

National Consultation On **"The Rights of Vulnerable Witnesses in Court"**

Consultation Proceedings

10 September 2015
Institut Latihan Kehakiman
dan Perundangan (ILKAP)
Bangi, Selangor

In collaboration with:



Sponsored by:



Supported by:



National Consultation On **“The Rights of Vulnerable Witnesses in Court”**

Consultation
Proceedings

10 September 2015
Institut Latihan Kehakiman
dan Perundangan (ILKAP)
Bangi, Selangor

In collaboration with:



Sponsored by:



Supported by



PUBLISHED BY

Women's Centre for Change
241, Jalan Burma
10350 Penang, Malaysia
Tel.: 04-228 0342
Fax: 04-228 5784
Email: wcc@wccpenang.org
Website: www.wccpenang.org
Facebook: WCC Penang

WRITING AND EDITING BY

Prema Devaraj, Joshua Teh Honguan, Loh Cheng Kooi and Melissa Mohd. Akhir

COVER, LAYOUT AND DESIGN BY

Matrika Sasha Nehru

PRINTED BY

Jutaprint, Penang

ISBN 978-983-44784-5-2

© 2017 Women's Centre for Change, Penang

All rights reserved. No part of this book may be reprinted or reproduced or utilized in any form or by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording or in any information storage or retrieval system, without permission in writing from the publisher.

Table Of Contents

Acknowledgements	4
Programme	5
Opening Remarks	
<i>Ms. Lalitha Menon, President, Women's Centre for Change, Penang (WCC)</i>	6
<i>Mr. Steven Thiru, President, Malaysian Bar</i>	8
Official Launch of the National Consultation	11
<i>Launch of WCC Video "Surviving Court" Yang Berusaha Puan Lee Lay Choo, Director General ILKAP, representing YB Hajah Puan Nancy binti Haji Shukri, Prime Minister's Department</i>	
Vulnerable Victims and the Need for Victim Advocacy	
Keynote Address I	13
<i>Ms. Shelly Casey, UNICEF Child Justice Consultant</i>	
Keynote Address II	30
<i>Dr. Farah Nini Dusuki, Senior Lecturer University Malaya</i>	
Presenting Realities on the Ground	
<i>Survey Results: Mr. Joshua Teh Honguan, WCC Advocacy Officer</i>	34
<i>Case Studies: Ms. Melissa Mohd. Akhir, WCC Senior Advocacy Officer</i>	47
Panel Discussion: Ground Realities and the Need for Victim Advocacy	59
<i>Discussant: Keynote Speakers and WCC presenters</i>	
<i>Moderator: Ms. Karen Cheah, Secretary, Malaysian Bar</i>	
Breakout Session: "Building a Framework for Victim Advocacy"	64
<i>Moderator: Dr. Prema Devaraj, WCC Programme Consultant</i>	
Feedback and Moving Forward	68
<i>Recommendations: Proposed Models for Malaysian Victim Support Unit</i>	
Appendices	
<i>Appendix A: List of Attendees</i>	72
<i>Appendix B: Biodata of Speakers and Moderator</i>	74

Acknowledgements

The organizing of the National Consultation on “The Rights of Vulnerable Witnesses in Court” and the publication of the consultation proceedings are due to the combined efforts and contributions of numerous persons and agencies. The Women’s Centre for Change Penang (WCC) is deeply grateful to them, and recognizes that without the support, dedication, and hard work of the following, the National Consultation and the proceedings would not have come to fruition:

Minister in the Prime Minister’s Department: YB Puan Hajah Nancy binti Haji Shukri

Brot für die Welt, Germany

UNICEF Malaysia

Director General of the Judicial and Legal Training Institute: Puan Lee Lay Choo

President, Malaysian Bar, Mr. Steven Thiru and the organising team

Chief Registrar’s Office, Federal Court

Anti-Discrimination against Women and Children Unit, Prosecution Division, Attorney General Chambers

Canadian High Commissioner to Malaysia: Her Excellency Judith St George

UNICEF Child Justice Consultant: Ms. Shelley Casey

Universiti Malaya Senior Lecturer: Dr. Farah Nini Dusuki

Members of the judiciary, Attorney General Chambers, and watching brief lawyers who participated in WCC’s Facilities and Protection for Vulnerable Victims Survey 2015

Penang judiciary, prosecution, welfare, police and legal aid who have participated in bi-annual state interagency dialogues

Joint Action Group for Gender Equality (JAG)

WCC Volunteers: Lalitha Menon, Khor Boon Hui, Tan Yuan Sin, Vera Bärswyl and James Lochhead

WCC Staff: Dr. Prema Devaraj, Melissa Mohd Akhir, Joshua Teh Honguan, Loh Cheng Kooi and Hasanah Akhir

National Consultation on “The Rights of Vulnerable Witnesses in Court”

10 September 2015 (Thursday)
Institut Latihan Kehakiman dan Perundangan (ILKAP)
5, Persiaran Universiti, Seksyen 15, 43650 Bandar Baru Bangi, Selangor

TIME	PROGRAMME
8.00 – 8.45am	Registration and Breakfast
8.45 – 9.00am	Arrival of VIPs
9.00 – 9.20am	Opening Remarks Ms. Lalitha Menon, President, Women’s Centre for Change, Penang Mr. Steven Thiru, President, Malaysian Bar
9.20 – 9.30am	Official Launch of the National Consultation Launch of WCC Video “Surviving Court” YBrs. Puan Lee Lay Choo, Director General ILKAP, representing YB Hajah Puan Nancy Binti Haji Shukry, Minister in the Prime Minister’s Department
9.30 – 10.45am	Vulnerable Victims and The Need for Victim Advocacy <i>Keynote Speakers:</i> - Ms. Shelly Casey, UNICEF Child Justice Consultant - Dr. Farah Nini Dusuki, Senior Lecturer, Universiti Malaya
10.45 – 11.15am	Coffee Break
11.15 – 12.15pm	Presentation Realities on the Ground <i>Survey Results:</i> Mr. Joshua Teh Honguan, WCC Advocacy Officer <i>Case Studies:</i> Ms. Melissa M. Akhir, WCC Senior Advocacy Officer
12.15 – 1.00pm	Panel Discussion: Ground Realities and The Need for Victim Advocacy <i>Discussant:</i> Keynote Speakers and WCC Presenters <i>Moderator:</i> Ms. Karen Cheah, Secretary, Malaysian Bar
1.00 – 2.00pm	Lunch
2.00 – 3.30pm	Breakout Session: “Building a Framework for Victim Advocacy” <i>Moderator:</i> Dr. Prema Devaraj, Programme Consultant
3.30 – 4.00pm	Tea
4.00 – 5.00pm	Feedback Session: Moving Forward
5.00pm	Close

Opening Remarks

Ms. Lalitha Menon
President,
Women's Centre for Change, Penang



Yang Berusaha Pn. Lee Lay Choo, Director General of Judicial and Legal Training Institute (ILKAP); Her Excellency Ms. Judith St George, Canadian High Commissioner to Malaysia; Mr. Steven Thiru, President of the Malaysian Bar; Ms. Shelley Casey, UNICEF Child Justice Consultant; Dr. Farah Nini Dusuki of Universiti Malaya; distinguished participants; ladies and gentlemen.

On behalf of the Women's Centre for Change (WCC) Penang, I would like to extend a warm welcome to everyone to the National Consultation on "The Rights of Vulnerable Witnesses in Court."

The journey to making this National Consultation a reality has been a long one for WCC. In 2005, we began conducting research into sexual crimes and conviction rates for sexual crime cases in Malaysia. Our research and subsequent publication entitled *Seeking Justice for Victims of Sexual Crime* revealed that less than 10% of sexual crime victims ever see the inside of a courtroom. We had both a worryingly high rate of 45% of cases ending in dismissals not amounting to acquittals (DNAA), and a 4% conviction rate in cases when the accused claimed trial to the charge. We found that one of the main reasons for DNAA verdicts was the high victim attrition rate in sexual crime cases. As a result of our research, WCC began intensifying the support provided to vulnerable clients in the hope that such support would help sustain them through the long criminal justice process.

Over the last five years, WCC has been providing systematic support for victims of sexual crime and domestic violence at the One Stop Crisis Centres at Hospital Pulau Pinang on Penang island and Hospital Seberang Jaya on the mainland. In the past three years, we have increased that support to include systemic pre-trial, trial, and post-trial support for our clients. WCC has also actively engaged with key agencies such as the judiciary, prosecution (deputy public prosecutors), welfare, police, and legal aid in bi-annual interagency dialogues, and also continues to provide training for key personnel from these agencies throughout the year on secondary victimization and the need to protect the rights of vulnerable victims.

Our experience on the ground with our clients has given us an insight into the fears and concerns of vulnerable witnesses which enabled us to produce a user friendly booklet, *Surviving Court*, in 2013 as a simplified guide to the court process. Since then, this book has been translated into Bahasa Malaysia and Mandarin. This year, with the support of the Canadian Fund for Local Initiatives, WCC has been able to produce a series of video clips based on the book, which will be made available online very soon, ensuring that this information can be accessed nationwide. We would like to also thank ILKAP for so generously allowing WCC to film this video on their premises.

In 2015, WCC together with the Malaysian Bar conducted a survey in five states in order to determine the extent to which facilities and protections for vulnerable witnesses in criminal courts are utilized. To our knowledge, this is the first time such a study has been conducted, and our findings, real-life case studies, and recommendations will be presented later by WCC's advocacy team. We are also very grateful to have two of our keynote speakers for this consultation, Ms. Shelley Casey and Dr. Farah Nini Dusuki, here today with us to share their expertise and experiences on victim support frameworks from a worldwide and regional perspective.

Finally, we would like to thank the Prime Minister's Department, ILKAP, the Malaysian Bar, and UNICEF for their invaluable support in making this National Consultation a reality. We hope that the discussions we have here today will bring genuine breakthrough in improving the criminal justice process and victim advocacy framework for vulnerable victims and witnesses here in Malaysia. Your ideas and support are crucial in achieving this breakthrough, and we look forward to having a productive consultation with every single one of you.

Thank you.

Opening Remarks



Mr. Steven Thiru
President, Malaysian Bar



A very good morning to Yang Berusaha Puan Lee Lay Choo, Director General of ILKAP; Puan Lalitha Menon, President, Women Centre for Change; Her Excellency Judith St. George, High Commissioner, Canadian High Commission; Ms. Selvi Supramaniam, UNICEF Child Protection Specialist, Malaysia; members of the Judiciary and the Attorney General Chambers; members of civil society; members of the Malaysian Bar; distinguished guests; ladies and gentlemen.

I am pleased to welcome all of you today to the National Consultation on “The Rights of Vulnerable Witnesses in Court” jointly organised by the Women’s Centre for Change, Penang and the Malaysian Bar. Let me at the outset deal with the definition of a “vulnerable witness”. While there is no express definition of this term in Malaysian legislation, it is widely accepted that the term encompasses children below the age of 18, victims of crime – particularly sexual or violent crime, domestic violence, and those with mental impairment or physical disability.

The time is indeed ripe for this conversation on vulnerable witnesses in light of the case of *Bunya Anak Jalong v Public Prosecutor*.¹ The facts of the case involve the accusation that 60 year old Bunya Jalong had raped Jati Anak Buan, who was 15 years old at the time, resulting in her becoming pregnant. The defence raised by Bunya was that no penile penetration had occurred and that the only penetration that did occur was with fingers and that this was sufficient towards resulting in the minor’s pregnancy. The Court of Appeal of Malaysia in Kuching allowed the 60 year old Bunya Jalong’s appeal against a Sessions Court judgment which convicted him of four rape charges against a minor. In doing so, the Court of Appeal side-stepped various legislation such as the Child Act 2001, setting a dangerous precedent for what is already an under-reported crime. This case highlights a grave failing in our criminal justice system in relation to the rights of vulnerable witnesses. There is the apparent tension between the cardinal principle that every accused person is innocent until proven guilty and the rights of vulnerable witnesses in court.

The Malaysian criminal justice system is an adversarial system where there is a contest based on reliable and admissible evidence between the prosecution and the accused before a finder of fact, in our case, a Judge. In the course of bringing truth to light, it is crucial to ensure that the rights of vulnerable witnesses are not compromised in the face of the fundamental rights of the accused. It is to find a balance between both these rights that a consultation such as this is necessary.

Vulnerable witnesses are accorded rights under the law as they might suffer from several types of abuse including social and economic abuse. Further, sexual crimes and criminal acts of domestic abuse could and does cause psychological trauma. It is accepted that those who perpetrate such crimes must be punished but only after their guilt has been proved beyond reasonable doubt after a fair trial. Such proof can only be obtained with the victim’s testimony and the gathering of such evidence in a manner that is admissible in a court of law. A national survey conducted by the Women’s Aid Organisation (WAO) estimated that, in 1989, 1.8 million or 39 per cent of women aged above 15 had been physically abused by their partners, but only 909 cases were reported in that year.

¹ *Bunya Anak Jalong v The Public Prosecutor*, Criminal Appeal No. Q-09-212-08/2014; Court of Appeal of Malaysia in Kuching; Date of Judgment 7 May 2015 (<http://www.malaysianlaw.my/criminal/judgments/bunya-anak-jalong-v-the-public-prosecutor-MY12649.html>).

To this end, we recognise that special measures should be introduced, where the rights of accused persons are dominant, in support of vulnerable witnesses. These special measures should include a series of provisions that help vulnerable witnesses relieve some of the stress associated with giving evidence in criminal proceedings. However, it has been argued that special measure applications for victims may erode the right of defendants to a fair trial.

Baroness Stern observed how rape complaints are handled by public authorities in England and Wales as follows:

"One of the most important things for a victim is feeling they have been believed, that they have been treated with care and that people have tried."

The reform of law and procedures has been far reaching for victims of domestic violence. The existence of various NGOs and the setting-up of the first centre for protection and shelter of abused women in Malaysia in 1982 pioneered the development of the reform process on domestic violence issues. Indeed, it took a lot of effort from these NGOs before the implementation of the Domestic Violence Act 1994.

It was in the 1990s that Malaysia developed a victim's policy where issues relating to the protection of vulnerable witnesses within the criminal justice system were raised. This resulted in the establishment of the Evidence of Child Witness Act 2007² and the amendment of Section 272B of the Criminal Procedure Code. Further to these, Sections 133A and 146A of the Evidence Act 1950³ offers protections for vulnerable witnesses.

Section 272B of the Criminal Procedure Code allows the use of video conferencing and live television link in the examination of both child and adult witnesses deemed vulnerable by the Court. However, there are questions as to the circumstances that would trigger the application of this provision.

The Evidence of Child Witness Act which came into force in August 2007 offers some protection for child witnesses testifying in court, but not to other witnesses likely subject to the same intimidation and vulnerability. There is an inconsistency between the definition of a "child witness" under the Child Act 2001, which states that the threshold age is 18, and under the Evidence of Child Witness Act 2007, for which the threshold age is 16, which gives rise to difficulty in determining the class of persons to which these protections might be afforded.

Section 133A of the Evidence Act 1950 provides that for evidence of a child of tender years, the Court has the discretion to ascertain whether the child has sufficient intelligence to give evidence in Court.

Section 146A of the Evidence Act affords some protection for victims of rape, stating that rape victims cannot be cross examined of their previous sexual activities. However, this provision is subject to exceptions which involve the admissibility of evidence which could imply that the victim had possibly consented to the act with the accused previously.

The Malaysian Bar recognises its role in this area. For guidance, we look to the United Kingdom where such special measures have been introduced and developed over many decades. The then-Chairman of the Bar of England and Wales, Nicholas Lavender QC, in responding to an announcement made by the Ministry of Justice on the training of advocates for vulnerable witnesses, stated that:

"The Bar is in favour of making court proceedings less traumatic for victims and vulnerable witnesses. We will study the detail of Government's proposed reforms in this respect with care and great interest."

² Act 676.

³ Act 56.

The Bar and others involved in the criminal justice system have been working closely with the Advocacy Training Council (ATC) on designing and building a specialist course of training for all advocates engaged in criminal cases involving vulnerable witnesses. The new course is intended to promote consistent standards across the legal profession, including consistency with the training currently provided to judges who deal with such cases.

To drive this project forward, the ATC has established a working group chaired by HHJ Peter Rook QC, which includes representatives of the Bar, the Law Society, the Crown Prosecution Service and the Judicial College. It has invited contributions from charities who work with victims and witnesses, including Barnardo's, Victim Support, NSPCC and Prison Reform.

The Bar looks forward to contributing further to the work of the ATC, and to working, in cooperation with others, to implement its proposals to help ensure that the needs of victims and vulnerable witnesses are met."

This is a laudable approach in the UK, which we in Malaysia should emulate. The Malaysian Bar is committed to changes that would lead to better protection for vulnerable witnesses, which we believe would enhance the administration of justice.

Thank you.

Official Launch Of The National Consultation

Launch of WCC Penang Video “Surviving Court”

YBrs Puan Lee Lay Choo, Director General ILKAP, representing YB Hajah Puan Nancy Binti Haji Shukri, Minister in the Prime Minister’s Department

Her Excellency, Ms. Judith St George, Canadian High Commissioner to Malaysia; Mr. Steven Thiru, President of the Malaysian Bar; Ms. Lalitha Menon, President of the Women’s Centre for Change; Ms. Shelley Casey, UNICEF Child Justice Consultant; Dr. Farah Nini Dusuki from Universiti Malaya; distinguished guests and participants. A very good morning to all of you, and welcome to the National Consultation on “The Rights of Vulnerable Witnesses in Court.”

I would like to take this opportunity to express our gratitude to our partners, the Women’s Centre for Change and the Malaysian Bar, who have worked tirelessly to make this National Consultation a possibility.

The government recognizes the need for improvements in our criminal justice system, and particularly in granting vulnerable victims a fair chance of access to justice. As such, we welcome initiatives taken by civil society groups such as WCC and the Malaysian Bar, in increasing awareness on the needs and rights of vulnerable victims, and gladly partnered with them in organizing this National Consultation. We are certain that this National Consultation can be a catalyst for positive, long-term change in our criminal justice system and how we treat vulnerable victims.

Thus, it is my great privilege this morning to declare the opening of the National Consultation by launching the WCC video series: “*Surviving Court*”, I hope that each and every one of you will have a productive time here and I look forward to a working framework which ensures the rights of vulnerable witnesses in court in the very near future.

Thank you.



From left to right: Ms. Karen Cheah, Ms. Lalitha Menon, Ms. Judith St. George, Pn. Lee Lay Choo, Ms. Shelley Casey, Tn. Awang Armadajaya Mahmud, Dr. Farah Nini Dusuki

Vulnerable Victims and the Need for Victim Advocacy

Keynote Address I

Ms. Shelly Casey, UNICEF Child Justice Consultant

Keynote Address II

Dr. Farah Nini Dusuki, Senior Lecturer University Malaya

Presenting Realities on the Ground

Results on Survey of Facilities and Protection Available
for Vulnerable Victims

Mr. Joshua Teh Honguan, WCC Advocacy Officer

Case Studies

Ms. Melissa M. Akhir, WCC Senior Advocacy Officer

Panel Discussion: Ground Realities and the Need for Victim Advocacy

Discussant

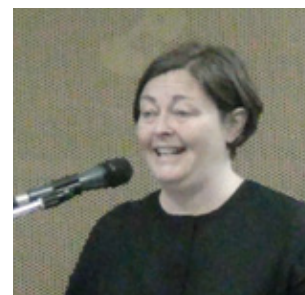
Keynote Speakers and WCC presenters

Moderator

Ms. Karen Cheah, Secretary, Malaysian Bar

Vulnerable Victims And The Need For Victim Advocacy

KEYNOTE ADDRESS I
Ms. Shelly Casey,
UNICEF Child Justice Consultant



Introduction

Globally, victim/witness support services have been increasingly recognised as an essential component of the criminal justice system. Starting in the 1970's, a growing body of research highlighted the need for criminal justice systems to be more attuned to the needs of victims, particularly in relation to sensitive crimes such as rape, sexual assault, domestic violence and crimes against children. Crime victimisation studies revealed that a significant proportion of these crimes were never reported to police or could not be successfully prosecuted due to the victim's refusal to testify or inability to give effective testimony. A variety of factors contributed to victims' reluctance to get involved in the criminal justice system, including fear of reprisal from the perpetrator, the ordeal of giving evidence in open court, having to face their abuser, long delays in proceedings, and difficulty finding transportation, child care and taking time off from work in order to attend court.

At the same time, there was also growing recognition that participation in the criminal justice process itself could exacerbate the impact of crime on vulnerable victims, resulting in "secondary victimisation." Victims and witnesses already dealing with the impact of crime experienced additional distress due to insensitive questioning by the police, prosecutors and judges; suggestions that the victim was to blame or contributed to his/her victimisation; frustration and inconvenience due to delays in court proceedings, repeated adjournments and lack of information about the status of the case; anxiety about testifying in open court about highly personal and sensitive crimes; hostile questioning from defence lawyers; and threatening or intimidating behaviour from the defendant or his/her family and friends.

The failure to provide appropriate support to victims and witnesses not only adds to the psychological and financial burden of the crime, but also undermines the effectiveness of the criminal justice system. Criminal justice systems are dependent on the cooperation of victims and witnesses, and their ability to give effective testimony is essential to maintaining the rule of law. Without their cooperation in reporting and testifying about crime, it is impossible to hold criminals accountable. For victims/witnesses to have confidence in the system, and to make their participation as effective as possible, it is vital that they are treated with dignity and respect and receive essential support services.

In response to these concerns, many countries have taken steps to make the criminal justice system more sensitive to the needs of victims and witnesses. Over the last 30 years, there has been a marked increase in the development of laws, strategies and services to identify and address the needs of victims and witnesses. This includes both enhanced cooperation and collaboration between law enforcement and existing victim support agencies, as well as integration of specialist victim/witness support services into the structure and operating procedures of the criminal justice system. This generally takes the form of a victim and witness assistance unit attached to the police or prosecutor's office to help victims navigate the intimidating and confusing criminal justice system process.

What Are Victim/Witness Support Services?

Victim/witness support services refers to a support programme, generally attached to one of the criminal justice agencies, that assists victims and witnesses required to give evidence in criminal proceedings. In some countries, these services are made available to all victims and witnesses of crime (e.g. England and Wales, New Zealand), whilst others prioritise children and persons with mental disabilities (Singapore, Hong Kong) or victims of violent crime and other vulnerable victims/witnesses such as the elderly and persons with disabilities (e.g. Canada). The main aim of victim/witness support services is to enable victims and witnesses to access the criminal justice system more effectively by reducing levels of anxiety about court appearance and by empowering witnesses to give their best evidence.

This is accomplished through a range of support and assistance, provided by staff or volunteer "Victim Supporters", including:

- **Crisis intervention:** some victim/witnesses support services intervene from the early stages when a crime is first reported to the police. Victim supporters attend the police station to provide emotional and practical support at the time of crisis, and assist victims with safety planning, referrals to temporary shelters, etc.
- **Information and updates about the case:** victim supporters generally act as the liaison or point of contact between the victim and the justice system. They monitor the progress of the criminal proceedings and ensure that the victim/witness is provided with updates about adjournments, court dates, and any significant decisions in the case, such as granting of bail. By maintaining periodic contact (generally by telephone), they help ensure that victim/witnesses continue to feel that they are part of the process and have not been "forgotten."
- **Court preparation and orientation:** a key source of anxiety for victims/witnesses is not understanding the criminal justice process and what is expected of them. Victim/witness support services help to alleviate this anxiety and improve victim/witnesses readiness to testify by providing them with explanations of the court process and their role in it. This generally includes a one-on-one information session to explain the trial process, the roles of all parties involved, legal terms and concepts (such as the burden of proof), and appropriate courtroom behaviour and attire. Some countries have developed supplemental brochures, activity books and interactive websites for victims/witnesses in various age categories. In some cases, particularly for children, the victim/witness is provided a tour of the courtroom and/or participates in role-plays so that they are comfortable with the courtroom setting and the examination/cross-examination process. Victims and witnesses who are particularly vulnerable or anxious may receive help with anxiety reduction and stress management techniques (such as breathing exercises). Where necessary, they also arrange pre-trial meetings between the victim and the prosecutor.
- **Assistance to Prosecutor and Court:** based on their interaction with the victim/witness, victim supporters are able to ensure that the prosecutor or the court is fully aware of any special needs that the victim/witness may have (e.g. a speech impediment, hearing problem, or need for an interpreter), any safety concerns that should be addressed (such as threats from the defendant), and any special measures that might be needed to facilitate the victim/witness' testimony (such as the use of a screen or CCTV). This helps ensure that appropriate arrangements are put in place prior to the trial date, thus reducing last-minute surprises and the need for adjournments.
- **Reception and Accompaniment at Court:** victim/witness support services generally have offices located at the police station or courthouse. A victim supporter will meet the victim/witness when they arrive, arrange for a quiet place for them to wait, and accompany them to the courtroom. Some programmes use part of their office space as a private waiting room for victims/witnesses. Where

permitted by the Court, victim supporters may also sit with the victim/witness while s/he is giving testimony to provide emotional comfort.

- **Assistance with Victim Impact Statements and Compensation Claims:** victim supporters assist victims to complete victim impact statements that are presented to the court and taken into account in sentencing. They also advise victims of any available victim compensation schemes, and may assist with filling out application forms.
- **De-briefing after trial:** victim supporters generally hold a de-briefing session with the victim/witness at the conclusion of the trial to explain the verdict and to thank the victim for their cooperation. This is particularly important in the event of a non-guilty verdict, as they can try to address any anger or distress that the victim/witness may be experiencing.
- **Referral:** victim/witness support programmes generally have referral protocols in place and facilitate referrals to other agencies (government and non- government) providing support services. They ensure that victim/witness are aware of the services that are available to them, and make referrals as necessary to agencies providing temporary shelter, medical treatment, counselling, legal advice and any other support the victim/witness might need.

Victim/witness support programmes primarily focus on facilitating clients' participation in criminal proceedings and are generally not designed to address all of a victim/witness' support needs. Most **DO NOT** provide the following:

- **In-depth counselling and therapeutic interventions:** many victim/witness support programmes are not staffed by qualified counsellors or psychologists. Victim supporters provide emotional comfort and support to victims/witnesses, but not professional counselling. Where more in-depth follow-up support is needed, a referral is made to a qualified counsellor or psychologist.
- **Legal advice and representation:** victim supporters provide clients with simple explanation of their rights and responsibilities as a victim/witness and an overview of the trial process. They generally receive basic training on the criminal justice process, but are not lawyers. As such, they do not act as the victim/witness' legal representative, and are not qualified to provide legal advice. Where necessary, referrals are made to legal aid or private counsel to assist victims with related family law proceedings, civil litigation for damages, etc.
- **Rehearsal of testimony:** victim supporters are generally forbidden from discussing the victim/witness' testimony or the facts of the case, and in most countries are provided with only minimal information about the allegations. Their role is to provide victims/witnesses with generic information about the court process in order to reduce anxiety and to ensure that they understand and are comfortable with the courtroom environment and process. However, they do not "coach" victims in what to say, or help them to rehearse their testimony. Where courtroom tours and role plays are used, victim supporters use neutral scenarios not related to the facts of the case. The aim is simply to ensure that the client (particularly in the case of children) is familiar with the nature of questioning in the context of a trial, not to rehearse the victim/witness' actual testimony. Most countries have strict protocols or codes of conducts for victim supporters to ensure that they understand this rule, and the principle is reinforced through training.

How Are Services Managed, Staffed And Funded?

Victim/witness support services are common in the US, UK, Canada, Australia, New Zealand, many European countries, and increasingly in Asia and Africa. There are a variety of different models and

structures used:

Law Enforcement Based Programmes: In some jurisdictions (e.g. some US states, some Canadian provinces, New Zealand), victim/witness support programmes are affiliated with the police and located at police stations or one-stop crisis centres. Staff or volunteer victim supporters provide advice and assistance to victims from the point of the first report of the crime. The victim supporters are generally called in by the police shortly after an incident, and are therefore able to provide immediate crisis intervention services to victims and traumatized witnesses. Because the service is closely affiliated with the police, this approach facilitates early intervention, and also ensures that the largest number of victims and witnesses are aware of and able to access the service, even if the matter does not proceed to trial.

In New Zealand, for example, the police have a memorandum of understanding with a national NGO to provide victim/witness support services at police stations across the country. The police provide office space within police stations, and the NGO provides a mix of qualified staff social workers/counsellors and volunteer victim supporters. The NGO is funded through grants from Ministry of Justice and private donations. In Canada, the victim/witness support services operated by the police generally have one staff coordinator (civilian), hired and paid by the police department who is responsible for recruiting, training and supervising a team of volunteer victim supporters.

Prosecutor or Court Affiliated Programmes: In some countries, such as the UK, some Canadian provinces, and most Australian states, victim/witness support programmes are affiliated with the prosecutor's office. Staff or volunteer victim supporters are provided office space at the courthouse, generally within or attached to the prosecutors' office. These programmes focus primarily on supporting victims and witnesses who will appear at trial. Clients are referred to the service by the police or prosecutor, and there are generally information sharing and referral protocols to identify and direct vulnerable victims/witnesses to the service. Their close affiliation with the prosecutors' office and physical location within the courthouse facilitates referrals, lends credibility to the programme, and provides easy access to the service for victims/witnesses on the day of trial. However, because they are attached to the prosecutor's office, they are generally restricted to supporting victim/witnesses in cases that are brought to trial.

In the UK, for example, Witness Services is commissioned and funded by the Ministry of Justice and provided under contract by a national NGO. Witness Services has offices in Crown Court and Magistrates' Court in England and Wales. The service has a small number of paid staff members, supported by trained volunteers who provide emotional support and practical help to victims and witnesses before, during and after the trial. Similarly, in Western Australia the Department of the Attorney General operates the Victim Support and Child Witness Service, with 19 offices located mainly at district courthouses. Each office is staffed by a mix of professional counsellors (paid public servants employed by the Department of the Attorney General) and trained volunteers. In New Zealand and Ontario, Canada, victim/witness support services are funded by the Attorney General, and delivered by staff victim supporters (most with a background in social work, probation or psychology) located at courthouses.

Social Welfare Department Programmes: In a few jurisdictions, such as Hong Kong and some US states, victim/witness support services are provided by the social welfare department. Staff social welfare officers, with the support of volunteers, provide accompaniment, court preparation and support to victims and witnesses referred to them by the police or prosecutor's office. The advantage of this approach is that it draws on an existing pool of trained social workers, who often have well-established networks of support services for victims. However, as "outsiders" to the criminal justice system, these programmes tend to have difficulty building trust and credibility with police and prosecutors. Consistent information sharing, referrals and capacity to provide adequate levels of accompaniment and support to victims can also be a challenge, since the victim supporters do not have office space within police stations or courthouses and have a range of other priorities and obligations.

All victim/witness support programmes rely on teams of “victim supporters” or “witness care officers” to provide direct services to victims and witnesses. However, the background and qualifications of victim supporters tends to vary, depending on their roles and responsibilities. In many countries, victim/witness support services use a mix of qualified staff members and trained volunteers. Staff members generally have a background in social work, counselling or psychology, and are responsible for intake assessments, some counselling, and coordinating and supervising volunteers. Volunteers are generally recruited from the community, and their role is usually restricted to court preparation and accompaniment. As such, they generally are not required to have professional qualifications or formal training in a related field, and are selected more for their personal commitment, demonstrated empathy and communication skills. Where volunteers are used, there must be clear guidelines in place to ensure that they are properly screened, trained and supervised.

In most countries, victim/witness support services are funded by the Ministry of Justice or Attorney General’s office. In some countries, the Attorney General’s office directly manages and delivers the services (Canada, Western Australia, New Zealand Court Services for Victims, England and Wales police-based Witness Care Units), whilst in other countries service delivery has been contracted out to an NGO (England and Wales Witness Services, New Zealand police-based services, Singapore). In the US, Canada, New Zealand and some Australian states, victim/witness services are funded at least in part by crime victims funds, which accumulate revenues from surcharges or fines levied on everyone convicted of a criminal offence. Some programmes, particularly those operated by NGOs, supplement their government funding with revenue raised from community members and private sector sponsors.

What Are The Benefits Of Victim/Witness Support Services?

International studies have shown that victims and witnesses who do not feel supported and “included” in the criminal justice system are less likely to remain cooperative and attend trial. Factors such as lack of understanding of complex legal procedures, inadequate preparation before testifying, and lack of adequate emotional support can contribute to secondary victimisation and compromise the quality of a witness’ testimony. In particular, child victims and witnesses who feel stressed, fearful, or do not understand what is expected of them are less able to give a full and accurate account of the crime.

Improving the care of victims and witnesses and enabling them to attend court is an effective means of narrowing the justice gap and increasing public confidence in the criminal justice system. Evaluations of victim/witness support programmes¹ have highlighted a number of benefits:

- Improved witness attendance rates at trial, by improving the quality and frequency of information and the level of support provided to witnesses, thus enabling and encouraging them to attend court.
- Significantly improved trial outcomes, due to lower rates of witness non-attendance and improved quality of testimony;
- Increase in guilty pleas, resulting mainly from increased victim/witness attendance on the date of trial and reduction in recantations;
- Increase in number and quality of victim impact statements submitted to the court;
- Significant increase in victim/witness confidence in and satisfaction with the criminal justice system;
- Improved inter-agency collaboration across justice agencies, and between the justice sector and victim service providers;
- Reduction in secondary victimisation, and more effective and efficient referral of victims to appropriate support services;
- Overall increase in economy, efficiency and effectiveness of the criminal justice system by reducing delays and adjournments from witness non-attendance, reducing discontinuances, shortening case processing times, and increased likelihood of offences being brought to justice.

References

- ¹ Avail Consulting (2004), *No Witness, No Justice Pilot Evaluation*, England and Wales Crown Prosecution Service and ACPO.
- ² Turley, C. and Tompkins, C. (2012) *Early Learning from Victim Support's Homicide Service*, Ministry of Justice Research Series 2/12. London: Ministry of Justice.
- ³ Bradford, B. (2011) *Voice, neutrality and respect: Use of victim support services, procedural fairness and confidence in the criminal justice system*. *Criminology and Criminal Justice*, 11(4), 1–22.

COUNTRY PROFILE: ONTARIO, CANADA



Agency Responsible for Victim/Witness Services:	Ministry of the Attorney General, Victim Services Secretariat, provides services at all courthouses.
Location of the Services	Each criminal courthouse has dedicated office space for the Victim/Witness Assistance Programme (V/WAP). There are separate Child Victim/Witness Centres in some cities.
Staffing	Each office has a V/WAP Manager and one or more staff Victim Services Workers (generally with background in social work), employed by the AG's office.
Eligibility of Services	All victims and witnesses of crime are eligible (if charges have been laid), but services are provided on a priority basis to the most vulnerable victims and witnesses of violent crime (domestic violence, sexual assault, homicide, hate crimes) and children.
Services Provided	<ul style="list-style-type: none">• Case information and updates (court dates, bail conditions, etc.)• Needs assessment• Emotional support• Court preparation and orientation• Advice to the prosecutor on the victim's needs and appropriate testimonial measures• Court accompaniment• Help with victim impact statements and other forms• Post-court de-briefing and follow-up• Coordination and referrals to other support agencies.

In Canada, victim/witness support services falls within the jurisdiction of the provincial governments and therefore varies in different parts of the country. The province of Ontario introduced one of the first Victim/Witness Assistance Programme (V/WAP) in 1987. The V/WAP is managed by the Ministry of the Attorney General, which has established a Victim Services Secretariat to oversee the V/WAP and other victim services, including the Victim Justice Fund.

The V/WAP operates in 62 offices across the province. Their offices are located at all criminal court houses, generally attached to or near the prosecutors' office. Within the Ministry of the Attorney General structure, Regional Managers have been appointed to oversee the V/WAP Managers in each site within their region, and each V/WAP Manager has one or more Victim Services Workers reporting to him/her who provide front line services. V/WAP offices in larger cities can have six or more Victim Services Workers, but most offices have only one or two staff. The V/WAP Managers and Victim Services Workers are all public servants, employed by the Ministry of the Attorney General.

The main goals of the V/WAP are to:

- Enhance victim/witness understanding of, and participation in, the criminal court process;

- Assist the victim/witness to regain a sense of well-being; and
- Ensure coordination of services with community agencies that support victims of crime.

Victims and witnesses are generally referred to the V/WAP by the investigating police officer or the prosecutor's office. Protocols for information sharing and referral have been established to ensure that all cases involving a vulnerable victim or witness are referred to the V/WAP for appropriate follow-up. The service is open to all victims and witnesses in criminal cases, but support is provided on a priority basis to the most vulnerable victims and witnesses of violent crime (such as domestic violence, sexual assault, homicide and hate crime), victims/witnesses with special needs, elderly victims/witnesses, and child victims/witnesses.

The Victim/Witness Assistance Programme provides a range of services, depending on the nature of the case and the needs of the individual victim/witness:

- **Individual Assessment:** when a referral is received, the case is assigned to a Victim Services Worker who contacts the victim/witness (or parents) by phone or letter. A meeting is arranged for an initial intake assessment to assess the client's individual situation, special needs, and personal concerns related to testifying. For children, more in-depth assessments can be completed at the request of the Court to assist in assessing a client's ability to testify, or special accommodations they may require. Any concerns about the victim/witness' ability or willingness to testify, and any special needs they may have, are communicated to the prosecutor so that appropriate arrangements can be made.
- **On-going outreach and updates about the case:** V/WAP staff monitor the progress of all on-going cases that have been referred to them and provide the victim/witness with updates about court dates, adjournments, the accused's bail conditions, etc. They maintain periodic contact (generally by telephone) with the victim/witness, particularly where cases are delayed and there is concern that the client will withdraw support.
- **Court preparation and orientation:** Victim Services Workers provide clients with simplified explanations of court procedures, the role of a witness, and anxiety reduction and stress-management techniques. For children, this generally involves multiple sessions for the child and parents, including a visit to see the courtroom and sometimes role plays. If testimonial aids are to be used (video link, screen, etc), the Victims Services Worker ensures that the client sees and understands the set-up prior to the trial date. Information booklets for adults, activity booklets for children, and an interactive website have been developed to provide simple explanations of the court process.
- **Accompaniment and support:** Victim Support Workers provide emotional comfort, support and assistance through each stage of the court process. Where necessary, the V/WAP will arrange a pre-trial meeting between the client and the prosecutor, and may accompany the victim/witness in the courtroom. The V/WAP office serves as a quiet, private waiting area for clients while they are waiting for their turn to testify. Victim Support Workers also assist victims to complete a Victim Impact Statement and Criminal Injuries Compensation Board forms. Clients are provided with a de-briefing session after the trial to explain the verdict.
- **Referral to other service providers:** depending on the individual client's needs, the V/WAP provides referrals to government and non-government agencies providing shelter, counselling, legal advice and other support services, including discussions of safety issues and referrals to agencies for comprehensive safety planning.

In larger cities, the Attorney General also funds specialised Child Victim/Witness Centres to provide enhanced support and assistance to children and their families. In areas where a Child Victim/Witness Programme is not available, the V/WAP provides similar services.

The V/WAP is funded by the Ministry of the Attorney General. A key source of funding is the Victims' Justice Fund (VJF). The VJF was established in 1996 under the Victims' Bill of Rights as a special purpose account within the government's Consolidated Revenue Fund. Money paid into the VJF must be used to assist victims of Criminal Code offences either by supporting programmes that provide services to victims (such as the V/WAP), or by making grants to community agencies that help victims. The money in the VJF is collected from a "victim fine surcharge" imposed on all fines under the Provincial Offences Act, the Criminal Code and Controlled Drugs and Substances Act offences. Over \$40 million is collected annually into the VJF.

Funds from the VJF are also used to support a range of non-government and charitable organisations that provide victim/witness support services in collaboration with the police, including immediate on-site crisis intervention, trauma counselling, safety and support services, rape crisis centres and temporary shelters.

COUNTRY PROFILE: ENGLAND AND WALES



Agency Responsible for Victim/ Witness Services:	Witness Care Units (WCUs) have been established as a joint police/Crown Prosecution Service initiative. Ministry of Justice commissions and funds court-based Witness Service, delivered by non-government organisation.
Location of the Services	WCUs are located in police stations; Witness Services has an office in every Crown Court and Magistrates' Court in England and Wales.
Staffing	WCUs are staffed by witness care officers (police and CPS employees). Witness Services offices have at least one staff member, but most work is done by volunteers (approx. 300 staff and 2,500 volunteers for 300 courts).
Eligibility of Services	Anyone called to give evidence for either the prosecution or defence.
Services Provided	<ul style="list-style-type: none">• Court preparation and court room tours• Updates on the progress of the case• Providing emotional and practical support linked to giving evidence.• Referral to other support services

England and Wales provides two levels of support for victims and witnesses:

- 1) Witness Care Units are a joint police/Crown Prosecution Services initiative to provide victims with a single point of contact from the initiation of the case through to its conclusion.
- 2) Witness Service is commissioned and funded by the Ministry of Justice, and provides support to witnesses in Crown Court and Magistrate Court matters.

Witness Care Units

Witness Care Units (WCUs) have been established across England and Wales as part of the government's 'No Witness, No Justice' initiative and aims to ensure that witnesses are better informed, better prepared and better supported throughout any court proceedings. WCUs are located at local police stations and staffed by witness care officers, who are employed by the police and CPS. The aim of Witness Care Units is to provide a single point of contact for victims and witnesses for information about the progress of their cases and to minimise the stress of attending court. They manage the care of victims and witnesses from the charging of the defendant(s) through to the conclusion of a case.

Once a charge has been brought the police pass the file on to the local Witness Care Unit. The Witness Care Unit assigns each victim/witness a dedicated witness care officer. The witness care officer acts as liaison and keeps the victim informed about the progress of the case from charging the suspect, to sentencing or acquitting the defendant. Witness care officers ensure that victims and witnesses are kept at the centre of the criminal justice system and provide the following services:

- A full needs-assessment for victims and witnesses with particular support needs, who are required to attend court, to ensure they are able to get to court and give their best evidence;
- Dedicated witness care officers to guide and support individuals through the criminal justice process and to co-ordinate support and services;
- Continuous review of victim and witness needs throughout the case;
- Assist the victim/witness with childcare arrangements, transport and leave from work to attend trial.
- Liaise with volunteers from Witness Service to ensure the victim/witness receives pre-trial court familiarisation and practical and emotional support during the trial;
- De-briefing to explain the outcome or trial result, thanking the victim/witness for their contribution to the case and offering post case support from the relevant support agency.

Witness Service

The Witness Service is an initiative of the Ministry of Justice. The Ministry fully funds the service, but contracts deliver to one national provider or consortium through a grant of approximately £12m per annum. From 1987 to 2015, Victim Support (an independent charitable organisation) provided services on behalf of the Ministry. In 2014 funding for the Witness Service was opened to competition for the first time, and a new charitable organisation, Citizens Advice, won the contract and began delivery of the service in April 2015. It has approximately 300 staff and 2,500 trained volunteers with offices in all 300 criminal courts across England and Wales.

The aims of the Witness Service are to:

- Alleviate stressful waiting times for witnesses;
- Improve witnesses' understanding of the court process and people involved; and
- Ensure that witnesses feel valued and respected while they undertake the vital civic role of giving evidence in court.

The Witness Service provides free and confidential support for witnesses in every Crown Court and Magistrates' Court in England and Wales. It is available to anyone called to give evidence for either the prosecution or defence, and supports approximately 200,000 witnesses annually. The Service receives referrals primarily from the Witness Care Units, and also from defence solicitors, police and other victim service providers.

Trained volunteers offer emotional support and practical help to witnesses before, during and after the trial. This includes:

- **Updates about the case:** Volunteers ensure that witnesses are given updates about the progress of the case, including adjournments and trial dates.
- **Court preparation and orientation:** Volunteers help reduce the stress of going to court by giving witnesses the opportunity to visit the court building, familiarise themselves with the courtroom itself and learn about court processes before a trial. A series of booklets have been developed for adults, teenagers, children and their parents to explain the court process. The Ministry also has an interactive website and video for young victims/witnesses.
- **Accompaniment and emotional support:** Volunteers greet victims when they arrive at court and provide emotional support throughout the trial process.
- **Referral to other service providers:** Witness Service does not provide counselling but does provide referrals to more specialist support when needed.

COUNTRY PROFILE: SINGAPORE



Agency Responsible for Victim/Witness Services:	Singapore Children's Society (voluntary welfare organisation)
Location of the Services	Coordinated from the Singapore Children's Society centre
Staffing	Volunteer victim support officers
Eligibility of Services	Child witnesses under the age of 16; witnesses with a mental age below 16 years.
Services Provided	<ul style="list-style-type: none"> • Information and court preparation • Emotional support and assistance throughout the proceedings • Court accompaniment • Referrals

Singapore's Vulnerable Witness Support Programme provides support to child victims and witnesses who have to testify in criminal cases. The programme is an initiative of the Multi-Door Courthouse of the Subordinate Courts, managed by the Singapore Children's Society ("the Society") in collaboration with the Attorney General's Chambers and the Singapore Police Force. The Children's Society is a voluntary welfare organisation that promotes the well-being of children.

Under the programme, a "vulnerable witness" is defined as any child under the age of 16 years who is a victim or witness to a crime and who is required to give evidence in court, as well as victims/witnesses above the age of 16 years who have a mental age of under 16 years. The investigation officer or the Prosecutor identify appropriate cases to be referred to the programme. The victim or witness and/or his or her parent(s) are informed of the programme and requested to complete a standard referral form which contains information to assist the Society to assign an appropriate Victim Support Officer who can best address the needs of the child. The form must be signed by a parent or a caregiver before it is forwarded to the Society.

Once a referral has been made to the Programme, the Society assigns a Victim Support Officer to assist the witness. The Victim Support Officers are volunteers recruited and trained by the Society. The Victim Support Officer will then initiate contact with the child's parents or caregivers, and provides the following services:

- **Information and court preparation:** The Victim Support Officer provides information and explanations about the court process and assists the child and parents with stress management. A visit to the courts' complex and the courtroom is arranged in collaboration with the Case Administrator of the Multi-Door Courthouse.
- **Emotional support and assistance:** The assigned Victim Support Officer will continue providing support to the child and his/her parents until the court proceedings are concluded. Volunteers provide non-evidentiary practical and emotional preparation and support to the child, depending on his/her individual needs, and also prepare the child for the outcome of the court proceedings. However, they are prohibited from discussing the facts of the particular case with the child or his/her parents.

- **Accompaniment during the court proceedings:** During the trial, the Victim Support Officer will accompany the child to court and stay with the child while he or she is waiting to testify. In appropriate cases, the officer may be permitted to sit behind the child as the child testifies in court.
- **Referrals:** The Victim Support Officers and the Society do not provide professional counselling or therapeutic services, either before or during the trial. Referrals for counselling or therapeutic services may be made by the Co-ordinator of the Society to the appropriate agencies in suitable cases.

COUNTRY PROFILE: WESTERN AUSTRALIA



Agency Responsible for Victim/Witness Services:	Attorney General's Department
Location of the Services	Victim Support and Child Witness Service offices are located in district courthouses
Staffing	Staffed by trained social workers and volunteers
Eligibility of Services	Victim Support Service is available to all victims of crime, including family members of a deceased victim. There is also a specialised Child Witness Service and Family Violence Service.
Services Provided	<ul style="list-style-type: none"> • Counselling and support • Information on the status of the case • Court preparation • Accompaniment during the trial • Assistance with victim impact statements and criminal injuries compensation claims • Referrals to other support services

In Australia, victim/witness support services fall under the responsibility of the State governments and therefore vary from State to State. In Western Australia, the Department of the Attorney General operates the Victim Support and Child Witness Service. It offers confidential support for victims of crime and includes three areas of service:

1. Victim Support Service
2. Child Witness Service
3. Family Violence Service

Victim Support and Child Witness Services has 19 offices throughout the State, located mainly at district courthouses. Each office is staffed by a mix of professional counsellors (paid public servants) and trained volunteers. The service provides assistance to anyone who has suffered injury or loss as a direct result of an offence, as well as any member of the immediate family where an offence results in the death of an individual.

The Victim Support Service provides:

- **Counselling and support:** qualified staff counsellors provide victims and witnesses the opportunity to talk in a safe and confidential environment, and help them find ways of coping with their feelings and recovering from their experience. Referrals are provided for individuals who require more intensive, therapeutic support.
- **Information and assistance:** the service provides victims and witnesses with explanations of the court process, information about their rights in the criminal justice system, help with getting information about the status of a police investigation, and information about the status of court proceedings. Victims are also assisted with applications for restraining orders, writing victim impact statements,

and enquiries about criminal injuries compensation claims. Through the Victim Notification Register, victims are also provided information on the status of convicted offenders (e.g. parole or release dates).

- **Referral:** based on the individual client's needs, victims and witnesses are provided information about and referral to appropriate support services (government and non-government).
- **Court preparation and accompaniment:** Victim Support Service has trained volunteers who provide court preparation and accompaniment. This includes: meeting with the victim/witness to explain how the legal system operates, the role of each person at trial, and court expectations; providing a tour of the court prior to trial; talking with the victim/witness about any concerns s/he may have about testifying; accompanying the victim/witness while waiting and in court; and providing a de-briefing after the verdict.

The Family Violence Service is located at metropolitan Family Violence Courts and provides information, advocacy and support to people who have experienced violence in intimate or family relationships, including crimes between married or de facto couples, ex-partners, family members, children, and live-in carers. The Family Violence Service has specially trained staff who assist victims with:

- Discussing specific violence issues and the options available to deal with them;
- Developing a safety plan;
- Completing court-related documents;
- Apply for a violence restraining order;
- Preparing for court and in-court support;
- Information about on-going court matters;
- Accessing services such as counselling, police, legal assistance, medical care and other relevant agencies.

The Child Witness Service helps children under 18 years of age who may need to give evidence in court. Intensive, individualised support is provided to reduce secondary trauma by providing appropriate preparation and support prior to, during and following the child's court appearance. The Child Witness Service undertakes an individualised assessment of the child's needs in relation to giving evidence and advises the public prosecutor and court on the most appropriate testimonial aids to facilitate the child's best evidence. They provide the child and parents/caregivers with practical support to emotionally prepare the child for court, and to reduce anxiety. The Child Witness Service does not provide counselling, however, referrals can be made to appropriate agencies when additional support is required.

COUNTRY PROFILE: NEW ZEALAND



Agency Responsible for Victim/Witness Services:	Victim Support (NGO) manages support for victims at the pre-trial stage Ministry of Justice manages Court Services for Victims.
Location of the Services	Victim Support located in police stations; Court Services for Victims has offices at all district and high courts.
Staffing	Victim Support has some paid staff but front-line work is done predominately by trained volunteers; Court Services for Victims is staffed by paid Victim Advisors.
Eligibility of Services	Victim Support assists adult victims and witnesses of serious crime and other traumatic events; Court Services for Victims assists all victims of crime in District and High Court matters and all child victims and witnesses.
Services Provided	<ul style="list-style-type: none">• Crisis support• Information on the status of the case• Court preparation• Accompaniment during the trial• Referrals to other support services

New Zealand has two main services providing support for victims and witnesses:

1. Victim Support: a charitable organisation providing services to victims and witnesses of crime and other traumatic events (accidents, suicides, etc.) from the early stages of an incident.
2. Court Servicers for Victims: managed by the Ministry of Justice.

Victim Support

Victim Support is an independent, charitable society with a workforce of approximately 130 paid staff and 645 volunteers based at 63 offices across New Zealand. As part of the government's contribution to the service, the police provide Victim Support with office space within police stations and other amenities. A significant proportion (eighty-seven per cent) of Victim Support's work is on referral from the police.

Victim Support recruits, trains and supervises front-line volunteers who deliver direct support to victims at police stations, at the scene, and in the community. Volunteer Support Workers are carefully selected and receive intensive and continuing training. They are mentored and supervised by Service Coordinators in their regional hub.

Starting from the early stages after an incident, Victim Support provides "emotional first aid and practical support at the time of crisis":

- Financial grants to reimburse costs after some serious crimes, especially homicide, death by a criminal act, and sexual violence;
- Referral to counselling and other services, and payment of counselling costs in some cases;
- Help dealing with the criminal justice system e.g. attending court, restorative justice, parole board;

- preparing victim impact statements and help organising travel and accommodation if required;
- Help dealing with grief, loss, trauma and shock;
- Follow up on wellbeing/safety after crisis and further emotional and practical support if required;
- Specialist support following a homicide; and
- Advocacy with other organisations.

Victim Support receives over 85 per cent of its funding under contract from the Ministry of Justice, and also receives funds through private sector sponsors and donations from the community.

Court Services for Victims

Court Services for Victims is part of the Ministry of Justice and employs specialist Victim Advisors to provide support for victims if the matter is going to court. Most Victim Advisors have a background in social work, probation services or related experience. Their offices are located at District and High Court courthouses.

Court Services for Victims is available to all victims of crime from the defendant's first day in court until trial, sentencing and through any appeals. There is also a special enhanced service provided to all child victims and witnesses in criminal proceedings.

The Police Officer In Charge (OIC) must notify Court Services for Victims regarding all victims relating to cases proceeding through District or High Courts. Once a case file is received, a Victim Advisor is assigned and contacts the victim to offer support. Generally, the same Victim Advisor supports a victim throughout the whole case. Victim Advisors provide services before, during and after the court proceedings:

- Advising on rights under the Victim Rights Act 2002;
- Information and updates on the progress of the case;
- Information on what support and protection is available, and referral to other agencies for counselling and other support services;
- Liaising with the police and prosecutor about any concerns the victim has;
- Education on the court process and the victim's role as a witness;
- Advising victims of sexual violence about alternative ways to give evidence in court;
- De-briefing sessions after the court hearing to explain bail conditions or the verdict;
- Information about the victim notification system and how to register to be informed when the offender is to be released from prison.

Court Victim Services also provides an enhanced Court Education for Young Witnesses service, which includes:

- A tour of the courtroom in advance of the trial date. If CCTV is to be used, this includes a tour of the CCTV room and practice using the equipment;
- A child-friendly video and booklet explaining the court process;
- Meet the child and family on the day of court and arrange a suitable space for the child to wait;
- Support person to sit with the child while giving testimony.

New Zealand has introduced an "offender levy" that will be used to fund a range of services for victims of serious crime and ensure that offenders contribute to addressing the harm that their crimes cause. The new levy is an automatically imposed fee of \$50 that is required by law to be paid by anyone sentenced in the District or High Court.

Vulnerable Victims And The Need For Victim Advocacy

KEYNOTE ADDRESS II
Dr. Farah Nini Dusuki,
Senior Lecturer, Universiti Malaya



Legal philosopher Jeremy Bentham once said: *Witnesses are the eyes and ears of justice.*

Vulnerable victims and witnesses in Malaysia include:

- Adult victims of sexual or domestic crimes;
- Incapacitated adults due to mental capacity or mental age; and,
- Children.

The usual category of crimes can be found in the Penal Code, Child Act 2001, and the Domestic Violence Act 1994. They include physical abuse (causing grievous hurt, hurt), sexual assault (rape, outrage of modesty, sodomy), and emotional injury.

Importance of Accessing Justice in the Criminal Justice System vs Upholding the Rights of Victims

Victims of crime obviously have as much right to protection by criminal law and its use clearly indicates that society will not condone their ill-treatment. Yet, there is a widespread perception amongst victims/child protection practitioners that the criminal justice system, as presently organised, does not promote the welfare of those caught up in its processes and that its use may even victimise them over again.

Some even say that the criminal justice system casts a blight over victim protection and at every stage of the victim protection process, efforts to help the victim recover from the effects of abuse may be undermined by the prospect of criminal proceedings against the abuser. The drive to obtain a conviction may prevail over the needs of the victim and there are certain aspects of the criminal justice system which undermines its suitability for protecting individual victims from abuse, and results in direct conflict between the efforts of social workers and police officers and prosecutors.

The criminal law focuses on protecting society and victims as a class, not on the interest of the individual victim or witness - the assumption is that catching and punishing the offender will automatically fulfil the victim's welfare.

Since the focus of criminal intervention is on punishing the wrongdoer, considerable emphasis is placed, not on the rights of the victim to comfort and support, but on those of the alleged perpetrator who may, after all, be innocent. Considerable effort is devoted to collecting evidence proving guilt beyond a reasonable doubt:

- that the offence actually took place; and
- that the right person has been identified as the perpetrator.

Legal Snapshots of Victim Advocacy Efforts in Malaysia

The laws have been put in place to provide basic protection for victims of crimes, particularly sexual crimes in Malaysia:

1. Statutorily there is no requirement for corroboration for allegations of sexual offences (though there has been case law where judges contended that it is unsafe to convict without such corroboration);
2. The Evidence Act prohibits for victims to be cross-examined on past and different sexual experience other than the one being under scrutiny;
3. Proceedings are to be held in camera where the victim is being examined.

An Overview of Child Victim Advocacy Efforts in Malaysia

Serious efforts were initiated sometime between 2001-2001 when the former KSU (Chief Secretary) of the Prime Minister's Department, Datin Fauziah Ramly garnered efforts to advocate for child victims' plight especially in the criminal justice system.

Collaboration was made with the British High Commission when a team of specialists headed by Mr Tony Butler came over to Malaysia to have an overview on current situations then. A team of police officers and social welfare officers went to the UK for a study visit on Good Practices in respect to child victims.

In 2002, the Child Protection Unit of the Royal Malaysian Police (PDRM) was established at No. 6, Jalan Sultan Salehuddin where equipment were put in place to video-tape children's fresh account of their ordeals and a halfway house accommodation was set up for victims and family members who had to travel from other states. Between 2004-2005, closed circuit television link was used at the Session Court 3, Jalan Raja, without any statutory reform. A Witness Room was prepared in the same court building and officers from JKM were trained to be Victim Support Officers. In 2007, the Evidence of Child Witness Act 2007 was passed, which provided for inter alia, the use of CCTV, shields and video recordings to be used in place of examination-in-chief.

What is Happening Today?

- How many courts are equipped with all these mechanisms?
- Are officers of the courts sufficiently trained to handle proceedings that utilise these mechanisms?
- What is the frequency of use of all these mechanisms available to protect children?
- Where they are being used, what is the success rate of prosecutions?
- Has there been a study by the courts to look into the effectiveness of these mechanisms in supporting victims whilst at the same time ensure best evidence rule is maintained?
- Are there impediments or obstacles in using these mechanisms in court?
- When will these mechanisms be extended for other vulnerable witnesses in courts?

Efforts in Singapore

- i. Statutory Reforms
- ii. Code of Practice for the Conduct of Criminal Proceedings
- iii. Vulnerable Witness Support Programme

i. Statutory Reforms

- **Protection of identity:** Section 35 of the Children and Young Person's Act prohibits the publication or broadcasting of identifying information of any child involved in proceedings in any court, and penalises this with a fine of up to S\$2,000 and for second or subsequent convictions, S\$10,000. Section 7 of the Subordinate Courts Act allows a subordinate court to make an order prohibiting such identifying actions, the contravention of which attracts a fine of up to S\$5,000 or imprisonment of up to 12 months, or both.
- **Proceedings in camera:** Section 7 of the Subordinate Courts Act allows a court to hold proceedings in camera if it is in the interests of justice to do so. The High Court and the Court of Appeal have similar powers under Section 8 of the Supreme Court of Judicature Act to make orders and hold proceedings in camera, although the maximum imprisonment term in this case is 3 years.
- **Evidence via video link or live television links** for witnesses below 16 years old (via amendments to CPC and Evidence Act).

ii. Code of Practice for the Conduct of Criminal Proceedings

Under Para 19 of the Code:

"Extra care and sensitivity should be taken where the witnesses are young, and/or have been adversely affected or traumatized by the relevant offence(s). Where the witness is a child or a young person as defined under the Children and Young Persons Act (Cap 38), Prosecutors and Defence Counsel should interview the witness in the presence of a Child Advocate or a Child Protection Officer where reasonably practicable. The Child Advocate or Child Protection Officer should be allowed to call for intermissions during the interview, if he is of the view that it is in the interest of the witness to do so."

Para 32 of the Code:

"In cases involving vulnerable victims and especially where the court has issued gag orders or ordered in camera hearings, the Prosecutor and Defence Counsel shall at all times ensure that the confidentiality of documents and information adduced at the hearing, as well as the privacy of any victim or vulnerable witnesses, are protected. Defence Counsel shall advise their client to comply with such orders."

Para 51 of the Code:

"Prosecutors should bring to the attention of the court the victim's circumstances and views whenever this is appropriate through the use of victim impact statements. In particular, prosecutors should:

- (a) be sensitive to the need not to re-victimize victims;
- (b) obtain the consent of the victim before seeking a victim impact statement from him or her;
- (c) not require the victim to make any statement that might incriminate himself or herself; and
- (d) provide the victim with the opportunity to obtain legal advice if he or she requests."

iii. Vulnerable Witness Support Programme

- The Programme is conducted by groups of volunteers from the State Courts and Singapore Children's Society (SCS).
- The support to the Witness under this Programme is through a Volunteer Support Person (VSP). The VSP is a volunteer recruited by the State Courts and SCS.
- The Programme is coordinated and managed by the State Courts and is free of charge.
- The programme is available to children, witnesses with mental disabilities, and vulnerable adult witnesses.

Procedure

- Those who may require the assistance of this programme are identified by the Investigating Officer, Prosecutor or Defence Counsel, who then refers the witness/victim to the State Court. Those who are not referred may also apply to be referred to the State Court.
- The State Courts will refer the appropriate cases to either SCS or the designated volunteers. A suitable VSP will be assigned based on the needs of the Witness.
- The VSP assigned to the Witness will contact the Witness or his/her parents/guardian/caregiver (where applicable).
- The VSP will arrange for the Witness to visit the State Courts to familiarise him/her with the environment and brief him/her on the court procedures.

Those who receive help under this programme can expect:

- A visit to the State Courts (accompanied by the VSP), followed by a briefing to familiarise them with the environment and court procedures during the trial.
- The VSP to work on building a rapport with them and/or their parents, guardians or caregivers.
- The VSP to be a source of information on court procedures and to help manage the stress which may arise from the court proceedings.
- The VSP to sit behind them in open court or when they give evidence via video link in a witness room which is next to the courtroom, during the period of the trial.

Vulnerable Witness Room

The VWR is situated at the Attorney-General's Chambers (AGC) in Upper Pickering Street. The room, is adorned with colourful paintings by children, framed artwork, potted plastic plants, aromatherapy humidifier and a box of tissues within arm's reach. It opened in September 2014.

With more difficult interviewees, prosecutors can use props such as toys and drawings to draw them out. Furnished at S\$1,500, the room has anatomically correct dolls - whose clothes can be removed to reveal their genitals - for those who find it difficult to express themselves verbally. A 3D model of a courtroom made of Lego blocks helps children understand how proceedings work.

Efforts in Thailand

- Statutory reforms both to include methods of restorative justice and measures to support vulnerable victims.
- Infrastructural changes in courts to facilitate vulnerable victims.
- Courtroom without direct confrontation with the accused.
- Community support by NGOs.

Challenges faced in effective implementation in the protection of victims' rights:

- Attitude of crime victims and judges.
- The victim and society's desire for the most severe punishment for the accused and this poses a burden to the court and the criminal justice system.
- Mediation and Reconciliation process only concentrates on crime victims and offenders, leaving the whole community out of the process, and the victims' usual refusal to meet the offender.

Presenting Realities On The Ground

SURVEY OF FACILITIES AND PROTECTION AVAILABLE FOR VULNERABLE VICTIMS
Mr. Joshua Teh Honguan,
WCC Advocacy Officer



Section 1: Introduction and Methodology

Introduction

Among the core focus areas for the Women's Centre for Change (WCC) are sexual crimes and domestic violence. A study⁴ conducted by WCC in 2005 highlighted that 45% of sexual crimes cases ended in dismissals not amounting to acquittals, and that in contested cases, the conviction rate was less than 4%. The high attrition rates seen in crimes involving vulnerable victims was attributed to a lack of support in the criminal justice system for these victims. A sad reality is that many victims of sexual crimes have difficulty accessing justice or getting redress for the crimes done to them. Parliament statistics from 2014 showed that out of 4,342 reported sexual crime cases, only 708 cases were charged and 35 cases resulted in a conviction.

Among the key aspects of accessing justice for vulnerable victims is for them to be given the opportunity and being able to testify in a courtroom about what happened to them. However, without proper support, vulnerable victims can feel overwhelmed, adrift, re-traumatised, and ultimately withdraw from the criminal justice process. It is worthwhile to note that a witness who is well supported and prepared to testify will be vital to the prosecution of a case⁵.

Malaysia has to some extent recognized the need to provide support for vulnerable victims and witnesses, and has provided some facilities and drafted certain legislation to that end. In 2015, WCC conducted a survey to discover how much facilities and protection were made available to vulnerable witnesses in criminal courts based on the experiences of Sessions Court judges, Magistrates, deputy public prosecutors (DPPs), and watching brief lawyers. The survey is intended to provide a snapshot of the practical implementation of such facilities and protections in criminal courts.

Methodology

The survey covered 4 key aspects of the criminal justice process:

- i. Facilities available in Court;
- ii. Protective orders;
- iii. Treatment of vulnerable victims in Court; and,
- iv. Role of watching brief lawyers⁶.

⁴ James Lochhead and Tan Pek Leng, 2009, *Seeking Justice for Victims of Sexual Crime*, Women's Centre for Change, Penang, pp. 28-31.

⁵ The participation of victim/witness advocates in child sexual abuse cases appears to increase the percentage of guilty verdicts. The proportion of offenders receiving prison sentences almost doubled after the implementation of child victim witness advocacy programmes. US Department of Justice, Office for Victims of Crime OVC Monograph June 1999, *Breaking the Cycle of Violence : Recommendations to Improve the Criminal Justice response to Child Victims and Witnesses*; Dible, D. and R. H. C. Teske, Jr., 1993, *An Analysis of the Prosecutory Effects of a Child Sexual Abuse Victim-Witness Programme*, Journal of Criminal Justice, Vol. 21, pp. 79-85.

⁶ In their role as the victim's advocate or representative in court.

The survey was sent to three target groups, namely Sessions Court judges and Magistrates; deputy public prosecutors; and lawyers who conducted watching briefs for vulnerable witnesses, especially victims. In order to take part in the survey, the respondents must have handled *at least one criminal matter involving a vulnerable witness*.

For the purpose of the survey, vulnerable witnesses were classified as such:

- i. Persons under the age of 18;
- ii. Persons who have been victims of a sexual crime or domestic violence;
- iii. Persons who are suffering from a mental or physical disability/disorder; and,
- iv. Persons with significant impairment of intelligence and social functioning.

Appendix 1 sets out a list of crimes typically involving vulnerable victims and witnesses heard in both Magistrates and Sessions Courts.

The target groups were given different options for responses in the survey, to match their roles in court. See below for clarification.

Responses from target groups to availability of facilities in court	Target Group	Responses
	Sessions Court judges and Magistrates	Available, Not Available, Available but not requested for
	DPPs/Watching Brief Lawyers	Yes, No, Available but not in use, Not sure.

Responses from target groups regarding requests for protective orders and treatment of vulnerable victims in court	Target Group	Responses
	Sessions Court judges and Magistrates	Request granted, Request denied, Possible had a request been made, No request made
	DPPs/Watching Brief Lawyers	Requested and obtained, Requested but denied, Possible had a request been made, Not sure.

The survey was conducted from March to June 2015 in five states – Penang, Selangor, Kuala Lumpur, Pahang, and Johor. Distribution and collection of survey forms were done via the Chief Registrar of the Lower Court for Sessions Court judges and Magistrates; the Attorney General Chambers' Prosecution Division for DPPs who met the abovementioned criteria; and the Malaysian Bar and WCC for watching brief lawyers.

There were 114 respondents to the survey: 30 Sessions Court judges⁷, 40 Magistrates, 32 DPPs and 12 watching brief lawyers.

⁷ 3 respondents did not specify which court they belonged to.

Section 2: Findings

Part A: Facilities Available in Court

The survey looked at how equipped criminal Sessions and Magistrates Courts were with the following facilities:

- a. Screen⁸/video-link⁹/video recording¹⁰ (Section 3, Evidence of Child Witnesses Act [ECWA] 2007; Section 272B, Criminal Procedure Code [CPC]);
- b. Witness room; and,
- c. Separate waiting room for child witnesses.

The data compiled from Sessions Court judges, Magistrates, and DPPs were as follows:

Facilities Available	Sessions Court judges and Magistrates	DPPs
Screen/video-link/video-recording	50%	56.3%
Witness room	88.6%	81.3%
Separate waiting room for child witnesses	57.1%	40.7%

Analysis

- Approximately 50% of the respondents indicated that their courtrooms had at least one of the screen/ videolink/video-recording facilities.
- Over 80% of the respondents indicated the presence of a witness room.
- Almost 50% of the respondents indicated the availability of a separate waiting room for child witnesses.

Data¹¹ obtained from Penang Sessions and Magistrates criminal court complexes in five districts, showed that all court complexes had a witness room. 80% had either a screen, video-link, or video-recording facilities. Only 40% had a separate waiting room for child witnesses. Court complexes in smaller districts such as Balik Pulau and Jawi did not have video-links and separate waiting room for child witnesses.

⁸ A screen or any other arrangement (e.g. hospital ward screen) preventing the witness from seeing and being seen by the accused.

⁹ The witness is placed in a separate location other than the courtroom, and can be seen and heard by the courtroom through the live video system.

¹⁰ The witness testimony is pre-recorded, and the recording is played accompanied by a transcript in court.

¹¹ Appendix 2, page 44.

Recommendations for Facilities Available in Court

- The facilities will have to be matched to the vulnerable victim's or witness' vulnerabilities, on a case by case basis. Ideally, these facilities should be made available in every single criminal court room, or at least to have one of each of these facilities per court complex.
- The screen/video-link/video-recording is essential to shield vulnerable victims from the accused.
- Screens must be made available not just for the victim, but for all vulnerable witnesses. Some witnesses, such as the parents of a child victim, might become emotional when encountering the accused. As such, it would be highly desirable for the witness to be separated from the accused by a screen, in order to give the witness the best possible chance to provide clear testimony. It is in the interest of justice for a witness in a calm state of mind, in attempting to establish the truth surrounding the matter.
- Separate witness rooms provide a safe place where the vulnerable victim or witness can prepare to give evidence without having to encounter the accused, or the accused's family, friends, or lawyer, which might cause distress to the victim or witness.
- Waiting rooms for children are different from regular witness rooms. The waiting rooms are more child friendly, with toys and books suitable for children to occupy them while they are waiting to give their testimony in court. The more relaxed setting of waiting rooms for children allows them to wait for their time in court in a calm, stress-free state, which in turn should ensure that they will be in a better state of mind to give their testimony.

Part B: Protective Orders

The survey identified five protective orders¹² available for vulnerable witnesses, namely:

- Interim protection orders (Section 4, Domestic Violence Act [DVA] 1994);
- Protection orders (Section 5, DVA 1994);
- Protection order as bail condition (Section 5, DVA 1994);
- Bail condition for accused not to approach/intimidate the victim/witnesses (S. 388, Criminal Procedure Code); and,
- Gag orders or media bans (Section 101, Subordinate Court Act 1948; Section 15, Child Act 2001).

Deputy public prosecutors were asked whether they had successfully obtained these orders for vulnerable witnesses. Sessions Court judges and Magistrates were asked if they had granted requests for such orders for vulnerable witnesses.

The breakdown of whether these protective orders were granted/obtained or denied is as follows:

¹² These protective orders were identified based on the survey's classification of vulnerable victims and witnesses. These protective orders were most likely to be obtained by vulnerable victims and witnesses who are children, are victims of a sexual or domestic violence crime, or who suffer from a physical or mental disability.

Protective Orders	DPPs			Sessions Court Judges and Magistrates		
	Obtained	Denied	Did Not Ask	Granted	Denied	No Request Made
Interim protection orders (IPO)	21.9%	0%	46.9%	30%	0%	51.4%
Protection orders (PO)	28.1%	0%	40.6%	30%	0%	51.4%
Protection order as bail condition	25%	0%	31.3%	34.3%	1.4%	47.1%
Bail condition for accused not to approach/intimidate the victim/witnesses	71.9%	0%	18.8%	78.6%	0%	11.4%
Gag orders or media bans	18.8%	0%	40.6%	25.7%	0%	60.0%

Analysis

- Approximately one fifth of DPPs requested for IPOs, POs, or gag orders. For the DPPs who indicated they did not make such requests (approximately 40%), there is a possibility that the cases which they handled, while involving vulnerable victims or witnesses, did not require such protective orders, or that the DPPs did not perceive the need to obtain such protective orders within their role in prosecuting the crime.
- Protection orders under the Domestic Violence Act (interim protection order and protection order) are only asked for less than 30% of the time.
- 40% of DPPs probably did not ask for gag orders or media bans possibly because:
 - Section 15, Child Act already provides protection against identifying child witnesses in criminal cases; and,
 - gag order or media bans are usually only sought in crimes of an especially sensitive nature.
- The data shows that DPPs have never been denied a request for protective orders from the court. Approximately 30% of the Sessions Court judges and Magistrates had granted at least one of the protective orders identified in the survey.
- Sessions Court judges and Magistrates indicate that only once has a request for a protective order, namely having protection order as bail condition, been denied by the court.
- Bail condition for the accused not to approach/intimidate the victim/witnesses was sought for by at least 70% of DPPs. It was also granted by almost 80% of Sessions Court judges and Magistrates. In criminal trials, this is the most common form of protective order, and as such, the one which Sessions Court judges, Magistrates, and deputy public prosecutors are most familiar with.

Recommendations for Protective Orders

- Sessions Court judges, Magistrates, and especially DPPs need to be aware of the fears and vulnerabilities of victims in their cases so as to be in a position to grant or apply for protections for vulnerable victims.
- DPPs should take the initiative in cases involving vulnerable victims to find out fears and concerns and determine whether specific protective orders need to be applied for. Often such victims are not aware of the protection available to them under the law or are not empowered to ask for them.
- Where the victim is a child, the DPP should seek the input of the child, child's guardian, doctors, support services or the Child Protector on whether the child requires any protective orders.
- Sessions Court judges and Magistrates should exercise their discretion to gauge if vulnerable witnesses before them require protective orders in instances where DPP has not sought for such protective orders on a case-by-case basis.

Part C: Treatment in Court

The survey sought to gauge how vulnerable witnesses were treated in court. The parameters were whether these witnesses were allowed/granted these special measures:

- Reasonable breaks during questioning (Preamble to Child Act 2001, Convention on Rights of the Child);
- Dispensation of formal attire in court for child witnesses (Section 10, ECWA 2007);
- An adult to accompany a child witness (Section 9, ECWA 2007);
- Objected to irrelevant and/or offensive questioning during cross-examination (Sections 151 and 152, Evidence Act 1950);
- To give a victim impact statement (verbally/in writing) (Sections 173(m)(ii), 183, Criminal Procedure Code [CPC]);
- Explanation about plea bargaining (Section 172, CPC);
- Sought victim's input with regard to plea-bargaining sentencing (Section 172, CPC); and,
- Compensation (Section 426 (1A), CPC).

The breakdown of their treatment were as follows:

Treatment	DPPs			Sessions Court judges and Magistrates		
	Obtained	Denied	Did Not Ask	Granted	Denied	No Request Made
Reasonable breaks during questioning	68.8%	0%	18.8%	61.4%	0%	34.2%
Dispensation of formal attire in court for child witnesses	40.6%	0%	37.5%	27.1%	0%	70.0%
Allow an adult to accompany a child witness	87.5%	0%	0%	48.6%	2.9%	45.7%

To give a victim impact statement (verbally/in writing)	78.1%	0%	9.4%	60.0%	0%	37.2%
Compensation	34.4%	3.1%	46.9%	34.3%	0%	63.3%
Sought victim's input with regard to plea bargain sentencing	59.4% (Yes, input sought)	34.4% (No, input not sought)	Not Applicable	4.3% (Yes, input sought)	92.9% (No, input not sought)	NA
Explanation about plea bargaining	59.4% (Yes, explained)	37.5% (No, did not explain)	NA	NA	NA	NA
Objected to irrelevant and/or offensive questioning during cross examination	84.4%	6.3%	0%	NA	NA	NA

Analysis

- 87.5% of DPPs indicated that they manage to get court permission for an adult to accompany a child witness. Based on the response of the Sessions Court judges and Magistrates, that right was denied by one respondent. It should be noted that Sections 12 and 90 of the Child Act 2001, and Section 9 of the Evidence of Child Witnesses Act 2007 grants children the right to have a parent, guardian, or responsible person accompany the child in court.
- Both victim impact statements and compensation for victims are relatively new additions to the Criminal Procedure Code, coming into force in 2010. However, 78.1% of DPPs stated that they sought for and received permission to tender victim impact statements, while only 34.4% sought for and obtained compensation for vulnerable victims. Among the reasons why compensation might not be sought for frequently include:
 - DPPs assuming that compensation should be sought in the civil court;
 - DPPs have not been adequately trained to seek compensation under the Criminal Procedure Code, as the provision for compensation was only added into the CPC in 2010; or,
 - A perception that victims should not seek compensation for their suffering as it indicates a monetary motive for their complaint which is seen as inappropriate.
- Approximately 90% of judges indicated that the victim's input was not sought when plea bargaining sentencing was made. However, 60% of DPPs stated that plea bargaining is explained to the victim or the victim's input is sought about sentencing. The apparent discrepancy could be due to judges not being informed by the DPPs regarding communications with victims pertaining to plea-bargaining.
- Further, 70% of Sessions Court judges and Magistrates stated that there was no request from the DPPs for dispensation of formal attire for child witnesses in court.

Recommendations for Treatment in Court

- In cases involving vulnerable victims, DPPs should seek the victim's input about compensation.
- Sessions Court judges, Magistrates, and DPPs must be aware that formal attire and the formal setting of the courtroom can be extremely intimidating, especially for child victims and witnesses. DPPs should ask for dispensation of formal attire for all child witnesses in order to make the courtroom setting less intimidating.
- DPPs and judges should give priority to victim impact statements in order to record the victim's suffering and, when necessary, ensure some form of compensation is made to the victim.
- DPPs should take the time to explain the processes involved in a criminal trial, and particularly the process of plea-bargaining, to the victim as the person most affected by the proceedings. This will keep the victim involved in the process; acknowledge that the victim has an important part to play in a criminal trial; acknowledge the victim's suffering with regard to obtaining input on plea-bargaining; and, that adequate reparation is sought for the victim when necessary (e.g. an apology from accused, compensation).
- Sessions Court judges and Magistrates should, when they notice DPPs not seeking for special measures such as reasonable breaks during questioning or objection to irrelevant and/or offensive questioning during cross-examination, exercise their discretion and intervene when necessary to ensure that the rights of vulnerable victims are upheld.

Part D: Role of Watching Brief Lawyers

WCC works with watching brief lawyers as part of our victim advocacy initiative. They are starting to be used more frequently and are an important cog in the criminal justice system, as their primary concern is for the wellbeing and protection of rights of the victim. A watching brief lawyer should ideally reduce their client's stress in their journey through the criminal justice system in various ways, including:

- explaining what happens in court;
- preparing the client for court by liaising with the deputy public prosecutors;
- safeguarding the right of the client should they be affected in court, such as when the victim is questioned in an offensive manner by the defence lawyer; and,
- enabling the victim's voice to be heard and highlighting the suffering of the victim as a result of the crime suffered for the purpose of sentencing and compensation.

In collaboration with the Malaysian Bar and through the Joint Action Group for Gender Equality (JAG) network, 12 lawyers responded to the survey. This is indicative of the small number of lawyers in the five states surveyed who actually conduct watching briefs for vulnerable witnesses or vulnerable victims. For example, we were unable to locate a single watching brief lawyer from Pahang. Further, it is possibly indicative of the level of interest among the legal fraternity in taking up watching briefs. Irrespective of the small sample number, it is still important to note the feedback obtained from the watching brief lawyers surveyed.

The watching brief lawyers were asked whether they had received cooperation from Sessions Court judges, Magistrates, and deputy public prosecutors on several issues. Among the highlights from their feedback was:

- 100% of the lawyers surveyed were allowed to appear in court, and 75% of them were allowed to address the court. 75% of lawyers reported having received cooperation from the DPP, including receiving updates on cases and arranging pre-trial briefings.
- Approximately 60% of the lawyers managed to obtain either an interim protection order or a protection order for their clients.
- Only 50% of the lawyers were allowed to object on their client's behalf to irrelevant and/or offensive questioning during trial. Further, while DPPs had stated that they had made such objections in 84% of cases, watching brief lawyers stated that deputy public prosecutors had done that less than 60% of the time.
- Approximately 40% of the lawyers stated that their clients were allowed to submit their victim impact statement. In one case, permission was denied. Only 25% of the lawyers managed to obtain compensation for their clients.
- 33% of watching brief lawyers noted that in cases where plea bargaining was implemented, plea bargaining was in fact explained to the victim.

Analysis

- The data from the survey indicates that in some cases, watching brief lawyers did not request for special measures for their clients. For example:
 - i. 50% of watching brief lawyers did not request for reasonable breaks during questioning of their clients;
 - ii. 75% of watching brief lawyers did not request for dispensation of formal attire in court for child witnesses they were representing; and,
 - iii. 75% of watching brief lawyers did not request their client to give their victim impact statement for use during sentencing or to aid in seeking compensation.
- At least 25% of the lawyers surveyed did not realize they were allowed to ask for the following on behalf of their clients:
 - i. an adult to accompany a child witness/victim;
 - ii. compensation for the crime committed;
 - iii. dispensation of formal attire in court for child witnesses; or,
 - iv. travel claims.
- The above data is indicative of a lack of knowledge on the part of some watching brief lawyers about their role, the rights of their clients, and the way in which to implement or obtain those rights on their client's behalf.

Recommendations for Watching Brief Lawyers

- Lawyers who are keen on taking up watching briefs for vulnerable victims should receive training on the rights of vulnerable victims, and the methods in which to implement or obtain such rights.
- The Malaysian Bar plays a crucial role in raising awareness on the importance of lawyers taking up watching briefs, and can play a major role in ensuring that more lawyers take up watching briefs to support vulnerable victims and witnesses.
- The Judiciary should allow for watching briefs to make interventions on behalf of their clients in court given their role in the protection of the client's rights.

Overall Recommendations

Facilities	<ul style="list-style-type: none"> • Screen/video-link/video-recording facilities, witness rooms, and a separate waiting room for child witnesses should be available in at least every court complex. • Funding for facilities should be an integral part of national policy and be prioritized in the national budget. • A list of existing court facilities should be publicized in order to build public awareness on the rights and facilities available to them. • Screens should be made available and permitted for every vulnerable witness, not just for the victim.
Protective Orders	<ul style="list-style-type: none"> • Sessions Court judges, Magistrates, and especially DPPs must be made aware of the needs of vulnerable victims, and that these victims will likely be unaware of the protection available to them under law. To that end, regular training on sexual crimes and handling vulnerable victims and witnesses should be implemented. • When DPPs and watching brief lawyers do not request for protective orders for vulnerable victims in court, Sessions Court judges and Magistrates should assess the situation and, if necessary, take the initiative to ask DPPs, watching brief lawyers, or the victims themselves if they require such protection. This is especially important in cases involving children.
Treatment in Court	<ul style="list-style-type: none"> • DPPs must be aware of and acknowledge the suffering of vulnerable victims. DPPs should seek input from the victim about whether they would require compensation, and ensure that vulnerable victims are aware of and consulted for plea-bargaining proceedings. • In cases involving children, Sessions Court judges, Magistrates, and DPPs should ensure that the child feels secure and comfortable in order to ensure that the child is in the best possible position to deliver his or her testimony. They must also be aware of the impact that recounting the crime will have on the child, and proceed accordingly.

Watching Brief Lawyers

- The Malaysian Bar can assist in raising awareness of the need for watching brief lawyers for vulnerable witnesses, and also encourage defence lawyers to uphold ethical practices in the interest of justice.
- The Judiciary should allow for watching briefs to make interventions on behalf of their clients in court given their role in the protection of the client's right.
- Training on the rights of vulnerable victims should be conducted for watching brief lawyers so that they are aware of the extent of their client's rights in court. Consistent training will help watching brief lawyers to better learn their roles and rights in court, particularly in requesting for special measures for their clients or in submitting to the court.
- Encourage greater cooperation between DPPs and watching brief lawyers to ensure that vulnerable victims receive the best possible protection in court.

Appendices

Appendix 1: Types of crimes typically involving vulnerable victims and vulnerable witnesses heard by both Magistrate and Sessions Courts:

Magistrate Court	Sessions Court
Outrages on decency (Section 377D, Penal Code [PC])	Rape (Section 376, PC)
Husband causing hurt in order to have sexual intercourse (Section 375A, PC)	Gang-rape (Section 375B, PC)
Voluntarily causing hurt (Section 321, PC)	Incest (Section 376A, PC)
Punishment for using criminal force by spouse (Section 352A, PC)	Carnal intercourse against the order of nature (Section 377A, PC)
Assault or criminal force in attempt wrongfully to confine a person (Section 357, PC)	Sexual connection by object (Section 377CA, PC)
Wrongful confinement (Section 342, PC)	Culpable homicide or attempted murder (Section 304, S. 307, PC)
Using criminal force otherwise than on grave provocation (Section 352, PC)	Voluntarily causing grievous hurt (Section 323, PC)
Assault or criminal force with intent to dishonour a person, otherwise than on grave provocation (Section 355, PC)	Voluntarily causing grievous hurt by dangerous weapons or means (Section 326, PC)
Assault or criminal force in attempt wrongfully to confine a person. (Section 357, PC)	Assault or use of criminal force to a person with intent to outrage modesty (Section 354, PC)
Criminal intimidation by anonymous communication (Section 507, PC)	Criminal intimidation (Section 506, PC)

Appendix 2: Court Room Facilities in Penang Sessions and Magistrate Courts.

Penang is divided into five districts: Timor Laut, Barat Daya, Seberang Perai Utara, Seberang Perai Tengah and Seberang Perai Selatan. The courts are located in each district as follows:

District	Timur Laut (TL)	Barat Daya (BD)	Seberang Perai Utara (SPU)	Seberang Perai Tengah (SPT)	Seberang Perai Selatan (SPS)
Location of Court	Georgetown (GT)	Balik Pulau (BP)	Bukit Mertajam (BM)	Butterworth (BW)	Jawi (JW)

Each district has both a Sessions Criminal Court and Magistrate Court except for SPU and SPS. Bukit Mertajam (SPU) and Jawi (SPS) do not have a Sessions criminal court. The table below shows the facilities available in Sessions Court and Magistrates Courts in Penang.

Sessions Court

Facilities	TL (GT)	BD (BP)	SPT (BW)
Number of courtrooms	2	1	2
Screen	0	0	0
Video-link	0	0	0
Video-recording	2	1	1
Witness room	2	1	2
Separate waiting room for child witnesses	0	0	0

Magistrate Court

Facilities	TL (GT)	BD (BP)	SPT (BW)	SPU (BM)	SPS (JW)
Number of courtrooms	4	1	1	2	1
Screen	0	0	0	0	1
Video-link	1	0	1	1	0
Video-recording	2	1	1	2	0
Witness room	2	1	1	2	1
Separate waiting room for child witnesses	0	0	1	1	0

Brief Analysis

Court Facilities	Penang Courts
Number of court complexes	5
Screen availability	20%
Video-link availability	60%
Video-recording availability	80%
Witness room availability	100%
Separate waiting room for child witnesses availability	40%

Acknowledgements

The paper was prepared by the WCC Advocacy team consisting of Joshua Teh, Melissa Akhir and Dr Prema Devaraj.

WCC would like to thank the Prime Minister's Department for their invaluable support and for sponsoring the survey.

WCC thanks the Anti-Discrimination against Women and Children Unit and Prosecution Division of the Attorney General Chambers; and the Chief Registrar's Office, Federal Court. Without their cooperation, this survey would not have been possible.

We extend our gratitude to the respondents from the judiciary, Attorney General Chambers, and the watching brief lawyers who took the time to complete and submit the data used in this survey. Their honesty in identifying the issues surrounding the rights of vulnerable witnesses in court is admirable, and provides the platform upon which the framework to improve the rights and treatment of these witnesses will be built. We would also like to thank the member groups of the Joint Action Group for Gender Equality (JAG) for connecting with watching brief lawyers for their feedback.

The WCC Advocacy team is indebted to the efforts of James Lochhead, Khor Boon Hui, Tan Yuan Sin, and Vera Bärswyl who provided valuable input on the research methodology and tirelessly collated the survey data.

Presenting Realities On The Ground

CASE STUDIES
Ms. Melissa Mohd. Akhir,
WCC Senior Advocacy Officer



I. Overview & Background

Vulnerable Victims and WCC

In 2005, WCC Penang embarked on a 3-year research project into 439 sexual crimes cases, focusing on court outcome for these cases between 2000 and 2004. The results were published in 2009, entitled *Seeking Justice for Victims of Sexual Crime*. The main takeaway findings were:

- A high rate (45%) of the cases were discharged not amounting to an acquittal (DNAA).
- A large number of victims drop out from the criminal justice system during the investigation or during lengthy court trials due to various factors which impairs the victims' access to justice.

Following this worrying rate of attrition, in 2008 WCC collaborated with the Penang Hospital to set up a rape victim support network. In 2011 we expanded our services to include critical court support for sexual crime and domestic violence victims and their families who are prosecution witnesses.

Our clients' experience in these court cases was documented with their feedback as a crucial guide to address each victim's vulnerabilities and the special measures needed to prevent attrition, thus allowing for access to justice.

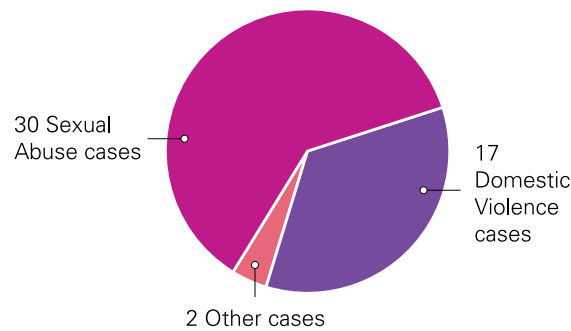
The victims' journey and critical support provided and documented by WCC follows through the following stages of the criminal justice process:

- Post-violence critical support (protection, access to medical care, counselling, etc),
- When our clients seek action and support from the relevant agencies, (namely PDRM, One-Stop Crisis Centre at the government hospitals and Social Welfare Department), investigation and prosecution of the crime (including cooperating on pre-trial preparation with prosecutors),
- Attendance in court for criminal trials as witnesses and also for the issuance of protective orders by magistrates
- Criminal appeals and post-trial redress and recovery.

From January 2014 to June 2015, through referrals from OSCC and other avenues (telephone calls, face-to face, walk-ins, emails, and referrals from criminal justice agencies & NGOs) WCC provided service advocacy including court support in 49 cases.

Of the 49 cases, 30 cases were sexual abuse, while 17 cases were domestic violence. The remaining 2 cases were other types of abuse suffered, such as physical abuse. The breakdown is illustrated below:

Jan 2014 - June 2015 (18 months)
Total: 49 cases



A particular observation of the criminal cases and the victims that WCC has supported are that a majority of the cases are sexual crime cases. Of all sexual crime cases handled, as many as 77% involve child victims. This is consistent with the PDRM statistics provided by Bukit Aman at the parliamentary sittings in 2015, of which the issue of the high number of rapes involving child victims was raised.

Vulnerabilities & Revictimization

Many victims face immense difficulties when going through the criminal justice process. In journeying through the criminal justice process, WCC clients have shared their experiences with WCC. The particularly traumatizing factors has been outlined to reflect each stage of the criminal justice process, as seen in the chart on the previous page:

This victimization chart was sourced from the *American Prosecutors Resource*¹³ and adapted to the realities in Malaysia, taking into account the crime victims' documented experiences. The reality of the trauma and revictimization experienced has also been acknowledged by a Malaysian judge, namely Dato' Shaik Daud J (as he then was) in his judgment in *PP v Yap Huat Heng*¹⁴, as follows:

"...rape victims, especially young victims, go through a traumatic experience at the time of the offence and later, and also at the trial more often than not they become the accused, rather than the accuser."

Examples of patterns of victimization at each stage of the process are as below:

i. Post-Incident Stage

Many victims or their families are reluctant to report the incident due to the fear of being disbelieved, blamed or shamed by negative reactions from others such as the front desk officer at the relevant agency, the community and even their own family members.

ii. Lodging a Police Report/Informing a Child Protector

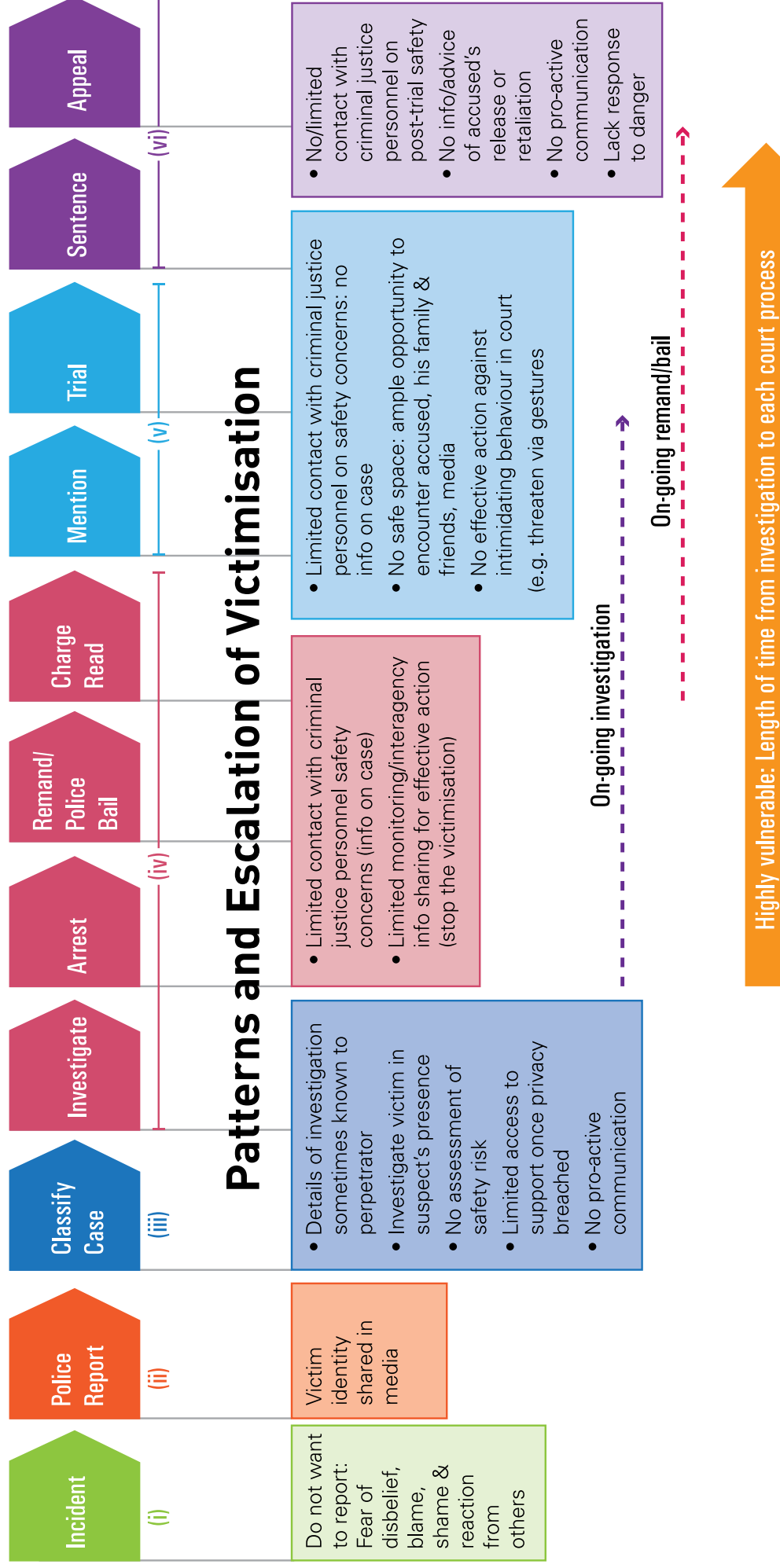
Lodging a police report often involves fear of stigmatization and breach of privacy. When a crime victim's identity is shared in the media, particularly the identity of a child victim, victims and their family members have been traumatized by the damage to their reputation in the community.

¹³ Adapted from Aequitas Resource and WCC clients' feedback.

¹⁴ [1985] 2 MLJ 414, page 416.

Understanding Victimisation Of Vulnerable Witnesses In The Criminal Justice Process

Criminal Justice Process



N.B.: Available Protection: Bail Conditions & Protection Orders (DVA 1994, Child Act 2001) not used, mis-applied, not implemented effectively.

iii. Classification of the Criminal Case and Investigation by the Police or the Child Protector

Regarding the investigation process itself, victims have been greatly disheartened when in some instances, the details of the report or evidence in the investigation is sometimes known to the suspect. Worse, in some cases involving child victims, the child is questioned in the suspect's presence with a view to "mediate" the case.

The above are some practices which illustrate disregard of the victim's safety and well-being. In these instances, there was no thought given to the re-traumatization and safety risks to the victim and her family especially the form of intimidation, harassment and so forth. In many instances, this would lead to the victim dropping out of the system.

In several cases where the victim's privacy had been breached and a complaint lodged, the access to support from the agency concerned was still limited. There was very little pro-active communication from the officer concerned on the rectifying steps or the investigation of the crime in disseminating classified information concerning the victim.

iv. Arrest/Remand, Charge Read and Accused Bailed

This stage of the criminal process is commonly the start of the most particularly vulnerable stage for the victim, where intimidation or promises made to the victim may hinder the justice process. It is peculiar that at this stage, often there is limited contact with criminal justice personnel on the safety concerns and the progress of the case, e.g. whether the accused is out on bail is of particular concern to the victim. Even when an intimidation or re-victimization is reported at this point, most of the time there is limited monitoring or inter-agency info-sharing towards effective action to stop the re-victimization.

v. Court: Case Management and Main Trial

Most criminal cases are highly dependent on the victim's evidence. In most cases, victims have limited information on the progress of the case or limited contact with criminal justice personnel and they are rarely advised on possible safety concerns.

In court, even before the witness is called in to give evidence, there are usually limited safe spaces. There is ample opportunity for the accused or third parties including the media to encounter the victim or her family. When intimidating behavior happens in court e.g pointing gesture and staring, no effective action is taken against the perpetrator.

vi. Sentencing and Appeal Stage

Post-trial and if the perpetrator is not imprisoned, there is usually very limited contact with criminal justice personnel on the victim's options for safety. Post-imprisonment, there is usually minimal information or advice in view of the accused's release or possibility of retaliation. The lack of pro-active communication, or worse, lack of response to the danger faced by the victim means this very real concern remains unaddressed and in extreme cases of retaliation, have resulted in deaths.

The danger areas marked across the chart with the red arrow labelled as *Highly vulnerable: Length of time from investigation to each court process*, shows the trend of the danger escalation areas, especially starting from the investigation, remand or bail stage of the criminal justice process. The dangers of re-victimization have been noted to escalate as the case goes on and when the possibility of criminal punishment towards the accused increases.

It also noted that in the face of various points of re-victimization highlighted above, the available

protection measures for the victim under existing Malaysian laws such as bail conditions, protection orders and measures under the Domestic Violence Act 1994 and the Child Act 2001 are often not utilized, are misapplied or not implemented effectively in the spirit of the legislation.

II. Common Issues Faced by Victims in the Court Process

Six Case Studies: Specific Positive and Negative Issues during Investigation and Court Trial

Case A: Eight-year-old Child Allegedly Molested by Neighbor

1. **NEGATIVE:** Attitudinal issues and lack of support from enforcement agencies

Investigating Officer (IO) was reluctant to investigate, citing the elderly perpetrator has a heart condition and that there was no evident physical injury resulting from the molestation.

Welfare Department (JKM) (Child Protector under the Child Act 2001) was reluctant to assist the two children for pre-trial preparation, even though the family were poor. For example, several attempts to request Welfare Department's transportation for child witnesses to the DPP's office and to court were unsuccessful as the welfare department vehicle was said to be used for other urgent matters.

2. **NEGATIVE:** Intimidation by persons in the neighborhood unaddressed

Third party threw papers with intimidating message (related to the sensitivity of the case) into the child's house premises.

The accused person's influence in the local community caused the child's neighbors to be unsupportive towards the child, her sibling and her mother.

3. **POSITIVE:** Initiative shown by DPP & IO in conducting pre-trial familiarization

DPP met the child victim four times to create trust and bonding. The child was at first severely traumatized and reluctant to talk, and would hide herself while refusing to make eye-contact with the male DPP.

IO had made practical arrangements twice for the family for briefings with the DPP. She had arranged transport and food for the two child witnesses especially as they came from an impoverished family.

WCC had coordinated with the DPP in conducting pre-trial familiarization of the court premises and the designated court room, i.e. the video live-link facilities was shown beforehand to the child to reduce anxiety over unfamiliar surroundings.

4. **POSITIVE:** Facilities were child-friendly, efficiently prepared with satisfactory support for the children

Despite the logistical challenges (only one functioning video live-link available at another magistrate's court located at a far off location), the DPP had ensured that the technical arrangements were done much earlier and tested out to avoid any glitches.

In the witness waiting room, the children were accompanied by the replacement IO and WCC social workers. Food was provided for the children during the long waiting time.

In the video live-link room, the court interpreter sat with the child witnesses. After she finished giving evidence, the child victim's remark regarding the experience was: "*senang saja*."

5. POSITIVE: Impact of the crime on the victim was considered at the sentencing stage

The DPP had put on record the child's pain and suffering due to the crime in the Victim Impact Statement (VIS) as stated in Section 183A of the Criminal Procedure Code.

6. NEGATIVE: the victim's right to compensation and redress was not addressed

Unfortunately, despite the VIS, no request was made by the DPP for compensation as provided for in Section 426(1A) of the Criminal Procedure Code.

**Case B: Repetitive Domestic Violence Including Physical and Verbal Attacks
in Public by Victim's Ex-Husband**

1. NEGATIVE: Professionalism issues and victim-blaming by the enforcement officer (Section 2 Domestic Violence Act 1994)

The victim was not given proper support as provided for by Section 19 of the Domestic Violence Act (DVA). In fact, the Interim Protection Order was only obtained after 11 police reports had been lodged.

Prejudice was shown toward the victim as she was a foreign spouse of a Malaysian perpetrator. Furthermore, the IO blamed the victim for not getting a divorce earlier to stop the violence.

2. NEGATIVE: Lack of protection following repeated violence post-conviction

The perpetrator had been fined and put under a bond for good behavior for a previous conviction for violence. When a fresh incident occurred (victim beaten on a public street with the perpetrator's shoe, and called vulgar names), there was no concrete action taken despite a police report being lodged and a video copy of the beating provided to the police.

3. POSITIVE & NEGATIVE: Enforcement of Protection Order

After intensive follow-up by WCC, the prosecutor's office charged the repeat offender with the offence of breaching a protection order under the DVA 1994 (after printed pictures of the public beating were shown to the Head of the Prosecution Unit).

The new protection order was mentioned when the DPP was objecting to bail after the charge was read out in court.

Unperturbed, the repeat offender even threatened his now ex-wife and WCC's social worker in the courtroom when proceedings were stood down. As he spoke in Tamil, the court police and the DPP were unaware of the threat and did not take any action, even when informed of the police report lodged afterwards.

From WCC's monitoring of DV-related convictions, it was the first time in Malaysia that a repeat offender was jailed 12 months for offence of breaching a DVA Protection Order.

4. NEGATIVE: The victim's rights to reparation were disregarded

Despite early preparation of the VIS and the request made to put it on records, the DPP and the watching brief lawyer did not highlight the VIS once the accused pleaded guilty to the charge.

Similarly, despite instructions given to the watching brief lawyer to seek compensation for the victim as provided under Section 426(1A) CPC, this was not requested for in court by the watching brief lawyer, as he said this may become a precedent and affect his other criminal cases.

Case C: Repetitive Violent Sexual Abuse from age 11 to 19 by Stepfather

1. **NEGATIVE:** Re-victimization through investigation

The victim was traumatized due to having to recall severely violent rapes. She had to identify the exact scenes of the crime, point out the perpetrator in an identification parade, and undergo repeated questioning of the incident's details.

2. **NEGATIVE:** Long-term intimidation and fear of stigma

The stepfather had paid third parties to stalk the victim over three years, to the extent the victim had severe trust issues and would resist any communication or contact with most adult men she encounters, even on public transportation.

The victim, a teacher had relocated to another state but kept her court case a secret from other schoolteachers. This posed much difficulty as she had missed workdays when attending the court case that went on over three years.

3. **NEGATIVE:** Revictimization through repetitive cross-examination and recalling of witness

The defence counsel in the case cited Section 261 of the Criminal Procedure Code to recall the witness four times over old repetitive issues.

The judge allowed the repetitive recall of the victim, despite a psychiatrist's letter showing that the victim has been medically diagnosed with depression partly related to her experience of the court process.

4. **POSITIVE:** Continuous and systematic protective measures in court

The original DPP displayed excellent cooperation with the IO and court interpreters throughout the years the victim had to attend court to give evidence during the prosecution stage.

The IO ensured that the victim would not encounter the accused or third parties, starting from the parking lot, and accompanied her to a separate (private) waiting room.

The DPP arranged for the use of a whiteboard as a screen in court during the victim and her mother's testimony.

Case D: 16-year-old Allegedly Forced to Perform Oral Sex on Eight Persons

1. **NEGATIVE:** Disbelief and lack of support by the police investigator

Instead of investigating the facts of the case in full, the IO prejudged the case and accused the victim of "enjoying it".

When the victims through WCC, had informed the IO of intimidation by third parties suspected to be gang members, the IO was unhelpful in advising the victim of her safety options awaiting trial.

2. **NEGATIVE:** Intimidation and Pressure by third parties prior to court trial

A group of young men suspected to be linked to the accused persons had harassed the victim's family members at her house. The victim's brother was told to "watch out, we know how to find you".

The severely stigmatizing information regarding the sexual assault was leaked to the victim's secondary schoolmates.

3. NEGATIVE: Complicated Investigation and Court Procedures

The victim's experience with the identification parade was very traumatizing.

The defence counsel objected to the multiple court trial being heard together in one sitting, due to a few of the perpetrators' young age (below 18). This issue caused a lengthy delay to the trial itself.

4. POSITIVE: DPP advocated for an expedient trial and was sensitive to the victim's needs

The DPP argued strongly for an expedient joint trial. He also responded accordingly to the sensitive nature and the particular vulnerabilities of the victim by getting permission for suitable facilities in court (screen), and arranging for pre-trial briefings with the victim and her mother.

5. POSITIVE: DPP's pro-active communication and support

Initially, there was some difficulty to obtain information of the court case due to the bureaucratic issues when the original DPP was transferred to another State.

However, the replacement DPP worked well with WCC to coordinate special measures for the victim and her family. The DPP had communicated with WCC on the referral for any therapy that the victim may need. The DPP was also sensitive to the victim's practical needs in setting the court dates (giving opportunity for the victim to sit for her SPM examinations first before calling her in as a witness).

Case E: 15-year-old Child Raped by Policeman Stepfather

1. NEGATIVE: Attitude and lack of professionalism

The IO was reluctant to investigate the case as the suspect was her co-worker in the sexual crimes unit of the police force.

The case had no case status updates for over one year, despite numerous letter requests under the provisions of Section 107A of the Criminal Procedure Code.

2. NEGATIVE: Lack of monitoring and support from Child Protector

There was no proactive or consistent follow-up by the SKM Child Protector regarding the child's well-being, i.e. no monitoring of the child's trauma or further referrals for treatment by the child protector despite the emotional injury and suffering upon the child, due to the sensitive nature of the incest. The only practical aspect ensured by the child protector was to give temporary care of the child to the aunt.

3. NEGATIVE: Intimidation before Trial

Starting from when the police report was lodged, the accused person had continuously harassed the victim through various means. The intimidation went unchecked by the police despite various police reports and inquiries by WCC requesting effective protection for the child and her family as prosecution witnesses.

The perpetrator went to the child's school and showed the contents of her police report to her school friends. He confronted the child's grandmother claiming: "the child owed him". Nearer to the date of the trial, he tried to contact the victim numerous times via phone calls and texts.

4. NEGATIVE: Breach of Child Privacy during the court process added pressure on family

When the charge of incest was finally brought against the accused in court, there was allegedly a serious case of breach of the child's privacy in contravention of Section 15 of the Child Act 2001. The charge sheet with the child's name and personal details was allegedly broadcasted on TV and the TV station's website.

5. NEGATIVE: Delay by the police to bring the media breach of privacy case to court

The alleged case under Section 15 of the Child Act 2001 only progressed after the victim's aunt and WCC had written to various parties up to the Attorney General's Chambers in Putrajaya. Despite the Prosecution's written instructions to bring suspect to court to be charged, the police still delayed the case for over three months.

6. POSITIVE: DPP diligently applied special measures to address the witnesses' vulnerability

The DPP worked closely with the victim's family and WCC for the crucial use of special measures, namely familiarizing the child with court premises, live-link video for cross-examination, closed court proceedings, and the VIS during sentencing.

7. POSITIVE: Further treatment and recovery prior to and post-trial

WCC had referred the child to, and borne the costs of play therapy for the child, to which the child had responded well.

Case F: Six-year-old Alleged Oral Sex by Caregiver's Husband

1. NEGATIVE: IO and DPP's lack of knowledge on the criminal law provisions on psychological or emotional injury

One week after the child's mother had lodged a police report, the case was closed and classified as NFA (No Further Action) by the DPP following the IO's recommendation despite no medical report being obtained.

This decision is ignorant of Section 44 of the Penal Code and Section 19 of the Child Act regarding alleged non-physical injury caused to a child following a sexual act, for example, molestation usually bears no physical injuries.

2. POSITIVE: the medical personnel's proactive further action pursuant to duties provided in the Child Act 2001

The case was reopened following a second police report lodged by the psychiatrist who had diagnosed the child of Post-Traumatic Stress Disorder. This medical officer had discharged his duty of reporting a suspected case of child abuse.

3. NEGATIVE: Intimidation during the court process

After the police report was lodged, the alleged perpetrator would regularly walk pass the family's house in view of the child and his brother.

Once the criminal charge was brought against the accused in court, he allegedly made the following remarks to a reporter, who in turn told the victim's family: "they better win or I will sue them." WCC and the family's watching brief lawyer had to allay the family's concern that they are protected under the Child Act 2001 (duty of family member to report suspected abuse).

4. NEGATIVE: Prolonged and traumatizing court procedure

The defence counsel managed to postpone the trial over five separate court dates. The delay in the case caused the child to despair of having to repeat the "shameful" story after three long years.

Despite the DPP's application, the traumatized mother of the victim was denied the use of a screen while giving evidence. This is contrary to Section 272B of the Criminal Procedure Code which extends the protection to adult witnesses in court. The questioning by the defence counsel on irrelevant matters

to facts in issue was also allowed by the magistrate despite the DPP's strong objection.

5. POSITIVE: Pre-trial arrangements of special measures and familiarization with court

All parties had worked together to arrange for the video live-link and to familiarize the child with how it works, ably assisted by the interpreter. The DPP and the interpreter also showed sensitivity and care in her communications towards the child victim.

6. NEGATIVE: Facilities faulty, not child-friendly

During the trial itself, the audio for the video was faulty and the accused could still be seen by the child due to the camera angle.

7. PROACTIVE: DPPs, watching brief and court questioning of child victim

Due to technical issues, the DPP requested that the interpreter taped paper on the TV screen to hide the accused from view. The magistrate also allowed a female interpreter and the child's mother to sit with the child in the video live-link room.

Victim's Voice: A Real-Life Account of Positive and Negative Experiences by a Child Victim's Father

To underscore the lasting impact of a crime upon a child victim and his family, a short video clip of a parent of a child victim of sexual assault was shown. The father of the victim shared the suffering and uncertainty experienced by the victim and the family during the course of the criminal justice process. The father also highlighted the positive support from certain subordinate officers in enforcement agencies, praising the Child Interview Centre officers who had handled his child's testimony, as well as the staff in charge of video-live link facilities which assisted his child in court. He made a plea for enhanced understanding and professionalism of criminal justice officers, together with increased training on the complexities of child abuse, for the sake of other children who may be going through abuse.

Advocating for Victims and Witnesses: Suggestions of Focus Areas to Enhance the Rights of Vulnerable Witnesses

Recommendations

- All personnel in the criminal justice system must be sensitized and able to apply special measures and guidelines that are suited to the needs of the victim or witnesses.
- Protection must be needs-appropriate and realized from the time of the incident to the end of the Appeal.
- All Investigations and prosecutions must strive for effectiveness and professionalism in order to bring the best evidence before the court.
- There must be systematic monitoring and rehabilitation of offenders.
- Compensation and reparation to the victim must be initiated and revived consistently.

Broader Recommendations

Victim-Friendly Mechanisms and Effectively Implemented Standard Operating Procedures	To avoid re-victimization starting from the time of the criminal incident up until the end of the appeal process, the focus must be on sensitivity and professionalism in cases where vulnerable victims and witnesses are concerned. One example of the best practices document is the “Garis panduan Pengendalian Kes Keganasan Rumahtangga” launched at the end of 2015, which comprises multiple agencies and institutions from the hospital to the judiciary, working together towards serving the interests of vulnerable domestic violence victims. More specifically, this means services should be tailored towards systematic referral, protection and continuous support through the entirety of the criminal justice process.
Compulsory and Consistent Practical Training Focusing On Standard Operating Procedures	All criminal justice agencies and institutions must implement training modules that are victim-centric as mentioned above. This is particularly needed at the Police Training Centres (PULAPOL) and for the Protection Officers with the Social Welfare Department (JKM), as they are the main enforcement officers handling the victims, where sensitivity and professionalism is particularly crucial. Inter-agency joint trainings, especially in the form of mock cases or trials are particularly needed such as the Legal & Judicial Training Institute (ILKAP). As a form of monitoring post-training impact, after handling a particular case, the victim’s feedback form on the service provided should be channeled back to the training centres.
Victim’s Advocate in Court	A fairly new practice in Australia has introduced the concept of advocates in court to represent victims, especially children. As they are undeniably vulnerable, lawyers are appointed as and represent children who have faced violence particularly when they become witnesses in court.
Victim’s Fund	Similar to funding for legal aid currently existing in Malaysia, the proposed fund should go towards all costs to assist the needs of vulnerable groups from post-incident stage up to post-trial treatment and recovery, e.g. play therapy. As a start, it is proposed that the Legal Aid Department expands its ambit to legally represent vulnerable victims such as abused women and children in court. This should cover conducting watching brief and acting as counsel in obtaining protection orders under the Domestic Violence Act 1994 and the Child Act 2001.
Zonal Pilot Project on Victim Support in Court	To move away from merely being Klang Valley-centric initiative, a focused court support project should be initiated in other zonal areas, such as East Malaysia or Northern States in the Peninsula. The monitoring should be based on specific timelines and follow the entirety of court cases.
Monitoring and Reporting Body on Victim Advocacy	Striving to make continuous dialogue and due diligence in victim advocacy a reality, a multi-agency and NGO-inclusive yet active monitoring body should be set up.

References

1. James Lochhead and Tan Pek Leng, 2009, *Seeking Justice for Victims of Sexual Crime*, Women's Centre for Change, Penang, pp 28-31.
2. American Prosecutors Resource, Aequitas Resource.
3. WCC Questionnaire: Feedback from clients as victims & witnesses in the criminal courts.
4. *PP v Yap Huat Heng* [1985] 2 MLJ 414, pg 416.
5. WCC's video recording: *Experience of the Criminal Justice Process: A Father's Voice* (2015).

Acknowledgements

The paper was prepared by the WCC Advocacy team consisting of Melissa Akhir, Joshua Teh Honguan and Dr Prema Devaraj.

WCC would like to acknowledge the survivors of violence for trusting us with their experiences and teaching WCC the way forward. A special appreciation to the WCC Service and Advocacy Team, case workers and volunteers for their commitment and dedication towards bringing forward the victim's voice. We would also like to thank the officers and personnel in the criminal justice system for the patience, cooperation and commitment in working together with vulnerable victims and witnesses of crime, and with WCC.

Panel Discussion: Ground Realities And The Need For Victim Advocacy

DISCUSSANTS

Ms. Shelley Casey, Dr. Farah Nini Dusuki,
Mr. Joshua Teh Honguan, Ms. Melissa Mohd Akhir

Moderator: Ms. Karen Cheah, Malaysian Bar



Question & Answer Session



What can be done to reduce offensive questioning during trial?

- Tuan Awang Armadajaya Awang Mahmud (Attorney General Chambers)

Joshua Teh

There must be a collective effort to reject offensive questioning during trials. From survey conducted by WCC and the Malaysian Bar, approximately 80% of the DPPs surveyed stated that they had objected to offensive questioning during trials. The DPP has an important role to play in ensuring the rights of victims are protected, and the watching brief lawyer can help in this aspect as well.

Shelley Casey

This is especially important when children are testifying in court. The judiciary needs to pay special attention to these cases, as it is much easier to confuse a child through repetitive questioning or going into very specific details. Under the Convention on the Rights of the Child and common law, judges and magistrates have an obligation to protect the best interests of the children. This includes taking a proactive role in managing questioning, even in the absence of objection from the DPP. Children need to be given preferential treatment and a fair opportunity to tell their story without being unfairly confused.



How do we address compensation in criminal cases such as rape, where the amount for compensation can be difficult to quantify?

- Tuan Awang Armadajaya Awang Mahmud (Attorney General Chambers)

Melissa Akhir

Section 183A of the Criminal Procedure Code (CPC) provides for the Victim Impact Statement, which addresses many areas and is not limited to physical injuries but includes mental injuries which can be assessed through medical reports. Section 183 of the CPC can be linked to Section 426 of the CPC with regard to compensation. Victims should be encouraged to record their expenses, including how many times they have gone for therapy, medical costs, and travel costs. Their attending doctor can support the victims' claim. All this information can be used by the DPP to apply for compensation.



As the law does not recognize watching brief lawyers per se, should the law be amended so that watching brief lawyers are recognized, bearing in mind the adversarial system that is practised in Malaysia?

- Tuan Awang Armadajaya Awang Mahmud (Attorney General Chambers)

Melissa Akhir

Watching brief lawyers are a fairly new introduction to Malaysian law. A victim has the right to representation in court. However, the DPP is not the victim's lawyer; it will be beneficial for victims to have direct access to their own advocates. Other countries with a similar adversarial system to ours are moving towards a system, which provides more flexibility for vulnerable witnesses, and balancing the rights of the accused person and those of vulnerable witnesses.



When support is given to child victims or witnesses, the defence will often allege that coaching has occurred. This in turn causes Magistrates to be very cautious about support given to such witnesses. What can be done about this situation?

- Dr. Prema Devaraj (WCC)

Dr. Farah Nini Dusuki

When conducting training for police officers, it includes dealing with video recording, and how we are not supposed to meddle with the apparatus. Training needs to be given to all levels of officers dealing with children. Admittedly, things have changed for the better in the past few years, including the judiciary opening the door for training on child/youth justice. In the past year, we have trained 40 magistrates, and we hope to train Sessions Court judges in November specifically on child justice. These trainings are necessary, as child/youth justice is a specialized area requiring personnel to receive specialized knowledge.



Based on the other models of victim support, such as those present in Singapore and western countries, what are the problems which exist in these systems? There may exist difficulties when outside agencies are trying to work with official agencies such as the court. Which system works best, and what are the difficulties in implementing such a system?

- Dr. Prema Devaraj (WCC)

Shelley Casey

There has been a shift in the structure and location of victim supporters and victim support services (VSS). Initially, these services were offered on a fairly ad hoc basis by NGOs, who were stepping in to fill a gap in existing services. That can work fairly well if victims can access the NGOs. The problem with this method is that you cannot ensure consistency, and a lot of victims may fall through the cracks, as NGOs might not catch every case.

Singapore and Hong Kong have tried to locate their VSS within their central welfare department but have faced difficulties as they are outside the justice system. Like NGOs, they are dependent on referral coming to them, and are not often physically located near police stations or court houses, which makes access difficult. Further, justice agencies are often suspicious of outside agencies providing information to victims, as well as the type of information discussed with the victim.

Countries which have had successful VSS are those which have placed them in the Attorney General Chambers or police/ministry of justice. These VSS take services in-house, hiring their own staff to manage the service or contracting them out to NGOs. This gives justice agencies confidence in the quality of the service provided, as it is controlled by them. It also facilitates referrals and information sharing.

The Code of Conduct and training of VSS personnel on what they are allowed to do and how to do it ensures that lines are not crossed, i.e. the kinds of questions that victims might get asked during cross-examination can be discussed generally, without touching on the victim's actual testimony. Victim supporters only provide emotional guidance, support, and advice.

The above requires investment from the justice agency, but studies have shown that it has a significant impact in improving victims' confidence and satisfaction with the justice system, and also improves conviction rates as the number of victims not turning up to court is reduced, and the quality of testimony from the witnesses, especially children, are able to give increases.

Q

Would a juvenile who is charged together with adults and is placed in the dock with adults, causing a situation where the juvenile could be pressured by the adults in question, be classified as a vulnerable witness?

- Bhuvaneshwari Krishnamurthy (Malaysian Bar)

Dr. Farah Nini Dusuki

Unfortunately, the Evidence of Child Witnesses Act does not cover children who come into conflict with the law. The age of persons covered under the Act, which is limited to 16 years and not 18 years, is also an area of concern. If a child is charged together with adults, almost none of the protections accorded to children apply. The only reparation at the moment is to sensitize judges, who can then invoke their inherent jurisdiction to practice child-friendly measures towards the child. There has to be a presumption of innocence until proven guilty.

Melissa Akhir

The scope of vulnerable witnesses, which we are looking at today, is a person who has gone through violence. There is a whole different training for dealing with juveniles. Children in conflict with the law are an important child rights issue.

Nurulhuda Nur'aini (Attorney General Chambers)

When a child is charged together with an adult, then Section 87 of the Child Act applies and should be highlighted to the court.

Q

There is a possibility that DPPs assess the ability of offenders to compensate the victim, and also takes into consideration the issue of quantifying the damage suffered by the victim. As such, could this be the cause for the lack of requests for offenders to pay the victim compensation?

- Nurulhuda Nur'aini (Attorney General Chambers)

Melissa Akhir

On the issue of compensation under Section 426(1)(a) of the Criminal Procedure Code, it is important to ascertain whether the issue has been addressed in the mind of the DPP? At the end of the case

was the DPPs thinking of the victim impact statement (VIS) and whether to seek for compensation for the victim? The VIS is supposed to be done with the investigating officer, but in some cases, the VIS was not prepared earlier, and so it comes directly from the victim. However, the victim will not know of the Criminal Procedure Code provisions or the VIS if nobody tells them. As such, the DPP has the responsibility to prepare the VIS.

Nurulhuda Nur'aini (Attorney General Chambers)

If a victim changes residence, the DPP may have problems continuing to get more information. As such, the DPP will not know if the victim is in need of further protection if Interim Protection Orders are lapsed. Even though Section 30 of the DVA entitles a victim to protection, we still need to know whether the victim needs protection and what are the conditions to place in the Protection Order. Sometimes we do not have the relevant information, and thus do not make the request for protection. That, however, does not stop the victim from making the same request from the criminal court on some other dates, and not necessarily only on the date where the accused is charged. The law also provides that the victim can make the application not only through the court where the proceedings took place, but also through another court where the victim is residing. Although the DVA has been enforced a long time ago, practitioners are still learning about the Act, and not many case law references are available.

Melissa Akhir

A person on the street would not know the provisions of the DVA. In fact, not all of us are familiar with its provisions, so even though the law provides that a victim can obtain a Protection Order, how would they get that information? The victim might phrase her request differently when she makes her report; who will ask her whether she wants further protection, or if she wants the perpetrator or third party to stop bothering her? Who asks her this and who then conveys that information to the DPP? Does the IO do this? The channel of information is a very important issue, and one which we hope to improve. It is about applying the law on the ground.

Dr. Farah Nini Dusuki

The inability to get information to the police happens all the time, typically in child abuse cases. There was a high profile case where a girl's father was charged with physical abuse and sent to prison for two years. He was released after 15 months. He was so angry with his daughter and subsequently abused her again, which resulted in her being admitted to the Intensive Care Unit. This matter was taken up in the media, and every authority was questioned about the case. Welfare Department (JKM) stated: how are we supposed to know that the father would be released? The prison authority said it was not their job to inform other agencies that the father was about to be released.

There must be a mechanism where agencies are able to share information, or we will always fail at this juncture. Our failure lies in understanding how this mechanism works, how it affects victims, and how different agencies should be supporting each other. In other jurisdictions, such as Singapore and the Philippines, NGOs help keep track of issues such as this. We should look to strengthen the NGOs so they can be the true lynchpins in the system.

Shelly Casey

A number of countries have issues with information flow, victims have changing needs in terms of safety and protection. Generally, their only point of contact is through the police, and it often takes time as they are very frequently disconnected from how the information reaches the DPP. We cannot expect most victims to know what their rights are, and to assert them when they are faced with the machinery of government. And this is where the idea of a Victim Support System (VSS) really comes into play.

This was one of the driving forces in the UK in the establishment of the Victim Care Unit. They acknowledge that police are busy people and have to carry out investigations, and they have an off-site officer, a witness care officer who is appointed from the point of initial investigation, who sits in the police department and

they collaborate closely with the investigators. Their sole job is to be the focal point of contact for victims. So, should the victims have any problems, if they face any threats or if their Protection Orders are expiring and needs to be extended, or if there are any changing court dates or conflicting appointments, the witness care officer handles these things. This person is then responsible for making sure that the IO and the DPP are fully aware of the victim's needs and there is a flow.

Elsie Primus (Judiciary)

For compensation, under Section 426(1)(a) of the Criminal Procedure Code, the magistrate or judge can hold an inquiry at the request of the DPP. At this time, the expenses and losses of the victim can be produced together with the timeline, and the court will assess the ability of the accused to pay compensation. Even if the accused cannot pay compensation, the order can be made for compensation to be paid by way of instalments, or the property of the accused can be sold to make the payment, or the accused can be sent to civil prison.

Goh Siu Lin (Association of Women Lawyers)

Watching brief lawyers should be funded to provide victim support where necessary. In Malaysia, there is no such system in place. In the UK, it is covered by the courts and the police, as well as funded by the government. We should explore setting up funds for watching brief lawyers or a victim's fund.

Shelly Casey

There is a general distinction between watching brief lawyers, meaning advocates representing the victim, and victim supporters, who are non-lawyers. In most countries such as Australia, victim advocates are covered by state Legal Aid funds. Victim Support Services are commonly funded in the UK, New Zealand, Australia and Canada by the Attorney General's Office or the Ministry of Justice. Some of these, such as Canada, are fully funded by the Attorney General's Chambers and are managed in-house – they hire their own staff and are attached to the DPP's office. In other countries, such as the UK, the Ministry of Justice fully funds the programme but has contracted it to local-based NGOs. In New Zealand, the court-based services are fully funded by the government and Ministry of Justice; the police-based services are operated by an NGO, which is part-funded by the government and also raises additional resources via corporate sponsors and private donations.

In a number of these jurisdictions, such as Canada and the UK, part of the funds for these services come from "victim surcharge" where the government has established a victim fund. Every criminal court fine is levied a certain fee, which is added to the fine that goes to the government's victim fund. NGOs can request for money from the fund for shelter, legal aid, and for victim support.

Breakout Session: Building a Framework for Victim Advocacy

MODERATOR
Dr. Prema Devaraj (WCC)



There were 19 participants: four judiciary officials, nine DPPs, two PDRM officers, four members of the Malaysian Bar and two respondents from other ministries. The group was divided into two. Each group was asked the following four questions:

1. What are the challenges faced in criminal justice process?
2. What support do victims need?
3. What should be the roles and responsibilities of a proposed Victim Support Service (VSS)?
4. What should be the structure/framework of the VSS?

The following are the responses from the two groups.

What are the Challenges Faced in Criminal Justice Process?

Group 1	<ul style="list-style-type: none">a. Reporting: Police are not child-friendly, and some new police personnel are unfamiliar with handling persons from different cultures.b. Investigation: Most victims are unaware of steps taken during an investigation, which probably results from the frontline not providing enough explanation. There exists a lack of interpreters for victims with disabilities. Interim Protection Orders are not applied for as no Welfare Department officers are available or the victims are unaware of their rights.c. Pre-trial: When the accused has been charged, there is uncertainty over whether the investigating officer informs the victim. The court is sometimes unaware if the victim has obtained a Protection Order. After the complaint is lodged, the Welfare Department (JKM) should provide protection to the victim.d. Trial: There is a possibility that the victim will withdraw the case mid-trial.
----------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Group 2	<p>a. Reporting: The problems are: language barrier; fear of going to police station; gender-based fear; frontline attitude issues; fear of insufficient evidence; reliving shame; fear of disbelief; victim blaming; mistrust of authority; time taken; lack of opportunity and resources.</p> <p>b. Investigation: The problems are: lack of feedback; safety issues; victims feel scared/threatened/intimidated; reluctance to allow investigation; disbelief; agencies' competency.</p> <p>c. Pre-Trial: The problems are: delay; isolation; lack of support/family interference (this is also applicable in the previous stages) and threat from perpetrator.</p> <p>d. Trial: The problems are: postponement; expenses; articulation; Post Traumatic Stress Disorder (PTSD); problems recalling events due to repressed memories; fear of the accused/accused's family; fear of court/authority; lack of facilities; fear of losing privacy/stories in media; language/communication barriers.</p> <p>e. Post-Trial: Appeal/acquittal. Not informed of appeal process and shocked to see accused free. Fears for safety, not informed of what is happening.</p>
----------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

What Support Do Victims Need?

Group 1	<p>Interpreters for all languages; friendlier environment in terms of facilities; more support from Investigating Officers, especially in D11; more support from Welfare Department (JKM) officers, particularly in visiting victims. Should prioritise disabled and child victims. Connecting Welfare Department to Police to NGOs. Welfare officers to help provide pre-trial visits for victims who want to visit the court.</p>
Group 2	<p>After lodging a report, victims should be provided with counselling if necessary, to help deal with shame. Victims should be empowered and feel like they are being believed. No victim blaming. Information on the criminal justice system and protections available (e.g. Interim Protection Order) should be provided to the victim. Agencies need to be trained to increase their awareness on the issues faced by vulnerable victims. Victims should be provided with information and logistical assistance throughout the investigation process. Victims should be provided with emotional support, such as having someone accompany the victim throughout the criminal justice process. Pre-trial therapy should be provided for victims, as Post Traumatic Stress Disorder is not uncommon. Therapy should also be provided for the victim's parents, who might be psychologically disturbed too. Availability of court facilities should be checked, and ensure that these facilities are easy to access. Alternatives must be found if certain facilities are unavailable – for example, if screen unavailable, mah-jong paper could be used as an alternative. Victims should be made aware of their rights and protections, so that they know what to do if they are approached or threatened by accused or accused's family.</p>

What should the Roles and Responsibilities of a proposed Victim Support Service (VSS)?

Group 1	<p>VSS to be formed either from Welfare department (JKM) or NGO. VSS to be involved from the beginning and throughout the entire process, up until the post-trial stage. VSS personnel must be contactable 24 hours, and should be stationed at all police stations. VSS personnel must be specialized in handling cases involving vulnerable victims, and not have to handle other matters. Practical training to be provided to welfare officers and Investigating Officers, who will work together closely with the VSS. VSS personnel to inform victims about trial dates, and continuously update them throughout the criminal justice process.</p>
Group 2	<p>To inform the victim of the criminal justice process, and the layout of the courtroom; how to dress; her rights. To provide emotional support for the victim by sitting in court with them; arrange for logistical support. To be accountable to the victim, family members, and legal aid.</p> <p>Dependency is an issue; it might be best to let the victim get counselling from another person.</p> <p>Judiciary staff believe that VSS personnel should have Standard Operating Procedures to avoid inconsistent practice.</p>

What should the Structure/Framework of the VSS?

Group 1	<p>VSS to be parked under Ministry of Women/under Welfare Department (JKM). The function of Welfare Department could be reviewed to create a new VSS portfolio. Possibility of VSS being created under Attorney General's Chambers, however there is a possibility of conflict of interest. The Prime Minister's Department could also create a new department with the power to liaise with the other agencies and have specific VSS rooms in court. Government could fund NGOs who have the expertise to provide VSS, such as under the UK model.</p> <p>VSS to be stationed at police station so that victims can be directly in contact with them after lodging a report. A comprehensive victims' fund should be set up by the government, and should be under the Prime Minister's Department.</p> <p>A provision in the Criminal Procedure Code should be added to ensure that the victims' fund also caters for the disabled and child victims. Legal Aid Act to be amended to include government's Legal Aid Department.</p> <p>Monitoring of VSS to be done by Home Ministry.</p>
----------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Group 2	<p>VSS to work together with judiciary, but not be a part of it. If funded by the Attorney General's Chambers, when a police report is made, the VSS can directly contact and assist the victim. The police will trust VSS personnel if they are part of the Attorney General's Chambers, and as part of the system, they can easily access deputy public prosecutors. VSS to be a new department in the Attorney General Chambers, and personnel should have legal background. If VSS is to support the victim from the start, they should be accessible. Should consider NGO which are government funded, possibly from fines collected from criminal offenders. NGOs have the expertise to provide support but lack the funding.</p> <p>There was a debate over whether the VSS should be placed under the Prime Minister's Department or under the Home Ministry. The new department should have the power to liaise with different agencies, and be provided with rooms in the police station and court. The personnel should also receive training from NGOs.</p> <p>If the VSS is created under the Women's Ministry, then the Welfare Department's role and function should be reviewed to include VSS. If the VSS is created within the police itself, it could be together with the D.11 or Victim Care Support. However, as there are only two Victim Care Officers in each state, this might prove difficult as the police have found it hard to recruit volunteers to support victims and there is insufficient staff, funding, and training.</p> <p>Monitoring of the VSS should be built into the department itself. More money and human resource is needed possessing the right drive and motivation to make the VSS a success.</p>
----------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Moving forward

The participants indicated that they wanted to be part of the post-consultation dialogues and action plans for the rights of vulnerable witnesses.

Proposed Recommendations



1. Training for criminal justice system personnel

There is a need for criminal justice personnel to be sensitized and attuned to the needs of vulnerable victims and witnesses. When proper support is provided to vulnerable victims and witnesses, their ability to provide effective testimony will be improved, which in turn will help ensure that the rule of law is upheld.

To this end, personnel from the judiciary, prosecutors, police, and welfare should be provided with regular training which focuses upon sensitization and victim's rights under the law. Such training can be implemented through the National Legal and Judicial Training Institute (ILKAP) based in Bangi. Medical personnel, particularly those involved in the One Stop Crisis Centres at government hospitals, should also receive training on handling vulnerable victims and sensitization to their needs.

Further, such training should be reinforced with the implementation of Standard Operating Procedures highlighting the responsibilities of agencies handling vulnerable victims within the criminal justice system and their interagency commitments.

2. Interagency dialogues

There should be regular dialogues between key criminal justice agencies to discuss the issues which they face when handling cases involving vulnerable victims, and to brainstorm on improving victim advocacy. Agencies which should be involved in the dialogues include the court, prosecution, police, welfare, hospitals, legal aid, and human rights organizations. Such dialogues should be held on both a state and national level biannually, with the hosts being selected from among the attending agencies on a rotational basis.

3. Monitoring and evaluation of court facilities nationwide

Research conducted by WCC has shown that the government has taken steps to ensure that there is support for vulnerable victims and witnesses when they appear in court. These include legislation for victim impact statements, compensation, and protection orders, as well as the provision of facilities such as video link, witness waiting rooms, and screens. Nevertheless, the research has shown that implementation of such rights and facilities are not uniform across states.

As such, there is a need to monitor and assess the use and implementation of rights and facilities for vulnerable victims and witnesses in criminal courts across Malaysia. From the data obtained from such monitoring, steps should be taken to ensure uniform implementation. Those steps can include building facilities in courts which lack such facilities, as well as running pilot projects on a district level ensuring full compliance by all criminal justice agencies with a view to uphold vulnerable victims' rights.

4. Appointment of victim advocates/watching brief lawyers, particularly in cases involving child victims

An offender levy system similar to that found in New Zealand should be implemented in the Magistrates and Sessions criminal courts. Through this system, all criminals sentenced before these courts will be made to pay an automatically imposed and prescribed fee which will go towards a Victim Fund. The fund should then be used to pay for the services of lawyers to become advocates or watching brief lawyers for victims of sexual or physical violence, particularly if they are children.

5. Implementation of Victim Support Service (VSS)

All the participants were in agreement that it was necessary for a specialized Victim Support Service (VSS) to be created in order to best protect the interests and rights of vulnerable victims in the criminal justice system. Therefore, the following systems were proposed:

i. Prosecutor Based Victim Support Service

Formed under the Attorney General's Chambers, with VSS staff placed in every lower criminal court in Malaysia. Funding will come from the Prime Minister's Department and also from a proposed Victims Fund.

Staff should have legal background and receive training from non-government organizations on how to handle vulnerable victims.

It is more likely that police personnel will trust VSS staff if they are part of the Attorney General's Chambers (AGC). This will enable VSS staff to directly contact and assist victim once police report is made. Being part of the system, VSS staff will also be able to help victims easily access DPPs.

The possibility of an arising conflict of interest between a VSS staff and a prosecutor from the AGC was raised. For example, while VSS staff may be under the purview of the AGC, their role will be to provide logistic and emotional support to vulnerable victims, and not to help prosecutors prepare their cases or obtain further evidence from the victims. Hence, there would be a need for a clear distinction to be drawn between the support service and prosecution services if both were formed under the AGC.

ii. Police Based Victim Support Service

Formed under the Home Ministry, the VSS is proposed to be part of either the PDRM's Sexual Crimes, Domestic Violence, and Child Abuse Investigations Division or the Victim Care Support unit. VSS staff will be stationed at police stations so that victims can be directly in contact with them after lodging a report, with staff to be contactable 24 hours a day. Staff to be a mixture of full-time staff and trained volunteers.

VSS personnel are to specialize in handling cases involving vulnerable victims, and not handle other criminal matters or investigations. In turn, VSS personnel are to train investigating officers and welfare officers on how to provide interagency support for vulnerable victims.

Currently PDRM have a Victim Care Support (VCS) unit in place in every state. However, the feedback is that, the VCS unit has not been effective in carrying out their duties, with only two officers assigned per state. Running an efficient and effective VSS might prove difficult, as police have found it hard to recruit volunteers to support victims, and there have been issues with insufficient staff, funding, and training.

iii. Welfare Based Victim Support Service

There was a proposal for VSS to be formed under the Welfare Department and funded by the Ministry of Women, Family, and Community Development. Similar to the above proposal of a police based VSS, the welfare based VSS will be stationed at all police stations and be contactable by victims 24 hours a day. VSS to be involved from the moment a police report is made until the post-trial stage. Welfare VSS can also provide counselling and emotional support for the victim and family.

If VSS is formed under the Welfare Department, then the Welfare Department's roles and functions will be expanded. This might lead to overburdening Welfare, whose manpower and resources are already currently stretched. Monitoring of the VSS will have to be built into Welfare's current system as well. Similar to the police, a welfare based VSS might also find difficulty in recruiting volunteers to provide support for victims. Currently the Welfare Department have advertised VSS in their website but feedback is that the service is not uniform both within and between states, with the public and people in the criminal justice system being unaware of how to access this service.

iv. Non-Government Organization (NGO) Based Victim Support Service

There are very few local NGOs which have the expertise to provide support for vulnerable victims. The biggest obstacle to an NGO based VSS is a lack of funding and human resources.

Further, any NGO based VSS will need the full backing of both the Prime Minister's Department and Home Ministry in order to provide it with the needed legitimacy to liaise and deal with other criminal justice agencies on the victim's behalf. Infrastructure such as specific VSS rooms/offices in court will also need to be built to accommodate VSS staff, and to ensure that VSS staff are always available to vulnerable victims in court.

Appendices

APPENDIX A List of Attendees

Judiciary

1.	Puan Adibah binti Abdul Kadir	Magistrate, Teluk Intan
2.	Tuan Mohd Azian Shah bin Mohd Allieas	Magistrate, Shah Alam
3.	Puan Norhayati Ibrahim	Magistrate, Kangar
4.	Puan Portia Tham Ong Leng	Magistrate, Kuching
5.	Puan Siti Khairiah binti Abdul Razak	Magistrate, Seremban
6.	Puan Sri Pracha Nanthini A/P Balabeda	Magistrate, Pulau Pinang
7.	Puan Tuan Ruzuaini binti Tuan Lah	Magistrate, Kuantan
8.	Tuan Amran bin Jantan	Sessions Court Judge, Melaka
9.	Puan Elsie Primus	Sessions Court Judge, Sandakan
10.	Puan Rofiah binti Mohamad	Sessions Court Judge, Kemaman
11.	Puan Rafiah binti Yusof	Deputy Registrar, Bahagian Dasar Latihan & Perancang Strategik
12.	Puan Wan Nursalena binti Wan Abdullah	Bahagian Dasar, Pejabat Ketua Pendaftar Mahkamah Persekutuan Malaysia

Deputy Public Prosecutors (Prosecution Unit)

1.	Tuan Ahmad Salam bin Yusof	Kelantan
2.	Puan Ainnan binti Mohd Rasid	Negeri Sembilan
3.	Puan Dharliza Dris	Penang
4.	Tuan Foo Yong Luk	Melaka
5.	Puan Husna binti Abdul Halim	Sabah
6.	Puan Nazlyza Mohamad Nazri	Terengganu
7.	Puan Nik Rabi'atul 'Adawiah binti Soupy	Pahang
8.	Puan Nur Nisla binti Abd. Latif	Perlis
9.	Puan Rehab Abdul Shukur	Kedah
10.	Puan Sally Chay Mei Ling	Perak
11.	Puan Samira binti Khalili	Sarawak
12.	Puan Tan Sew Ping	Wilayah Persekutuan Kuala Lumpur
13.	Puan Safiah A. Aziz	Johor

Ministries/Government Agencies

1.	YBhg. Dato' Munirah Abdullah Bajanuddin	Director General, Department of Women's Development
2.	YM. Dr. Raja Kamariah Raja Khalid	Director, Guidance and Counselling Division, Department of Women's Development
3.	Puan Nurulhuda Nur'aini bte Mohamad	Head of Unit, Sexual Crimes and Domestic Violence Unit
4.	Puan Norsiah binti Ujang	Federal Senior Counsel, Home Ministry
5.	Encik Razali Bin Ariffin	Ministry of Health
6.	Puan Zahida Zakaria	Legal Advisor 1, Ministry of Women, Family and Community Development
7.	ASP Nor Hasania	D11, Polis Diraja Malaysia
8.	PDSP Saroja Egamparan	D11, Polis Diraja Malaysia
9.	Prof. Dato' Seri Dr Abu Hassan Ansari Abdullah	One Stop Crisis Centre, Hospital Kuala Lumpur
10.	Dr. Abidah Abdul Ghafar	Universiti Sains Islam, Malaysia

Malaysian Bar

1.	Mr. Steven Thiru	President
2.	Ms. Karen Cheah Yee Lynn	Secretary
3.	Mr. Kiran Dhaliwal	Member of the Family Law Committee
4.	Ms. Wong Tze Wei, Debbie	Member of the Family Law Committee
5.	Ms. Tham Hui Ying	Member of the Human Rights Committee
6.	Ms. Rajeswari Gunarasa	Organising team
7.	Ms. Florence Laway	Organising team
8.	Encik Md Faizal Bin Mahat	Organising team
9.	Mr. Jul Indra Tofan bin Jahrul	Organising team
10.	Ms. Bhuvaneswari Krishnamurthy	Emcee for the day

Non-Government Organizations

1.	Ms. Ain Nasiehad Binti Amiruddin	All Women's Action Society
2.	Ms. Andi Suraidah	Sisters in Islam
3.	Ms. Goh Siu Lin	Association of Women's Lawyers
4.	Ms. Lainey Lau	Women's Aid Organization
5.	Ms. Shaney Cheng	PS The Children
6.	Ms. Lalitha Menon	President, Women's Centre for Change (WCC)
7.	Dr. Prema Devaraj	Programme Consultant, WCC
8.	Ms. Melissa Mohd Akhir	Senior Advocacy Officer, WCC
9.	Mr. Joshua Teh Honguan	Advocacy Officer, WCC
10.	Ms. Nur Hasanah A. Akhir	Liaison Officer, WCC
11.	Ms. Lor Yew Mien	Communication Officer, WCC
12.	Ms. Khor Boon Hui	Volunteer, WCC

Ms. Lalitha Menon, President of Women's Centre for Change, Penang

Ms. Lalitha Menon graduated from University of Malaya Law Faculty in 1981. She served as Magistrate in Georgetown for more than 3 years handling mainly civil, criminal, juvenile cases and death inquests. Following that, she has practiced as an Advocate & Solicitor for more than 30 years, specializing mainly in civil and family law cases. She is a certified Mediator of the Malaysian Bar's Malaysian Mediation Centre. She is an appointed Member of the Pardons Board of Penang, and is Legal Advisor of Sri Veeramakaliamman Temple, Jelutong, Penang.

Ms. Menon is the former Chairperson of the Penang Bar Committee, a former member of the Malaysian Bar, and a current member of Malaysian Bar Family Law Committee. She is also serving as the current President of WCC 2015/2016 and chair of WCC's Advocacy committee.

Mr. Steven Thiruneelakandan, President of Malaysian Bar

Steven Thiruneelakandan (**Steven Thiru**) graduated in 1990 with an LL.B from the University of Leicester. He qualified as a Barrister at Law at Middle Temple in 1991 and the High Court of Malaya as an Advocate and Solicitor in 1992. He also holds a Masters in Laws degree from the University of Malaya. He is currently a senior litigation partner of Messrs Shook Lin & Bok, and his areas of practice are Administrative Law, Employment Law and Civil litigation.

He was the Chairman of the Kuala Lumpur Bar Continuing Legal Education Committee and later the Chairman of the Professional Standards and Development Committee of the Malaysian Bar. He also chairs the Malaysian Bar's Ad-Hoc Committee on the Common Bar Course (CBC) and is a member of the Committee on the rights of indigenous persons (Orang Asli). Steven Thiru is currently the President of The Malaysian Bar (2015/2016).

Pn. Lee Lay Choo, Director General of Judicial and Legal Training Institute

Pn. Lee Lay Choo graduated with LL.B from University of Sydney Australia in 1987 and pursued her LL.M locally in the University Kebangsaan Malaysia in 2001. She was admitted to the New South Wales Bar in 1988 and the Malaysian Bar in 2000, and is listed as an arbitrator and adjudicator with the Kuala Lumpur Regional Centre for Arbitration (KLRC).

Pn. Lee joined the Judicial and Legal Service in 1989 and has been in service since then. She has held various positions including Magistrate, Senior Assistant Registrar, Deputy Public Prosecutor, Legal Advisor in various Ministries, and was the Deputy Commissioner of Law Revision & Reform in the Attorney General's Chamber. She was appointed as the Director General of Judicial and Legal Training Institute (ILKAP) since November 2013.

Ms. Shelley Casey, UNICEF Child Justice Consultant

Ms. Shelley Casey is a child justice and gender-based violence specialist with over 15 years' experience working for UNICEF and other development partners throughout Asia, Western Africa, Eastern and Central Europe and the Pacific.

Ms. Shelley began her career as a criminal prosecutor in Toronto, Canada, where she specialized in domestic violence, sexual assault, and juvenile court cases. She has since worked in 25 countries supporting governments to strengthen laws, policies and practices to address children in conflict with the law, child victims/witnesses, and gender-based violence. She also has extensive experience working with governments to develop child-friendly and victim-centered investigation and court procedures, and in training magistrates, prosecutors and judges.

Dr. Farah Nini Dusuki, Senior Lecturer, University of Malaya

Dr. Farah Nini Dusuki is a Senior Lecturer at the Faculty of Law, University of Malaya. She obtained her LL.B in 1992 and Masters of Comparative Laws from the International Islamic University Malaysia in 1993 before pursuing her PhD in Child Law at Cardiff University, Wales, United Kingdom. She teaches criminal procedure, administration of criminal justice, legal method and child law at the university. She is a member of the Asia Pacific Council on Juvenile Justice Observatory, and has been a registered consultant with UNICEF Malaysia since 2006 and a member of the National Advisory and Consultative Council for Child Protection, Ministry of Women, Family and Community Development since 2007. Her research and consultancy projects are mostly on child protection and criminal justice and in 2010, she was involved in an international study by the British Institute for Criminal and Comparative Law (BICCL) on the rights of child offenders in the Muslim states.

Her main areas of interest are child law, criminal justice and the teaching and learning of law. She has conducted research projects and published on various aspects of child protection and criminal justice, presented over seventy papers locally and internationally and is frequently invited to give lectures and training seminars on various aspects of child rights. Since the last three years she has been conducting specialized trainings on child justice for lawyers and judges. Over the past 15 years, she has been working closely with the Royal Malaysian Police (PDRM), prison authorities and the Division for Children of the Ministry with a view to improve the juvenile justice system.

Mr. Joshua Teh Honguan, WCC Advocacy Officer

Mr. Joshua Teh Honguan graduated with an LL.B from University Utara Malaysia, and practiced civil litigation for three years. Following that, he decided to pursue his passion for human rights in 2014 and took up the position of Advocacy Officer with WCC.

In his time with WCC, he has conducted research on media reporting of children involved in sexual crimes, and on facilities and rights available to vulnerable victims in Malaysian criminal courts. He has also conducted training for watching brief lawyers and deputy public prosecutors, and been involved with the Attorney General's Chambers Working Committee on law reform as well as assisted in court support for vulnerable victims.

Ms. Melissa Mohd Akhir, WCC Senior Advocacy Officer

Ms. Melissa Mohd Akhir has been a Senior Advocacy Officer at WCC for the past four years. Previously she was with the Attorney-General's Chambers as a Federal Counsel and Deputy Public Prosecutor for almost 10 years.

With WCC, she has produced a training manual and trained deputy public prosecutors, lawyers and Penang court staff on enhancing justice for vulnerable victims. Melissa has worked on amendments to the Penal Code, the Criminal Procedure Code, the Child Act 2001, and the Domestic Violence Act 1994 with a focus on victim advocacy. She was also involved in producing WCC's survivor-friendly court guidebook and video entitled "Surviving Court". It is available in various languages as a form of support in trials involving vulnerable victims especially in sexual crimes.

Karen Cheah Yee Lynn, Honorary Secretary of Malaysian Bar

Ms. Karen Cheah graduated in 1993 with LL.B from University of London, and was admitted to the Malaysian Bar in 1995. She has been in active legal practice for over 20 years and is the current Honorary Secretary of the Malaysian Bar. She was awarded the ATC Outstanding Alumni Award in 2016.

Karen is a partner in Messrs. Chooi & Company and her current primary focus is on corporate and commercial contracts and conveyancing matters. She has an ardent interest in public interest issues and currently chairs the Ad Hoc Committee for Amendments to the Legal Profession Act.

She is an External Industrial Advisor (Faculty of Law) and Visiting Lecturer at the Multimedia University since 2012.

Dr. Prema Devaraj, WCC Programme Consultant

Dr. Prema Devaraj obtained her PhD in Biochemistry from the University of London in 1991. Upon her return to Malaysia in 1997 she channeled her research and training skills into human rights activism for women and children. She has worked with WCC for over 15 years.

Dr. Prema has developed WCC programmes and educational materials especially on the prevention of sexual exploitation of children and youth, which are used not just in Penang but in several other states across the country. In 2008, Dr Prema spearheaded the setting up a rape survivors' support network with local hospitals both on Penang Island and more recently on the mainland. Over the last three years she has been actively involved in building an understanding of the importance of victim advocacy in court through interagency dialogues, training and production of user friendly materials for victims in court.

Dr. Prema currently serves as a court advisor to the Children's Court in Penang and also works as an independent consultant to international agencies on gender issues.



Vision

WCC envisions an inclusive society free from gender violence and discrimination, and where women can actualize their full potential.

Mission

WCC is committed to:

- Eliminating violence against women and children
- Empowering women and children
- Promoting gender equality and social justice

Women's Centre for Change

241, Jalan Burmah, 10350 Penang, Malaysia

Tel: 04-228 0342

Fax: 04-228 5784

Email: wcc@wccpenang.org

WCC Seberang Perai

13, Lorong Sutera 6, Taman Sutera,
13700 Seberang Jaya, Penang, Malaysia

Tel: 04-398 8340

ISBN 978-983-44784-5-2



 www.wccpenang.org

 **WCC Penang**