, moreover, it will improve the quality of evidence collected that will help expedite the trial and lead to a higher number of convictions.

2. Low Substantive Value of DNA Evidence:

Considering the GBV Court mostly deals with cases of sexual violence or rape under Article 376 of the Pakistan Penal Code (PPC) DNA testing can play a critical role in implicating the accused therefore it is critical to increase its evidentiary value. The present review of judgements highlighted that in a number of instances where the results of a DNA test were positive the Court failed to convict the accused. While other corroborative evidence and lack of contradictions are important to assess also, DNA results must not be wholly disregarded.

3. Resiled Victims:

Another factor that majorly contributes to acquittals is resiling of victims. 20 out of the 44 judgements reviewed were cases of resiled victims who took back their initial statements and quoted 'misunderstanding' as the most common reason for implicating the accused in the first place. When this matter was brought before the GBV Court Judge at the *Mutual Learning Workshop* held under this project, he responded that once the victim withdraws consent and exonerates the accused there is not much the Court can do.

While the victim's interest and consent in pursuing a case is of significant importance the Court must also consider that Article 376 of the PPC is a non-compoundable offence. Therefore, a compromise between the parties must have no bearing on the case and if sufficient incriminating evidence is found the accused must be convicted. In the present review it was seen that out of 20 resiling statements'' of victims the accused were acquitted in 19 cases and only 1 case was pursued despite the victim's resiling statement and the accused was convicted. This depicts that in spite of resiling

statements if the Court pursues cases in light of the evidence available there is a possibility of convicting the accused.

In line with the guidelines of the GBV Court, certain questions to assess whether the victim is under undue pressure or influence and whether a compromise with the accused has been reached are asked. While all resiled victims in the reviewed judgements answered in the negative and asserted they were under no threat or pressure to retract their statements, it is interesting to note that at least 3 resiled victims solemnized marriages with the accused. Here it is important to shed light on Pakistan's cultural context where it is not uncommon to solemnize marriages to settle disputes especially those related to rape.

This unfortunate practice is further reflected in one of the judgements reviewed. In that particular case the complainant who was the mother of the victim declared in the FIR that upon finding out that the victim; her daughter, had been subjected to rape visited the accused's place of residence and demanded that *nikkah* be solemnized between the accused and victim. However, upon the refusal of the accused and his family the present case was registered by the complainant against the former. Ultimately, the victim resiled and stated that the accused was now her husband. This example shows that despite victims' statements suggesting otherwise the possibility of a compromise resulting in a resiled victim can never be fully ruled out.

4. Weak Police Investigation:

Another notable factor that contributes to lack of convictions is weak police investigations. In cases of rape and sexual violence police investigations play a critical role in the conviction of the accused, as the police is often a victim's first point of contact following such an incident. The police record the facts of the case and the initial statement of the complainant in addition to visiting the place of occurrence and collecting important pieces of evidence. Therefore, their role both as an investigator and witness are important.

Inability of the police to effectively investigate a case often leads to acquittals. In one of the reviewed cases the investigation officer of the police who visited the place of occurrence and met with the victim was unable to recall whether the victim's clothes were torn and did not collect the victims' clothes for forensic testing. Therefore, the victim's claims and previous statements regarding forceful removal of her clothes could not be corroborated which weakened the prosecution's case and ultimately led to the acquittal of the accused.

5. Weak Prosecution:

Similar to the role of the police, the role of the Prosecution is integral in convictions in criminal cases like those of the GBV Court. The primary responsibility of the Prosecution is to prepare the case of the complainant and since the burden of proof lies with the Prosecution it must prove the involvement of the accused 'beyond a/any reasonable doubt.' Therefore, the Prosecution must guide the complainant and victims with regards to evidence, their statement, witnesses etc.

The present review of judgements saw that failure to produce material witnesses resulted in the acquittal of the accused. A material witness is a “A witness who possesses information going to some fact that affects the merits of the case. Generally, the information the material witness possesses has strong probative value and few, if any, other witnesses possess the same information.”¹ In one reviewed case the victim’s 7 year old brother who was the first person to find and interact with her after the commission of rape was considered to be a material witness but failure to bring him forth as a witness led to the accused’s acquittal. Additionally, the Prosecution gave no explanation for the absence of the said witness such as his minor age for the Court to reconsider its position on failure of producing material witnesses. Therefore, the Prosecution’s failure to include a material witness or to explain his absence led to the acquittal of the accused.

Similarly, lack of preparation of witnesses and victims before their statements and cross-examinations lead to contradictions that ultimately result in the acquittal of the accused. Therefore, it is important for the Prosecution to prepare witnesses and victims so that they are not overwhelmed while giving testimony and can narrate the facts of the case properly.

Moreover, as revealed in the *Mutual Learning Workshop* which hosted a number of Practitioners, the prosecution plays an advisory role to the police. Which means that the prosecution must actively partake in police investigations and guide the police on how to investigate cases better and what evidence must be collected for the successful prosecution of a case. Acquittals due to insufficient evidence and weak police investigations in judgements of the GBV Court clearly reflects a negligence of the prosecution in undertaking its advisory role to the police.

6. Contradictions in Judgements:

The review of the judgements of the GBV Court has revealed that Judges take anywhere between a very progressive to a very regressive stance. In cases involving minors the Court often took a progressive position and declared that minor contradictions in testimony or facts of the case were insubstantial and convicted the accused. Statements and testimonies of minors were also considered to have high evidentiary value. In contrast to this the absence of physical signs of resistance like bruises and injuries on the victim’s body were considered sufficient to dispel the claims of the victim and acquit the accused as was done in multiple reviewed cases. However, in one particular conviction the Court sentenced the accused to 25 years imprisonment despite absence of marks of resistance. Additionally, while DNA tests were merely assigned corroborative value in most cases in one conviction DNA results were relied on heavily and contributed to the conviction of the accused. Moreover, in 19 judgements resiling victims led to acquittals but in a recent judgement despite a resiled victim the acc as that it allowed the charge against the accused be reframed and include section 376 (iii) of the PPC as the accused was a minor.

Good Practices

Some good and appreciable practices adopted by the GBV Court that came to light through the review of judgements include:

¹ https://www.law.cornell.edu/wex/material_witness

- Testimony of minors was given a high evidentiary value, minute contradictions in the used was convicted.
- A progressive step the Court took in one judgement in favour of the complainant and victim was that statements were ignored, a set of questions was asked from them to assess their mental capacity and rationality and as result convictions of the Court were greater in cases involving minors
- The psychological anguish experienced by a victim was considered in cases of gross violence. In a particular case, in which the victim was 6-7 years of age, the accused was convicted and in addition to life imprisonment was ordered to pay a sum of Rs. 500,000 to the victim to compensate for the psychological trauma suffered by her
- Minority of both the accused and victim were considered and if a previous judge overlooked a particular merit of the case it was revisited. In a specific case the defense argued that the accused was a minor and a medical report to prove the same was ordered but it was not reviewed or argued on in successive hearings. However, an incoming judge who also authored the judgement of that particular case reviewed the medical report and considered it in his judgement and the accused was still convicted. This reflects the importance of considering all arguments put forth by the defense and prosecution and rejecting and accepting them in the face of the evidence available.
- In multiple instances reliance was placed on the Guidelines of the Court and were particularly mentioned in judgements. An example of this is that all resiled victims were asked whether they were under any threat, pressure, undue influence or if they had reached a compromise with the accused to satisfy the Court that the victim was resiling of her own free consent.
- In a recent case decided in 2022 the Court departed from its well-formed view of acquitting accused individuals in cases of resiled victims and convicted the accused by relying on incriminating evidence that was available against the accused despite the victims statement in which she exonerated the accused.

B. Court Monitoring and Observations

In addition to the review of judgements, observations of the GBV Court and interview of the presiding judge were conducted to facilitate the development of monitoring protocols and to identify trends and gaps prevalent in the Courts undertakings. Learnings from both these exercises were consolidated and effective recommendations aimed at the improved functioning of the Court were designed that may be found in the following section.

After an in-depth study of the Guidelines and SOPs of the GBV Court, a questionnaire to monitor the implementation of the protocols contained therein was prepared. This questionnaire may be found in annex. This monitoring questionnaire was designed to act as a guidance tool on what to observe and was tried in multiple court observation visits.

B.1. Preliminary Meetings: A detailed discussion with GBV Court Judge in May 2020 provided important information in regard to the purpose, process, scope as well as the challenges of the Court.

Conception: Judge Rehmat Ali, the first judge of the court, shared that the GBV Court was established by the Lahore High Court and currently only deals with cases of sexual violence. In addition to this Court, there are three Sessions Courts that also deal with cases of sexual violence in Lahore. The GBV Court follows international best practices and is modelled on several international courts that were established for the purpose of easing the process for survivors too seek justice for example the courts that were set up to conduct trials for war crimes in Rwanda and Czechoslovakia. Recommendations made in CEDAW are also incorporated in the process and methodology followed in this Court.

Unique Features of the GBV Court

GBV Court aims to avoid over-crowding by conducting proceedings one by one. The proceedings at the Court are usually in-camera. Under certain circumstances, public proceedings maybe held if the litigants make such a request. The Court is required to ensure that litigants are not harassed in the court and lawyers do not ask questions which have the potential to re-victimize litigants. Some steps which the court takes in this regard:

1. All examinations-in-chief are recorded and copies provided to defense counsel. The defense counsel prepares their questions on the basis of the statements made during the examination-in-chief.
2. The defense counsel provides the court a list of their questions prior to the hearing. The court looks for any questions that might lead to harassment of the victim and removes it. The court then approves the rest of the questions and the counsels can only ask these approved questions from the victims. In cases involving minors the defence counsel may be asked to submit all questions to the presiding judge who then asks the victim to avoid any direct or antagonizing interaction of the defence counsel with the victim.

The special measures also extend to the witnesses who are testifying in the Court in addition to the protections laid out in the Witness Protection Act 2018.

B.2. Monitoring and Observation Findings:

Since October 2021 till present in a period of roughly 6 months 14 observations of the GBV Court were conducted. A full list of court observations is provided in the table below:

No.	Observation Visit Date	Stage of Trial
1.	16/10/2021	Submission of challan (investigation report)

2.	05/11/2021	Previous order corrected and notices issued to the accused
3.	12/11/2021	Non-bailable warrants of arrest issued of the accused
4.	03/12/2021	Overall procedures observed and discussions with staff conducted including number of pending cases
5.	09/12/2021	Overall procedures observed and discussions with staff conducted
6.	17/12/2021	Proclamation of accused issue- that the accused is a proclaimed offender
7.	10/01/2022	Evidence of Prosecution
8.	24/01/2022	Evidence of Prosecution
9.	07/02/2022	Accused was acquitted
10.	22/02/2022	Overall procedures observed and discussions with staff conducted
11.	02/03/2022	New cases for observations selected
12.	30/03/2022	Overall procedures observed and discussions with staff conducted
13.	05/04/2022	Overall procedures observed and discussions with staff conducted
14.	15/04/2022	Overall procedures observed and discussions with staff conducted

Initially it was decided that 2-3 cases would be selected and observations of their hearings would be carried out exclusively. However, both cases that were selected were dismissed and the accused were acquitted at early stages. Therefore, 3 additional cases were selected that are currently at the evidence stage. Selected cases belonged to different stages of trial so that a complete overview of the functioning of the Court may be had in a smaller period of time as opposed to waiting several months or years to follow a case from the beginning to the end. While observational visits of the GBV Court will continue some key learning from existing visits include:

- Inconsistency: An overarching observation in regard to the compliance with the Court SOPs was the lack of consistency. The notified SOPs were not seen to be uniformly applied and compliance has seemed to get weaker as the Court takes on more cases. In one of the very first GBV court observation carried out by before the project started, Dastak observed excellent compliance with the SOPs, however, over the months and years, the compliance has become ad hoc and almost at the discretion of the Judge and court staff. In some cases special guidelines were seen to be followed such as the victim was seated in the Court room before the accused and the victim allowed to sit in a separate room, away from the accused, as she awaits her evidence and testimony, however, this was not seen as a regular practice.
- Since the inception of the said Court in 2017 at least 5 Judges have been replaced and their terms vary from less than two years to a few months. Three judges changed during the course of the project. None of the cases reviewed were presided over by the same judge from start to finish, which means often framing of charge, recording of evidence, cross examination of witnesses and final judgement were all conducted and produced by different judges. While judges may rely on case files and records to update themselves it may not be wrong to assume that a single judge who has observed key stages of a particular case such as evidence,

statements of accused, victim, witnesses, complainant etc. is better suited and informed to author the final judgement.

- Additionally, many aspects such as the time stipulation of adjournments vary from the time of case registration to conclusion. While some judges adjourned hearings for up to 3-4 weeks others did so for 1-2 weeks. Therefore, court procedures lacked uniformity and cohesion. Moreover, given the highly sensitive nature of cases being dealt with at the GBV Court all incoming judges are required to be trained regarding the SOPs and specialized guidelines of the Court and it is unclear if they receive any such training.
- A high number of cases, including those selected by Dastak for observations originally, are dismissed early on mostly due to resiled victims.
- The implementation of protocols and guidelines exclusively depends on the presiding judge of the time. In an observation visit in 2018 a screen was placed between the victim and accused to safeguard the victim from seeing the accused and suffering from any added trauma. However, in a recent court visit no such protocol was observed but, in a follow up visit the screen was present.
- Female Support Officers (FSOs), responsible for accompanying the victim to and from the Court, were not seen performing this duty. Instead, the FSO at the time of a particular observation was tasked with administrative duties including record keeping which is not part of their original job description which is purely to facilitate the victim and ensure their comfort.
- Despite the specific mandate of the GBV Court it was found that the Sessions Judge had assigned cases of the Model Town Police station to the special Judge of the GBV Court. Therefore, bail applications were also being marked and entertained by the GBV Court. This was overburdening the said Court, which has approximately 100 pending cases, and compromising its special mandate.
- Given the high number of GBV cases it was discovered that four additional judges were also allowed to take cognizance of GBV cases. While this is a welcome step to ensure that the GBV Court is not overburdened it raises challenges - since these alternate Courts do not follow the same set of guidelines and protocols devised for the GBV Court they are ill-equipped to preside over cases related to GBV and cannot guarantee the protection and handling of survivors as envisioned by the GBV Court. Moreover, cases are arbitrarily and randomly assigned to any one of these courts. There is no defined method and process for the assignment of the cases to the courts as no special procedural law has been passed yet for GBV courts. A former GBV Court Judge expressed the need to introduce a special law on GBV which clearly defines gender-based violence, complaint process and lays out procedures, scope and budget of the GBV court.
- In one case before cross-examination of prosecution witnesses, the witnesses and the victim, who was a juvenile, had arrived at the court well before the Judge arrived and were seated in a room that had no privacy and the counsel from the opposing side were roaming in and out of the room along with several other

unrelated people. Once the court proceedings started, the defense counsel requested the Judge for an extension to cross-examine the witnesses. The judge did not only grant the extension but delayed the proceedings for a date almost a month away from the current date.

B.3. Recommendations

Drawing from the learnings of the review of GBV Court judgments and proceedings, which included understanding both gaps and good practices of the Court, a consolidated set of recommendations have been elicited and produced below for future advocacy and action:

1. Given the frequent transfers of Judges, a checklist of Court guidelines, protocols and SOPs should be developed to assist judges in implementing the Court protocols thoroughly in each case at every hearing. By developing such a checklist, the Court can internally monitor the implementation of its protocols and improve gaps related to the non or partial implementation of specific protocols. This checklist must also be shared with alternate courts and judges who can take cognizance of GBV cases.
2. As the GBV Court is a specialized court with a specific mandate and guidelines all incoming judges must undergo relevant training to get familiarized with the protocols of the court and develop important survivor-handling skills such as sensitivity, empathy, lack of judgement etc. Interviews with GBV Court judges have also revealed that their own internal biases and religious beliefs often determine the direction of the case. This requires that all judges appointed to this court just not only undergo an initial training but must continue to receive periodic training during their service to the court to ensure they are able to maintain objectivity as well understand the nuances of gender discrimination in the country and their manifestations in various forms.
3. Since the GBV Court is a special Court part of its mandate is to decide cases fastidiously and swiftly. Therefore, delays and adjournments in cases may be decreased by issuing unailable warrants of arrest and their execution or actually liquidizing bail bonds in case of an unexcused no-show. In the judgements reviewed, despite several warnings related to liquidizing of bonds this power was only exercised in two cases out of which one was restored. However, a strict enforcement of this will surely discourage witnesses and the accused from not showing up to hearings without a valid excuse. Additionally, parties may also be required to show proof of sickness so that they do not make false excuses for their absence.
4. For increased convictions the substantive and evidentiary value of DNA must be increased so that in the absence of other evidence DNA results may be incriminating. However, that is not to say that DNA should become the only reliable piece of evidence given that many cases of sexual violence are registered after the stipulation for the collection of forensic evidence and conducting a medico-legal examination have passed.

5. Resiling of victims may be discouraged by not allowing victims to resile after a particular stage of the case. For example, after evidence and statements of witnesses have been recorded or are in the process of being recorded then the Court must review the available evidence and acquit or convict the accused accordingly.
6. Training of police officers on investigations of GBV cases is key so that gaps in investigation does not lead to the acquittal of the accused. Investigation officers must be well-informed with regards to the kind of evidence that needs to be collected in cases of sexual violence and how to maintain and record such evidence. Given that testimony of IOs is taken several months or even years after the occurrence of the crime they must learn how to effectively keep a record of the past cases they have investigated.
7. Prosecutors must also be well trained in preparing complainants, witnesses and victims for evidence. Additionally, they must be able to guide complainants and victims regarding technicalities such as the importance of material witnesses so that the prosecution does not crumble. Additionally, it is advised that Judges presiding over cases of the GBV Court may call on material witnesses of their own accord even if they are not furnished by the Prosecution so that the latter's case remains.

Conclusion

The review of judgements and the observations of the Court suggest that the most significant issue faced by the GBV Court is lack of consistency. The Court does observe a number of good practices and attempts to stay within the framework created by its specialized guidelines and SOPs but fails to do so consistently. Therefore, an internal monitoring system must be established which carries out monitoring and periodic reviews of the Courts undertakings and facilitates the Court in regulating and improving its compliance with procedures, guidelines and SOPs.

Additionally, conducting internal monitoring and carrying out an analysis of the Courts statistics will also help it understand and reflect on its low rate of conviction and it may create a set of recommendations and protocols to improve this or rely on the recommendations provided above to improve its operations.