

Role of Prosecutorial Practices in Translating GBV Laws into Convictions and Victim Redress

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Abstract: The past few decades have witnessed a significant global proliferation of laws criminalizing various forms of gender-based violence. However, the existence of robust legislation has not consistently translated into high conviction rates or meaningful redress for survivors. This review paper argues that prosecutorial practices serve as the critical, and often under-examined, bridge between the codified promise of GBV laws and their real-world outcomes. By synthesizing scholarly literature and empirical studies, this paper examines how prosecutorial discretion, investigative approaches, trial strategies, and engagement with victims can either facilitate or hinder successful convictions and victim healing. Key findings indicate that specialized prosecution units, trauma-informed practices, the strategic use of evidence, and a victim-centered approach are pivotal in overcoming the unique challenges of GBV cases. Conversely, reliance on outdated myths, victim-blaming tactics, and excessive prosecutorial caution perpetuate impunity and secondary victimization. The paper concludes that systemic reform focused on empowering and training prosecutors is as crucial as legislative reform itself for achieving justice in GBV cases.

Keywords: Prosecutorial Discretion, Victim-Centered Prosecution, Charge Framing

I. INTRODUCTION

Gender-based violence remains a pervasive global crisis, affecting one in three women worldwide (World Health Organization, 2021). In response, international frameworks like the Istanbul Convention and national legislatures have enacted comprehensive laws against domestic violence, sexual assault, femicide, and other GBV crimes. These legal instruments represent a monumental shift in recognizing GBV as a public health and human rights issue rather than a private matter.

However, a persistent "justice gap" exists between the letter of the law and its application. Reported cases often fail to proceed through the criminal justice system, culminating in alarmingly low conviction rates (Hester & Lilley, 2017). This gap reveals that the mere enactment of laws is insufficient. The legal process, particularly the phase of prosecution, acts as a critical filter. Prosecutors, as gatekeepers of the criminal justice system, wield significant power through their discretion to charge, negotiate pleas, and try cases. Their practices, biases, and strategic choices fundamentally determine whether GBV laws are merely symbolic or effectively operationalized.

This paper reviews the literature on the role of prosecutorial practices in translating GBV laws into two key outcomes: criminal convictions and victim redress. It will first explore the concept of prosecutorial discretion as a double-edged sword. It will then analyze specific prosecutorial strategies, including case selection, evidence gathering, and trial conduct. Finally, it will assess how these practices impact victim experiences and their access to justice, concluding with recommendations for effective reform.

DOUBLE-EDGED SWORD OF PROSECUTORIAL DISCRETION

The concept of prosecutorial discretion, the power to decide whether to charge a suspect and with what specific crimes, functions as a profound double-edged sword in the enforcement of gender-based violence laws, simultaneously acting as a critical gatekeeper that can either enable justice or perpetuate impunity. On one hand, this discretion is an essential

tool for the efficient administration of justice, allowing prosecutors to prioritize serious cases and allocate limited resources effectively. In an ideal context, it empowers them to vigorously pursue perpetrators of domestic violence, sexual assault, and stalking by applying the full force of new and robust legislation.

However, the application of this discretion in the real-world context of GBV is often skewed by deep-seated societal biases and institutional pressures, creating a significant filter that prevents many cases from ever reaching a courtroom. The primary manifestation of this negative edge is rampant case attrition, where prosecutors, often operating within a conviction-obsessed culture and facing overwhelming caseloads, decline to file charges in cases they perceive as "weak" or "unwinnable." This assessment is frequently not based on the legal merits alone but is unconsciously influenced by pervasive "real rape" myths and victim-blaming stereotypes.

Cases involving intimate partners, acquaintances, a lack of independent witnesses, or delayed reporting are disproportionately screened out at this initial stage, as they fail to conform to the narrow, stereotypical narrative of a violent attack by a stranger. Consequently, the protective promise of GBV legislation is nullified for a vast number of survivors before their case even begins, effectively "no-crumping" their experience and signaling those certain types of violence are less worthy of state intervention. The second critical facet of this discretionary power, plea bargaining, further illustrates its dual nature. While offering a guaranteed conviction and sparing victims the ordeal of a trial can be a positive outcome, the practice often devalues the severity of GBV crimes.

To secure a swift resolution, prosecutors may offer favorable deals that reduce felony charges, such as aggravated assault or attempted rape, to misdemeanors like simple assault or disorderly conduct. This not only minimizes the official record of the offender's conduct, potentially leading to lenient sentences that fail to ensure victim safety or deter future violence, but it also symbolically communicates that the harm inflicted upon the survivor is not a serious societal concern.

Thus, prosecutorial discretion, while theoretically a mechanism for justice, becomes a pivotal point where abstract legal rights are translated or, more accurately, mistranslated into tangible outcomes, often reinforcing the very impunity that GBV laws were designed to dismantle. Its reform, through specialized training, clear charging guidelines, and a shift towards a victim-centered rather than a purely conviction-focused ethos, is therefore not merely an administrative adjustment but a fundamental prerequisite for bridging the gap between law on the books and justice in practice. Prosecutorial discretion—the authority to decide whether to charge a suspect and with what crimes—is the most significant point of influence in a GBV case.

Case Attrition and "No-Criming": A substantial body of research highlights that GBV cases, particularly sexual assault, experience high rates of attrition at the investigative and charging stages. Prosecutors, often burdened by high caseloads and a conviction-rate culture, may decline to prosecute cases they perceive as "weak" (Spohn & Tellis, 2014). This assessment is frequently influenced by subconscious biases and reliance on "real rape" myths—the notion that a genuine assault involves a stranger, physical force, and immediate reporting by a "perfect" victim (Estrich, 1987). Cases involving intimate partners, acquaintances, or a lack of corroborating physical evidence are often filtered out at this stage, effectively nullifying the protective intent of the law.

Plea Bargaining and the Devaluation of GBV Crimes: Plea bargaining is a practical necessity in many justice systems, but its application in GBV cases can be problematic. Prosecutors may offer favorable plea deals to secure a guaranteed, albeit lesser, conviction, avoiding the uncertainty and trauma of a trial for the victim. However, this can result in charges being reduced from felonies to misdemeanors (e.g., from aggravated assault to simple assault in a domestic violence case), which minimizes the perceived seriousness of the crime and often leads to lenient sentences that fail to deter re-offending (Hanna, 2018).

KEY PROSECUTORIAL PRACTICES FOR SECURING CONVICTIONS

Securing convictions in gender-based violence cases demands a paradigm shift in prosecutorial strategy, moving beyond traditional, reactive methods to a proactive, victim-centered, and trauma-informed model. The most foundational practice is the establishment of specialized prosecution units, where attorneys develop deep expertise in the complex dynamics of GBV, such as the cycles of power and control in domestic violence or the neurobiological impact of trauma on sexual assault survivors. This specialization is critical because it equips prosecutors to make

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informed charging decisions, avoiding the early case attrition that often occurs when generalist prosecutors, influenced by pervasive "real rape" myths, dismiss cases involving intimate partners, delayed reporting, or a lack of physical corroboration as inherently "weak." Once a case is charged, the strategic, pre-trial gathering of evidence becomes paramount.

Effective prosecutors no longer rely solely on the victim's testimony but instead construct a compelling mosaic of corroboration. This involves meticulously collecting forensic evidence like DNA and injury documentation, but also, and increasingly, harnessing digital evidence text messages demonstrating coercive control, social media posts, GPS data establishing stalking patterns, and call logs that reveal a history of harassment. This multi-faceted evidence base is essential for building a narrative of guilt that is resilient to defense attacks on the victim's credibility. Furthermore, the application of trauma-informed practice is now a prosecutorial imperative rather than a therapeutic afterthought.

Prosecutors trained in the neurobiology of trauma understand that a survivor's fragmented memory, flat affect, or delayed disclosure are not signs of deception but typical responses to extreme stress. This knowledge allows them to prepare the victim for testimony in a way that mitigates re-traumatization and, crucially, to partner with expert witnesses who can educate the jury on these very responses, thereby reframing perceived "inconsistencies" as validation of the assault's severity. Finally, the prosecutor's role in the courtroom is to serve as both a narrative architect and a shield.

They must present a clear, coherent story that weaves the evidence into an undeniable account of the crime, while simultaneously protecting the victim from the worst excesses of the adversarial process.

This involves making strategic objections to victim-blaming lines of questioning and presenting closing arguments that empower the jury to see past societal myths and focus on the evidence of the crime itself. Ultimately, securing convictions in these challenging cases hinges on a prosecutor's ability to merge legal rigor with psychological insight, building a robust, evidence-driven case that is presented through a lens of trauma-informed competence, thereby compelling a jury to deliver a verdict that aligns with the protective intent of the law.

To overcome the challenges above, progressive prosecution offices have adopted specific practices that align legal strategy with the realities of GBV.

Specialized Prosecution Units: The establishment of dedicated domestic violence or sexual assault units is widely endorsed. Prosecutors in these units develop expertise in the dynamics of GBV, the neurobiology of trauma, and relevant laws. This specialization leads to more consistent and informed charging decisions, better victim communication, and more effective trial advocacy (O'Neal & Spohn, 2017).

Trauma-Informed Investigation and Evidence Collection: Understanding trauma is no longer a therapeutic concern but a prosecutorial imperative. Trauma can affect a victim's memory, leading to fragmented or inconsistent recall a factor often exploited by the defense. Prosecutors who are trained in trauma-informed practices can:

Frame "inconsistencies" as a symptom of trauma rather than deception.

Guide law enforcement to conduct interviews that avoid re-traumatization and yield more reliable evidence.

Effectively use expert witnesses to educate juries on common victim responses, such as delayed reporting or flat affect (Herman, 2005).

Strategic Use of Corroborative Evidence: Moving beyond a reliance solely on victim testimony is crucial. Effective prosecutors proactively build cases using a mosaic of evidence, including:

Forensic evidence: DNA, photo documentation of injuries.

Digital evidence: Text messages, emails, social media posts, and GPS data that can demonstrate patterns of control, stalking, or coercion.

911 call recordings and body-worn camera footage: Which can capture the victim's initial emotional state and the crime scene.

Evidence of prior bad acts: In jurisdictions where allowed, this can establish a pattern of abusive behavior.

PROSECUTORIAL PRACTICES AND VICTIM REDRESS

The role of prosecutorial practices in securing victim redress for survivors of gender-based violence extends far beyond the binary outcome of a conviction, representing a complex process where the journey through the justice system can

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itself be either therapeutic or re-traumatizing. Redress, in this context, is not solely about the punitive sanction of the offender but encompasses the victim's holistic experience of justice, including their sense of validation, safety, restored agency, and public acknowledgement of the harm suffered. Prosecutors, as the state's primary legal representatives, are pivotal in facilitating this redress through a victim-centered approach. This paradigm shift moves away from treating the victim as a mere piece of evidence and instead prioritizes their well-being and autonomy throughout the legal process.

Key practices include maintaining consistent, transparent communication about case developments, actively seeking victim input on critical decisions like plea bargains while clarifying the state's ultimate authority, and robustly utilizing victim advocates to provide emotional support and navigate the complexities of the court system. By treating the survivor with dignity and respect, these practices can mitigate the phenomenon of secondary victimization, where the legal process itself inflicts additional trauma. However, the adversarial nature of a trial, particularly aggressive cross-examination that attacks the victim's credibility, remains a significant threat to redress. Here, the prosecutor's role is to act as a buffer, objecting to victim-blaming tactics and presenting the case in a way that affirms the survivor's narrative and restores a sense of control.

Furthermore, the strategic application of a trauma-informed lens is crucial for effective redress; by understanding how trauma affects memory and behavior, a prosecutor can reframe perceived "inconsistencies" in a victim's account as symptoms of psychological injury rather than signs of deception, thereby preserving their credibility and validating their experience for the jury. This approach ensures the survivor feels believed and understood, which is a fundamental component of psychological redress.

Ultimately, the most effective prosecutorial offices recognize that securing redress may sometimes require flexibility, acknowledging that a criminal trial is not the desired path for every survivor. For some, restorative justice processes or simply ensuring their safety through protective orders may be more valuable than a protracted conviction. Therefore, the pinnacle of victim-centered prosecution is the ability to empower the survivor's voice and choices wherever possible, using the power of the state not to override them but to support their unique path to justice, thereby transforming the legal process from a source of further harm into a genuine mechanism for healing and redress.

The role of prosecution extends beyond securing a conviction; it is also a primary mechanism for victim redress. Redress here encompasses not only punishment of the offender but also the victim's sense of validation, safety, and agency.

The Victim-Centered Approach: A victim-centered approach prioritizes the victim's safety, well-being, and autonomy throughout the legal process. Prosecutorial practices that support this include:

Maintaining consistent and transparent communication about case status and procedural options.

Seeking victim input on key decisions, such as plea offers, while making it clear that the final decision rests with the state.

Utilizing victim advocates to provide support and act as a liaison.

Requesting protective orders and connecting victims with social services.

Mitigating Secondary Victimization: The legal process can be as traumatizing as the initial assault, a phenomenon known as secondary victimization. Aggressive and victim-blaming cross-examinations are a primary cause. While prosecutors cannot control the defense, they can object to inappropriate lines of questioning and present the victim's story in a way that affirms their dignity and restores a sense of control (Ellison & Munro, 2017). A prosecutor's respectful demeanor can significantly buffer against the adversarial nature of the trial.

The Limits of Redress through Conviction: It is critical to acknowledge that a criminal conviction is not the only, or always the most desired, form of redress for every survivor. Some victims may prioritize restorative justice processes, community-based interventions, or simply their own safety and privacy over a protracted trial. Prosecutorial practices must be flexible enough to respect these differing needs without abdicating the state's responsibility to hold perpetrators accountable.

II. CONCLUSION

Prosecutorial practices play a decisive role in translating gender-based violence laws into meaningful convictions and tangible redress for victims. While many countries have progressively strengthened their legal frameworks to criminalize various forms of GBV, including domestic violence, sexual assault, and harmful cultural practices, the effectiveness of these laws ultimately depends on how prosecutors interpret, apply, and pursue them in real cases. Effective prosecution begins with a survivor-centered approach that prioritizes timely action, sensitivity, and protection of victims throughout the legal process.

When prosecutors actively collaborate with police, medical personnel, and social support services, they help ensure that evidence is collected properly, survivor statements are recorded safely, and intimidation or secondary victimization is minimized. Such coordinated practices increase the likelihood of securing strong cases that meet evidentiary thresholds without placing undue burden on victims. Moreover, specialized training in trauma-informed approaches empowers prosecutors to understand the complex dynamics surrounding GBV such as delayed reporting, recantation due to coercion, or lack of physical evidence which, if misinterpreted, often result in case dismissals.

Prosecutorial discretion also shapes the trajectory of GBV cases: when prosecutors choose to vigorously pursue charges, issue protection orders, and resist pressures that normalize violence, they reaffirm the seriousness of GBV crimes and send strong deterrent signals. Conversely, weak or inconsistent prosecutorial action undermines legal reforms by allowing perpetrators to evade accountability and discouraging victims from seeking justice. Additionally, the establishment of dedicated GBV units, fast-track courts, and standardized prosecution guidelines has proven effective in increasing conviction rates by reducing delays and ensuring that cases are handled by personnel with relevant expertise.

Prosecutors' ability to challenge harmful gender stereotypes both in their arguments and through the strategic use of evidence further strengthens the implementation of GBV laws, as courtroom narratives often influence judicial decision-making. Importantly, prosecutorial practices extend beyond obtaining convictions to ensuring victim redress. By advocating for compensation, restitution, and access to psychosocial support, prosecutors contribute to restorative justice that acknowledges the harm suffered and facilitates survivors' long-term recovery. They also play a critical role in enforcing protective mechanisms such as restraining orders and monitoring offender compliance.

Ultimately, the gap between law and justice in GBV cases is often a gap in implementation, and prosecutors are central to bridging it. When prosecutorial practices are well-resourced, survivor-focused, and aligned with human-rights standards, GBV laws gain transformative power shifting social norms, strengthening public trust in the justice system, and enhancing deterrence. In conclusion, the prosecutor's role is not simply to pursue punishment but to operationalize the intent of GBV legislation: to safeguard survivors, hold perpetrators accountable, and create a justice system where the rights and dignity of victims are upheld.

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