

# **FROM HARM TO JUSTICE: REFORMING THE ADJUDICATION OF SEXUAL VIOLENCE CASES IN ARMENIA**

**An Analysis of Court Monitoring Findings and  
Compliance with International Standards**





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# From Harm to Justice: Reforming the Adjudication of Sexual Violence Cases in Armenia

## An Analysis of Court Monitoring Findings and Compliance with International Standards

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## List of Abbreviations

|                   |  |
|-------------------|--|
| <b>CAT</b>        | Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment                   |
| <b>CEDAW</b>      | Convention on the Elimination of All Forms of Discrimination Against Women                                 |
| <b>CPC</b>        | Criminal Procedure Code (of Armenia)   |
| <b>ECtHR</b>      | European Court of Human Rights   |
| <b>ECHR</b>       | European Convention on Human Rights  |
| <b>GR</b>         | General Recommendation (issued by the CEDAW Committee)   |
| <b>GREVIO</b>     | Group of Experts on Action against Violence against Women and Domestic Violence (Council of Europe)        |
| <b>ICTY</b>       | International Criminal Tribunal for the former Yugoslavia  |
| <b>ICC</b>        | International Criminal Court   |
| <b>ISVA</b>       | Independent Sexual Violence Advisor  |
| <b>NSVRC</b>      | National Sexual Violence Resource Center   |
| <b>OHCHR</b>      | Office of the United Nations High Commissioner for Human Rights  |
| <b>OSCE/ODIHR</b> | Organization for Security and Co-operation in Europe / Office for Democratic Institutions and Human Rights |
| <b>PTSD</b>       | Post-Traumatic Stress Disorder   |
| <b>SART</b>       | Sexual Assault Response Team   |
| <b>UN</b>         | United Nations   |
| <b>UNODC</b>      | United Nations Office on Drugs and Crime   |
| <b>WHO</b>        | World Health Organization  |

## Executive Summary

This report provides a comprehensive, evidence-based analysis of the adjudication of sexual violence cases in Armenia, examining how courtroom practices align—or fail to align—with international human rights standards and survivor-centered principles. Sexual violence remains one of the most severe forms of gender-based violence and a deeply rooted human rights violation. When handled inadequately by the justice system, it not only perpetuates impunity and secondary victimization but also erodes public trust in the rule of law and reinforces patriarchal norms. The selected cases were chosen not for breadth but for their ability to illuminate structural and procedural patterns through in-depth courtroom observation.

Drawing on the Istanbul Convention, CEDAW, ECtHR jurisprudence, and comparative legal practices, the report critically evaluates Armenia's current legal definitions, trial procedures, evidentiary standards, and judicial conduct in sexual violence cases. It integrates feminist legal theory and insights from courtroom monitoring to highlight persistent legal and cultural barriers survivors face in seeking justice.

### Key findings include:

**Systemic secondary victimization:** Survivors frequently endure retraumatizing procedures, including repeated interrogations, confrontational trial formats, and emotionally taxing cross-examinations. Protective measures—such as closed hearings, use of remote testimony, or support persons—are rarely employed.

**Absence of trauma-informed safeguards:** Legal actors often lack training on the neurobiology of trauma, resulting in courtroom practices that blame victims or demand implausible standards of behavior (e.g., “utmost resistance”).

**Prevalence of gender bias and rape myths:** Judicial reasoning and trial conduct routinely reflect patriarchal assumptions. Victims are judged by their clothing, behavior, or perceived morality, rather than the conduct of the accused. Such biases affect not only credibility assessments but also trial outcomes.

**Inadequate privacy protections:** Despite legislative provisions, survivor identities are sometimes exposed in court records or media, deterring future reporting and violating the right to dignity and confidentiality.

**Procedural delays and inefficiencies:** Trials are frequently prolonged—often over several years—due to systemic dysfunction, including rotating judges and prosecutors, absent defendants, and insufficient court resources. These delays compound survivors' trauma and reduce faith in the justice process.

The report also outlines international standards for survivor-centered adjudication, emphasizing the need for consent-based legal definitions, the elimination of prejudicial evidentiary rules, and the institutionalization of trauma-informed courtroom practices. Drawing from best practices in jurisdictions such as Sweden, the UK, and Canada, it advocates for judicial reforms that uphold both the rights of victims and the procedural fairness owed to defendants.

### **The report's recommendations include:**

- Adopting a consent-based legal definition of rape in line with Article 36 of the Istanbul Convention.
- Mandating trauma-informed and gender-sensitivity training for all legal professionals.
- Reforming evidentiary rules to prohibit the use of sexual history and remove corroboration requirements.
- Guaranteeing procedural accommodations for survivors, such as the right to testify remotely, have support persons present, and access legal counsel.
- Strengthening institutional safeguards to prevent gender bias, ensure privacy, and monitor courtroom conduct.

In sum, this report aims to serve as both a diagnostic and a roadmap for transforming Armenia's adjudication of sexual violence from a site of retraumatization and impunity into one of justice and accountability. It calls on state institutions, civil society, and international partners to work collectively toward a legal system where survivors are not silenced, blamed, or retraumatized, but are protected, respected, and believed.

# Chapter 1.

## Introduction

Sexual violence is a pervasive but often under-reported crime, and it occurs in ordinary settings across all societies. Sexual violence represents one of the most pervasive and harmful manifestations of gender-based violence and is widely recognized as a grave and systematic violation of human rights (UNGA, 1993; WHO, 2002). Beyond the immediate physical and psychological harm inflicted upon survivors, sexual violence destabilizes communities, perpetuates gender inequality, and corrodes trust in public institutions. When adjudicated inadequately, it also risks reinforcing a broader culture of impunity and secondary victimization. In line with Armenia's obligations under international human rights law and its commitments as a member of the Council of Europe, it is critical that sexual violence is addressed not only through robust legal definitions but also through court proceedings that uphold survivors' dignity and are aligned with survivor-centered principles.

This report presents a comprehensive analysis of the trial phase of sexual violence cases in Armenia. It focuses on how national judicial practices, procedural safeguards, courtroom conduct, and evidentiary approaches reflect or diverge from international human rights norms, including those articulated in the Istanbul Convention (Council of Europe, 2011), the CEDAW Convention and General Recommendations (CEDAW Committee, 2017), and the case law of the European Court of Human Rights (ECtHR). Importantly, this report also draws from survivor-centered standards established by non-governmental organizations and expert bodies, including the National Sexual Violence Resource Center (NSVRC), UN Women, and OHCHR, as well as critical feminist legal theory and empirical courtroom monitoring experience.



International human rights instruments establish clear obligations for states to not only criminalize sexual violence but to ensure that judicial responses are effective, accessible, and respectful of survivors' rights. The Istanbul Convention (Article 49) obliges states to ensure that investigations and judicial proceedings in sexual violence cases are carried out without undue delay and with a gender-sensitive approach. The ECtHR has reinforced that procedural fairness must be balanced with the obligation to protect survivors from secondary victimization (e.g., *Aydin v. Turkey*, 1997; *J.L. v. Italy*, 2001). The CEDAW Committee, through General Recommendation No. 35, also emphasizes that legal systems must address power imbalances, eliminate gender stereotyping, and apply trauma-informed procedures that account for the realities of sexual violence (CEDAW Committee, 2017).

Monitoring trials of sexual violence cases provides a powerful means of assessing both compliance with international standards and the lived realities of survivors within the courtroom. Observations from Armenia indicate persistent structural and cultural barriers, including the re-traumatization of complainants, reliance on victim-blaming narratives, and insufficient judicial safeguards for privacy and well-being. These findings align with critical feminist scholarship, which conceptualizes courtrooms not merely as neutral forums for dispute resolution, but as sites where gendered power relations are often reproduced (Lees, 1993; Mulla, 2014; Temkin et al., 2016).

The concept of “judicial violence” or “institutional betrayal” (Smith & Freyd, 2013) captures the harm caused when survivors, expecting justice, instead encounter disbelief, invasive questioning, or procedural hostility. For instance, the admission of irrelevant sexual history, aggressive cross-examinations, and a lack of protective measures such as in camera hearings or support persons all contribute to what Lees (1993) called “judicial rape”—a term that underscores the deeply violating nature of some courtroom experiences. Monitoring allows these dynamics to be systematically documented and addressed.

The courtroom is not isolated from society; it is permeated by the same patriarchal norms and rape myths that shape broader public discourse. As the literature suggests, the credibility of survivors is frequently assessed through the lens of moralistic or gendered assumptions—particularly in cases involving unmarried women, LGBTQ+ individuals, or survivors from rural or marginalized communities (Ehrlich, 2001; Popova, 2021). In Armenia, societal emphasis on honor, modesty, and virginity has a tangible impact on how survivors are treated by legal professionals and how evidence is weighed in court.

These dynamics are further exacerbated when courts fail to implement privacy protections. The lack of mandatory closed hearings or confidentiality measures in Armenian courts frequently leads to the exposure of survivors' identities and intimate histories, deterring future reporting and reinforcing silence. As per ECtHR jurisprudence (*Y. v. Slovenia*, 2015), courts have a positive obligation to protect the private life of survivors during legal proceedings, including through sealing case files, anonymizing names, and controlling media access.

While legislative amendments are a necessary step, they are insufficient in isolation. True access to justice for survivors of sexual violence demands procedural reform and capacity-building that targets courtroom culture. Judges, prosecutors, and defense lawyers must be equipped with tools to conduct fair yet sensitive proceedings. Training should cover the neurobiology of trauma, the dynamics of coercion, and international standards on victim protection—an approach increasingly adopted in Nordic countries and recommended by both the NSVRC (2018) and the UNODC (2014).

This report seeks to provide a roadmap for Armenia to align its courtroom practices with international obligations and survivor-centered standards. By integrating legal analysis, feminist theory, and monitoring data, it offers a holistic view of the judicial process and its current limitations. The recommendations herein aim to support state institutions, civil society, and international partners in creating a legal environment where survivors of sexual violence are not re-traumatized in their pursuit of justice—but are heard, respected, and vindicated.

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# Chapter 2.

## **Methodology – Rationale for Remote Trial Monitoring**

This chapter details the methodology of the trial monitoring project and explains why remote monitoring using trial recordings was employed instead of traditional in-person observation. It discusses the rationale for relying on recorded court proceedings, the ethical safeguards (such as survivor consent and privacy protection), the legal framework underpinning the monitoring (in Armenian law and international instruments like the Istanbul Convention, ECHR, and CEDAW), as well as the practical aspects of the monitoring process (case selection, coding methodology, data access). Finally, it highlights technical limitations encountered and emphasizes the importance of trial monitoring for driving legal reform and justice.

## 2.1 Rationale for Using Trial Recordings vs. In-Person Monitoring

Using trial recordings in lieu of in-person courtroom monitoring was a deliberate choice to ensure both non-interference with judicial proceedings and practical feasibility. In any trial monitoring initiative, it is crucial to maintain the *principle of non-intervention*, meaning monitors must not influence or disrupt the court process. In fact, even the mere presence of a monitor in the courtroom could be perceived as a form of “intervention”. By observing trials through audio recordings, monitors remain completely unobtrusive – they do not occupy space in the courtroom or interact with participants in real time, thereby eliminating any risk that their presence might alter the atmosphere or conduct of the trial. This method upholds judicial independence and impartiality, respecting the court's authority while still allowing systematic observation of proceedings.

Using recordings also offered practical advantages. It enabled monitors to cover hearings from multiple courts and regions without the time and safety burdens of travel. This was particularly important given that some proceedings were geographically distant or scheduled at overlapping times. Remote monitoring via recorded sessions allowed flexibility to review the material on demand, pause or replay sections for accuracy, and analyse details more thoroughly than might be possible in real-time note-taking. Such an approach can improve accuracy of observations and coding, as monitors can double-check what was said or done at any moment during the trial.

Finally, the decision to use recordings was influenced by security and sensitivity considerations. Monitors often evaluate cases of domestic or gender-based violence, which can be emotionally charged and sensitive. Having observers physically present in a small courtroom – especially in rural areas or close-knit communities – might put additional social pressure on victim-witnesses or even on judges and prosecutors. Remote monitoring eliminated the possibility of direct confrontation or intimidation. It also provided a layer of protection for the monitors themselves, who remain anonymous to the trial participants. In summary, trial recordings provided a reliable and discreet means of observation, ensuring that the monitoring could gather all necessary information while fully respecting the integrity of the court proceedings.

## 2.2 Ethical Considerations: Survivor Consent and Privacy Protection

Ethical protocols were central to the methodology, particularly given the involvement of survivors of sexual violence and other vulnerable witnesses. Informed consent of survivors was sought whenever possible before including a case in the monitoring sample. Even though the trials monitored were generally public proceedings, the project recognized that *survivors have a stake in how their testimony and personal experiences are used*. Thus, as a matter of respect and trauma-informed practice, we informed survivor-witnesses about the monitoring and obtained their consent to review the recordings of their court hearings.

This step was important to avoid any feelings of violation or surprise on the part of survivors. It aligns with international ethical guidelines, which urge that monitoring activities be conducted in a **survivor-centered manner**, minimizing the risk of re-traumatization. In cases involving particularly vulnerable individuals, monitors relied on indirect information or intermediaries rather than approaching the survivor directly, to ensure their comfort and emotional safety.

Privacy protection was another paramount concern. Trial recordings contain personal data – including the identities and voices of victims, defendants, and witnesses. The monitoring team implemented strict data protection measures to safeguard this information. All audio files were stored securely with access limited to authorized project staff. The monitoring specialist was bound by confidentiality agreements not to share or discuss case details outside the analysis framework. When reporting findings publicly, the team anonymized names and identifying details of survivors and other private parties, using codes or generic descriptors instead. This practice is in line with both ethical obligations and legal standards. The Istanbul Convention explicitly calls on states to adopt measures to protect the privacy and the image of victims throughout judicial proceedings. By keeping survivors' identities confidential in reports and presentations, the project upheld these standards, ensuring that monitoring would not inadvertently expose survivors to stigma, retaliation, or unwanted publicity.

In all cases where retrospective court recordings were accessed and survivors could be identified, informed consent was sought and documented prior to any analysis. Consent was typically recorded in writing or through detailed internal case notes, depending on the survivor's communication preferences. In instances where survivors could not be reached despite reasonable efforts, the recordings were either excluded from detailed review or analyzed only after an internal ethical assessment confirmed minimal risk of harm. This approach ensured that the project upheld both the autonomy of survivors and the integrity of trauma-informed monitoring practices.

It should be noted that Armenian law also provides for protecting privacy in sensitive cases. While the Armenian Criminal Procedure Code upholds the general principle of publicity of trials, it allows courts to declare closed sessions for certain cases – for example, to protect the private life of participants or the interests of justice (a principle mirrored in Article 6 of the ECHR). In practice, the project treated the recordings with due care as described. In addition, the monitors coordinated closely with court officials to ensure that their use of recordings complied with court rules. If any recording contained particularly sensitive material (for instance, graphic testimony or details of sexual violence), the project handled it with heightened security and considered redacting especially personal information in any analysis notes. These steps fulfilled the dual ethical duty of respecting survivors' autonomy (by obtaining consent) and protecting their confidentiality and dignity (through robust privacy safeguards).

## 2.3 Monitoring Process and Case Selection

The process of conducting the remote trial monitoring involved several carefully planned steps to ensure comprehensive and unbiased data collection. First, the project defined its *scope and objectives clearly*. We focused on criminal trials related to sexual violence, as these cases are critical for assessing compliance with new legal protections and international standards. The case selection criteria were established to target trials that would be illustrative of systemic issues. Key criteria included: the type of offense (priority given to cases of domestic violence, intimate partner violence, or other violence against women), the stage of the trial (preference for trials that had progressed enough to provide substantive material, including verdicts), and geographic distribution (ensuring coverage of different courts across Armenia).

We also considered the *public availability of recordings* – only courts that maintained official audio or video records of hearings could feasibly be included.

Once candidate cases were identified, the team performed an initial screening. This often entailed reviewing case files or summaries (where available through public records or the court information system) to understand the nature of each case and whether it involved any complicating factors (such as being closed to public or involving a minor victim, which would exclude it from monitoring). We aimed for a sample that was qualitative – but also sufficiently detailed in each case to allow qualitative insights. Ultimately, the project selected a balanced mix of three cases from urban courts (including Yerevan) and from various provinces, ranging from relatively straightforward proceedings to more complex trials. In total, the monitoring covered approximately 3 trials, with 100 individual hearings observed via recordings.

After collecting the recordings, the monitoring team proceeded to the analysis phase, guided by a predefined methodology (described in the next section). The expert noted observations according to the codebook, after which the team cross-checked and reconciled their notes for accuracy. This peer review process enhanced reliability, as multiple sets of eyes reduced the chance of oversight or personal bias. All observations were logged in a secure database structured by case and by hearing date. Alongside watching the footage, the expert also reviewed any available documentary evidence from the case (such as indictments, judgments, or trial transcripts if provided) to contextualize what they saw and to note any discrepancies between the written record and what occurred in the courtroom.

## 2.4 Data Analysis

A cornerstone of the methodology was the use of a structured coding system to systematically analyze the information gleaned from trial recordings.



**Data analysis** involved both quantitative aggregation and qualitative assessment. Quantitatively, after coding was completed for all cases, we compiled the data to look for patterns. We calculated statistics such as: the percentage of monitored trials that experienced significant delays; the average number of hearings per case; how often victims had legal representation; how often judges granted protective measures (like closed session for victim testimony); how many cases ended in conviction vs acquittal; average sentences in convicted cases, etc. These metrics provided an evidence-based picture of how the justice system handles sexual violence cases in practice.

Qualitatively, the team conducted in-depth reviews of each case to capture nuances that pure numbers cannot. We wrote case summaries highlighting notable observations – for instance, if a particular trial illustrated a common problem (like a survivor being asked improper questions about her personal life, reflecting gender stereotyping), we documented that scenario with quotes and context.

We also noted positive examples (e.g., a judge who handled a victim's testimony with exceptional care could serve as a model). All such narratives were then analyzed for recurring **themes**. Did we see frequent instances of victim-blaming attitudes? Were there systemic issues like prosecutors dropping charges when victims withdrew complaints?

Throughout analysis, we maintained an audit trail linking every finding back to source data (the recordings or official documents). This rigor was essential not only for internal validity but also because our ultimate goal was to produce credible findings and recommendations. As per best practice, *“monitoring findings and reports must be based upon domestic law and clearly articulated international standards”*, so that conclusions are perceived as objective. Indeed, each key finding was accompanied by references to the exact law or standard involved and examples from the monitored trials to illustrate the point. The end result of this meticulous coding and analysis process was a robust set of data-driven insights into the functioning of the courts in sexual violence cases, forming the evidence base for the chapter on findings and for our recommendations to policymakers.

## 2.5 Data Access, Technical Limitations, and Their Impact

While remote trial monitoring via recordings offered many benefits, the team had to navigate several **data access challenges and technical limitations**, which in turn influenced the depth and reliability of our observations. Understanding these limitations is important for contextualizing the findings of the project.

There were instances of delays in receiving files, or incomplete recordings being provided. For example, a few hearings were recorded in segments and one or more segments might be missing due to technical glitches in the court's system. In one region, we faced a situation where a courthouse's recording equipment malfunctioned for several weeks, resulting in *gaps in the audio record*. The expert had to supplement such gaps by referring to the written court protocols (minutes) where available, though these are often summary and not verbatim. These hurdles sometimes meant that **certain finer details could not be captured**, especially if a critical exchange occurred during an unrecorded portion.



The **quality of recordings** presented another set of limitations. Some audio files had poor sound quality – low volume, background noise, or multiple people talking over each other making it hard to discern words. The expert occasionally had to replay sections multiple times or use headphones to catch what was said. In a few instances, even after such efforts, parts of testimony or judicial remarks were unintelligible; those were marked as “not clear” in our data, potentially underrepresenting some issues (for example, if a judge gave reasoning for a decision in a muffled voice, we might not have captured the full rationale). Non-verbal cues and certain dynamics (like a defense lawyer's physical demeanor, or a victim's emotional state) could sometimes only be partially observed. In-person monitoring would have allowed seeing everything happening in the room; by contrast, with recordings we were limited to what the camera or microphone picked up.

**Data access restrictions** also extended to **court documents**. While we had recordings, sometimes understanding a trial fully requires seeing the case file minutes – charges, evidence submitted, etc. These document access issues meant that in a few cases, our analysis had to rely solely on what was said in court without the benefit of reading the detailed reasoning of the verdict or the exact charges.

The impact of these technical and access limitations was carefully considered when drawing conclusions. We took a conservative approach: if an issue might be present but the evidence was unclear due to technical problems, we either followed up (if possible) or refrained from overinterpreting. For example, if audio issues prevented us from hearing whether the judge informed the victim of her right to seek civil compensation, we would not count that case as a failure to inform – we would mark it as “information not ascertainable.”

In cases where audio recordings were partially inaudible or written judgments were unavailable, findings were interpreted conservatively. For instance, we refrained from making definitive claims regarding courtroom conduct or judicial reasoning when such assessments relied on incomplete records. This cautious approach was intended to ensure analytical integrity and avoid overstating conclusions based on limited evidence.

In conclusion, while remote trial monitoring has inherent technical limitations, the team's careful methodology and the redundancy of data helped maintain the integrity of findings. We acknowledge that some subtle aspects of courtroom dynamics may escape a recording-based approach. However, given the circumstances – including resource constraints and the goal to cover many trials across different locations – the use of trial recordings proved to be an effective method overall. It allowed us to gather a rich and unprecedented dataset on how domestic violence cases are adjudicated in Armenia, with only minimal gaps. These constraints and how they were managed are transparently reported here to provide context for the analytical findings in the next chapter. By being aware of what could and could not be observed, stakeholders can better understand the strength of our conclusions and where caution in interpretation is warranted.

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## Objectives of the Monitoring

The monitoring of sexual violence trials in Armenia was driven by a commitment to advancing justice and accountability in alignment with international human rights law, and to addressing the entrenched systemic and procedural challenges that survivors often encounter. Sexual violence is not only a severe violation of bodily autonomy but also a reflection of deep-rooted gender inequalities. Therefore, trial monitoring in such cases serves as both a legal and social imperative. This chapter outlines the overarching objectives of this monitoring initiative, emphasizing the critical importance of assessing the conduct of judicial proceedings, the compatibility of domestic practices with international standards, and the direct impact of court processes on survivors of sexual violence.

# Chapter 3.

### 3.1. Scrutinizing Survivor Treatment in the Trial Process

One of the primary objectives of this monitoring was to critically examine the way survivors of sexual violence are treated throughout the course of judicial proceedings—from their initial appearance in court to the delivery of final verdicts. The trial process has the potential either to validate survivors' experiences and support their healing or to inflict further trauma through insensitive, invasive, and adversarial practices. Scholars have long warned against the latter. Legal scholar Lees (1993), for instance, coined the term “judicial rape” to describe the re-victimization survivors experience through court procedures, including the often aggressive cross-examination of complainants and the questioning of their morality, behavior, or sexual history. This reflects a wider rape culture that remains embedded in many judicial systems, where the burden of credibility is unjustly placed on survivors rather than on perpetrators.

Mulla (2014) similarly documents the psychological and emotional burdens survivors face when undergoing forensic examinations and appearing in court, noting that the ostensibly 'neutral' processes of evidence collection and testimony-giving can reinforce a sense of disempowerment. Estrich (1986) further critiques the expectation that survivors demonstrate “utmost resistance” during the act of sexual violence in order to be deemed credible—a standard that continues to influence judicial thinking despite being out of step with contemporary understandings of trauma and consent.

Through detailed observation of courtroom conduct, language used by judges and prosecutors, and the structure of questioning, the monitoring aims to identify whether the legal process in Armenia is evolving to reflect trauma-informed and survivor-centered principles. Specifically, it assesses whether survivors are accorded dignity, their testimony is treated with respect, and judicial actors are aware of and responsive to the specific vulnerabilities that survivors may face.

### 3.2. Alignment with International Legal Standards

A second objective is to analyze the legal framework surrounding sexual violence in Armenia and assess its compatibility with key international instruments. Definitions of sexual violence and rape play a fundamental role not only in guiding prosecutorial strategies and court outcomes but also in shaping public discourse and institutional culture. In jurisdictions where rape is still defined based primarily on physical resistance or the use of force, the lived realities of survivors—many of whom freeze or comply due to fear or coercion—are not adequately recognized (Council of Europe, 2011; ECtHR, *M.C. v. Bulgaria*, 2003).

The monitoring process closely examined whether Armenian legislation incorporates a consent-based definition of sexual violence, in accordance with the Istanbul Convention (Council of Europe, 2011) and CEDAW General Recommendation No. 35 (CEDAW, 2017), both of which emphasize the importance of free, voluntary, and informed agreement in defining lawful sexual acts. A key component of this evaluation involves scrutinizing how Armenian courts interpret legal definitions in practice: whether they rely

on outdated notions of resistance, and whether rape myths (e.g., that survivors lie or provoke assault) are implicitly or explicitly invoked by defense attorneys or accepted by judges.

Temkin and Krahé (2008), along with Temkin, Ashworth, and Coker (2016), demonstrate how rape myths persist even in reformed legal systems and are often introduced under the guise of credibility assessment or motive exploration. The monitoring thus seeks to expose and challenge such practices, advocating for reforms that operationalize international obligations and ensure judicial processes reinforce—not undermine—survivors' rights and dignity.

### **3.3. Understanding the Psychological and Procedural Impact on Survivors**

The third key objective concerns the experiential dimension of justice: how survivors of sexual violence are psychologically affected by the trial process, and whether the judicial system, as currently structured and implemented, contributes to retraumatization or instead facilitates a path toward healing. While formal legal systems often prioritize evidentiary and procedural integrity, the subjective experiences of survivors are rarely centered—an omission that can have devastating long-term consequences.

Trial processes that subject survivors to repeated testimony, hostile cross-examination, or exposure of personal details in open court can significantly compound trauma (Ehrlich, 2003). Research has shown that the psychological toll of the courtroom experience can deter many survivors from pursuing legal redress altogether (UN Women, 2015). Moreover, the presence of rape myths in legal questioning and judgment—such as assumptions about appropriate post-assault behavior or attire—can reinforce victim-blaming narratives and diminish survivors' sense of justice (Temkin et al., 2016).

Monitoring is therefore essential to illuminate these procedural harms and advocate for structural change. By documenting courtroom behavior, survivor treatment, and judgment reasoning, the project aims to produce an evidence base for reform that centers on survivors' well-being. This includes recommendations for trauma-informed judicial training, restrictions on irrelevant and prejudicial questioning, and strengthened victim support services.

### **3.4. Contributing to Systemic Change and Cultural Transformation**

Finally, monitoring sexual violence trials serves a broader normative function: to catalyze transformation in how sexual violence is understood, addressed, and prevented. Legal definitions and courtroom practices do not merely reflect social attitudes—they also shape them. As Popova (2021) and others have argued, the law is a constitutive force in the production of cultural meaning around gender, power, and sexuality. When legal systems treat survivors with dignity, uphold consent-based definitions, and reject rape myths, they send a

powerful signal that sexual violence will not be tolerated or trivialized. This objective is particularly urgent in Armenia, where patriarchal norms and systemic impunity continue to hinder justice for survivors (Human Rights Watch, 2020). The monitoring initiative contributes to the growing body of evidence that can be used to support legislative reform, judicial capacity building, and public awareness campaigns aimed at dismantling rape culture and promoting gender equality.

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# Adjudicating Sexual Violence: International Standards and Courtroom Best Practices

## Introduction

Adjudicating cases of sexual violence requires a firm grounding in international legal standards and a survivor-centered approach in courtroom practice. Policymakers, judges, prosecutors, and advocates must ensure that domestic laws and trial procedures reflect evolving norms on consent, state obligations to combat gender-based violence, and the delicate balance between victims' dignity and defendants' fair trial rights. This chapter synthesizes key international definitions and obligations – from **consent-based legal definitions** of sexual violence to **trauma-informed trial practices** – and illustrates them with comparative examples of good practice. It draws on instruments like the Council of Europe's *Istanbul Convention*, human rights treaties (ECHR, CEDAW, CAT), and jurisprudence (notably European Court of Human Rights cases), as well as reforms in jurisdictions such as Sweden and the UK. The aim is to provide a comprehensive policy guide for creating legal frameworks and courtroom procedures that effectively prosecute sexual violence while minimizing secondary trauma and upholding justice for all parties.

## Chapter 4.



## 4.1. Consent-Based Definitions of Sexual Violence in International Law

**Defining rape and sexual violence by absence of consent** is now a widely endorsed international standard. The Council of Europe's *Istanbul Convention* (2011) explicitly requires criminalizing all non-consensual sexual acts, moving away from force-based definitions. Article 36 mandates that parties criminalize **“engaging in non-consensual vaginal, anal or oral penetration of a sexual nature”** and other non-consensual sexual acts, including causing another person to engage in such acts. Crucially, the Convention specifies that **“Consent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances.”** This affirmative consent standard means that lack of resistance cannot be taken as consent – all sexual activity without freely-given agreement is deemed unlawful.

The European Court of Human Rights (ECtHR) has echoed this modern consent-based approach. In the landmark case *M.C. v. Bulgaria* (2003), the Court found Bulgaria in violation of the ECHR for requiring proof of physical resistance in a rape case. The ECtHR affirmed that **rape laws must effectively criminalize and punish all non-consensual sexual acts**, even in the absence of force. It emphasized that under Articles 3 and 8 of the ECHR, states have a positive obligation to **“establish and apply effectively a criminal-law system punishing all forms of rape and sexual abuse”**, including cases **“where there is no evidence of resistance.”** This judgment cemented the principle that the absence of consent – not the presence of violence or resistance – is the core element of sexual assault in human rights law.

These norms shape best practices for national legislation: many countries have reformed their definitions of rape to be consent-centric. For example, Sweden's 2018 law redefined rape to include *any sex without explicit consent*, removing requirements of force or threats. This reform led to more prosecutions and was lauded as aligning with the “yes means yes” standard, where only freely given consent legitimizes sexual acts. Such consent-based definitions comply with Article 36 of the Istanbul Convention and help ensure that victims are not denied justice due to outdated notions that rape requires violent resistance. Moreover, courts adopting this approach are careful to assess all the surrounding circumstances to judge whether consent was present, rather than focusing narrowly on signs of struggle.

Importantly, contemporary jurisprudence rejects reliance on rape myths or sexist stereotypes when assessing consent. The ECtHR in *L. and Others v. France* (2025) criticized national authorities for questioning a victim's credibility based on her not screaming or fighting back, calling this **“inconsistent with the contemporary definition of rape, which no longer depends on establishing physical resistance by the victim.”** Judges are expected to recognize that victims may freeze or submit out of fear, and that such reactions do not equal genuine consent. In sum, under international norms today, **the absence of voluntary, freely-given agreement is the defining feature of sexual violence**, and legal systems must reflect that reality in both statute and practice.



## 4.2. State Obligations Under Human Rights Law to Address Sexual Violence

States are not only urged to define sexual offenses appropriately – they are **bound by positive obligations** under international human rights law to prevent and respond to sexual violence effectively and without discrimination. Several key treaties and authorities outline these duties.

### European Convention on Human Rights (ECHR)

Through its case law, the ECtHR has made clear that **Articles 3 and 8** impose an obligation on states to **prohibit, investigate, and punish rape and sexual abuse**. Article 3 (prohibition of torture and inhuman or degrading treatment) has been interpreted to require states to protect individuals from serious ill-treatment *including by private actors*. Article 8 (right to respect for private life) similarly demands “efficient criminal-law provisions” to deter grave acts such as rape, given that sexual autonomy is a fundamental aspect of private life. Reading these provisions together, the ECtHR held that **“States have a positive obligation ... to enact criminal-law provisions effectively punishing rape and to apply them in practice through effective investigation and prosecution.”** This principle, established in *M.C. v. Bulgaria*, means authorities must not ignore or trivialize rape allegations; failure to investigate or prosecutorial inaction can breach the Convention. Indeed, in *M.C.*, the investigators' reluctance to prosecute without evidence of force was found to **“fall short of the requirements inherent in the States' positive obligations ... to effectively punish all forms of rape and sexual abuse”**, given modern international standards.

### Non-Discrimination (ECHR Article 14 and CEDAW)

These positive obligations must be fulfilled **without discrimination**, particularly gender discrimination. The ECtHR has increasingly condemned responses to sexual violence that are tainted by gender bias or stereotypes as a violation of Article 14 (in conjunction with other rights). In *X. v. Cyprus* (2025), involving a mishandled gang-rape investigation, the Court found that **“biases concerning women ... hindered the effective protection of the applicant's rights”** and risked creating a climate of impunity. Authorities had prematurely dropped the case, apparently due to prejudices about the victim's sexual behavior. The Court stressed that **focusing on a victim's past sexual conduct or perceived character is impermissible** and cannot excuse a failure to pursue justice. Similarly, CEDAW (the Convention on the Elimination of All Forms of Discrimination Against Women) has long framed gender-based violence as a form of discrimination that states must address. **General Recommendation No. 19 (1992)** affirmed that violence against women, including rape, *“seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men,”* and that states may be held responsible for private acts of violence if they fail to act with due diligence to prevent violations of rights. **General Recommendation No. 35 (2017)** updates this,

declaring the elimination of gender-based violence as a customary norm and reiterating that **inaction or leniency by authorities in cases of sexual violence can amount to a breach of states' core obligations**. In line with these mandates, states must ensure their justice systems respond to sexual assault complaints impartially and effectively, regardless of the gender or background of the victim – any discriminatory bias or stereotyping in law enforcement or judicial handling of such cases could violate international law.

### UN Convention Against Torture (CAT)

Rape and severe sexual violence are recognized as forms of torture or cruel treatment in certain contexts, engaging states' obligations under CAT. The UN Committee Against Torture has repeatedly noted that **sexual violence can inflict severe pain and suffering for discriminatory purposes (e.g., gender-based violence) and thus constitute torture**. States must exercise due diligence to prevent, investigate, and punish acts of sexual violence, even when committed by private individuals, or risk being complicit in torture or ill-treatment. For example, if law enforcement consistently fails to protect women from rape or to seriously prosecute perpetrators, it may amount to tacit acceptance of a form of cruel, inhuman or degrading treatment. Under CAT Article 2, states must take effective legislative, administrative, and judicial measures to prevent torture **“in any territory under [their] jurisdiction”**, which extends to addressing **sexual violence by non-State actors** as well. In essence, international law treats the epidemic of sexual violence as not just a private crime but a **human rights concern**, requiring affirmative state action. This includes enacting robust laws (as discussed in Section 1), training officials, promptly investigating complaints, prosecuting offenders, and providing remedies to victims. A failure to do so may breach obligations under instruments like the ECHR, CEDAW, and CAT.

### Duty to Ensure Access to Justice

A component of these positive obligations is removing obstacles that victims often face in the justice process. Human rights bodies have called for eliminating onerous requirements that uniquely burden sexual violence complainants. For instance, CEDAW has urged states to **repeal any requirement that a victim's testimony be corroborated** by additional evidence or witnesses, as such rules stem from discriminatory stereotypes that women and girls are inherently unreliable. Likewise, any **statutes of limitation** or procedural barriers that disproportionately affect rape prosecutions (given that victims may delay reporting due to trauma or fear) should be reformed. The Istanbul Convention explicitly requires that investigations or prosecutions **“shall not be wholly dependent upon a report or complaint by the victim”** and can proceed even if the victim withdraws her complaint. This is to ensure that the onus of pursuing justice does not rest entirely on traumatized survivors and that perpetrators can be held accountable through ex officio state action. In summary, **international human rights law imposes a proactive duty on states**: they must treat sexual violence as the serious violation it is, guarantee equal protection and due diligence in responding to it, and avoid any discriminatory practices that could retraumatize victims or let offenders escape accountability.

### 4.3. Trauma-Informed and Survivor-Centered Courtroom Practices

Even when strong laws and investigative procedures are in place, the courtroom experience itself can either compound or alleviate a survivor's trauma. International best practices call for **trauma-informed, survivor-centered approaches** at trial, aimed at minimizing **secondary victimization** (the additional trauma from insensitive or hostile treatment during legal proceedings). Article 56 of the Istanbul Convention requires measures to protect victims “at all stages of investigations and judicial proceedings,” mandating that their rights and dignity be safeguarded and their needs as witnesses respected. Key components of a survivor-centered courtroom practice include:

**Avoiding Re-Traumatization:** Courts should adapt procedures to reduce the stress and fear that testifying can induce in victims. This can involve simple accommodations like allowing frequent breaks during testimony, or more structural ones like using **special measures** to shield the survivor from unnecessary confrontation. Many jurisdictions employ devices such as **screens in court** or **videoconferencing** so that the victim does not have to face the accused directly while recounting extremely personal and painful events. For example, in England and Wales, complainants in sexual offense trials are by law presumed to be “intimidated witnesses” eligible for special measures; they may testify from behind a screen or via live video link, or even in a cleared (private) courtroom, to avoid the intense stress of direct confrontation. Such measures have been shown to help victims give their best evidence without compromising the defendant's rights (the judge and counsel can still see and hear the witness, and cross-examination proceeds normally, just with protective modifications). The UK's approach reflects a broader trend: recognizing that **psychological safety is integral to justice**. If victims are too traumatized to participate fully or feel further violated by the process, justice cannot be truly served.

**Protecting Privacy and Dignity:** Courts should guard the privacy of sexual violence survivors to the greatest extent possible. This may include **anonymity orders** (withholding the victim's name from public records), **in camera hearings** (closed sessions for particularly sensitive testimony), or gag orders limiting media disclosure of a victim's identity. The Istanbul Convention Article 56 explicitly urges protecting victims' safety and privacy, including “**protecting the identity and image of the victim**” and preventing disclosure of identifying information where appropriate. Additionally, court personnel should be trained to use respectful language and avoid blaming tones. In some countries, **court support persons or victim advocates** are permitted to accompany the survivor on the stand or to court, providing emotional support. All these practices acknowledge the **trauma of sexual assault and aim to prevent 'secondary victimisation'** – a term used in the Istanbul Convention and ECtHR case law to describe the victim being victimized again by the justice system's

treatment. The ECtHR has stressed that authorities must avoid “**reproducing sexist stereotypes ... and exposing women to secondary victimisation by making guilt-inducing or judgmental comments**” during proceedings. This means judges should swiftly intervene if, for instance, a victim is asked degrading questions or if irrelevant moral judgments about their character are introduced (e.g., comments about attire or social life).

**Sensitive Scheduling and Logistics:** A survivor-centered approach also considers the timing and environment of proceedings. Courts might schedule testimony strategically (e.g., first thing in the morning, to prevent a victim from waiting anxiously all day in the courthouse). Separate waiting areas for victims and defendants should be provided to avoid accidental encounters that could intimidate the survivor. Some jurisdictions use **remote witness facilities** – rooms outside the courtroom with a video link – so the victim never has to physically enter the same space as the accused. Where face-to-face is unavoidable, bailiffs or support staff should ensure the victim does not have to walk in or out alongside the defendant or their supporters. These seemingly small procedural accommodations can significantly reduce trauma.

**Training in Trauma Awareness:** A truly trauma-informed courtroom hinges on the education of all actors – judges, prosecutors, defense counsel, and court staff – about the psychological effects of sexual violence. **Judicial training** (discussed further in Section 4.7) should cover the neurobiological and behavioral impacts of trauma: for example, that victims may have fragmented memories, flat affect, or delayed emotional responses. Understanding phenomena like *tonic immobility* (a freeze response) can prevent judges or jurors from misinterpreting a survivor's demeanor (e.g., calmness or lack of visible emotion in court) as a sign that the event was not serious or that she is not credible. In line with Istanbul Convention Article 15, professionals should be trained in “**the needs and rights of victims, as well as how to prevent secondary victimisation.**”. A trauma-informed judge will, for instance, permit a sexual assault victim to have a familiar comfort item or a support person nearby while testifying if it helps alleviate anxiety, understanding that these allowances do not undercut the formality of the court but rather enable the witness to speak more freely and accurately.

**Addressing Stereotypes and Bias:** A crucial part of being survivor-centered is consciously **countering gender stereotypes** that have historically plagued sexual assault adjudication. Courts must ensure that outdated notions – such as questioning a woman's honor, modesty, or past sexual behavior – have no place in the courtroom. The ECtHR in recent cases has strongly rebuked authorities for “**moralising and guilt-inducing statements**” to victims, such as reproaching a woman for not resisting “properly” or referencing her attire/social conduct as mitigating the assault. These attitudes were deemed to violate the victim's rights and reflected discriminatory bias. A survivor-centered practice, by contrast, treats the victim with empathy and respect, focusing strictly on relevant facts (whether and how consent was communicated) rather than on rape myths.

Courts should make it clear, through their rulings on objections and their own remarks, that **the victim is not on trial**. This extends even to subtle aspects like courtroom layout – for example, considering whether the victim can testify from a seat that does not require directly facing the jury (to reduce feelings of being judged). Ultimately, the goal is to create an environment where survivors can participate meaningfully in the process **without undue distress or humiliation**, thereby improving the quality of evidence and the fairness of the trial.

Comparative practices illustrate these principles in action. The United Kingdom, besides its use of special measures, has **Independent Sexual Violence Advisors (ISVAs)** who support victims through the court process, and courts often employ *ground rules hearings* in advance of testimony to plan how vulnerable witnesses will be questioned, ensuring it is done in the least harmful manner. Canada has implemented trauma-informed courtroom protocols, and some Canadian judges even allow comfort dogs for vulnerable witnesses during testimony. In **Ireland**, reforms allow victims to have legal representation during hearings about admissibility of their sexual history, ensuring their voice is heard on such sensitive matters. These examples underscore a broader shift: around the world, justice systems are gradually redesigning courtroom procedures to be more **humane and empowering for survivors of sexual violence**, recognizing that this is not at odds with fairness – rather, it enhances the integrity of the process by facilitating truthful, thorough testimony.

## 4.4. Evidentiary Standards and Rules in Sexual Violence Cases

Adjudicating sexual violence effectively often requires revisiting traditional evidentiary rules that in the past have disfavored victims. International standards and good practices point to several key areas for reform: **abolishing corroboration requirements**, strictly **limiting evidence of a victim's sexual history**, applying appropriate **standards for inferring consent**, and embracing **expert testimony** to contextualize victim behavior. Each of these helps ensure that fact-finders reach decisions based on relevant and reliable evidence rather than prejudice or myth.

### No Corroboration Requirement

It is now widely accepted that a victim's testimony **need not be corroborated** by other evidence in order to sustain a conviction for sexual assault. Requiring independent corroboration (such as physical injuries, eyewitnesses, etc.) is both unrealistic – given sexual crimes are often committed in private – and discriminatory – rooted in outdated notions that women or victims often lie about rape. The Council of Europe (through the *Istanbul Convention*) and the United Nations (through CEDAW recommendations) have urged states to eliminate corroboration rules. In line with this, the International Criminal Tribunal for the former Yugoslavia (ICTY) long ago adopted Rule 96, stating



that “**no corroboration of the victim's testimony is required**” in sexual violence cases. Modern courts instead focus on the inherent plausibility and consistency of the testimony, the demeanor of the witness, and any supporting evidence that does exist (such as prompt complaint, forensic evidence, etc.), without imposing a special evidentiary burden on sexual offense victims that is not applied to victims of other crimes. Abolishing the corroboration requirement removes a major impediment to justice and underscores the principle that **sexual violence is to be treated like other violent crimes**, proven by evidence beyond a reasonable doubt but not subject to extra-legal suspicion.

### Rape Shield Rules (Restrictions on Sexual History Evidence)

An essential evidentiary reform to protect trial fairness and victim dignity is the implementation of **rape shield laws** – rules that prohibit or sharply limit introducing evidence about the victim's prior sexual conduct. Such evidence is usually of marginal relevance at best and is often introduced to insinuate that the victim is less credible or more likely to have consented, due to her sexual history – a line of reasoning riddled with stereotype and prejudice. Article 54 of the Istanbul Convention explicitly requires that in any proceedings “**evidence relating to the sexual history and conduct of the victim shall be permitted only when it is relevant and necessary.**”. This creates a high bar for admissibility, barring fishing expeditions into a victim's private life. Many countries have codified similar protections. International practice (like the ICC's Rules) goes even further: the ICC categorically states **the Court cannot admit evidence of a victim's prior or subsequent sexual conduct** in sexual violence cases, reflecting a judgment that such evidence is virtually never relevant to consent and only serves to distort the trial by putting the victim on trial. The effect of these rules is to **keep the focus on the incident in question**, rather than allowing discrediting of victims based on sexual history or character. They help counteract the improper inference that a woman who has had consensual sex before is more likely to have consented this time or is less worthy of belief – a myth with no scientific or logical basis. Under these standards, only in truly exceptional cases – for instance, demonstrably false prior rape claims (to show a pattern of fabrication) or specific alternative explanations for physical evidence – might such history be deemed relevant, and even then, procedures outside the jury's hearing (in common law) or in camera review (in civil law systems) are used to carefully vet the necessity of admitting it.

### Standards for Assessing Consent and Victim Credibility

Judges and jurors must be guided to assess consent based on the **whole context of the encounter**, not superficial indicators colored by bias. This means instructions or judicial reasoning should clarify that a lack of physical resistance does **not** imply consent – the critical question is whether the victim **freely agreed**. Many jurisdictions now emphasize *affirmative consent*: consent as an active, ongoing process, which can be withdrawn at any time. For example, Sweden's reform requires explicit agreement, and absence of a clear “yes” can mean “no.” Even where laws don't go as far as requiring

affirmative words, *passivity or silence* in circumstances of fear or coercion should be interpreted as lack of consent. Courts have also developed guidelines for evaluating credibility in sexual violence cases to avoid common pitfalls. For instance, a delayed reporting of rape is a known phenomenon (often due to trauma, shame, or fear of not being believed); therefore, jurors are instructed in some jurisdictions not to view delay as evidence the allegation is false. Likewise, a victim maintaining contact with the perpetrator or not appearing visibly upset afterwards might seem counterintuitive, but trauma experts recognize these as possible coping mechanisms or results of shock. To reinforce fair evaluation, **fact-finders should be cautioned against relying on “rape myths”** (e.g., “real” victims always fight back, scream, or immediately report to police – myths that have been debunked). Instead, courts are encouraged to consider any evidence of the victim's *incapacity* to consent (such as intoxication or unconsciousness), power imbalances, or explicit refusals. The Istanbul Convention's definition (free will in context) invites a holistic assessment – for example, if a victim froze out of terror, that context indicates non-consent despite lack of resistance. By focusing on **what steps, if any, the accused took to ascertain consent**, courts shift inquiry onto the defendant's conduct (did they seek an explicit yes? did they ignore signs of discomfort?), which aligns with a consent-centric model.

### Expert Psychological Testimony

One innovative practice gaining traction is the use of **expert testimony from psychologists or trauma experts** to educate the court about typical victim responses to sexual assault. Because jurors (and even judges) may have misunderstandings about how a “true” victim behaves, experts can provide evidence on phenomena like *rape trauma syndrome* or *post-traumatic stress disorder (PTSD)* in rape survivors. Such testimony can help explain why a victim might not resist physically, why she might have patchy memory of the event, or why she behaved in ways that lay people might deem unusual (e.g., maintaining a calm demeanor, not immediately reporting, or even appearing emotionally detached). Research has established **“rape trauma syndrome” as a form of PTSD**, recognized in the psychiatric community. Courts in many U.S. states, for example, allow an expert to testify that the victim's symptoms or behaviors (such as nightmares, sudden anxiety attacks, or delayed reporting) are consistent with those of a sexual assault survivor. The expert typically does *not* opine on whether they believe the victim is telling the truth about the assault (since credibility is for the fact-finder), but rather offers general findings: e.g., “It is common for rape victims to show no external injuries and to delay days or weeks before contacting authorities, due to shock and fear.” This kind of testimony **“educate[s] the jury about posttraumatic stress disorder and draws parallels with the symptoms expressed in the victim's testimony.”** In doing so, it dispels improper assumptions that jurors might otherwise rely on to disbelieve the victim. Similarly, in cases where consent is the issue, an expert might testify about *tonic immobility* (a paralysis response in fear) to

counter an argument that “she must have consented because she didn't fight or flee.” Some jurisdictions also permit expert testimony to debunk the myth that false rape allegations are common or to explain counter-intuitive behaviors like a victim returning to the ordinary routine. International tribunals have embraced such expertise as well – for instance, the ICC often relies on psychologists in its Victims and Witnesses Unit to prepare and support traumatized witnesses, ensuring they can testify effectively. The bottom line is that **expert evidence can play a crucial role in aligning the courtroom's understanding with the realities of trauma**, thereby leading to more informed and just outcomes.

## 4.5. Questioning of Victims and Defendants: Ensuring Dignity and Fair Trial

The manner in which victims and defendants are questioned in court requires a careful balance: victims should be protected from harassment and humiliation, while defendants must retain their right to challenge evidence and present a defense. International best practices and human rights jurisprudence have laid down clear guidelines to **regulate courtroom questioning** in sexual violence cases, upholding the **dignity of witnesses** and the **fair trial rights** of the accused simultaneously.

### 1) For Victim-Witnesses

Cross-examination is a cornerstone of a fair trial, but in sexual offense trials it must be handled with particular sensitivity. **Aggressive or improper questioning of a victim can amount to secondary victimization** and may even deter victims from coming forward. Courts are therefore empowered – and indeed obligated – to **control the scope and tone of questioning** to prevent abuse. The European Court of Human Rights underscored this in *Y. v. Slovenia* (2015), where a rape victim endured hostile questioning from the self-represented defendant. The ECtHR found Slovenia violated the Convention because **the judge failed to protect the victim's personal integrity during cross-examination**, allowing the defendant to make offensive, misogynistic remarks. The Court stated unequivocally that **“while the defence must be allowed leeway to challenge credibility, cross-examination should not be used as a means of intimidating or humiliating witnesses.”** It noted that some of the defendant's insinuations – e.g., accusing the victim of lying and “crying on cue” – **“exceeded the limits of what could be tolerated”** in service of an effective defense. The presiding judge should have intervened to **stop any degrading questions** and ensure respect for the witness's dignity. This principle is widely accepted: judges can and should sustain objections or on their own motion disallow questions that are purely designed to embarrass or harass the victim (for instance, prying into irrelevant sexual behavior, using derogatory language, or repeatedly accusing the victim of moral impropriety).



## 2) For Defendants

On the other side, the accused has the right to present their case and to testify if they choose. A defendant who takes the stand can be cross-examined like any witness, but courts must ensure questioning of the defendant by prosecutors is also fair (no irrelevant character assassination or overly aggressive tactics that could create undue prejudice). However, a more common issue in sexual violence cases is when defendants choose to represent themselves and thereby would personally cross-examine the victim. This scenario is widely regarded as unacceptable, due to the inherent power dynamic and trauma involved in being directly questioned by one's alleged rapist. Many countries have **banned personal cross-examination of sexual offense victims by self-represented defendants**. For example, in the United Kingdom, **defendants charged with rape or other serious sexual offenses are prohibited by law from cross-examining the complainant in person**. This ban was instituted after notorious cases where rapists used self-representation as a tool to further torment victims in court. Now, if a defendant lacks legal representation, the court will appoint an independent lawyer to conduct the cross-examination on the defendant's behalf. The jury can be instructed not to infer anything negative from the defendant not personally asking the questions – it's simply a rule to ensure the process is humane.

### Questioning Techniques and Demeanor

Both prosecution and defense attorneys in sexual violence cases should be mindful of how they frame questions. Best practices advise avoiding accusatory or blaming phrasing when questioning a victim (e.g., “Why didn't you just leave?” or “What were you wearing that night?”) as these can imply blame. Instead, questions should focus on clarifying facts (“What did you do when he did X?”) without loaded overtones.

Some court systems have introduced the role of an **intermediary or facilitator** for child victims or those with intellectual disabilities – this professional rephrases lawyers' questions in a manner that the vulnerable witness can better understand and respond to, which could be extended to adult victims with trauma to ensure they grasp what is being asked. Additionally, **repetitive grilling on minor inconsistencies** (a common tactic to rattle a witness) may need to be reined in by the judge if it becomes abusive or irrelevant. The ECtHR's guidance in *Y. v. Slovenia* effectively urges judges to strike a balance: allow the defense to test the evidence, but **stop any lines of questioning that serve mainly to degrade the witness's character rather than probe the facts**. Judges should also be attentive to the witness's condition; if a victim becomes extremely distressed under questioning, a short recess can be called to let them regroup, rather than forcing an answer in a moment of panic or breakdown.

## Maintaining Fair Trial Rights

Even as courts protect victims during questioning, they must also ensure the defendant's rights under Article 6 ECHR (and analogous fair trial guarantees) remain intact. Protective measures and limits on questioning are compatible with fair trial rights so long as the defense still has a meaningful opportunity to challenge the evidence. The ECtHR has not found a violation in cases where measures like witness anonymity or video testimony were used, provided that the defense could still cross-examine (albeit through video link or with certain accommodations) and the judge considered the impact on the defense.

In practice, balancing these rights often comes down to judicial vigilance and case-by-case judgment. For instance, if a defendant argues that not being able to directly see the witness's face (because she's behind a screen) impairs his ability to assess her demeanor or consult with his lawyer, the court might allow the defendant to see a live video feed of her face while she cannot see him, thus meeting his needs without affecting hers. Or if certain questions are disallowed as irrelevant to consent, the defense can still make offers of proof or arguments on the evidence that is admitted. Overall, the contemporary view in human rights law is that measures to protect victims are permissible and often necessary, so long as the essence of the adversarial process is preserved. Courts such as the ECtHR have endorsed this equilibrium, emphasizing that a fair trial does not grant an unfettered license to traumatize witnesses or present prejudicial evidence. Fairness encompasses both parties' rights – the victim's rights to dignity and the defendant's rights to defense – and the justice system must strive to respect and reconcile both.

### 4.6. Balancing the Rights of Victims and Defendants under Article 6 ECHR

One of the most challenging aspects for legal systems is achieving a **balance between the rights of victims and those of defendants**. Under Article 6 of the ECHR (right to a fair trial), defendants are guaranteed rights such as the presumption of innocence, the right to examine witnesses, and equality of arms in presenting their case. At the same time, victims of sexual violence – while not parties to a criminal trial in the common law sense – have rights and interests that merit protection, rooted in their human dignity and personal security (Articles 3 and 8 ECHR, and various victim-rights instruments). The task is to ensure that measures taken to protect and empower victims **do not unjustifiably infringe on the due process rights of the accused**, and vice versa, that the insistence on certain defense rights **does not unduly harm victims** or undermine the prosecution's ability to present its case.

## Procedural Accommodations vs. Fair Trial

As discussed in Section 4.5, adjustments like screens, video-link testimony, or exclusion of the public are increasingly accepted in sexual violence cases. The ECtHR has considered such measures and generally found them **compatible with Article 6**, provided that the defendant's ability to participate and challenge evidence is preserved. For example, in *S.N. v. Sweden* (2002), a case involving the video-recorded testimony of a child sexual abuse victim (who was not present in court), the Court held there was no breach of Article 6 because the defense had opportunities at the investigation stage to question the child and the trial court had sufficient means to assess the reliability of that evidence. The Court has set out guiding principles: measures restricting a defendant's confrontation rights (such as shielding a witness's identity or not having them physically present) must be justified by an important interest (like witness safety or well-being) and accompanied by compensating factors to ensure fairness (e.g., defense gets to submit questions, judges are aware of the limitations when weighing evidence). In the context of sexual violence, protecting victims from severe trauma is recognized as such an interest. The *Y. v. Slovenia* judgment explicitly noted that removing the public and even the accused from the courtroom during the victim's testimony were positive steps by the national court to prevent further trauma. However, because other aspects (like the manner of cross-exam) were mishandled, Slovenia was found in violation. This illustrates that it's not the protective measures themselves that cause unfairness – rather, **unfairness arises if the defense is prevented from challenging the evidence at all, or if the court becomes biased by overly restrictive measures**. Thus, the design of any special measure should involve asking: Is the core of the defense's right intact? For instance, if a witness is allowed to testify anonymously (a rare scenario in rape cases, more common in organized crime), the defendant still must know enough information to mount a defense, and conviction shouldn't be based solely or decisively on an unchallenged anonymous statement.

## Equality of Arms

Balancing rights also implicates the concept of equality of arms – neither side should have a procedural advantage that puts the other at an unfair disadvantage. In some jurisdictions, especially civil law systems, victims (or survivors' families) can act as **civil parties** in the criminal process, with certain participatory rights (e.g., to present evidence or question the defendant). While this can amplify victims' voices, courts must manage it so as not to overwhelm the defendant or skew the adversarial balance. For example, the ECtHR in cases like *Aquilina v. Malta* has accepted victim participation but cautioned that it should not effectively turn the process into “two prosecutions” against the defendant. Usually, this is handled by coordinating the prosecutor's and victim's interventions, and ensuring the defendant can respond to both. On the flip side, fairness might require giving victims or their families some rights – such as the right to be informed and heard at sentencing or parole hearings – without infringing the defendant's rights. These are more post-trial, but it's part of the holistic balance.

## Article 6 vs. Article 8 (Victim's Privacy)

Sometimes, a victim's right to privacy (ECHR Article 8) may conflict with aspects of a public trial (Article 6 and Article 10 on freedom of expression). Courts have held that **closed sessions** or anonymity for victims can be justified to protect Article 8 rights, as long as the essence of a fair trial is maintained. For instance, *B. v. United Kingdom* (2004, Commission decision) upheld the exclusion of press and public from a rape trial at certain moments, citing the victim's privacy and risk of distress, and found no violation of the defendant's rights since the proceedings remained fair and the judgment was eventually public. The *Istanbul Convention* Article 56 also supports this balance by urging measures like protecting the victim's identity and limiting unnecessary exposure, which implicitly means some limits on publicity. National laws often empower judges to clear the courtroom during sexual offense victim testimonies or to issue publication bans on the victim's name – these are seen as proportionate measures reconciling Article 6 and Article 8 interests.

The lesson is that **a fair trial should be fair to both parties**, in the sense of being unbiased, respectful, and focused on legitimate evidence.

In conclusion, balancing victims' and defendants' rights is about ensuring **effective participation for victims and robust due process for defendants**. It requires constant calibration: rules and practices should be scrutinized and, if needed, adjusted whenever they either expose victims to undue trauma or unduly constrain the defense. International standards, particularly the ECHR's doctrine, provide a framework, but much depends on the diligence of trial judges. The overarching principle is proportionality – any measure that limits a right (be it privacy or confrontation) must be proportional to the legitimate aim pursued (be it protecting dignity or securing a fair examination of evidence). When done correctly, protecting victims and upholding defense rights become complementary goals: a victim who can testify in a safe environment provides better evidence, which in turn leads to a fairer trial outcome, and a defendant who receives a fair opportunity to contest the evidence ensures that the verdict has integrity and credibility. Both are essential for true justice.

## 4.7. Judicial Training, Gender-Sensitive Reforms, and Institutional Safeguards

Achieving the above standards in practice often demands reforms beyond black-letter law – it calls for cultural change within the justice system. **Judicial and prosecutorial training, gender-sensitive procedural reforms**, and various **institutional safeguards** are crucial to ensure that those handling sexual violence cases do so without bias and with adequate support for victims. International instruments encourage states to invest in these areas as part of their due diligence obligations.

# 1 | Judicial and Professional Training

Judges, prosecutors, police, and lawyers must be trained to recognize and eliminate gender bias and rape myths from their decision-making. The Istanbul Convention explicitly obliges states to provide or strengthen training for relevant professionals on issues such as **“the prevention and detection of violence, equality between women and men, the needs and rights of victims, and how to prevent secondary victimisation.”** This means training curricula should cover the dynamics of sexual violence, the psychological trauma it causes, and common stereotypes that impede justice (for example, the false notion that a woman's past sexual activity makes her allegation suspect, or that “real” rape only happens by strangers at night). Many jurisdictions have developed **bench books** or guidelines for judges in sexual offense cases – these outline best practices and warn against discredited assumptions. For instance, the U.S. National Judicial Education Program offers materials on understanding victim behavior and instructing juries to avoid bias. **Canada** made headlines by passing legislation (Bill C-3, 2021) that requires new judges to undergo training on sexual assault law and social context, including issues like consent and myths, to ensure judges do not rely on improper reasoning (this reform followed some high-profile cases of judges making insensitive remarks like “why didn't you keep your knees together,” which undermined public confidence). Such training has proven essential; even well-intentioned judges may unconsciously harbor biases that training can help unearth and address. The **CEDAW Committee's General Recommendation No. 33 (2015)** on women's access to justice stresses that capacity-building for judges and lawyers is needed to ensure justice systems are responsive to gender-based violence and free from stereotype (para. 51). Likewise, **CEDAW GR 35 (2017)** calls for training that integrates a gender perspective, aiming to change institutional cultures that have tolerated impunity.

Areas of focus in training include: how to conduct trauma-informed hearings, how to draft judgments in sexual offense cases (avoiding language that blames the victim or trivializes the harm), and how to evaluate credibility without bias. Training often involves hearing from survivors and experts, using hypothetical case scenarios. Importantly, training should also extend to **law enforcement** and **medical forensic personnel**, since how evidence is collected and victims are treated from the outset will affect the trial. Police need training on taking statements without judgmental questioning and on proper evidence gathering (like documenting signs of non-consent beyond just physical injury). Prosecutors benefit from training on building cases that do not solely rely on victim testimony (where possible) and on countering defense strategies that invoke stereotypes.

## 2 | Gender-Sensitive Procedural Reforms

Beyond individual training, broader procedural reforms can institutionalize fairness. For example, some countries have created **specialized sexual violence courts or dockets**, where judges, prosecutors, and staff are experienced in handling such cases, leading to more consistent, sensitive handling. **South Africa's Sexual Offences Courts**, first established in the early 2000s, are an example: they provide victim support services at court, use pre-trial hearing rooms for children's testimony via CCTV, and ensure cases are handled by trained personnel, resulting in higher conviction rates and better victim satisfaction. Another reform is implementing **protocols for timely processing** of sexual offense cases – recognizing that undue delay can exacerbate victim trauma and erode evidence. The ECtHR has faulted states for excessive delays in rape trials (e.g., *V.P. v. Bulgaria*, where a 15-year delay was deemed a violation of the right to private life). Consequently, many jurisdictions prioritize sexual violence cases on the court calendar.

## 3 | Victim Participation and Support

Institutional safeguards to facilitate victim participation include guaranteeing the right to have a **support person or advocate present** during police and court interviews (some countries allow a psychologist or trained volunteer to accompany the victim). Additionally, providing **free legal aid or counsel for victims** at critical stages (such as during hearings on admissibility of evidence about their private life) ensures their interests are represented. The Istanbul Convention encourages enabling NGOs or victim services to **assist and support victims during proceedings** at their request. This could mean, for instance, a rape crisis center advocate is allowed to sit with the victim on the witness stand or to speak on her behalf if she is too traumatized. Some legal systems (like France and Belgium) allow victims to join criminal prosecutions as civil parties, giving them a formal voice – including the right to appeal certain decisions if the case is dropped. While that model doesn't fit all systems, the underlying principle is to treat the victim as a stakeholder in the process, not a mere piece of evidence. This approach can improve victims' experience and trust in the justice system, which in turn encourages reporting and cooperation.



## 4 | Bias Mitigation and Accountability

Ensuring **institutional safeguards against bias** might also involve monitoring and disciplinary mechanisms. For example, judiciaries can adopt codes of conduct or bench guidelines that explicitly prohibit sexist behavior in court. If a judge or lawyer egregiously mistreats a victim or expresses bias (e.g., asking irrelevant derogatory questions), there should be consequences – whether through appeals overturning biased verdicts or professional discipline. The ECtHR's increasing willingness to call out “**sexist judicial bias**” (as seen in 2025 cases like *L. and Others v. France* and *I.C. v. Moldova*) sends a message that such conduct not only violates ethics but can violate human rights law. States should respond by internal measures: e.g., reviewing judgments that contain problematic language, providing additional training to the judge involved, or in extreme cases removing judges who demonstrate persistent bias. On the prosecutorial side, offices can implement **policies to counter bias**, such as requiring supervisory review of any decision to drop a rape case, to ensure it's based on evidence and not on stereotypes about victim credibility.

## 5 | Multidisciplinary Approaches

Sexual violence is a complex issue intersecting law, psychology, and social attitudes. Institutional best practice involves a multidisciplinary approach – courts coordinating with victim services, law enforcement working with healthcare providers (for proper forensic exams), etc. The Istanbul Convention emphasizes **coordinated multi-agency cooperation** in training and handling cases. For example, a “Sexual Assault Response Team” (SART) model brings together police, prosecutors, nurses, and advocates to build strong cases and support the victim holistically. When these professionals understand each other's roles and communicate, the process is smoother and more victim-centered without sacrificing rigor.

## 6 | Safeguards for Victim Safety

Courts and prosecutors should also have protocols to ensure **victim safety during and after trial**, which indirectly supports their participation. This can include issuing or maintaining restraining orders against the accused during the trial, arranging police protection if needed, and planning for post-trial protection if there's a risk of retaliation. Victims who feel safe are more likely to engage fully and less likely to be re-traumatized.

## 7 | Regular Review and Compliance

Finally, states should regularly review their laws and practices for compliance with evolving international standards. The Council of Europe's *GREVIO* (Group of Experts on Action against Violence against Women) monitors implementation of the Istanbul Convention and often makes recommendations to improve training, procedures, and resource allocation. Similarly, CEDAW's country reviews frequently highlight the need for more training or specialized services. Policymakers should treat these as opportunities to refine the system. For instance, if data shows that courts in certain regions acquit in rape cases at unusually high rates due to reliance on improper factors, targeted interventions (like mandatory judicial workshops or assigning those cases to specialists) might be warranted.

In conclusion, **embedding international standards into daily courtroom reality requires investing in people and processes**. Training instills the right mindset and knowledge; gender-sensitive reforms embed those in law; institutional safeguards ensure that when individual actors falter, the system self-corrects. The result aimed for is a justice system where sexual violence cases are handled *competently, compassionately*, and without bias, thereby encouraging survivors to seek justice and reinforcing the rule of law. As a policy guide takeaway: drafting good laws is only step one – implementing them via continuous education, oversight, and support systems is what truly transforms the judicial handling of sexual violence in line with the best practices we've explored.



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and other sources provide the foundation for the standards and practices discussed.

## Chapter 5.

### **Systemic Challenges in Adjudicating Sexual Violence Cases – Selected Case Summaries**

The adjudication of sexual violence cases in Armenia continues to be shaped by deeply embedded procedural shortcomings that impede the delivery of justice. A range of practices observed across the legal process — from investigative interviews to courtroom dynamics — reveal persistent barriers to survivor participation, procedural fairness, and trauma-sensitive handling. These systemic issues undermine the legal rights of those who report sexual violence and contribute to broader patterns of institutional distrust and impunity.

This chapter presents anonymized summaries of real sexual violence cases monitored in Armenian courts. All personally identifying details—including names, specific dates, locations, and case numbers—have been removed in accordance with international privacy and survivor protection standards. These examples illustrate structural and procedural shortcomings that continue to hinder justice in sexual violence adjudication.

## 5.1. Description of the monitored cases

### Case 1

In a recent case, a woman met a man through an online platform. After initial contact, they agreed to meet in person and traveled together to a town outside her residence. After dining at a local restaurant, they proceeded to a nearby hotel. The man, under the influence of alcohol, expressed a desire for sexual activity. When the woman explicitly refused, he reacted with physical aggression and attempted to initiate non-consensual sexual acts. Although initially unsuccessful due to her resistance, he later resumed the assault and sought gratification through other non-consensual means. The woman sustained multiple injuries, including blunt-force trauma.

### Case 2

Another case involved a man persuading a woman he knew to enter his car under the pretense of having a personal conversation. Once inside, he drove her to a secluded location at the outskirts of a town. There, he used physical force—grabbing her clothing and pushing her—in an attempt to coerce her into non-consensual sexual activity. The incident occurred in an isolated private setting, and the woman had not been made aware of the man's intentions.

### Case 3

In a separate incident, a woman was resting alone in a public outdoor space when she was approached by a stranger. The man suddenly grabbed her, issued threats of sexual and physical violence, and physically forced her to the ground. He then exposed himself and engaged in sexually explicit behavior in front of her. The assault ended when the woman managed to contact authorities and flee.

## 5.2. Main Findings from the monitoring

### 5.2.1. Secondary Victimization and Deficiencies in Procedural Safeguards

Individuals reporting sexual violence are frequently subjected to practices that fail to account for the psychological impact of trauma or the necessity of procedural sensitivity. Interviews often involve repeated recounting of the incident, sometimes under conditions that are formalistic, uncomfortable, or adversarial. While procedural frameworks such as Article 214 of the Criminal Procedure Code provide for the recording of investigative actions to prevent repetition, application remains inconsistent. In many cases, questioning is repeated during various stages of the proceedings, with little effort made to minimize retraumatization.

The conduct of interviews and hearings often lacks adaptation to the needs of those giving testimony. Legal and investigative professionals may adopt questioning styles or language that are inappropriate or distressing, particularly in the absence of psychological support. These dynamics not only affect the quality of evidence but also discourage continued engagement with the justice system.

### 5.2.2. Direct Confrontation with the Accused

Procedural practices that enable direct confrontation between the person reporting the crime and the accused are still commonplace. The use of confrontation as defined under Article 224 of the Criminal Procedure Code—intended to clarify discrepancies between statements—has a distinctly re-traumatising effect in cases involving sexual violence. These interactions frequently occur without sufficient procedural safeguards, such as protective screens, remote testimony, or even separate entry points to the courtroom.

The emotional toll of such encounters, particularly in the absence of psychological preparation or protective measures, risks compromising both the survivor's well-being and their ability to participate fully and effectively in proceedings. These confrontational formats often create an environment that feels adversarial and unsafe, fundamentally incompatible with a trauma-informed approach to justice.

### 5.2.3. Absence of Procedural Accommodations and Specialist Support

There is a notable lack of consistent procedural accommodations for individuals navigating sexual violence proceedings. There are no clear guarantees to request or choose the sex of an investigator or forensic specialist, and such considerations are rarely integrated into the planning of investigative actions or trials. Although Armenian law requires the presence of a psychologist in certain proceedings, this safeguard is undermined by the limited availability of trained professionals with relevant expertise in trauma and forensic interviewing.

Outside of urban centers, access to qualified psychosocial support is especially limited. Even where psychological experts are formally involved, gaps in training often mean that their presence offers little protection against inappropriate questioning or retraumatisation. These deficits in procedural support ultimately compromise both the quality of evidence and the fairness of the process.

### 5.2.4. Inadequate Protection of Privacy

While legislation allows for sexual violence cases to be heard in closed sessions (e.g., Article 182(3)(d) of the Criminal Procedure Code), gaps in implementation continue to expose those involved to risks of public identification and stigma. Personal details, including names and case facts, have in some instances been published in judicial databases or media reports, even in the context of sensitive cases. Such breaches of confidentiality not only violate individual rights but also further deter reporting and participation in legal proceedings.

Despite the discretion afforded to courts to close hearings and protect privacy, decisions appear inconsistent, and procedural guidance is limited. A more robust and uniform application of privacy measures is needed to safeguard dignity, reduce harm, and ensure that access to justice is not accompanied by public exposure.

### 5.2.5. Procedural Delays and Judicial Inefficiencies

One of the most pressing systemic challenges is the frequent *procedural delays*. In all three cases, the trial process spanned over three/four years with a total of over 30 trial sessions each.

Throughout these years, most court sessions were postponed due to the defendants' absence. This lack of appearance not only prolonged the legal process but also exacerbated the emotional and psychological trauma for the victim, who had to endure continuous delays and the repeated need to relive their trauma.

During those years the judges changed, the prosecutors changed, and the public defense lawyer of the defendant changed several times. Some of the postponements were due to the inability of the overburdened police to escort the defendant to court, despite the defendant being under arrest. Each change and delay required new legal representatives to familiarize themselves with the case, leading to further delays and complications. Additionally, there was always at least a one-month gap between hearings, which significantly extended the trial duration and contributed to the overall inefficiency of the judicial process.

These delays are not merely administrative inconveniences; they have profound impacts on the victims. Continuous postponements force survivors to relive their trauma repeatedly, delaying their healing process and exacerbating emotional and psychological distress. The lack of timely justice undermines the victims' trust in the legal system, making them feel abandoned and unprotected.

### **5.3. Gender Bias and Rape Myths in Courtroom Practices**

The handling of sexual violence cases within the Armenian judicial system exposes significant systemic challenges that hinder the pursuit of justice for survivors. The three cases exemplify these issues, highlighting procedural inefficiencies, forensic shortcomings, and systemic delays that undermine the integrity and effectiveness of the legal process.

## **1) Rape Myths and Cultural Perceptions found during the monitoring of sexual violence cases in Armenia**

Rape myths and cultural perceptions significantly impact the experience of survivors in seeking justice in Armenia. These myths perpetuate harmful stereotypes about the circumstances under which rape occurs and the behaviors of both victims and perpetrators. Common rape myths and beliefs have been found in the expressions and statements of all professional parties to the trial, including the judges, the prosecutors, the advocates of the perpetrators as well as the lawyers of the victim. This is not surprising, as rape culture is deeply seated in the many mindsets of people in Armenia and eradicating them or deconstructing them takes efforts.

These are the main findings from the monitoring of these specific three cases; however, if the scope of the monitoring were broader, more rape myths would likely emerge than the ones substantiated below.

## **Myth 1. Real rape sexual violence involves physical violence and visible injuries and false accusations of rape are common.**

### **Questioning the Credibility of the Victim**

Throughout the trial, the credibility of the victims was repeatedly questioned. This approach underscores a pervasive belief in the myth that false accusations of rape are common, which significantly impacts the victim's experience in seeking justice. The victims were subjected to relentless questioning especially by the lawyers of the alleged perpetrators, with victims' statements being scrutinized excessively. In numerous instances, the same questions were posed multiple times, forcing the victim to repeatedly defend her credibility. This repeated interrogation often brought some victims to the brink of tears, as she was compelled to recount her traumatic experience again and again, trying to persuade the court of her truthfulness. Such treatment is not only emotionally taxing but also undermines the principles of a victim-centered approach to justice, as it places an undue burden on the victim to prove her honesty. This questioning was very rarely stopped either by the judge or the lawyer of the victim.

### **Emphasis on Physical Resistance and Visible Injuries**

The court's (all parties of the process) focus on physical violence and visible injuries further illustrates a problematic aspect of the trial. Both the victims and the witnesses were incessantly asked about their appearance on the day of the incident, including what they were wearing and the state of their outfits. This line of questioning suggested a reliance on outdated notions of "real" sexual violence, where the presence of physical violence and visible injuries are deemed essential for a case to be credible.

Moreover, the concept of "utmost resistance" was a recurring theme during the proceedings. The court sought to establish whether the victims showed sufficient resistance by asking detailed questions about whether she pushed the assailant, shouted for help, or attempted to escape. This emphasis ignores the complex dynamics of sexual violence, where victims may not always be able to resist physically due to fear, shock, or coercion.

### **Immediate Actions Post-Incident**

The court also scrutinized the victims' actions immediately following the incident, including how quickly they contacted the police and how they behaved in the aftermath. There was an implicit expectation that a genuine victim would exhibit certain behaviors, such as promptly reporting the crime and displaying visible distress and flight to the shortness of breath. This assumption fails to account for the varied responses of trauma survivors, who may react in different ways due to the psychological impact of the assault.

## **Myth 2. Victims may provoke rape through their behavior, attire, or presence in certain locations (the hotel room, public spaces, etc).**

The case N1. demonstrates the pervasive issue of *victim-blaming*, where the victim's behavior, attire, or presence in certain locations is scrutinized and used to suggest that they may have provoked the assault. This harmful misconception not only shifts the blame onto the victim but also perpetuates stereotypes that undermine the seriousness of sexual violence.

Throughout the trial, there was a significant focus on the victims' actions and attire on the day of the incident. The court questioned the victims extensively about their decision to meet the perpetrator, the nature of their interaction, and what they were wearing at the time. These questions implicitly suggested that the victims' choices might have contributed to the assault, reinforcing the stereotype that victims provoke rape through their behavior or clothing.

The incident's location was also used to cast doubt on the victims' credibility and imply consent. The defense often argued that the victims' agreement to go to the same isolated location with the alleged perpetrator indicated a willingness to engage in sexual activity. This line of questioning ignored the context of (psychological) coercion and pressure that victims often face, further perpetuating the myth that being in certain locations can provoke rape.

Victim-blaming significantly impacts the judicial process by diverting attention from the perpetrator's actions to the victim's behavior. In this case, the court's focus on the victim's attire and behavior detracted from the critical issue of whether the alleged perpetrator obtained her consent. This approach not only retraumatized the victim but also undermined the pursuit of justice.

These myths and stereotypes not only undermine the credibility of survivors but also influence judicial proceedings. They can lead to biased investigations, inadequate evidence collection, and unfair trial outcomes. For instance, the emphasis on physical resistance as proof of non-consent fails to recognize the various ways in which coercion and incapacitation can occur. This outdated view is reflected in many legal systems that still require evidence of force or threat.



# Conclusion and Recommendations

## Conclusion

This report has examined, in depth, the adjudication of sexual violence cases in Armenia through courtroom monitoring and legal analysis, revealing entrenched procedural failings, gender biases, and systemic obstacles that obstruct justice for survivors. While Armenia has taken some steps to harmonize its legislation with international obligations—including those under the Istanbul Convention, CEDAW, and the ECHR—the implementation of survivor-centered justice remains alarmingly insufficient in practice.

The monitored trials expose a justice system that often retraumatizes rather than protects survivors. Survivors face prolonged delays, aggressive cross-examinations, inadequate privacy protections, and a courtroom culture that is steeped in harmful rape myths and gendered stereotypes. These conditions not only violate international legal standards but also erode public confidence in the justice system, deterring survivors from coming forward and reinforcing cycles of silence and impunity.

Moreover, the lack of trauma-informed judicial practices, procedural accommodations, and institutional safeguards perpetuates a punitive and adversarial trial environment that fails to reflect the psychological, social, and legal realities of sexual violence. The cumulative effect of these deficiencies is the systematic denial of justice, dignity, and protection to those who report sexual assault.

To fulfill its obligations under international human rights law and to build a legal culture grounded in equality, dignity, and due process, Armenia must undertake urgent and comprehensive reforms. These must extend beyond formal legal amendments to encompass institutional training, cultural transformation, and survivor-centered courtroom procedures. The following recommendations provide a roadmap for achieving these goals.

# Recommendations

## I. Legal and Policy Reform

- **Adopt a consent-based definition of sexual violence** in line with Article 36 of the Istanbul Convention, which focuses on the absence of freely given agreement rather than evidence of physical resistance or force.
- **Abolish the corroboration requirement** in sexual violence cases and explicitly prohibit the use of victim's sexual history, except where strictly necessary and relevant.
- **Amend the Criminal Procedure Code** to mandate closed hearings in sexual violence cases by default, unless the survivor opts otherwise, and ensure full protection of survivors' identities in court records and public databases.
- **Codify the right to procedural accommodations** such as remote testimony, support persons, and protection from direct confrontation with the accused.

## II. Judicial and Institutional Reform

- **Mandate comprehensive, ongoing training** for judges, prosecutors, defense attorneys, and investigators on trauma-informed practices, the neurobiology of trauma, gender stereotypes, and international legal standards on sexual violence.
- **Establish specialized units or judicial panels** for sexual violence cases, comprised of trained professionals with expertise in gender-based violence and survivor-centered adjudication.
- **Integrate survivor advocates or court-appointed liaison officers** into sexual violence proceedings to provide support and assist with courtroom navigation.
- **Monitor and evaluate court conduct** through regular audits and feedback mechanisms, including anonymous surveys of survivors and legal professionals involved in such cases.

## III. Procedural Safeguards and Victim Protection

- **Guarantee survivors the right to testify without facing the accused** directly, including through use of screens, video links, or written testimony.
- **Ensure victims are fully informed** of their rights at every stage of proceedings, including the right to legal counsel, protective measures, and appeal mechanisms where applicable.
- **Enforce judicial intervention protocols** when irrelevant, prejudicial, or re-traumatizing questions are posed during cross-examination.
- **Prohibit self-represented defendants** from directly cross-examining victims of sexual violence; require courts to appoint an intermediary or counsel to conduct questioning.

## IV. Forensic and Investigative Capacity

- **Standardize forensic procedures** with gender-sensitive protocols and minimum standards of evidence collection that do not rely solely on visible injuries or physical resistance.
- **Enable survivors to request the gender of forensic and investigative personnel**, especially in the context of sensitive procedures such as medical examinations or depositions.
- **Expand access to trauma-informed psychological experts** to support survivors during investigation and trial, especially in regions outside Yerevan.

## V. Monitoring, Data Collection, and Transparency

- **Institutionalize independent trial monitoring** of sexual violence cases across Armenia, ensuring that findings are made publicly available and feed into policy reform.
- **Collect and publish disaggregated data** on the handling of sexual violence cases, including trial durations, conviction rates, use of protective measures, and judicial reasoning.
- **Create a national database** of judicial decisions in anonymized format to facilitate analysis, trend monitoring, and professional accountability.

## VI. Public Awareness and Cultural Change

- **Launch public campaigns** to challenge rape myths, promote survivor dignity, and educate communities about consent and gender-based violence.
- **Integrate education on consent, gender equality, and legal literacy** into school curricula and professional training programs across disciplines.
- **Engage civil society organizations and survivor networks** in legal reform and awareness initiatives, ensuring survivor voices are central to transformation efforts.

# Final Note

Transforming the adjudication of sexual violence cases in Armenia is not merely a legal or procedural task—it is a moral imperative grounded in the principles of human dignity, gender equality, and the right to justice. The insights generated by this monitoring initiative serve as both a diagnosis of institutional failings and a call to action. The time for reform is now. Survivors deserve not just access to courtrooms, but access to justice—delivered with empathy, fairness, and unwavering respect for their humanity.

To ensure the report contributes to systemic change, its findings and recommendations will be shared with relevant state institutions, with the aim of initiating constructive dialogue and promoting evidence-based legal and policy reform.

**2025**