



Gender Transformation & Empowerment

INFORMATION GUIDE FOR CULTURAL AND RELIGIOUS LEADERS (CUSTOMARY INFORMAL JUSTICE ACTORS) ON GENDER RESPONSIVE JUSTICE

September 2022

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FOREWORD

Culture and religion both play significant roles in shaping attitudes, beliefs and ideals of what is right and wrong. Cultural expectations differ from society to society and assign roles and responsibilities for men and women, boys and girls. Culture sets societal norms of communities. Similarly, religion sets the morally accepted principles of relations of society, strengthens peaceful co-existence and fulfillment of roles by men and women in societies.¹ Unfortunately, majority of the cultural and religious norms as well as beliefs privilege men and boys to the detriment of women and girls.

Traditional /cultural leaders are expected to promote and preserve the cultural values, norms and practices which enhance the dignity and wellbeing of the people where they are recognized and also promote the development, preservation and enrichment of all. Both leaders in their own right, religious and cultural leaders are revered, respected and command respect amongst their followers. They are symbols of authority and wield power in diverse communities across different parts of Uganda. And yet the vital role/function of these leaders have been decimally harnessed to enhance women's access to justice and gender equality.

This information guide developed by UWONET with support from the International Development Organization (IDLO) contains modules on human and women's rights, access to justice and alternative dispute resolution as well as other related topics considered crucial for religious and cultural leaders in light of their positions at community level and within the country.

UWONET hopes that this resource will be useful for religious and cultural leaders across the country to deepen their understanding and appreciation of gender responsiveness as they perform their roles as well as become front runners for women rights promotion and gender equality in their respective communities and the country at large.

¹ UWONET 2019; Information pack on Gender, Culture and Religion

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INTRODUCTION

The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) in Article 5, mandates state parties to take all appropriate measures to amongst other obligations; modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. By 2021, one hundred and eighty-seven (187) countries of the 194 UN member Nations Uganda inclusive had ratified CEDAW. Nevertheless, women and girls world over, experience discrimination in the enjoyment of their human rights consequently impacting on gender equality. Women experience diverse forms of discrimination due to factors such as their age, race, ethnicity, culture, disability, religion, socio-economic status in addition to gender discrimination.

Discrimination against women violates the principles of equality of rights and respect for human dignity. Discrimination is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes it more difficult for the full development of the potential of women in the service of their countries and of humanity.²

Gender, culture and religion are significant tools of social transformation and foundational social paradigms that have been used by some to perpetuate inequalities. They are also the anchor of social expectations. These expectations vary geographically, evolve with time, and are based on deep seated convictions among other tenets. However, these expectations have time immemorial been the cause and drivers of abuse, rights violations, oppression and discrimination. Social expectations have created power imbalances between women and men, boys and girls impacting on meaningful development on all fronts.

Uganda is a multi-cultural and multi religious society with different communities that practice different cultures and religions. Effectively ensuring full enjoyment of human rights by women, girls, men and boys requires, first, a comprehensive understanding of the social structures, social norms and stereotyping, and power relations that frame not only laws and politics but also the economy, social dynamics, family life and community life.

² CEDAW, 1979

GLOSSARY

Gender: The social attributes, expectations and roles ascribed to males and females and their relationships. The features are socially constructed and differ from one community to another.

Culture: The cumulative deposit of knowledge, experience, beliefs, values, attitudes, roles, spatial relations acquired by a group of people.

Religion: A system of beliefs, values and practices considered sacred by an individual or group of people.

Discrimination: The unfair or prejudicial treatment of people and groups based on characteristics such as race, gender, age or sexual orientation.

Gender discrimination: Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.³

Gender responsiveness: Paying attention to the unique needs of females, valuing their perspectives, respecting their experiences, understanding developmental differences between girls and boys, women and men and ultimately empowering girls and women.⁴

Gender responsive justice: An orientation to working with women and girls based around a consideration of the special needs of women in different situations and contexts as well as their pathways.⁵

Perpetrator: is a person or group that inflicts, supports, or condones violence or other abuses against a person or group of persons. Perpetrators are often persons with real or perceived authority and persons in decision making positions.

Legal and policy frameworks: refers to the set of laws, regulations and rules that apply in a particular country. For example the 1995 Uganda Constitution, The Domestic violence Act, 2010 among others.

Intersectionality: refers to the way in which multiple forms of discrimination – based on gender, race, disability and class among other distinctions overlap and interact with one another to shape how different individuals and groups experience discrimination.

³ United Nations, 1979. 'Convention on the Elimination of all forms of Discrimination Against Women,' Article 1]

⁴ United Nations Children's Fund. 2017. "Gender Equality: Glossary of terms and concepts". UNICEF.

⁵ Karen Evans, 2017: Gender responsive Justice; A critical appraisal.

MODULE 1.

INTRODUCTION TO GENDER

This module highlights key gender concepts and terminologies aimed to enhance religious and cultural leaders understanding as well as appreciation of how gender impacts women's rights, justice and ultimately development.

Gender defined

Gender refers to the social and cultural construct, which distinguishes differences in the attributes of men and women, girls and boys, and accordingly refers to the roles and responsibilities of men and women. Gender-based roles change over time and vary with different cultural contexts. The concept of gender includes the expectations held about the characteristics, aptitudes and likely behaviors of both women and men.

Understanding gender dynamics is important in analyzing how commonly shared practices legitimize differences between sexes.⁶

Key Gender concepts

- i. **Sex:** The biological and physiological differences between men and women.
- ii. **Gender Needs:** Refers to needs of women and men identified in a given society. They are categorized as practical and strategic gender needs.
- iii. **Strategic Gender needs:** Are requirements of women and men to improve their position or status. Addressing these needs allows people to have control over their lives beyond socially-defined restrictive roles. Strategic gender needs for women might include land rights, more decision-making power, equal pay and greater access to credit that enable women overcome restrictions of socially ascribed expectations that limit their potential and empowerment.
- iv. **Practical gender needs:** By comparison, are those needs required to fulfill gender-specific roles and expectations such as access to healthcare, water availability and employment opportunities.
- v. **Gender Roles:** Are social and behavioral norms that, within a specific culture, are widely considered to be socially appropriate for individuals of a specific sex. These often determine the traditional responsibilities and tasks assigned to men, women, boys and girls. Gender-specific roles are often conditioned by household structure, access to resources and other locally relevant factors. Gender roles can be identified as productive, reproductive, and community roles.
- vi. **Productive roles:** Productive roles are the activities carried out by men and women to produce goods and services for buying and selling or for meeting the needs of the family. These activities generate income and assets. Productive roles are economically valued by society, and recorded in national accounting. Examples are fishing, farming, teaching among many other roles/activities.
- vii. **Reproductive roles:** Reproductive roles are activities carried out by men and women to ensure the placement of people in the community especially the community's work force. They are very important for keeping communities going but are invisible in national accounting. Examples are child bearing and child rearing as well as caring for the sick among other roles of this category/nature.

6 United Nations Children's Fund. 2017. "Gender Equality: Glossary of terms and concepts". UNICEF.

- viii. **Community Gender Roles:** Community roles can be classified into community managing and community politics:– a) Community managing: these are activities that are undertaken by members of a community to improve their lives. Community managing roles ensure the provision and maintenance of scarce resources for family needs. They are mainly done by women at the community level as part of their reproductive role. Examples are provision of water, informal education and healthcare. b) Community politics: these are activities organized by communities to improve their lives. They are carried out in the public domain, involve decision making and are prestigious in status. They may be organized at the political level, often within the framework of politics. They are normally assumed by men in the community. An example is a church executive role such as presiding elder, local council chairperson roles, security among others.
- ix. **Gender norms:** Are accepted attributes and characteristics of male and female gendered identity at a particular point in time for a specific society or community. They are the standards and expectations to which gender identity generally conforms, within a range that defines a particular society, culture and community at that point in time. Gender norms are ideas about how men and women should be and act. Internalized early in life, gender norms can establish a life cycle of gender socialization and stereotyping.
- x. **Gender parity:** A numerical concept concerning relative equality in terms of numbers and proportions of men and women, girls and boys. Gender parity addresses the ratio of female-to-male values (or males-to-females, in certain cases such as education, health care access among other sectors).
- xi. **Gender planning:** A planning approach that recognizes the different roles that women and men play in society and the fact that they often have different needs.
- xii. **Gender relations:** A specific sub-set of social relations uniting men and women as social groups in a particular community. Gender relations intersect with all other influences on social relations – age, ethnicity, race, religion – to determine the position and identity of people in a social group. Since gender relations are a social construct, they can be changed.
- xiii. **Gender-socialization:** The process of girls and boys, women and men learning social roles based on their sex, which leads to different behaviors and creates differing expectations and attitudes by gender. An example is the concept that girls and women do more household chores, such as cooking and cleaning, while boys and men do more work out of the home. Gender roles often lead to inequality.
- xiv. **Gender-stereotypes:** Ascribing certain attributes, characteristics and roles to people based on their gender. Gender stereotypes can be negative (i.e., women are bad drivers, men can't change diapers) and compassionate (i.e., women are better caregivers, men are stronger). Gender stereotyping becomes harmful when it limits a person's life choices, such as training and professional path, and life plans. Compounded gender stereotypes occur when layered with stereotypes about other characteristics of the person, such as disability, ethnicity or social status.
- xv. **Patriarchy:** Social system in which men hold the greatest power, leadership roles, privilege, moral authority and access to resources notably land. Most modern societies are patriarchal.
- xvi. **Gender analysis:** A critical examination of how differences in gender roles, activities, needs, opportunities and rights/entitlements affect men, women, girls and boys in certain situations or contexts. Gender analysis examines the relationships between females and males and their access to and control of resources and the constraints they face relative to each other. A gender analysis should be integrated into religious and cultural needs assessment and other situational analyses to ensure that gender-based injustices and inequalities are not exacerbated by cultural

and religious practices and beliefs including activities for the promotion of greater equality and justice in gender relations.

- xvii. **Gender balance:** Refers to a situation where both males and females have equal opportunities and access to matters in all the institutions & sectors of the society/country.
- xviii. **Gender Equality:** The concept that women and men, girls and boys have equal conditions, treatment and opportunities for realizing their full potential, human rights and dignity, and for contributing to (and benefitting from) economic, social, cultural and political development. Equality does not mean that women and men will become the same but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender equality implies that the interests, needs and priorities of both women and men and girls and boys are taken into consideration, recognizing the diversity of different groups and that all human beings are free to develop their personal abilities and make choices without the limitations set by stereotypes and prejudices about gender roles.
- xix. **Gender Equity:** Refers to the fairness and justice in women and men's access to social-economic resources, power and decision making processes to attain social justice and human security. Gender equity may involve the use of temporary special measures to compensate for historical or systemic bias or discrimination. It also refers to differential treatment that is fair and positively addresses a bias or disadvantage that is due to gender roles and norms as well as cultural barriers and (past) discrimination of a specific group. Notably the 1.5 points awarded to girls under affirmative action while joining university/higher institutions of learning and the seats reserved for aspiring women leaders from local councils to parliament aimed to increase women in elective positions of leadership. Equity ensures that women and men and girls and boys have an equal chance, not only at the starting point, but also when reaching the finishing line.
- xx. **Gender identity:** Refers to a personal conception of oneself as male or female (or rarely, both or neither).
- xxi. **Gender-based violence (GBV):** An umbrella term for any harmful act that is perpetrated against a person's will and that is based on socially ascribed (gender) differences between females and males. The nature and extent of specific types of GBV vary across cultures, countries and regions. Examples include sexual violence, including sexual exploitation/abuse and forced prostitution, domestic violence, trafficking, forced/early marriage, harmful traditional practices such as female genital mutilation, honor killings and widow inheritance.
- xxii. **Gender bias:** Making decisions based on gender that result in favoring one gender over the other which often results in contexts that are favoring men and/or boys over women and/or girls.
- xxiii. **Gender blindness:** The failure to recognize that the roles and responsibilities of men/boys and women/girls are given to them in specific social, cultural, economic and political contexts and backgrounds. Projects, programmes, policies and attitudes which are gender blind do not take into account these different roles and diverse needs, maintain status quo, and do not support transform the unequal structure of gender relations.
- xxiv. **Gender disparities:** Statistical differences (often referred to as "gaps") between men and women, boys and girls that reflect an inequality.
- xxv. **Gender gap:** Disproportionate difference between men and women and boys and girls, particularly as reflected in attainment of development goals, access to resources and levels of participation. A gender gap indicates gender inequality.

xxvi. Gender Mainstreaming: Refers to deliberate efforts to integrate strategies and actions that address gender inequalities into policies, plans, programmes/projects, institutions, and laws. The goal of gender mainstreaming is equal participation in and benefit from development initiatives for both women and men.

xxvii. Gender Accountability: Refers to showing justification, with a gender perspective, for course(s) of actions at individual, institutional/ organizational and governmental levels. It relates to being answerable and responsible for actions and decisions (policy formulation, planning & budgeting, public expenditure/ resource allocation, legislation, roles assignment and governance).

The intersectionality of Gender with Power, Women's Rights and Justice

Gender and power:

Gender is one of the most persistent causes, consequences and manifestations of power relations. Gender shapes power relations at all levels of society. The set of roles, behaviors and attitudes that societies define as appropriate for men and women is the most persistent cause, consequence and mechanism of power relations from the intimate sphere of the household to the highest levels of political decision-making. Gender interacts with other hierarchical power relationships subsequently reinforcing unequal power relations. Wider structures and institutions shape the distribution of power by reinforcing and relying on gender roles.

Gender is also a consequence, instrument and embodiment of power-over relations. It is a key mechanism through which power not only constrains but constitutes individuals and is perhaps the most persistent form of 'invisible power' in our societies/communities. This can be seen through the ways in which societies define appropriate masculine and feminine behavior. In many societies and cultures, what it means to be a woman is to be powerless; it is considered 'feminine' to be quiet, accommodating, and obedient. By contrast it is considered 'manly' to exercise power-over, that is, to get others to do what you want them to do. In this way, "women/men is a distinction not just of difference, but of power and powerlessness.

As a result of these relations, gender attributions legitimize men's power over women. Men and women consequently consider women's lack of power 'natural' and appropriate. This, for example, significantly reduces women's access to decision-making as they may lack the self-confidence or be actively prevented from speaking up in public meetings. Recognizing these dynamics, work on women's empowerment has focused on women's sense of self-worth and self-knowledge (power-within) as a critical aspect of the process for change.

Gender and women's rights:

Women's rights are entitlements that women have on the basis that they are human. Normatively based in several international human rights documents for instance the Convention on Elimination of All Forms of Discrimination against Women (CEDAW). The convention commits State parties that are signatories to take all appropriate measures, including legislation and temporary special measures, so that women can enjoy all their human rights and fundamental freedoms. Countries that have ratified or agreed to the convention are legally bound to put their provisions into practice.

Women face multiple forms of oppression and discrimination at different levels ultimately constituting rights violations. Beyond gender, women are discriminated because of their race, socio-economic class, age, tribe, ability and disability, level of education, residence-rural vs. urban among other distinctions which shape their experiences of marginalization and rights violations. It is important to note that the oppression of women differs between groups of women. For example, women and girls with disabilities are two to four times more likely to experience domestic violence than women without disabilities.⁷

⁷ <https://www.womankind.org.uk/intersectionality-101-what-is-it-and-why-is-it-important/>

Individual women's experiences of intersecting discrimination and rights violation is unique to them and isn't simply the sum of different discrimination.

Gender and justice:

Laws are essential tools for promoting and protecting women's rights and for attaining gender equality. In societies that are governed by the rule of law, with accessible and just legal systems, women tend to thrive. The rule of law requires that laws are free ASDFGHJVM,,.NBBNNVX from bias and discrimination, equally enforced and independently adjudicated/settled, and consistent with international human rights norms and standards".⁸

Gender-responsiveness within a justice system implies understanding and taking account of the differences in characteristics and life experiences that women and men bring to the justice system, and adjusting strategies and practices in ways that appropriately respond to those conditions.⁹ The UN Committee on the Elimination of Discrimination against Women, articulates six interrelated elements of access to justice that are considered key for a justice system that is responsive to gender. These are: justifiability; availability; accessibility; good quality; accountability and the provision of remedies for victims.

Factors that must be present for justice to be gender responsive

Adequate Remedies (Solutions): making remedies work and respond to women and girls' needs

Adequacy is the appropriateness and sufficiency of a given remedy to address the right violated. For a remedy to be considered adequate, three factors need to coexist:¹⁰ a) the de jure and de facto existence of remedies; b) the availability of such remedies, and c) their affordability.

De jure and de facto existence of remedies pertain to, first and foremost, the existence of laws or substantive domestic legislation which protect women's rights, these legislations, must not only be in accordance with the International Human Rights standards, but must also be capable of addressing the various types of infringement on women's rights.¹¹

Secondly, the presupposition of the existence of mechanisms and institutions that enable women to seek redress in the event of the violation of their rights. This includes existence of well-funded formal legal systems (such as the police, the prosecution service, the courts), informal justice systems and the existence of multi-disciplinary support services (such as counselling, psycho-social, shelters, and medical support among other related services) especially in cases of violence against women. It likewise includes the availability of competent and gender-sensitive professionals providing both legal and non-legal aid (medical, psycho-social) including the duty bearers, primarily the police, the prosecution services, and the court personnel.¹²

Third, the laws of procedure and the rules of evidence followed in these institutions must be gender sensitive and anti-oppressive.¹³

Availability as a factor of adequacy, pertains to the questions of information, non-discrimination, geography, and language. For a remedy/solution to be considered available to women seeking the same, information on their rights, on the remedies available, and the institutions and procedures involved must be made accessible to them by the state's institutions and duty bearers. Such remedies must be available to women without discrimination/exclusion on the basis of race, gender, class and other distinctions. Another consideration of availability would be geography, the distance of state

⁸ IDLO (2013) https://www.idlo.int/sites/default/files/Womens_Access_to_Justice_Full_Report.pdf 2 The Justice, Law And Order Sector Programme, Study On Gender And Access To Justice

⁹ Bloom, Owen and Covington (2003)

¹⁰ Ibid 8

¹¹ Ibid 8

¹² Ibid 8

¹³ Ibid 8

institutions and mechanisms from women's abode that hinder a woman's attempt to access justice; just as language, could also prove as a barrier to women whose native tongues differ from the language of duty bearers in the legal system.¹⁴

Affordability takes into account the economic factor of accessing justice. A remedy cannot be adequate and in fact could prove to be ineffective when the same is too costly and expensive. It covers the cost of litigation from filing and docket fees, to attorney's fees, to the cost of transportation, of gathering of evidence, as well as indirect costs of litigation. Another aspect of affordability would be the opportunity cost of litigation, which looks into the costs which may not be measured monetarily but are nevertheless part of the consequences of litigation for instance in a case of violence against women, the effects to a woman-survivor's employment and productivity, or even the fact that woman's employment, or the idea of women working remains in part to be culturally unacceptable. Affordability as an element must likewise be viewed in the context of available legal aid mechanisms and the requirements to qualify. Therefore, the poverty threshold, household expenditures, and the labor conditions of women which in turn indicate women's capacity to access redress¹⁵ are critical for gender justice.

¹⁴ Ibid 8

¹⁵ Ibid 8

MODULE 2.

GENDER BASED VIOLENCE

Gender Based Violence (GBV) is a human rights violation and impacts on many other critical areas of one's life and advancement. Unfortunately, women and girls in comparison to men bear the biggest impact of Gender based violence in both the private and public sphere. This module covers the dimensions GBV, highlights the Most At Risk Populations (MARPs) of people to GBV and responses to address this rights abuse.

Gender Based Violence (GBV) Defined

Gender-Based Violence refers to harmful acts directed at an individual based on their gender. It is rooted in gender inequality, the abuse of power and harmful norms.¹⁶ GBV is often used interchangeably with Violence against Women and Girls (VAW/G), because women and girls are most often the targets of GBV. Nevertheless, the targets of GBV can be both women and girls; men and boys.

GBV is a violation of human rights and a life-threatening health and protection issue. It is estimated that one in three women will experience sexual or physical violence in their lifetime.

Violence against Women and Girls (VAW/G)

Violence Against Women and Girls encompasses, but is not limited to; physical, sexual, economic and psychological violence which occurs within diverse communities, including rape, defilement, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution.

The Declaration on the Elimination of VAW/G is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of their full advancement. Violence against women is one of the crucial social mechanisms by which women are forced into subordinate positions compared with men.

Besides women, other targets of GBV are:

- a. Children, especially unaccompanied minors, Orphans and Vulnerable Children (OVCs) and fostered children.
- b. Unaccompanied females, without male protection.
- c. Single women, female headed households.
- d. Females and males living with mental and/or physical disability.
- e. Economically disempowered people especially women.
- f. Junior staff members, students, less privileged community members.
- g. Minority groups; e.g., ethnic and religious minorities

Categories or groups of people who are potential perpetrators of GBV

- a. Intimate partners.
- b. Influential community members in positions of authority.
- c. Strangers.
- d. Members of the community.
- e. Relatives.

¹⁶ <https://www.unhcr.org/gender-based-violence.html>

Forms of Gender-Based Violence (GBV)

GBV involves the abuse of authority in the home, school or community. GBV can include sexual, physical, mental and economic harm inflicted in public or in private. It also includes threats of violence, coercion and manipulation. This can take many forms such as Intimate Partner Violence (IPV), Violence Against Children (VAC), sexual violence, child marriage, Female Genital Mutilation and so-called 'honor crimes'.

- 1) **Physical violence:** This consists of acts aimed at physically hurting the victim and include, but are not limited to, pushing, grabbing, twisting the arm, pulling the hair, slapping, kicking, biting or hitting with the fist or object, trying to strangle or suffocate, burning or scalding on purpose, or threatening or attacking with some sort of weapon, gun or knife.
- 2) **Sexual violence:** Refers to any sort of harmful or unwanted sexual behavior that is imposed on someone. It includes acts of abusive sexual contact, forced engagement in sexual acts, attempted or completed sexual acts without consent, incest, sexual harassment, among others. In intimate partner relationships, experiencing sexual violence is commonly defined as being forced to have sexual intercourse, having sexual intercourse out of fear for what the partner might do, and/or being forced to do something sexual that the woman considers humiliating or degrading. Sexual violence (including rape) includes the following:
 - a. Engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object; or
 - b. Engaging in other non-consensual acts of a sexual nature with a person; or
 - c. Causing another person to engage in non-consensual acts of a sexual nature with a third person. Consent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances.
- 3) **Psychological/Emotional** violence includes a range of behaviors that encompass acts of emotional abuse and controlling behavior. These often coexist with acts of physical and sexual violence by intimate partners and are acts of violence in themselves.
- 4) **Economic violence** is any action that causes denial or deprivation of economic or financial resources to which a person is entitled. It is behavior that controls and in essence limits a victim's ability to access, acquire, own, use, and maintain resources, thus threatening her or his economic security. Some examples of economic violence include:
 - a) Denial of inheritance rights or unequitable distribution of property such as land
 - b) Denial of opportunities necessary for attaining economic independence such as education, work/employment, education, health care, decision-making, e.t.c.
 - c) Theft of a person's earnings or proceeds of work (e.g harvests)

There are other related vices whose definitions are given below:

- 1) Domestic violence (DV) refers to all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim.
- 2) Harmful Practices (HP) are internationally recognized human rights violations that include child marriage and female genital mutilation/cutting.
- 3) Violence against Children in Schools (VACiS). The UN Convention on the Rights of Children (CRC) defines 'violence' as all forms of physical or mental violence, injury and abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse. Violence against children in schools refers to all acts of violence inflicted on children of school going age 3-18 years within the school setting.

Root Causes of Gender Based Violence: These include;

- i. Male and/or society attitudes of disrespect or disregard towards women.
- ii. Lack of belief in equality of human rights for all.
- iii. Cultural/social norms of gender inequality.
- iv. Lack of value of women and/or women's work.
- v. Alcohol/drug abuse.
- vi. Poverty.
- vii. Religious, cultural, and/or family beliefs and practices
- viii. General lawlessness
- ix. Societal norms on sexual rights, including denial of conjugal rights
- x. Harmful traditional practices e.g. forced marriage, child marriage, forced virginity testing and forced wife inheritance
- xi. Variance between the modern and traditional/religious conceptions of love by men and women

The consequences of gender-based violence are devastating and can have life-long repercussions for survivors. It can lead to physical impairments and in some cases death.

Prevention and response Strategies to Gender Based Violence

- Prevention is a long term process and requires systematic monitoring so that strategies can be changed over time to maximize effectiveness. Developing prevention strategies requires effective assessment, planning, monitoring, and adequate resources (human, financial, technical).
- The root causes of GBV are long standing cultural norms. It may take several generations before there is lasting social change that results in a real reduction or elimination of GBV.
- For every act of GBV, there is a perpetrator and a survivor/victim. Prevention strategies must target both potential perpetrators and potential survivors.
- Response to addressing GBV may include providing services and support to reduce the harmful after-effects of GBV and prevention of further injury, trauma, and harm. Response to address GBV may include action to:
 - Assist/support the survivor.
 - Provide appropriate consequences to the perpetrator such as reporting to the police to have them detained and commuted.
 - Restore/maintain security for the survivor and the community.

The following sectors are critical in the response to GBV. They include functional areas in:

Health care

1. Psychosocial assistance
 2. Psychological and emotional support
- Social acceptance and reintegration.
 - Security and safety.

Legal justice—use of formal and traditional justice systems.

NB: All actors in the fight against GBV need to work in collaboration with one another in order to attain long lasting outcomes in addressing GBV results.

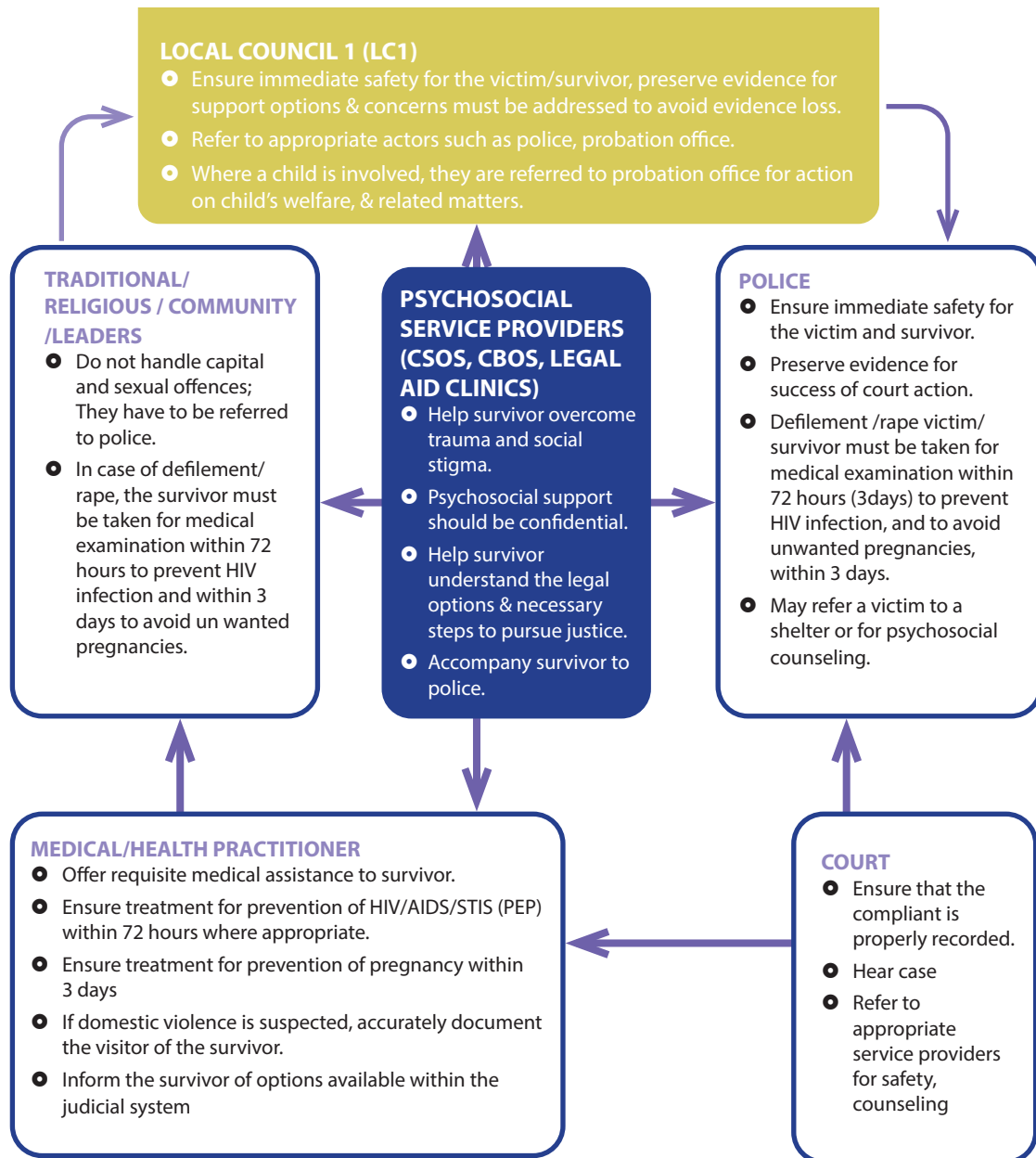
Responses should also include:

- Training for all actors in all sectors, and at all levels—whether volunteer or staff—to respond compassionately, confidentially, and appropriately.
- Establishing reporting and referral systems.

- Documentation of reported incidents, data analysis, monitoring and evaluation.
- Coordination and information sharing systems among the various actors and organizations.

However, efforts need to be focused at the prevention stage to ensure the occurrence of abuse awareness of abuse are limited. This can be done through building a community that does not tolerate violence by emphasizing civic education and awareness creation to enable change of the negative social-cultural attitudes.

REFERRAL PATHWAY FOR GENDER BASED VIOLENCE CASES



(Source: GOU, Communication for Development foundation Uganda, Government of Sweden & UNWOMEN; Referral of GBV flier)

GUIDING PRINCIPLES

All actors must abide by the Guiding Principles at all times with no exceptions.

1. If safety and sensitivity, confidentiality, non-discrimination or respect are breached or compromised in some way by those who are helping victims/survivors, then the helpers will actually be harming the survivor.

Safety and Sensitivity

Ensuring the safety, sensitivity to, and security of the survivor should be the number one priority for all actors, at all times. Remember that the survivor may be frightened and needs assurance of her individual safety. In all cases, ensure that she is not at risk of further harm by the perpetrator or by other members of the community. Service providers must be sensitive to the need for timely provision of services.

If necessary, ask for assistance from police, or other law enforcement authorities, field officers, or others.

Be aware of the safety and security of the people who are helping the survivor, such as family, friends, community service or GBV workers, and health care staff.

Confidentiality

- At all times, respect the confidentiality of the survivor and their families.
- Share only necessary and relevant information (not all details), ONLY if requested and agreed by the survivor, with only those actors involved in providing assistance.

NB: Information about GBV reported incidents and GBV survivors should never be shared if it includes the individual's name or other identifying information. Information concerning the survivor should only be shared with third parties after seeking and obtaining the survivor's (or their parents,' in the case of children) explicit consent in writing. The shame and stigma attached to GBV keeps it hidden from the public view. A sense of trust and strict confidentiality must be established before survivors acknowledge that violence has occurred and are able to access services.

- All written information must be maintained in secure files.
- If any reports or statistics are to be made public, all potentially identifying information should be removed and only aggregate numbers and data made public.
- In meetings, there may be times when a specific GBV case is mentioned. Ensure that no identifying information is revealed, disguising details as needed to protect the confidentiality of the survivor.

Non discrimination

- Ensure non-discrimination in all interactions with survivors and in all service provision.

Respect

All actions taken will be guided by respect for the choices, wishes, rights, and dignity of the victim/survivor. GBV degrades the survivors and makes them lose self-respect and self-confidence. GBV survivors are also at the mercy of service providers because of their precarious situation. To regain the confidence of survivors all actions taken should be guided by respect for their choices rights and dignity. Some examples:

- Conduct interviews in private settings.
- Always try to conduct interviews and examinations with staff of the same sex as the victim/survivor (e.g., woman survivor to woman interviewer)
- Be a good listener.
- Maintain a non-judgmental manner/words and tone.

- Be patient; do not press for more information if the survivor is not ready to speak about her experience.
- Ask survivors only relevant questions. Do not interrogate her. That is the job of the police.
- The prior sexual history or status of virginity of the survivor is not an issue and should not be discussed.
- Avoid requiring the survivor to repeat her story in multiple interviews.
- Do not laugh or show any disrespect for the individual or her culture, family or situation.

MODULE 3.

HUMAN RIGHTS AND WOMEN' RIGHTS

The module aims to enhance religious and cultural leaders understanding of human rights particularly women's rights; the legal and policy frameworks for women's rights promotion and protection as well as cultural and religious leader's role in curbing women's rights violations.

Human Rights

Human rights are rights people (both women and men) have as human beings - they are not granted by any State. Human rights are universal and are inherent (inborn and natural) to all, regardless of nationality, sex, nationality or ethnic origin, color, religion, language, or any other status. Human rights range from the most fundamental such as the right to life and to other rights that make life worth living, such as the rights to food, education, work, health, and liberty.¹⁷ The Universal Declaration of Human Rights (UDHR) 1948, set out the fundamental human rights to be universally protected. The UDHR is the foundation of all international human rights law. Its 30 articles provide the principles and building blocks of current and future human rights conventions, treaties (agreements) and other legal instruments.

Human rights summarized:

- Everyone has the right to life, liberty and security of person.
- No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.
- No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- Everyone has the right to recognition everywhere as a person before the law.
- All are equal before the law and are entitled without any discrimination to equal protection of the law.
- Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.
- No one shall be subjected to arbitrary arrest, detention or exile.
- Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him/her.
- Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his/her defense.
- No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.
- No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.
- Everyone has the right to freedom of movement and residence within the borders of each state.
- Everyone has the right to leave any country, including his own, and to return to his country.
- Everyone has the right to seek and to enjoy in other countries asylum from persecution

¹⁷ <https://www.ohchr.org/en/what-are-human-rights>

- Everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.
- Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. Marriage shall be entered into only with the free and full consent of the intending spouses. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
- Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property.
- Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.
- Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.
- Everyone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association.
- Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. Everyone has the right of equal access to public service in his country.
- Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.
- Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
- Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.
- Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.
- Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.
- Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.
- Everyone has duties to the community in which alone the free and full development of his personality is possible.

SOURCE: Universal Declaration of Human Rights

WOMEN'S RIGHTS

What are women's human rights?

Women's rights are human rights as enshrined by the United Nations for every human being. These rights include the right to life, the right to live free from violence, slavery, and discrimination; to be educated; to own property; to vote; and to earn a fair and equal wage among others as listed in the previous section.

The famous saying "women's rights are human rights" aims to stress and emphasize that women are entitled to all rights as men to enjoy all economic, social, cultural, civil and political rights. Women all over the world are denied their rights, often simply because of their gender.¹⁸ Women and girls besides suffering from similar economic and social human rights violations like boys and men, experience specific forms of discrimination and human rights violations just because they are women. Such as denial of basic rights to own land, get an education and occupy positions of leadership. Women face violence on a regular basis with no functional systems for redress among others. Patriarchy is prevalent and affects respect for most basic rights of women.

The Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women. The Universal Declaration of Human Rights affirms the principle of the inadmissibility (not allowed or permitted) of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is a separate human rights treaty (agreement) for women. In 1985, government of Uganda ratified (approved/consented to) CEDAW and upon ratification, in 1995 domesticated the provisions of CEDAW in the Constitution. CEDAW highlights specific women rights concerns. These include;

- a. **Trafficking in women and exploitation.** Trafficking of women and girls is prohibited by Article 6 of the CEDAW. The buying of women and girls is a common practice in many countries around the world including Uganda. Every year a number of girls and women are sold as cheap labor and for sex.¹⁹ Uganda as a state party to CEDAW is mandated to suppress all forms of this rights violation. Uganda passed the Anti-Trafficking in Persons Act 2010, a law which criminalizes trafficking in persons.
- b. **Women's participation in political and public life of the country.** In this regard, Article 7 of CEDAW restates women's rights (i) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; (ii) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; (iii) To participate in non-governmental organizations and associations concerned with the public and political life of the country. This includes equal rights for women to represent their countries at the international level (Article 8). Article 7 is domesticated in Uganda's Constitution under Article 33(4) which states that: "Women shall have the right to equal treatment with men and that right shall include equal opportunities in political, economic and social activities."
- c. **Women's equal rights with men to acquire, change or retain their nationality in Article 9 of CEDAW.** In 2009 Uganda adopted a clause on dual citizenship for persons who fulfill the conditions specified under the Uganda Citizenship and Immigration Control Act, Cap 66 (as Amended). Any person (man or woman) who wishes to hold the citizenship of Uganda and another country which allows dual citizenship should apply for and obtain a certificate of dual citizenship from the National Citizenship and Immigration Board.

¹⁸ <https://www.globalfundforwomen.org/womens-human-rights/>

¹⁹ The British Council, 2014: A training manual on the Convention on Elimination of all forms of Discrimination Against Women (CEDAW).

The process of acquiring a passport has been changed and is now in tandem with the constitutional provisions on citizenship. Married women are no longer required to obtain written consent of their husbands before being issued with passports. In addition such consent is not required when married women choose to include their children in their passports.

Global, regional and national instruments for women's rights and Gender Equality

- Universal Declaration of human rights (UDHR 1948).
- The Convention on the Elimination of All forms of Discrimination against Women (1979).
- The Beijing Declaration and Platform for Action (1995).
- The Sustainable Development goals (2015).
- The protocol to the African Charter on Human and people's rights on the rights of women in Africa (2003).
- The AU Solemn Declaration on Gender Equality (2004).
- The 1995 Uganda constitution.
- The National Gender policy (2007).
- The Domestic Violence Act (2010).
- The Prohibition of Female Genital Mutilation Act (2010).
- The Sexual Offences Law (2021)

d. Articles 10-14 of CEDAW provide for Economic, Social and Cultural Rights of women. Article 10 of CEDAW provides for equality of women in education. The same article is domesticated in Article 30 of the Constitution of Uganda which states that "All persons have a right to education." All persons here includes: boys and girls, men and women. Nevertheless, some parents give boys an opportunity to go to school and deny their daughters the right to education. Equally, numerous domestic chores placed on the girl child prevent her from attending school regularly and in some cases she eventually drops out of school.

e. Discrimination against women in employment. Article 11 of the CEDAW provides for the rights of women to equal employment opportunities with men. Article 11 of CEDAW is domesticated in Article 33 (4) of the Constitution and Uganda's Employment Act, 2006. Article 33(4) states that "Women shall have the right to equal treatment with men and that right shall include equal opportunities in political, economic and social activities".

However, due to discrimination in regard to the right to education between boys and girls, women at times do not have the qualifications to get certain jobs; Policies that enhance women's work are not in place in some institutions. For instance, the lack of nurseries at times affects women's time at work, some companies discriminate against women due to their maternal roles and some companies/ organizations do not respect the maternity leave of new mothers. CEDAW mandates in Article 11 that States Parties prohibit dismissals in work on grounds of being married or pregnant; and "to introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances."

f. Discrimination against women in the field of health care & family planning. Article 12 of CEDAW provides for the rights of women in health care and family planning. A similar provision is stated in The National Objectives and Directive Principles of State Policy XX of Uganda's Constitution which provides that "The State shall take all practical measures to ensure the provision of basic medical services to the population". Ministry of Health has developed the Health Sector Strategic Plan II which provides for the Uganda National Minimum Health Care Package for Ugandans to include: i) Health Promotion, Disease Prevention and Community Health Initiatives ii) Maternal and Child

Health iii) Prevention and Control of Communicable Diseases iv) Prevention and Control of Non-Communicable Diseases. Examples of forms of discrimination faced by women include; Limited role of women in decision making on matters that affect their health, Loss of employment due to pregnancy, Traditional practices that are harmful to women like female genital mutilation and Limited care and protection for women during pregnancy.

- g. Discrimination against women in rural areas.** Women in rural areas are overburdened with the multiple roles they perform at both family level and community level. Many women are mothers and also sole bread winners for their families even when their spouses are living. Women do not equally benefit from the proceeds of their labour. For instance, many women do not own land and only have access. However, after they have tilled the land and it has yielded produce majority cannot make decisions on the proceeds from the sales. Women are so engaged in domestic chores that a number of them do not participate in decision making within their communities. Article 14 provides for equality of women in the rural environment. Article 14 of CEDAW is domesticated in Article 33 of the Constitution of Uganda.
- h. Equality before the law between men and women especially in fields related to the legal capacity of women, freedom of movement & choice of residence** (Article 15 of CEDAW): Article 15 of CEDAW is domesticated under Article 21 (1) of the Constitution of Uganda which states that: “All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every respect shall enjoy equal protection of the law.” Examples of discrimination faced by women include; traditions and customs which restrict women from exercising their choice of residence, Negative attitudes towards women with regard to inheritance, Negative attitude towards women who enforce their rights e.g. reporting husband’s acts of domestic violence, defilement of children including their own. Further, some law enforcement officers do not take women seriously when they report cases e.g. of domestic violence. Most women are denied justice because they do not have money to pay for the services of a lawyer. Access to legal aid services for women and other marginalized groups who cannot afford the services of a lawyer are limited because currently, there is no Legal Aid Service Providers law in Uganda and most legal aid services are funded by donors.
- i. Discrimination against women in marriage and the family.** Some women still don’t have the freedom of choice of partner and some are forced into marriage without their consent. Article 16 of CEDAW outlines the need to eliminate discrimination in all matters relating to the family. Article 16 of CEDAW is domesticated in Article 31 (1) of the Constitution which provides for the right of men and women of the age of eighteen years and above to marry and to found a family and their entitlement to equal rights in marriage, during marriage and at its dissolution.

SOURCE: CEDAW with excerpts from training manual on the CEDAW by the British council

Common Women rights Violations across different cultures in Uganda

- Forceful marriage especially of girls. Uganda ranks 9th among the top 20 ‘hotspot’ countries for child marriage²⁰
- Women are barred from bride price discussions which has an implication on marriage.
- Failure to decide/ lack of decision making power on the number of children to have.
- Women particularly in rural areas have limited access to family planning services and their husbands require them to seek for permission to use it. As a result majority have between 6-7 children whom they cannot adequately look after. 24 percent of girls in rural areas give birth earlier than girls from urban areas²¹.

²⁰ MGLSD, 2021

²¹ Ibid 20

- Widow inheritance without widow's consent by brother in laws and other relatives is still practiced in some cultures.
- Widow and orphan dis-inheritance/dispossession of property of their husbands and fathers respectively upon the latter's demise.
- Restrictions on women in exercising their choice of residence.
- Negative attitudes towards women with regard to inheritance.
- Women do not equally benefit from the proceeds of their labour. For instance, many women do not own land and only have access. However, after they have tilled the land and it has yielded produce they cannot make decisions on the proceeds from the sales.
- Culture defines the roles women can play in society. In some regions of Uganda, to date women cannot occupy leadership positions in the community and if they do they are not respected.
- Women have no say in the decision making of the family benefits, loans, mortgages.
- No access to loans and mortgages independently of seeking consent from husbands.
- Employed women are assumed to be dependent on men and thus not given some allowances such as housing allowance.
- Women who go out to public places like restaurants/hotels without men are at times not served and assumed to be prostitutes.
- Some husbands do not allow their wives to work.
- Traditional practices that are harmful to women like female genital mutilation.
- Some parents give boys an opportunity to go to school and deny their daughters the right to education (Son preference).
- Numerous domestic chores placed on the girl child and women thereby limiting their opportunities to fully harness their productive gender roles.

Measures taken by government of Uganda to address discrimination of women

Uganda is signatory to a number to regional and information human and women's rights specific instruments and hence gone ahead to domestic them into national law and policies.

- The 1995 Constitution of Uganda recognizes equality between men and women. The government disallowed discrimination against women in the Constitution and adopted gender sensitive language as well as prohibited cultures that infringe on the rights of women. The Equal Opportunities Commission was set up to /address all kinds of discrimination against women among other vulnerable groups of people such as the elderly and persons with disabilities.
- GOU enacted the Uganda Gender Policy 1997 as amended and also developed the national plan of action on women.
- Affirmative action in the constitution is one of the temporary measures to increase the number of women in politics and institutions of higher learning. This type of affirmative action is known as positive discrimination aimed to achieve equality between men and women. Through affirmative action women can get elected and participate in decision making in Parliament and in local councils
- Accorded women equality with men before the law and emphasizes the principle of non-discrimination—Article 21 of the Constitution of Uganda.
- Passed laws like the Domestic Violence Act in 2010 to address gender specific concerns of women and men with regard to violence.

- In the constitution, cultures that are not in line with the constitution are prohibited. The political objectives of the Constitution of Uganda state that all development efforts are directed at ensuring the social and economic well-being of all people with recognition of the role women play in society.
- Government has put in place policies to promote the participation of women in economic and social life
- Establishment of women councils to mobilize women to participate in government programs.
- Introduced primary health care as a major policy with emphasis on health promotion, prevention and disease control, HIV/AIDs prevention and immunization.
- Constructed health centers at sub-county level to increase access to health care for women.
- Adopted policies like Universal Primary Education (UPE) and Universal Secondary Education (USE) to provide access to education for both boys and girls. Additionally, adopted gender policies in education that promote equality to education for girls e.g. construction of separate toilets for boys and girls. Established a gender desk in Ministry of Education and Sports to ensure that gender is mainstreamed in all education programs and policies

Other policies and plans across diverse sectors to promote women and girls rights

- Gender in Education policy 2016
- The Gender in Education Strategic Plan 2015-2020
- The National Strategic plan on Violence against children in Schools (2015-2020)
- The Education and Sports Sector Strategic plan 2017/18-2019/2020)
- The National guidelines for the prevention of teenage pregnancy and re-entry of child mothers in school settings 2020.
- The National S/GBV Action Plan for children 2019/30.

Roles of religious and cultural leaders in curbing /eliminating women and girl rights violations in socio-economic, cultural and public spheres

(Adapted from the training manual on the Convention on Elimination of All Forms of Discrimination against Women by the British council)

- Spear head education of communities especially congregations/followers on women's socio economic and cultural rights and civil and political rights.
- Undertake and back advocacy for the repeal of discriminatory laws and practices against women and girls such as early and forced marriage, women dis-inheritance, widow inheritance and such other practices.
- Expose and report cases of discrimination against women in employment, within marriage and the family to the structures provided under the law.
- Expose discrimination against women in access to development programmes in both government and private sector including denial of access to economic facilities.
- Monitor implementation of government policies geared towards enhancing equality between men and women.
- Support more women to attain strategic positions in cultural and religious institutions to enhance their participation in decision making & equal opportunity for women in economic and social life.
- Report sexual harassment against women and other related sexual rights violations and call for action from duty bearers.
- Advocate for policies that enhance equal opportunity for women to work and be part of advocacy campaigns that advance gender equality for women and men in political and public life.

- Encourage women to attain the highest levels of education and use opportunities open to them for their advancement and development of communities.
- Lead by example and sow seeds of justice and peace and to awaken /remind society/communities whenever they've deviated from these ideals²².
- Advocate for just and equitable social economic and political welfare of all people-women and men.
- Constantly remind citizens of the critical values that will facilitate a just, united, equitable and peaceful Ugandan societies.
- Promote unity and peaceful co-existence between women and men and desist from perpetuating practices, norms, beliefs including stereotypes that stifle gender equality and development.

²² IRCU, 2013; Building the Uganda we want 'the Role of faith communities'.

MODULE 4.

ACCESS TO JUSTICE

Justice in Uganda is dispensed through the Judiciary of Uganda. The module highlights the different levels of justice dispensation in Uganda as well as both formal and informal referral pathways for accessing justice by aggrieved persons particularly women.

The Judiciary's main objective is "To improve access to Justice for all people in Uganda". The specific objectives are; i) To ensure that Justice is carried out for all irrespective of their social or economic status ii) To ensure that Justice is administered in a timely manner without delay iii) To ensure that adequate compensation is awarded to victims of wrongs iv) To promote reconciliation between parties v) To administer substantive Justice without undue regard to technicalities.

The main functions of the Judiciary are to: i) Administer justice through resolving disputes between Citizen and Citizen and between the State and Citizen ii) Interpret the Constitution and the laws of Uganda iii) Promote the rule of law and to contribute to the maintenance of order in society iv) Safeguard the Constitution and uphold democratic principles v) Protect human rights of individuals and groups.

The Formal justice system

The formal justice system is comprised of the court structure as designated by the 1995 Uganda constitution. The court structure consists of the Supreme Court at the top, the Court of Appeal/ Constitutional Court, the High Court and the Magistrates Court. There are also the Local Council Courts which according to the Local Council Courts Act, 2006 handle civil cases including land matters, matters specified under the Children's Act, causes and matters arising from bye-laws or ordinances, matters or causes of a civil nature governed by customary laws. The matters that Local Council Courts have legal jurisdiction to handle are provided for in the Schedules of the Local Council Courts Act 20006.

a) The Supreme Court

The Supreme Court is established by Article 130 of the Constitution and is at the top of the judicial pyramid. It has no original jurisdiction save as conferred by law like in the case of Presidential Elections petitions. This Court is the final court of appeal should an aggrieved party feel dissatisfied with the decision of the Court of Appeal.

The Supreme Court is headed by the Chief Justice and is duly constituted at any sitting by five Justices. The decisions of the Supreme Court form precedents (patterns and standards) followed by all lower courts.

b) Court of Appeal / Constitutional Court

The Court of Appeal is the second Court of record, and positioned between the Supreme Court and the High Court. The Court has appellate jurisdiction over the High Court. It is not a Court of first instance except when hearing constitutional cases as it is also the Constitutional Court. Any question as to the interpretation of the constitution is determined by the court of appeal that sits as the constitutional court..

c) High Court

The High Court of Uganda is established by Article 138 of the Constitution. It is the third court of record in order of hierarchy and has unlimited original jurisdiction i.e. it can try any case of any value or crime of any magnitude in Uganda. Appeals from all Magistrates Courts go to the High Court. The High Court

is headed by the Principal Judge and is responsible for the administration of the court and has general supervisory powers over Magistrate's Courts. The High Court conducts business at the headquarters and at the decentralized high courts all over the country.

d) Magistrates Courts

Magistrate's Courts are the lowest subordinate courts whose decisions are subject to review by the High Court. There are three levels of Magistrates courts: Chief Magistrates, Magistrates Grade I and Magistrates Grade II. These courts handle the bulk of cases in Uganda. Presently the country is divided into 38 Chief Magisterial areas administered by Chief Magistrates who have general powers of supervision over all magisterial courts within the area of their jurisdiction.

There are currently 38 Chief Magistrates' Courts, 120 Magistrates' Grade I Courts and over 100 Magistrates' Grade II Courts. Each Chief Magistrates' Court has a Chief Magistrate, and Magistrates Grade I. Magistrates Grade II's have recently been posted to individual station to provide wider coverage of services to the people.

The Judiciary also supervises the Local Council courts as well as tribunals.

e) Local Council Courts

The Local Council Courts Act 2006 established the Local Council Courts (LCCs) right from the village, parish and sub-county levels or town divisions. They play a dual role as executive officers of Local Council Committees and (quasi) judicial officers of LCCs. The LCC are semi-informal courts. They are formal because they are established by law and supervised by the formal courts of law such as the Chief Magistrate Court or High Court depending on the matter at hand. Appeals from the highest of the LC Committees, sub-county lie to the Chief Magistrate in cases involving a substantial question of law and those that appear to have caused a substantial miscarriage of justice lie to the High Court. LCC are informal in that they are run by lay people and not lawyers. They basically apply cultural-social norms that resonate with justice. LCCs are not fully regulated by written rules of procedure and therefore operate in a context where discretion and customary law apply.

The LCC have jurisdiction in all civil matters in their territorial area as provided for within the LCC Act 2006. These include debts, contracts, assault and battery, conversion, damage to property and trespass; Matters governed only by customary law, such as customary land, marriage, marital status, separation, divorce or the parentage of children; disputes relating to the identity of a customary heir and Customary bailment; and matters arising out of infringement of their bye-laws. They are the first courts of instance on matter affecting children (Children Act 1996). LCC are legally mandated to provide reliefs such as reconciliation, compensation, declaration, restitution, costs and apology.

Informal justice mechanisms

The limitations within the formal justice system in delivering justice to the majority of Ugandans such as accessibility, costliness has in part triggered the popularity of the informal justice mechanisms. These include the following. This is not provided by law? Its just the limitation of the formal ?

a) Qadhi Courts

Article 129(1), (d) provides for the establishment of Qadhi courts to assist in handling matters of marriage, divorce, inheritance, guardianship and child custody. However, they are not yet operational for lack of an enabling law and therefore operate informally. The above notwithstanding, a considerable number of Muslims in local communities in Uganda make use of informal Muslim courts which rely on Shariah laws²³.

²³ Muslim Centre for Justice and Law, 2012

The Muslim Community has advocated for the Muslim Personal Law Bill to operationalize Qadhi courts. The Qadhi court would be subordinate to the High Court of Uganda. If passed into law, it would contribute towards promotion of access to justice to the Muslim Community including women.

b) Clan and family courts: The clan courts handle cases brought before them based on traditional norms and codes of conduct. Among the Langi, the structure of the clan based informal justice system is very complex and starts from the level of dog ot where the head of a particular family is the person to report complaints to if any family member feels their rights have been violated. From the family level the complaint can be escalated to the parish level clan structure, the sub-county level clan structure overseeing the entire clan, and then to the Rwot Nyaci who is leader of all clans among the entire Langi. Like the Acholi, the Langi follow their traditional beliefs that injustices lead to cen or misfortunes in the clan and therefore strive to ensure that justice is served honestly and in a transparent manner to avoid calamity. Women are currently represented in the clan structures and thus play a key role in dispensation of justice in these structures

c) Elders and their institutions: In some parts of Uganda like in Karamoja, the family is the first unit for dispensing justice. In the Family (Ekal), the relatives of the greater extended family, play a vital role in ensuring the adherence to social norms. Outside the Ekal, the Villages, as a social structure, have a courtroom area (Etem) in which disputes amongst the villagers are resolved, beyond which matters are handled by the Akiret (Council of Elders).²⁴

d) Traditional Institutions: The courts that exist in traditional institutions are not regulated by the laws of Uganda. For instance the Bataka Courts in Kagadi are a local initiative to improve access to justice. Other courts such as the Kisekwa Court in Buganda²⁵ are also in existence.

e) Associational and Commercial institutions

There are practices and dispute resolutions mechanism adopted by business people at various levels.

f) Church/Canon courts: The Churches rely on Canon laws which are a body of regulations made by Church authority. The Canon laws are used to settle controversies among its members. These Courts are informal and handle cases regarding marriage. However, since churches in Uganda conduct marriages on behalf of the State, their decisions can be challenged in the Courts of Law in Uganda.

²⁴ Chapman, Chris & Kagaha, Alexander (2009). "Resolving Conflicts Using Traditional Mechanisms in the Karamoja and Teso Regions of Uganda." Minority Rights International, August

²⁵ Frederick W. Jjuuko January 25, 2018; The role of Informal justice Mechanisms in Deepening Access to Justice: Options and Opportunities for Legal Pluralism in Uganda

MODULE 5.

ALTERNATIVE DISPUTE RESOLUTION (ADR)

The Judicial system in Uganda recognizes alternative dispute resolution (ADR) mechanisms in the administration of Justice. ADR is perceived to be efficient, accessible, faster and affordable. The module highlights renowned ADR strategies that religious and cultural leaders can apply with an emphasis on gender sensitive and responsive dispute resolution.

What is Alternative Dispute resolution?

ADR is a structured process under which parties to a dispute negotiate their own settlement with the assistance of an intermediary who is a neutral person and trained in the techniques of ADR. The strategies involved in ADR include negotiation, conciliation, mediation, mini-trial/early neutral evaluation, court annexed ADR and arbitration²⁶. These ADR approaches are relied upon as alternate or complement to conventional law suits.

The Judicature Act, Cap. 13 provides for ADR under Court's direction. Sections 26 to 32 of the Act provide for situations when matters can be referred to a special referee or arbitrator to handle where such official has been granted High Court powers to inquire and report on any cause or matter other than a criminal proceeding. Among the situations for ADR include;

In section 26; References to referees

- (1) The High Court may, in accordance with rules of court, refer to an official or special referee for inquiry and report any question arising in any cause or matter, other than in a criminal proceeding.
- (2) The report of an official or special referee may be adopted wholly or partly by the High Court and if so adopted may be enforced as a judgment or order of the High Court

In Section 27; Trial by referee or arbitrator

Where in any cause or matter, other than a criminal proceeding—

- (a) All the parties interested who are not under disability consent;
- (b) The cause or matter requires any prolonged examination of documents or any scientific or legal investigation which cannot, in the opinion of the High Court, conveniently be conducted by the High Court through its ordinary officers; or
- (c) The question in dispute consists wholly or partly of accounts, the High Court may, at any time, order the whole cause or matter or any question of fact arising in it to be tried before a special referee or arbitrator agreed to by the parties or before an official referee or an officer of the High Court.

²⁶ Hon. Justice G. W. M. Kiryabwire: Alternative Dispute Resolution – A catalyst in Commercial Development: A case study from Uganda; in Uganda Living Law Journal , Vol. 3: No. 2 December 2005, at p. 145.

ADR strategies/approaches explained

a) **Negotiation (adapted from an article by the mediation and arbitration Centre on negotiation as a form of alternative Dispute resolution).**

Negotiation is any form of direct or indirect communication and process through which parties who have conflicting interests discuss the form of any action which they may take together to manage and ultimately resolve the dispute between them²⁷.

Negotiations may be used to resolve an existing problem for example land distribution or to lay the groundwork for a future relationship between two or more parties. There is no compulsion for either of the parties to participate in the process of negotiation. The parties have the free will to either accept or reject the decisions that come out of the process of negotiation. There is no restriction in the number of parties that can participate in the process of negotiation. This can vary from two to more people involved in the negotiation process.

The outcome of a negotiation is reached by parties together without resorting to a neutral third party. The process and procedure is flexible and informal involving only those individuals or parties interested in the matter. They shape the process of negotiation as per their own needs and at their own convenience. The likelihood of reaching a mutually acceptable agreement is high in this process since the acceptance by all the parties is ensured.

Opting for negotiation over litigation (law suit) reduces the number of delays and expenses associated with court cases. Among the limitations of negotiations as an ADR approach includes; Parties may terminate the process whenever they wish to during the proceedings resulting in loss of time and money invested in the process. Additionally, some issues cannot be resolved over negotiation such as sexual rights violations notably rape, defilement among other related offenses. Nevertheless, it is a much more time and financial saving process than law suits.

b) **Conciliation (adapted from Uganda Law Reform Commission journal article on Arbitration, conciliation & mediation in Uganda, 2010)**

This is a form of Alternative Dispute Resolution provided for under the Arbitration and Conciliation Act. A Conciliator²⁸ aims to assist the parties to a dispute find a solution, but has no power to enforce it. The parties to the dispute arrive at their solution independently and impartially as stipulated by Section 53 of the Act. The Act provides the basis for which the Conciliator plays a role. It states that: “The Conciliator shall be guided by principles of objectivity, fairness and justice, giving consideration to, among other things, the rights and obligations of the parties, the usages of the trade concerned and the circumstances surrounding the dispute, including any previous business practices between the parties.”

The conciliator is expected to conduct the proceedings of the conciliation in the best manner deemed fit with a focus and interest of the parties and the circumstances surrounding the dispute. For purposes of gender responsive justice, Women and girls experiences linked to societal roles and expectations need to be borne in mind.

²⁷ <https://viamediationcentre.org/readnews/NDI1/Negotiation-as-a-form-of-Alternative-Dispute-Resolution>

²⁸ A conciliator, also called an administrative judge, is responsible for helping two parties come to an agreement or negotiate terms outside of the court. Conciliators act as neutral entities between opposing parties and work to ensure they both can settle their dispute without turning to a court trial.

Basic steps in Conciliation

Part V of the Judicature Act provides for the steps to follow in Conciliation proceedings. These are as follows:

- a) The party initiating the proceedings sends to the other party a written invitation for conciliation which is only initiated if the other party accepts the invitation by replying to the same within 21 days.
- b) The parties appoint a Conciliator.
- c) Each party submits to the Conciliator a brief written statement describing the general nature of the dispute and the points at issue.
- d) Once elements of settlement surface during the course of the proceedings, the Conciliator helps the parties to draft a settlement agreement, which is signed by the parties, hence terminating the proceedings.
- e) The Settlement agreement also serves the same status as an arbitral award²⁹ under the Act.

Meetings between the Conciliator and the parties are informal. The conciliator may choose to meet with them physically at a place either party may agree upon, or may opt to communicate orally or in writing. The conciliator does not necessarily have to meet with them together. It can be done separately. Suggestions for the settlement of the dispute are in most instances pronounced by the disputing parties. However, the Conciliator can assist to formulate terms of settlement when it emerges that there are basics of settlement that have been agreed upon by the parties.

The autonomous power exhibited in arbitral processes is reflected in Conciliation proceedings. Section 62 of the Act is to the effect that during the course of conciliation proceedings, no arbitral or judicial proceedings can be initiated by the same parties. This helps to create an organized and effective means of smoothly coming to a solution on one front.

The outcome of Conciliation proceedings is not to be abused or disrespected in any way. The parties to a conciliation proceeding cannot rely on its outcome or any information obtained from such proceedings to be used as evidence in an arbitral or judicial proceeding. This is regardless of whether or not it is the same dispute to be dissolved in the arbitral or judicial proceeding. The limitations imposed on conciliation proceedings therefore also serve to prevent protracted handling of disputes under ADR.

Where conciliation is operated successfully, it is an excellent method of dealing with difficulties such as labor disputes. Essentially, the parties to the dispute determine their own solutions and, therefore, feel committed to the outcome. The problem is that Conciliation, like mediation, has no binding power on the parties and thus may result in either party not respecting and abiding by the resolution.

c) Mediation

Mediation is the interaction between two or more parties who may be disputants³⁰, negotiators, or interacting parties whose relationship could be improved by the mediator's intervention. Under various circumstances, the parties/disputants decide to seek the assistance of a third party, and this party decides whether to mediate. Mediation aims to assist disputing parties in reaching an agreement. Whether an agreement results or not, and whatever the content of that agreement, if any, the parties themselves determine the results as opposed to something imposed by a third party.

²⁹ The arbitral award or arbitration award refers to an arbitration hearing decision made by an arbitration tribunal. An arbitral award is equal to a court judgment. An arbitral award may be non-monetary in nature where the claims of the entire claimant fail and there is no need for any party to pay any money

³⁰ A person who is involved in a dispute and especially in a legal dispute.

The Arbitration and Conciliation Act (as amended) does not make any specific reference to Mediation. However, the prevalent Uganda Commercial Court assisted ADR particularly focuses on Mediation as the most appropriate ADR tool and has made significant breakthrough in this regard.

Legislative provisions on Mediation:

i) The Land Act, Cap. 227

The origins of mediation as a mechanism in dispute resolution and administration of Justice can be traced back to the practice of land law in Uganda. Traditionally, elders have always played the key role of mediators over land disputes.

Sections 88 and 89 of the land Act provide for Customary Dispute Settlement and mediation as well as the functions of the mediator. Approximately 75% of land in Uganda is categorized under the customary tenure system, thus was found appropriate that the statutory law provisions should stipulate for a combination of customary systems of settling disputes alongside current mediation strategies. Section 88 (1) provides: “Nothing in this part shall be taken to prevent or hinder or limit the exercise by traditional authorities of the functions of determining disputes over customary tenure or acting as a mediator between persons who are in dispute over any matters arising out of customary tenure”.

Section 89 of the Land Act provides guidance on the basis of which the selection and functions of a mediator follow. It provides that the mediator should be acceptable by all the parties; should be a person of high moral character and proven integrity; not subject to the control of any of the parties; involve both parties in the mediation process, and; should be guided by the principles of natural justice, general principles of mediation and the desirability of assisting the parties to reconcile their differences.

ii) The Judicature Act, Cap. 13: The Judicature (Commercial Court Division) (Mediation) Rules, No. 55/2007.

The Judicature (Commercial Court Division)(Mediation) Rules, 2007⁶¹ were made operational by the Commercial Court from 1st November 2009, making mediation a mandatory procedure for all litigants with certain exceptions.

d) Arbitration

This is a procedure where parties in a dispute refer the issue to a third party for resolution and agree to be bound by the resulting decision, rather than taking the case/matter to the ordinary courts of law. The third party is an independent intermediary expected to be neutral and trained in the techniques of ADR. Arbitration in Uganda is a common method used to resolve commercial and other disputes.

Legislative provisions on Arbitration:

These empower arbitrators and regulate the arbitration process.

i) The Judicature Act, Cap. 13. The Act provides for Alternative Dispute Resolution under Court's direction. Sections 26 to 32 of the Act provide for situations when matters can be referred to a special referee or arbitrator to handle where such official has been granted High Court powers to inquire and report on any cause or matter other than a criminal proceeding.

ii) The Civil Procedure Act (Cap. 71) and the Civil Procedure Rules S.I 71-1 Order XII (12) of the Civil Procedure Rules provides for “Scheduling Conference and Alternative Dispute Resolution”. Rule 1 (1) thereof provides – “The Court shall hold a scheduling Conference to sort out points of agreement and disagreement, the possibility of mediation, arbitration and any form of settlement . . .” This provision is meant to help the parties consider the option of settling matters before hearing in Court can commence.

It also serves the purpose of expediting hearing of the case where possible contentious issues such as which documents and witnesses are to be relied upon, are agreed to at the onset.

iii) The Arbitration and Conciliation Act (Cap. 4) This regulates the operation of arbitration and conciliation procedures, as well as the behavior of the arbitrator or conciliator in the conduct of such procedure. The Act also provides for the Centre for Arbitration and Dispute Resolution (CADER) as a Statutory Institutional alternative dispute resolution provider.

The Arbitration and Conciliation Act has three major objectives:

- (1) Ensuring realization of the goal of increased party autonomy and provision of appropriate and user-friendly rules of procedure to guide parties.
- (2) Creation of an adaptable framework for arbitration tribunals to operate under as well as other default methods in the absence of the parties' own agreements, and
- (3) The advancement of equality and fairness in the whole process.

Basic steps in Arbitration

The Act provides guiding steps to be followed in arbitration proceedings:

- A statement of Claim is filed at CADER by the Party initiating the arbitration proceedings detailing the brief facts pertaining to the dispute and the issues to be resolved, as well as the relief or remedy sought. It should also include a nomination of an arbitrator.
- A copy of the filed Statement of Claim is served upon the Respondent who then responds with a statement of Defense within ample or reasonable time. Such time may be proposed by the claimant, unless agreed otherwise.
- The parties involved in the dispute appoint one or more arbitrators as may be agreed upon. If they fail to agree on an arbitrator, the Centre for Arbitration and Dispute Resolution (CADER) provides one. The procedure for appointment of an Arbitrator is informal and agreed upon by the Parties.
- Each party is treated equally during arbitration proceedings with reasonable opportunity to present their case.
- If there is a default by any of the parties in fulfilling his obligation in the course of or prior to the start of the proceedings, the arbitral tribunal shall act accordingly in either terminating the proceedings or making an award with the evidence before it.
- The Arbitral tribunal decides the dispute according to rules of law chosen by the parties.
- Proceedings during arbitration may either involve hearing oral arguments or filing of written submissions.
- The tribunal is mandated to make its award in writing within two months after having been called on to act after which, the proceedings are terminated.
- The award is recognized as binding under the Act and can be enforced as if it were a decree of Court.

Advantages and disadvantages in Arbitration

- a) **Privacy** – Arbitration often is a private procedure thus outsiders do not get access to any potentially sensitive information. The parties to the arbitration also do not run the risk of any damaging publicity arising out of the proceedings. The confidentiality boosts the possibility of the warring parties maintaining a business and friendly relationship after the dispute is resolved, which is hardly the case in litigation.

- b) Informality** – The Proceedings are less formal than a court case and they can be scheduled more flexibly than court proceedings. As such, they can be ad hoc and are tailored around the dispute involved unlike disputes brought before Court for litigation which have to fit within the legal procedures provided.
- c) Speed** – Arbitration is generally much quicker than taking a case through the courts. Where, however, one of the parties makes use of the available grounds to challenge an arbitration award, the prior costs of the arbitration will have been largely wasted.
- d) Costs:** It is generally a much cheaper procedure than taking a case to the normal courts. Nonetheless, the costs of arbitration and the use of specialist arbitrators should not be underestimated.
- e) Expertise:** The use of a specialist arbitrator ensures that the person who decides the case has expert knowledge of the actual practice within the area under consideration and can form their conclusions in line with accepted practice, e.g. Accountants in disputes in debts; Engineers for construction disputes, etc. Furthermore, the person that arbitrates over any matter has their full focus on each dispute as opposed to litigation (law suit) where a judge has a number of matters to focus on daily.
- f) Enforcement:** An arbitral award is enforced as a decree of Court; the aggrieved party can exercise the option of appealing as one would appeal against a Court Decree. An arbitration award is more binding and enforceable than other forms of ADR.

Among the disadvantages of arbitration are;

- i. In some instances the process may be time consuming and ultimately expensive.
- ii. Arbitrators have fewer powers than the courts to obtain evidence from the parties and to expedite the proceedings.
- iii. The arbitrator may lack necessary legal knowledge, ultimately necessitating an appeal, which inevitably increases the costs.
- iv. Commercial arbitration procedures are not necessarily appropriate unless the contracting parties are in a position of equal bargaining power.
- v. Furthermore, because of the laxity involved in arbitration, the element of mutual respect of the arbitration process can sometimes be lacking as opposed to litigation where the disputing parties are obliged by law to respect court procedure inclusive of attending hearings.

MODULE 6.

LOBBYING AND ADVOCACY

This module is intended to enable cultural and religious leaders appreciate the significance of lobby and advocacy in their work, the requisite skills for effective advocacy and how they can utilize their spaces and positions for women's empowerment and gender equality.

Lobbying and advocacy defined:

Lobbying refers to the process and actions of influencing decision makers/power holder either in a group or individually. Examples of power holders include; government representatives such as Ministers, Directors, Permanent Secretaries, legislators among other categories of people including private sector entities.

Lobbying involves giving information, creating understanding, putting forward alternatives to the person to whom lobbying is targeted. It can be done using personal contacts, public pressure or political action to persuade power holders/duty bearers to act on specific and well defined pertinent issues.

Lobbying is only one kind of advocacy. Not all advocacy is lobbying but all lobbying is advocacy.

Advocacy is the strategic action intended to influence decision making (for or against) to improve the social, political, economic or cultural environment of the community or group of people. It is an organized, systematic way of influencing processes on matters of public interest.

A lobbyist and an advocate focuses on an issue or issues and desires a situation to get better. He/she feels strongly about an issue and is determined to make change possible. Advocates help others realize the need for fundamental policy change and bring people together to influence government, other organizations and the public at large'

Significance of Lobbying and Advocacy

- Raises awareness about people's rights and concerns particularly women and girls rights.
- Results in policy and legislative changes that are responsive to target groups. For Example the Domestic Violence Act 2010 that seeks to amongst others legislate on matters of physical abuse and battering of women within the family/household setting.
- Facilitates the abandonment/elimination of negative practices, laws and cultures that discriminate against and are disempowering to marginalized groups especially women and girls.
- Amplifies issues of concern on the national agenda thus pressing power holders to act.
- Generates public debate.
- Instrumental in achieving positive change.
- Influences wider groups of people and individuals to support a cause. For example Girls Menstrual health and hygiene.
- Facilitates shifts in existing priorities in policies and laws at both local and national level.

Tips for successful advocacy particularly strategy formulation

- Determine the issue.
- Set specific, measurable, achievable, relevant and time bound (SMART) objectives.
- Carry out research and collect data.
- Identify targets/carry out a power analysis.
- Identify /analyse other stakeholders.
- Build coalitions.
- Develop the message.
- Plan the advocacy strategy.
- Develop the advocacy action plan.
- Mobilize resources.
- Monitor and evaluate the campaign.
- Identify and stress the points of emphasis.

To note: There is need to know that advocacy is people centered and a number of people influence advocacy. Advocacy is risky. Those who engage in the process should be ready to face the immediate risks that come from the social changes they are advocating for.

Criteria for choosing the most critical advocacy issues

- The issues which maybe as many as 10 or even less should be categorized on the basis of;
- How strongly felt is it?
- How widely felt is it?
- Are there real benefits in the solution?
- How urgent is it?
- Is it non divisive?
- What chance of success does it have?
- How much money is required for the campaign?
- Does it have a clear target?
- Does it give people a sense of their own power?
- Does it alter power relations?
- Is it consistent with your vision?
- Does it have a convenient timeframe?
- Is it a respective issue?
- Is it easy to explain?
- Does it involve leadership?
- Who really benefits; is it their greatest need?
- How does it improve on other situations?

MODULE 7.

CRITICAL SKILLS FOR A RELIGIOUS AND CULTURAL LEADER

Cultural and religious leaders are critical players in shaping lives and nation building. They thus require particular skill-set to facilitate more meaningful and inclusive relationships within communities and their constituents. This module thus focuses on select skills crucial for cultural and religious leaders to promote women's rights and gender equality. Notably; Communication skills and conflict management.

1. Gender responsive Communication Skills

(Adapted from the gender responsive communication tool kit by UN Migration (IOM), 2020)

Religious and cultural leaders should seek to promote gender equality in their communication. Accordingly, gender-sensitive and gender-responsive communication skills are crucial for religious and cultural leaders.

The bench mark for gender-responsive communications includes;

- Using sex-disaggregated data.
- Ensuring inclusivity to overcome barriers to equal participation.
- Seeking informed consent and applying the principle of 'do no harm'.
- Avoidance and challenging gender stereotypes.
- Ensuring two way communication.

2. Sex –disaggregated Data

Information and Data collected at any level pertaining to any issues/matter such as land wrangles and gender based violence, Violence against women and girls among other related issues should be disaggregated by sex and age. When data is not disaggregated by sex and age, it becomes difficult to identify inequalities. Sex-disaggregated data is necessary for effective gender analysis and to ensure everyone is counted, considered and included. The data reflect roles, real situations and general conditions of people of different gender and age groups in all aspects of society. This includes literacy rates, education levels, business ownership, employment, wage differences, dependants, house and land ownership, loans, credit and debts and other variables. Sex-disaggregated data can facilitate the elimination of gender bias and bridge data/information gaps in order to make more informed decisions and assess if those decisions are improving lives.

Lack of accurate data limits the ability to create gender-responsive communications, which addresses the lived realities of women and girls. Available data should be used to communicate about both women and men more accurately and understand how best to communicate with different audiences. Religious and cultural leaders should use sex-disaggregated data to know when, how and where to reach both women and men in their communication so that no one is left behind.

Inclusive communication

Worldwide, Uganda inclusive women have lower literacy rates than men. Women in Sub-Saharan Africa have the lowest literacy rate at 58.8 per cent compared to 72.5 per cent of men in Sub-Saharan Africa.

As of 2019, around 4.1 billion people have access to the Internet. The proportion of all women using the Internet globally is 48 per cent, against 58 per cent of all men. However, women's Internet usage is falling behind in developing countries. In some regions, the gender gap continues to widen. Barriers such as reduced literacy rates among women can exclude them from receiving information shared via print media. Obstacles related to mobility, as well as Internet, television and radio access should also be considered when planning an event or sharing information online, on television or via radio.

Women are 10 per cent less likely than men to own a mobile phone and power relations between men and women in the household indicate that women may only have controlled or restricted access to phones or other devices. In situations where women have limited or restricted connectivity, holding events and meetings close to the areas where women live could increase their participation. It is also important to be mindful of mobility restrictions of different gender groups and the demands on their time and resources when deciding on the time and duration of a communications activity due to the possibility of work responsibilities, caregiving and household duties. Consult with all groups before choosing a venue for an event to ensure the space is comfortable and appropriate for them and to understand what the barriers are to their participation so they can be addressed.

TIPS for inclusive communication and participation

- Be aware of education and accessibility barriers that might impact on women's access to information/communication.
- Consider different preferences of women and men that may have an effect on access to information.
- Invite a diverse and gender-balanced group of participants to events and activities.
- Decide on the communication channels, tools and languages to reach diverse groups, considering Women's barriers and preferences (often, more than one type of platform is needed).
- Be mindful of mobility barriers affecting certain gender groups in particular, such as mobility restrictions due to social norms, household responsibilities or safety concerns (which tend to impact women more than men), or due to work obligations.
- Be mindful of local norms and provide gender-segregated seating if appropriate.
- Ensure diversity and gender-balance or representativeness in speaking times and interviews for any activity that you organize.

Informed consent

It is important to respect an individual's choice to share or not to share personal data, including their image or video. Often people agree to share their information not because they want to but because they feel pressured to do so. Informed consent means that the individual knows enough details about what they are agreeing to, including how and where their personal data will be shared. The decision to provide consent should only be made when the individual can assess all factors and make an informed decision. Information about a person's contribution should be presented and communicated in the appropriate language and in an appropriate way (i.e. written, verbal and visual formats) and explained clearly so the person can understand.

Although consent is provided, people might not fully understand what the final communication product will look like, who will see it and how it will be used. When sharing someone's story, be mindful to portray them and their experiences in a way that is rooted in dignity and respect, and devoid of harmful stereotypes. If sensitive topics are shared, such as testimonies of gender-based violence and/or trafficking, make sure that the words used and the way in which the story is told will not further victimize the survivor, re-traumatize them, or cause further harm. To make sure the content does not

cause any unintended harmful consequences or inappropriate implications, it is advisable to share the final product with the person, if possible, or show them any photos or footage that you took of them that you intend to share with a wider audience.

TIPS

- Only gather relevant information. Do not ask for personal data unless required.
- Any release of information must be with the informed consent of the person or, in the case of children, the child's guardian.
- No identifying information should be released to the media or public without the person's informed consent and carefully assessing whether gathering personal data puts that individual, group or community at risk.
- Do not portray clearly identifiable individuals as victims only, even if consent has been provided.
- Do not share information that can lead to the identification of individuals or groups of individuals at risk.
- Always communicate with care and respect for a person's dignity. Avoid stereotypes and/or language which could cause further harm, trauma, and/or victimization.

Avoidance of gender stereotypes

Religious and cultural leaders ought to be mindful of stereotypes in communication, such as only portraying women as disempowered or the reverse.

Stereotypes rarely communicate accurate information about people. Generalizations based on gender norms and roles can be harmful because they can hide important information about people by deterring them from freely expressing their needs, capacities, priorities and experiences. By making certain assumptions about people—women and men, gender stereotyping can contribute to gender-based discrimination. In extreme cases, gender stereotypes can encourage gender-based violence. It is crucial therefore to show gender diversity in all communications.

Examples of discriminatory language to avoid

1. "She throws/runs/fights like a girl."
2. "In a manly way."
3. "Oh, that's women's work."
4. "Men just don't understand."

Ways in which gender stereo types can be challenged in communication;

Portray men and women in diverse roles (leaders, experts, spokespersons, ordinary people), from diverse backgrounds (e.g. rural, urban, wealthy, less wealthy) and in different contexts (e.g. family life, work/professional life or community life).

1. Avoid portraying women as passive and men as assertive.
2. Ensure that it is not only women who are portrayed as vulnerable or victims.
3. Quote men and women as experts equally.
4. Capture and promote stories that feature women and men equally.
5. Ensure a balanced communication between stories featuring female-driven initiatives and partnerships and those featuring male driven initiatives and partnerships.
6. Ensure communication that is sensitive to gender diversity.

Two way communication

Communicating with communities engages all stakeholders by providing information and listening to feedback. It is important that communication is two-way so that everyone involved can become part of the conversation to voice their opinion, express their needs and advocate for positive change. Ensuring that communication is an ongoing dialogue can increase trust between all stakeholders involved. Programmes and projects of religious and cultural leaders should be designed in collaboration with the target communities, ensuring that all groups- women and men across their diversities are represented, keeping their needs in mind, having them participate as much as possible, and allowing them to lead and/or contribute to all communications.

Note: Good communication prevents misunderstandings, establishes rules and laws that aid in the structuring of society, provides information and guidance to people, and passes down cultural traditions, norms, and values.

Conflict management Skills

In light of the power wielded, authority and position of religious and cultural leaders in society, it is important they possess at the minimum, basic conflict management skills.

Conflict management refers to the process of using preferred strategies to handle a conflict with goals of limiting negative impact and enhancing positive impact³¹. Dealing with conflict effectively is a key management skill.

Below are different approaches to conflict management and the situations they are most appropriate for.

1. Accommodation

This is a lose/win situation. The accommodation approach is generally used when one party is willing to forfeit their position. It is best used in situations where:

1. One party wishes to indicate a degree of fairness.
2. People wish to encourage others to express their own opinion.
3. The issue or problem is more important to the other party concerned.
4. It is more important to safeguard the relationship rather than argue about the issue.

2. Compromise

This is a win/lose – win/lose situation, i.e. everyone involved gains and loses through negotiation and flexibility. Each will win some of what they desire while at the same time giving something up. The main goal of this approach is to find common ground and maintain the relationship. Compromise is best used:

1. To achieve an agreement when all parties have equal power.
2. To reach a temporary resolution in more complicated matters.
3. To achieve a settlement when time or other circumstances are constrained.

3. Avoidance

This is a lose/lose situation. Neither party takes action to address the issues involved in the conflict, meaning that it will remain unresolved. This approach is best used:

1. If all concerned feel that the issue is a minor one and will be resolved in time without any fuss.
2. When the parties need a chance to cool down and spend time apart.

31 Center for Intercultural Dialogue; <https://centerforinterculturaldialogue.files.wordpress.com/2015/02/key-concept-conflict-management.pdf>

3. If other people are able to resolve the conflict more effectively than the parties concerned.
4. When more time is needed before thinking about dealing with the issues.
5. If the impact of dealing with the situation may be damaging to all parties involved.

4. Competition

This is a win/lose situation. One party attempts to win the conflict through dominance and power. This approach is best used:

1. When all other methods have been tried (and failed).
2. In emergency situations when quick, immediate and decisive action is called for.
3. In situations where unpopular changes need to be applied and discussion is not appropriate.

5. Collaboration

This is a win/win situation. It is the most effective but most difficult way of managing differences. It requires trust and commitment on all sides to reach a resolution by getting to the heart of the problem. All parties need to be willing to empathize and try to understand each other's situation. Collaboration is most appropriate:

When all parties are willing to investigate alternative solutions together that they may not necessarily have thought of on their own.

When trying to get to the source of problems that have continued for a long time.

When upholding objectives that cannot be compromised on any side while still preserving the relationship.

When parties from different backgrounds and experiences are involved.

Gender and inclusive conflict management

Recognizes that women and men, girls and boys, may have different experiences, opportunities and constraints due to gender norms in their society.

- Analyses the unequal social, political and economic power dynamics between women and men within society and how these influence opportunities and capacities for peace and security.
- Relies on but goes beyond simply disaggregating data or assessing the gendered impacts of conflict; instead addresses underlying gender dynamics in society, including discriminatory or exclusionary practices, as part of addressing the root causes of conflict
- Emerged as a practice in order to address the persistent gender blindness in conflict analysis, which excludes women's different experiences, interests and needs, and which biases planning and response against women and girls

Addressing common gender biases in conflict analysis provides a more accurate and comprehensive understanding of the root causes, triggers and drivers of conflict, and enable more informed and effective action.

COMMON PITFALLS TO AVOID FOR GENDER RESPONSIVE CONFLICT MANAGEMENT TO PREVAIL

- Treating women or men as homogenous groups.
- Limiting gender to a single section in analysis (gender should be mainstreamed throughout an analysis).
- Assuming women are victims with narrow protection needs and not agents or actors in conflict.
- Ignoring patriarchal power dynamics.
- Undertaking conflict analysis as a one-off activity and not a lens through which evolving conflict dynamics are regularly updated and addressed.
- Failing to integrate gender from the early stages of conflict analysis.

MODULE 8.

WHO IS A RELIGIOUS/CULTURAL LEADER?

The 1995 Uganda constitution guarantees every Ugandan the freedom of religion and religions are expected to be registered with the government. The Catholic Church, the Church of Uganda, the Eastern Orthodox Church in Uganda, and the Uganda Muslim Supreme Council are registered under the Trustees Incorporation Act. Other religious groups are registered as non-governmental organizations.

A religious leader (plural religious leaders) is someone who is recognized by a religious body as having some authority within that body and can also be referred to as the leader of a religious order.

Religion plays an integral role in shaping the actions of any society, being inherently woven into public and private spaces, social and cultural dynamics, institutions and identity politics³².

Religion has noteworthy influence and offers ethical frameworks at the State, community and individual levels. The centrality of religion in the cultural and moral fabric of society enables religious leaders to shift social norms and reinforce positive values, such as those relating to tolerance and gender equality. Religious leaders can address harmful stigma and cultural practices, such as those related to gender-based violence, as a means of supporting the protection of women rights.

Cultural leader: In Uganda, traditional /cultural leaders are governed by the Institution of Traditional or Cultural leaders Act 2011. The Act defines a “traditional or cultural leader” as king or similar traditional leader or cultural leader by whatever name called who derives allegiance from the fact of birth or descent in accordance with the customs, traditions, usage or consent of the people led by that traditional or cultural leader.

The institution of a traditional or cultural leader may exist in any area of Uganda in accordance with the culture, customs and traditions or wishes and aspirations of the people to whom it applies.

The roles of cultural/traditional leaders are stipulated in the Institution of Traditional or Cultural Leaders Act 2011³³ and include:

1. Promote and preserve the cultural values, norms and practices which enhance the dignity and wellbeing of the people where he or she is recognized as such; and
2. Promote the development, preservation and enrichment of all.

The Act forbids a traditional or cultural leader from exercising any administrative, legislative or executive powers of Government or a local government³⁴. Further, the Act prohibits a traditional or cultural leader or institution from practicing any custom, culture, usage or tradition that detracts from the rights of any person as guaranteed under the Constitution or contravenes the Constitution or any other law³⁵.

- Religious and cultural leaders in the Gender Equality and Women’s Empowerment Agenda
- Religion is very important across a myriad of cultures and societies in Uganda.

³² Amr Darrag (2016)

³³ Section 11 of the Institution of Traditional or Cultural leaders Act 2011

³⁴ Ibid 28

³⁵ Ibid 28

- Religious and cultural leaders possess expertise in their work and wield influence in their communities. Religion and culture can be used to inform a narrative for gender equality and women's empowerment through providing legitimacy to the messaging.
- The unparalleled access of religious and cultural leaders makes them important partners. Religious and cultural leaders often develop trusting relationships with their local communities, cultivated through spiritual connections, a consistent presence and the provision of critical services. Religious leaders for instance, provide essential services to communities to complement government and State institutions. At the local level, they can amplify messaging on women's rights and gender equality within their places of jurisdiction, through essential community services such as education or via outreach activities in otherwise hard-to-reach areas. Given religious leaders' roles in family affairs and local justice systems, they also have the opportunity to practice and preach gender equality principles in these forums. Moreover, religious leaders have access to broad networks of congregations, partners and affiliates that they can turn to for advocacy and resources, or to mobilize grassroots efforts³⁶. Religious and cultural leaders are a consistent community presence and therefore offer a more sustainable avenue for supporting the women's empowerment and gender equality agenda.
- In addition to localized access and influence, religious leaders can exercise weighty authority on public policy at the State level, both through their relationships with political elites and decision makers and by occupying positions of power themselves. Many States around the world have official religions, government ministries dedicated to religious affairs and official religious establishments that meld religion and the State. There is thus significant opportunity for religious leaders to champion women rights promotion at the State and community level.
- Religious and cultural leaders in Uganda like in other parts of the world have demonstrated their capacity to undertake conflict resolution and peace building through the promotion of tolerance and nonviolence, and frequently through interfaith efforts. They both play crucial roles as change agents in combating intolerance based on religion or belief.
- Religious and cultural leaders can translate international and national legal frameworks and commitments for women's rights to the local level, and actively work to limit contrary positions and negative stereotypes on matters relating to gender equality and the role of women. Examples of this engagement include cooperation on countering child marriage, hate speech and violence against religious minorities, as well as promoting reproductive health, social solidarity and peace building.

Ethical practices of a credible religious and cultural leader

- a) **Non-discrimination:** Ensure justice and equal worth of everyone as well as to affirm the right of all women, men, girls and boys not to be subjected to any form of discrimination and violence, including harmful practices such as female genital mutilation, child and/or forced marriages and other forms of rights violations.
- b) **Equality and Inclusiveness:** Ensure that individuals, or groups of individuals, are not treated less favorably because of their characteristics. Creating an environment where everyone feels welcome and valued. Equality also means equality of opportunity ensuring that those who may be disadvantaged get the tools they need to access the same, fair opportunities as others.
- c) **Leading by example:** Ensuring values are upheld and fulfillment of the expectation for leaders to act according to set standards.
- d) **Accountability:** Leaders that hold themselves accountable for their actions earn respect. They demonstrate their ability to correct the course of action by admitting to their mistakes. This also

³⁶ United Nations Development Programme (2014), Guidelines on Engaging with Faith-Based Organizations and Religious Leaders, p. 3.

demonstrates their ongoing commitment to core set of beliefs. Being accountable also encourages others to take responsibility for their mistakes without fear of retribution.

- e) **Confidentiality:** All leaders are privy to information from time to time which they are asked to keep confidential. This builds trust and puts people at ease to be creative, think outside the box, and get focused. Breaking confidentiality weakens trust and promotes fear and bad feelings.
- f) **Trust:** A trustworthy leader does what they say they're going to do. They show show their desire to seek input from others to make more informed decisions.
- g) **Integrity:** Strong moral principles, standing by your words, and doing the right thing.
- h) **Honesty:** Leaders with integrity tell the truth despite the consequences. Honesty helps prevent smaller problems from becoming a detriment to the community.
- i) **Humility:** Humility leads to better listening, increased collaboration, and a more compassionate leadership style. It creates more authenticity and a constant drive to learn from others..
- j) **Support:** Supportive leaders recognize others abilities and accomplishments and looks for ways to assist others in achieving their goals.
- k) **Compassion:** Compassionate leadership involves a focus on relationships through careful listening to, understanding, empathizing with and supporting other people, enabling those led to feel valued, respected and cared for, so they can reach their potential and do their best.
- l) **Community:** Community leadership is the courage, creativity and capacity to inspire participation, development and sustainability for strong communities.” It requires a willingness to put yourself out there for your community and requires resilience, grit and compassion.

MODULE 9.

DATA COLLECTION AND RECORD KEEPING FOR JUSTICE DISPENSATION

Records management is crucial in the administration of justice and protection of rights. The absence of records and poor management of records is detrimental in the administration of justice and thus religious and cultural leaders need to know what it takes to collect and adequately manage records for gender responsive justice.

A record is information created, received and maintained as evidence and information by an organization or individual in pursuance of legal or in the transaction of business³⁷. A record can also refer to recorded evidence of an activity/ action undertaken by an individual or group in the course of their business³⁸/ day to day activities.

Delays in registering cases, locating records and filing documentation have a direct impact on rights protection and justice administration. Astute and intelligent data collection and records management is significant for seamless/smooth justice administration processes.

Proper record keeping and overall record management enables judicial officers and others stakeholders/ actors such as magistrates, judges and attorneys, to research old cases that may have an impact on the outcome of existing cases.

Types of records that can be kept by cultural and religious leaders that may be crucial for gender responsive justice administration

- i. Minutes of meetings.
- ii. Land titles and land sale agreements.
- iii. Property deeds.
- iv. Wills –when entrusted with by someone.
- v. Separation records.
- vi. Probate records –these include detailed information regarding death of someone.
- vii. Personal testimonies of incidents as told by the victim/survivor and the perpetrator.

Benefits of Good Records keeping /Management

- Facilitates the protection and preservation of records as evidence of actions.
- Source of information for select activities that can support subsequent undertakings and business decisions, as well as for ensuring accountability to present and future stakeholders.
- Records enable institutions including religious and cultural to:
 - Conduct usual activities in an orderly, efficient and accountable manner.
 - Deliver services in a consistent and equitable manner.
 - Support and document policy formation and managerial decision making.
 - Provide consistency, continuity and productivity in management and administration.

³⁷ The International Standards on Records Management ISO 15489-1; 2001

³⁸ Shepherd; 2006

- Facilitate the effective performance of activities throughout the institution.
- Provide continuity in the event of a disaster.
- Meet legislative and regulatory requirements including archival, audit and oversight activities.
- Provide protection and support in litigation including the management of risks associated with the existence of, or lack of, evidence of organizational/institutional activity.
- Provide evidence of business, personal and cultural activity.
- Establish business, personal and cultural identity.
- Maintain corporate, personal or collective memory of incidents.
- Records management enhances public service delivery, the rule of law and accountability.
- Poor record keeping on the other hand can lead to: loss of information resulting to loss of evidence; waste of resources-financial and physical; inadequate and poor decision making due to inadequate information and loss of confidence.
- The pursuit of justice requires that cases be heard in a timely manner and processed efficiently. To accomplish this goal, the courts require sound records management and efficient management of information and resources.

Information /Data collection approaches and methods to facilitate administration of Justice.

There are different approaches and methods that can be used to collect crucial information for gender responsive justice dispensation /administration. It is important to first understand the nature of issue at hand prior to selection of an approach to use/apply.

There are different institutions that collect GBV/HP information. These include: the Ministry of Gender, Labour and Social Development, the Ministry of Health and the Ministry of Education and Sports.

The Ministry of Gender, Labour and Social Development has two independent systems which collect information on Gender Based Violence/Harmful practices (GBV/HP). These include;

- i) The National GBV Database (NGBVD).
- ii) The Orphans and Other Vulnerable Children Management Information System (OVCMIS).

The Uganda Child Helpline (SAUTI 116) serves as a notifier to either of the systems.

The NGBVD is an online Management Information System designed to collect, store and analyze GBV/HP data. GBV Actors use the GBV Incident Report Form for documenting information and collecting data about reported GBV/HP incidents. The form is filled at the service provision points such as the Community Development Office, Police, GBV Shelter or any other actor and then entered the NGBVD by authorized users at the Community Development Office (CDO) or Civil Society organizations (CSO).

The Orphans and other Vulnerable Children Management Information System (OVCMIS) was designed so that all OVC service providers collect relevant and functional information on a routine basis for use in planning and making decisions to improve service delivery. The OVCMIS enables service providers to report through it in order to aggregate data. The Service Provider uses the Integrated OVC Register (Form 004) to register Orphans and other Vulnerable Children (OVC) and document services received. On a quarterly basis, the Service Provider summarize the information into the OVCMIS Quarterly Data Collection Tool (Form 100) and report to the District Community Development Departments, with a copy to the Sub county CDO for entry into the OVCMIS.

The Ministry of Health developed the Health Management Information System (HMIS) to generate timely and accurate information which will inform health care management decisions at all levels of the health system. The health facilities collect information on GBV from the Out-patient Register (Form 031) and

the SGBV Register (MCH Form 021). This is summarized on a monthly basis using the HMIS Forms (105) then entered into the HMIS.

Sources of data on Gender Based Violence (GBV/Harmful practices).

In Uganda, the main sources of data on GBV are population-based surveys and data from administrative sources. Population-based surveys may be conducted purposely for measuring gender-based violence or as multi-discipline surveys that include a module of questions on experiences of violence. These include the Demographic and Health Surveys (DHS) and to a lesser extent other surveys, such as Reproductive Health Surveys and Crime Victimization Surveys. The population-based surveys can be used to generate information on the prevalence of GBV, which is good for studying the nature and patterns of GBV. They are also useful in profiling the characteristics of the different types of violence.

The Population-based surveys are conducted once every five years, and therefore cannot be used for routine monitoring of the incidence of GBV in the community.

Information on GBV/HP needs to be collected on a more continuous basis in order to measure the incidence of GBV as well as monitor the interventions. Thus, the use of administrative data from institutions that manage GBV survivors is regarded as a good and cheap option. In Uganda today, various MDAs routinely compile administrative data/statistics on GBV as part of the execution of their mandate. The most common sources of administrative data on GBV/HP are;

- 1) Uganda Police, which compiles information on all cases of reported crimes in the country.
- 2) Ministry of Health through the Health Management Information System collects monthly information on the diagnoses of outpatients and inpatients of the health facilities in the country.
- 3) The Ministry of Gender, Labour and Social Development created the National Gender Based Violence Database (NGBVD) to routinely monitor and evaluate gender-based violence interventions in Uganda.

RECOMMENDATIONS FOR FURTHER READING

1. The 1995 Uganda constitution
2. The Institution of Traditional or cultural leaders Act, 2011
3. The Universal Declaration of human rights
4. Convention on the elimination of discrimination against women (CEDAW) 1979
5. Provide conclusion

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