



Gender Transformation & Empowerment

INTERROGATING THE FACTORS HINDERING ACCESS TO JUSTICE FOR WOMEN AND CHILDREN

FINAL REPORT

APRIL 2021

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ABBREVIATIONS AND ACRONYMS

ADR	Alternative Dispute Resolution
CID	Criminal Investigation Department
COVID	Corona Virus Disease
CRC	Convention on the Rights of the Child
CSOs	Civil Society Organisations
DCC	District Chain-linked Committee
DGF	Democratic Governance Facility
DPG	Development Partner Group
DPP	Director of Public Prosecutions
ECASA	Eastern, Central and Southern Africa (ECASA) Group of Consultants
FCC	Family and Child Court
FCPU	Family and Child's Protection Unit
FGD	Focus Group Discussion
FHRI	Foundation for Human Rights Initiative
FIDA	The Uganda Association of Women Lawyers
GBV	Gender Based Violence
KI	Key Informant
KII	Key Informant Interview
JLOS	Justice, Law and Order Sector
LASPNET	Legal Aid Service Providers Network
LC	Local Council
M&E	Monitoring and Evaluation
MoFPED	Ministry of Finance, Planning and Economic Development
MoGLSD	Ministry of Gender, Labor and Social Development
NCC	National Council for Children
NDP	National Development Goals
NGO	Non-Government Organization
NIRA	National Identification and Registration Authority
NUDIPU	National Union for Disabled Persons in Uganda
OAG	Office of the Auditor General
OHCHR	Office of the United Nations High Commission for Human Rights
OVC	Orphans and Vulnerable Children
OVCNIS	Orphans and Vulnerable Children Management Information System
PFMA	Public Finance Management Act
PWDs	Persons with Disabilities
PSWO	Probation and Social Welfare Officer
RCC	Regional Chain-linked Committee
SC	Steering Committee
SDGs	Sustainable Development Goals
SDP	Sector Development Plan
SGBV	Sexual and Gender Based Violence
SIP	Strategic Investment Plan
SOPs	Standard Operating Procedures
SWAP	Sector Wide Approach

SWGS	School of Women and Gender Studies
TC	Technical Committee
UBOS	Uganda Bureau of Statistics
UGANET	Uganda Network on Law, Ethics and HIV/AIDS
UHRC	Uganda Human Rights Commission
ULRC	Uganda Law Reform Commission
UN	United Nations
UNODC	United Nations Office on Drugs and Crime
UPF	Uganda Police Force
VAC	Violence Against Children
VAW	Violence Against Women
UWONET	Uganda Women's Network
WG	Working Groups
WHO	World Health Organization

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EXECUTIVE SUMMARY

This report presents findings of UWONET national research study that interrogated the factors hindering access to justice for women and children. The report is divided into four main sections including: Section 1) that provides the introduction and background, rationale, and objectives and scope of the study; Section 2) presents key findings of the study on access to justice in the formal and informal justice systems; Section 3) presents assorted relevant data and identified best practices to guide programming on women and children justice and; Section 4) presents the study conclusions and recommendations to address some of the identified gaps as well as guidance for more realistic and holistic programming to enhance women's and children's meaningful access to justice. The report is as a result of a highly participatory and consultative process including various key stakeholders involved in the provision and regulation of justice for women and children at national and sub national levels.

Experiences of Women and Children with Access to Justice in Uganda

1. Formal Justice System

The study findings reveal that the formal justice system includes *“all the institutions under the Justice, Law and Order Sector.”* According to the Justice, Law and Order 4th Sector Development Plan the Justice Law and Order Sector (JLOS) is a sector wide approach that brings together 18 institutions responsible for administering justice, maintaining law and order and promoting the observance of human rights. This kind of arrangement offers plenty of space for coordinated efforts to work together towards ensuring improved access to justice for all. However, the multiple linkages also make it very difficult to foster effective coordination and sometimes there are glaring challenges that arise, and vulnerable groups may encounter problems in access to justice as a result of the poor coordination. A fiduciary risk assessment of the Sector was undertaken and it was found that the sector's fiduciary discipline and absorption exhibits strong adherence to the Public Finance and Accountability Act. Discussions with key informants, however, revealed that challenges remain and there is need to strengthen adherence to the law and best practices as advised by the Office of the Auditor General (OAG). There is also a need to address emerging issues such as the incidences of deficient accountability in UHRC and Uganda Law Reform Commission (ULRC). Challenges also remain in delayed procurement, procuring and contracting within approved budgets, etc.

The findings further show that there are low staff numbers across JLOS institutions and this has had far reaching implications on the operations of the institutions. It was also noted that few justice sector staff have training on gender concerns and how to mainstream gender in their work. This lack of training greatly affects their services. In addition, data collection and records keeping is still a problem for many facilities. For example over 70% of police posts and courts are not yet on the Computerised Prosecution Case Management System (PROCAMIS) and there are challenges with regard to information generation and management since most institutions are still using the old systems of paper filing.

It was also noted that there are still a lot of negative attitudes among staff of the JLOS and this greatly impacts on women's and children's capacity to access justice. In a bid to address this weakness, the JLOS has made efforts to address the gender capacity gaps in the judiciary including the development of gender bench briefs for judicial officers. However, despite these interventions,

the study found that numerous gender gaps remain, and a lot more needs to be done to close these gaps. For example, geographically distant justice service locations and technically complex justice procedures, discriminatory attitudes based on deeply entrenched male bias at all levels of the legal process, insensitivity to women's specific needs, and corruption among other problems. When compounded with the socio-cultural challenges that women face (such as lower literacy levels, poverty, and cultural norms that generally place them in difficult circumstances compared to their male counterparts) women are altogether less likely to be aware of their rights, the remedies available to them, and the relevant justice mechanisms that could help them obtain justice.

The findings show that there is a relatively good understanding of what rights are and all respondents engaged could identify at least five different rights that they possess. Children especially seemed very well informed of their rights and noted that they are taught about rights at school. Although they also knew about existence of police and availability of options for reporting cases to LCs and police, few were willing to take these options and when they did, it was usually just a precautionary measure to seek intervention and cautioning of the perpetrators. Few wanted to go to court or seek legal redress through these channels. There was a general fear of court processes and court procedures with female respondents noting the high levels of corruption, the high cost, and long period of court procedures as key reasons why they find it hard to report to the formal justice system.

In other communities, there was a general perception that informal justice systems are less corrupt and more likely to dispense appropriate punishment. With regard to outcomes of justice processes, 60% of the respondents said that they were not happy with the outcome of the legal process, noting that in most cases perpetrators appeared to be let off the hook lightly. Women and children rarely report cases to the formal justice structure due to a high level of distrust and perceived high costs associated with reporting, corruption in the system, long duration of trials, etc children in particular lack their own money to push their interests in terms of accessing justice and hence rely on adults to do this for them.

An assessment of the barriers in access to justice for women and children using the formal justice system revealed economic barriers (due to poverty and lack of control over resources); socio-cultural barriers (where deeply entrenched cultural beliefs, norms and practices make it difficult for women and children to access justice); institutional and structural barriers (including distance to justice centers, negative attitudes of the staff, lack of understanding of legal language, etc).

2. Informal Justice System

The Informal Justice System on the other hand largely depends on the different locations and the customs of that area. It is often not possible to give a characterisation of a system that cannot be safely generalized across one country, let alone the world. They do however often share many common features indicated in the report. The Informal justice system was noted as having partnership arrangements with some NGOs that support them with training/capacity building, but beyond these, they are usually left to operate on their own. The handling of cases is usually independent and based on traditional norms and codes of conduct. The system does not have any proper source of funding and hence relies mainly on the fees levied on the disputing parties that come forward to have their cases handled. In terms of human resources, the informal justice

providers mostly lacked skills for gender mainstreaming, were not sure about rights issues and laws governing the country, and were often dominated by men.

Attitudes and beliefs of informal sector justice workers towards women and children are key in mediating access to justice for women and children. Informal justice systems handle the majority of disputes that directly affect poor women's physical and economic security. However, many informal justice systems are gender-biased, male-dominated, and apply customary and religious rules and laws that are themselves discriminatory.

The study findings show that a significant part of the population, use the informal justice systems. Almost 90% of the women engaged in FGDs preferred to use the informal justice system to address their complaints. Majority of these relied mainly on clan leaders or elders and relatives or guardians to resolve their family and community disputes. Children mostly relied on their parents and teachers for accessing justice. Across the different districts, most of the rural based, semi-literate/illiterate, and poorer women and children use informal institutions as a first point to report cases of rights violations before the cases are taken higher. Among refugee populations preference is for cases to be handled by the clan rather than by formal justice systems and the clans tend to withdraw cases reported to the formal justice structures. Discussions with community members regarding access to justice using religious institutions showed that these are rarely used except by religious groups like Pentecostals and other categories where the religious institutions place a strong need for church community involvement in members' lives.

Access to Justice for Women and Children in the Context of COVID-19

The impact of the legal and policy measures appears to be far worse than the effects of the pandemic itself. For example, the lockdown measures adopted by many countries have resulted in a broad range of human rights violations including curtailing the ability of people to access justice in a timely, fair, and effective manner; while other problems like defilement, rape, domestic violence, murder, all seem to be on the rise. Media reports for example show that the Acholi and Lango region alone had over 15,000 cases of teen pregnancies just over the period March-September 2020.

Best Practices in Promotion of Women's and Children's Access to Justice in Uganda

Best Practices in the Formal Justice System

The JLOS has made efforts in accordance with requirements of the PFM Act and The National Gender Policy as well as the National Action Plan on Women, to ensure gender concerns are addressed within their institutions and services delivery systems. For example, there is emphasis placed on speedy trial for vulnerable groups to reduce the likelihood of them giving up on justice. Other efforts made include planning for children's court sessions to be held in camera in order to enhance privacy and create conditions that allow the child to relax. This environment is friendly and helps the child not to feel intimidated, and therefore the entire court process ceases to be traumatizing for the child. Efforts have also been made by the judiciary to increase the number of female staff to handle sensitive cases that relate to women and girls especially defilement and rape cases. The sector is further making efforts to document and track cases using gender disaggregated statistics to aid speedy analysis of pending cases by gender and by age, thereby enabling easier identification of cases that require speedy intervention – for example cases of vulnerable children,

elderly women, and other categories that require special attention. All court premises have also been fitted with ramps to aid movement for people with disabilities and elderly populations, again ensuring that social inclusion is considered in the enhancement of access to justice. Other best practices include the use of non-custodial sentences and diversion of child cases; in addition, Uganda Police Force (UPF) launched the Children Diversion Guidelines for Police Officers that were initiated by the Ministry of Gender, Labour and Social Development (MoGLSD). The FCC has endeavoured to set aside special days and court sessions to attend to matters involving juveniles or addressing their matters at the start of court business. This is an effort to ensure that children's matters are not backlogged in the system and are expediently dealt with. Uganda has seen an increase in provision of legal aid services by various entities in the country all aiming to meet the justice needs of the vulnerable including women. Many of these legal aid service providers are members of the umbrella body the Legal Aid Service Providers Network, which boasts of over 40 member institutions providing legal aid all over Uganda.

Best Practices in the Informal Justice System

The findings show that in some communities like the Langi, the informal justice systems have made efforts to ensure that there is representation of women on the committee that handles cases. This ensures that the decision of the committee includes the voices of women and hence the assumption is that it is friendlier to the needs of women and children that present cases to the committee. Other best practices in dispensation of informal justice include the use of SASA committees (community-based activists to settle grievances at household and community level and use their skills to prevent conflict escalating out of control. Further, the use of Child Protection Committees have also been established in some communities, especially where child rights issues are known to be a big area of concern. These committees were found to be very helpful in identifying cases related to child rights violations and addressing these cases quickly. For cases which they cannot handle they refer them to the Police or LCs..

Programming on Access to Justice for Women and Children

Women's and children's rights need to be protected if Uganda is to attain the goals inherent in the vision 2040 agenda. Designing advocacy around women's and children's rights issues and working together with others to support existing ones or starting up complementary campaigns to address various child rights issues would be a good way to go right now. Campaign issues to focus on are so many and varied but below are some programmatic ideas/thematic areas that could be adopted

- Reform Customary and Religious Laws
- Legal Empowerment programmes for women and children
- Multi-Faceted Programmes
- Engage with Informal Justice Systems
- Awareness raising through Sensitization, Media, School Curriculum
- Advocacy to Criminalize and Punish Corrupt Officials
- Enhancing Women's and Children's Access to Information on Rights
- Strengthening the Linkage between Formal and Informal Justice Systems

SECTION 1

1 INTRODUCTION AND BACKGROUND

1.1 INTRODUCTION

The draft report presents findings of UWONET national research study that interrogated the factors hindering access to justice for women and children. It identifies key barriers limiting access to justice for women in Uganda. The report is a result of a highly participatory and consultative process that included various key stakeholders in the provision and regulation of justice for women and children at national and sub national levels. The study utilized both secondary and primary quantitative and qualitative data generated from respondents and implementing partners' reports, relevant research studies and desk review of relevant programs, reports on access to justice for women and children. Data for different sources were triangulated for drawing of the conclusions and recommendations of the report.

The report is divided into four main sections including: Section 1) provides introduction and background, rationale, objectives and scope of the study; Section 2) presents key findings of the study on access to justice in the formal and informal justice systems; Section 3) presents assorted relevant data and identified best practices to guide programming on women and child justice and; Section 4) presents the study conclusions and recommendations to address some of the identified gaps as well as guidance for more realistic and holistic programming on women and child justice for meaningful access to justice.

1.2 BACKGROUND AND CONTEXT

1.2.1 Understanding the Concept of Access to Justice

This draft report adopts the definition of Access to Justice as the right of individuals and groups to obtain a quick, effective and fair response to protect their rights, prevent or solve disputes and control the abuse of power, through a transparent and effective process in which mechanisms are available, affordable and accountable,¹ through formal or informal institutions of justice, in compliance with human rights standards.² Access to justice has two dimensions: procedural access (having a fair hearing before a tribunal) and substantive justice (receiving a fair and just remedy for a violation of one's rights).³ The following are some of the essential elements for the realization of access to justice:⁴ (i) a framework of legal protection setting out acceptable substantive and

¹ United Nations Development Programme, *Access to justice concept* New York: United Nations Development Programme Justice System Program, 2011, 31.

² United Nations Development Programme, *Programming for Justice: Access for All: A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice*, Bangkok, UNDP, 2005

³ Global alliance against trafficking in women (GAATW), *Access to justice program*, retrieved from <<http://www.gaatw.org/atj/>>.

⁴ L. Schetzer, J. Mullins and R. Buonamano "Access to Justice and Legal Needs – A Project to identify legal needs, pathways and barriers for disadvantaged people in NSW: Background paper" Law and Justice Foundation of New South Wales, 2002. Schetzer and Buonamano state that access to justice involves the following three key elements: i) equality of access to legal services—ensuring that all persons, regardless of means, have access to high quality legal services or effective dispute resolution mechanisms necessary to protect their rights and interests;

ii) National equity—ensuring that all persons enjoy, as nearly as possible, equal access to legal services and to legal service markets that operate

procedural standards; (ii) legal awareness on the part of providers and users of justice services; (iii) the availability of legal services needed to link needs to enforceable remedies, including legal aid and counsel; (iv) adjudication of disputes that is fair and effective; (v) enforcement of remedies; and (vi) transparency and oversight of the operation of the system.⁵

1.2.2 Access to Justice for Women and Children

It is known, that access to justice is not guaranteed for everyone, and that the poor and vulnerable are most likely to get locked out of access to justice due to loopholes in the system. Being the primary victims of marginalization, discrimination, exclusion and exploitation⁶ poor people face attitudinal barriers, technical and complex practices that are confusing for lay persons that may be literate. As such, for the poor and vulnerable, already faced with multiple problems, interacting with the legal procedures is a daunting task.⁷ Also, many who are poor and vulnerable cannot afford to retain the services of lawyers, and thus interacting with the adversarial system of justice combined with several procedures and rules can be distressing and disempowering. Women and children fall in this category of vulnerability although they may not necessarily suffer the same injustices, nor do they experience rights violations and barriers in access to justice in the same way. This report adopts a definition of children as being any person, male or female, below the age of 18 years, while the women referred to in this study are female adults above the age of 18 years with diverse socio-economic backgrounds. The study engaged women from rural and urban settings, educated and illiterate as well as semi-literate women, as well as women from different religious backgrounds in an attempt to broaden the scope of inclusion and to ensure that we capture the voices and experiences of women from diverse walks of life.

This report notes that women in particular, owing to their historical lower social positioning compared to men in many socio-cultural contexts, often lack access to and control over household resources, opportunities, and voice in a household as well as at community level compared to their male counterparts. As such, women and children often constitute the largest group of the poor and marginalized, subsequently,, their access to justice is often compromised by many interconnected factors. It is noted for example that women could experience challenges in terms of access to justice as a result of discriminatory or insensitive legal frameworks. Examples of these include but are not limited to explicitly discriminatory legal provisions; gender blind provisions that do not take into account women's social position and gaps in legislation concerning issues that disproportionately affect women; problematic interpretation and implementation of the law which discriminates against women; and ineffective or problematic legal procedure such as the lack of gender sensitive procedures in the legal system. Other challenges that may make access to justice difficult for women include poor accountability mechanisms (including corruption); under-representation of women among legal professionals, which makes it harder to create gender sensitive laws and environments within the justice system; limited access to legal aid which makes access to justice unaffordable for many women that lack control over resources; Gender stereotyping and bias by justice actors/lack

consistently within the dictates of competition policy; iii) Equality before the law—ensuring that all persons, regardless of race, ethnic origins, gender or disability, are entitled to equal opportunities in such fields as education, employment, use of community facilities and access to services.

⁵ Danish Institute for Human Rights (DIHR) *Access to Justice and Legal aid in East Africa: A comparison of the legal aid schemes used in the region and the level of cooperation and coordination between the various actors* Denmark: DIHR (2011) 16.

⁶ IASPNET 2015 'Access to Justice for the Poor, Vulnerable and Marginalised People of Uganda. 15

⁷ *ibid*

of gender training which also makes the environment unfriendly and hence many women may fear the humiliation of interfacing with a hostile justice system.⁸

Other challenges for women in accessing justice are socio-cultural norms, attitudes and practices as well as other social contexts. These include lack of awareness of one's legal rights and legal procedures or of how to access legal aid, which can stem from gender differences in educational levels, access to information, etc.; lack of financial resources, including the means to pay for legal representation, legal fees, judicial taxes, transportation to courts, child care, etc., which makes it difficult for many women to then access justice; Unequal distribution of tasks within the family which may mean no time to follow up cases; Unequal power relations in the family that may mean difficulties in making decisions or make household resource allocations that are in women's favour – including decisions that relate to justice seeking. Other barriers include Gender stereotypes and cultural attitudes about women's social place in the household and community hierarchy, which can be discriminatory and block access to justice by trivializing women's rights and turning them into private affairs to be handled domestically and often not in the best interests of the women or girls. Further, women may be subsumed beneath men's power and hence remain under men's authority at household or community level, based on cultural norms and expectations regarding power between men and women. As such, decisions about whether or not a case should be taken to court may not be made by the women and this not only disempowers the woman but also makes access to justice much more difficult.⁹

Children face similar obstacles in accessing justice and support just as women do, owing also to the fact that they too are subject to parental directives and choices on whether or not to access justice, socio-cultural norms may trivialize their rights; and lack of income, lack of information on rights, as well as lack of power to make their own decisions, make it difficult to access justice on their own. However, much as they share these difficulties with women, children are confronted with specific legal and social barriers due to their particular status as minors. For instance, the justice system in many countries are not yet adapted to the rights and special needs of children for support and protection. There still exist complex and lengthy procedures, complicated and vague legal terminology, lack of coordination and cooperation between child protection bodies, the police, prosecutors' offices and courts, limited access to specialized legal aid as well as insufficient number of professionals trained to work with children and a justice system that is intimidating for children. This on its own makes it hard for children to understand and pursue their rights within the available justice and legal structures.¹⁰

Further, there is fear of harassment, further stigmatization, abandonment or reprisals against them or their families especially in societies that are closed or tend to be very conservative, and this

⁸ Lucy Fiske and Rita Shackel (2016), Uganda Country Report: Making Transitional Justice Work for Women: Rights, Resilience, and Responses to Violence Against Women in Democratic Republic of the Congo, Northern Uganda, and Kenya, University of Sydney, Sydney; IDLO. 2013. Accessing Justice: Models, Strategies and Best Practices on Women's Empowerment, available at: http://www.idlo.int/sites/default/files/Womens_Access_to_Justice_Full_Report.pdf; Women's Access to Justice for Gender-Based Violence: A Practitioners' Guide (International Commission of Jurists, 2016) <https://www.icj.org/wp-content/uploads/2016/03/Universal-Womensaccess-to-justice-Publications-Practitioners-Guide-Series-2016-ENG.pdf>

⁹Ibid.; Compilation of good practices from member states to reduce existing obstacles and facilitate women's access to justice (2015): <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680597b12> National studies on barriers, remedies and good practices for women's access to justice in five Eastern Partnership countries (2016): <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806b0f41>

¹⁰Access to justice for children: Report of the United Nations High Commissioner for Human Rights, 25th session of the Human Rights Council; UNICEF, Access to justice for children – source: <https://www.unicef.org/bulgaria/en/access-justice-children-0>

further hinders access to justice due to fear of reprisals. In addition, factors like lack of trust and confidence that their complaints will be taken seriously and fairly assessed as well as the fact that in many communities it is culturally and socially unacceptable for children to lodge complaints and claim redress, all create difficulties for children to access justice. This is especially the case in the context of societies that have very strong values and norms associated with respect for one's place in social hierarchy and where risks of reprisals, including violence, intimidation, exclusion and ostracism may be a concern.¹¹

In many communities, corporal punishment and other forms of violence against children are seen as a fact of life rather than a rights violation that could be brought to court and this jeopardizes options of seeking justice since it trivializes children's rights in such cases. Further, access to justice for children usually depends on the support provided by adults, who themselves may not be aware of children's rights or know how to best support their children, or may have conflict of interest or may themselves be the perpetrator. Again, in such cases, access to justice for the child becomes difficult. Also, factors such as the costs of proceedings and the physical distance to courts as they often lack the necessary means to pay for fees or organize travel or rely on adults to make these payments, but the interests of adults may be different and their level of prioritization of the child's rights to access justice, may be compromised. All these factors therefore have negative effects on children's levels of access to justice¹²

It is important to note however, that women and children are not a homogenous category and that their experiences within the justice system varies significantly based on different and often multiple layers of discrimination. For example, although the barriers faced by women in general, in terms of access to justice are similar, the experiences of individual women vs other women, may not be the same. Specifically, women do not experience the same levels of difficulty in access to justice due to the fact that women are not a homogenous category – wealthy vs poor, refugee vs nationals, younger vs older, educated vs uneducated, tribal/cultural differences, differences in marital status, disability status etc., all affect their experiences and levels of access to justice. Similarly, Children are not a homogenous group and may experience different levels of challenges in terms of access to justice. For example, children in alternative care, children deprived of their liberty, children with disabilities, children living in poverty, children living in the streets, belonging to minorities, children in conflict situations, asylum-seeking and migrant children, girls vs boys, etc are each faced with differing levels of difficulties and additional barriers in accessing justice. Understanding these differences and addressing them in formal and informal justice systems is therefore pertinent if access to justice is to be attained.

1.2.3 International Legal Frameworks on Access to Justice

The Universal Declaration of Human Rights (UDHR) recognises the equality of all persons before the law and equal protection of the law.¹³ Further, the Declaration guarantees the right for all persons to seek an effective remedy from the competent national tribunals for any violation of fundamental rights guaranteed under the law.¹⁴ The above provisions form the bedrock of access to justice at the universal level. There have been successive human rights instruments at the international and regional level aimed at safeguarding categorical rights namely civic and political

¹¹Ibid.

¹²Ibid.

¹³ Article 1 and 7, Universal Declaration of Human Rights, 1948

¹⁴ Article 8, Universal Declaration of Human Rights, 1948

rights,¹⁵ socio economic rights,¹⁶ to women's rights,¹⁷ children's rights,¹⁸ owing to the historical injustices. All the categorical human rights instruments have re-echoed the principles in the Universal Declaration of Human Rights that is, equality before the law, equal protection of the law and the right to seek redress as the foundation to enforce the rights guaranteed in those instruments.

The Convention on Elimination of All Forms of Discrimination against Women (CEDAW) was adopted in 1979 to reinforce the provisions of existing international instruments aiming to eliminate discrimination against women and achieve gender equality. While CEDAW does not directly address the gender-based violence which is often prevalent in crisis situations, the Committee which monitors the Convention's implementation has addressed the issue in its General Recommendation No. 19 and jurisprudence, opining that 'the definition of discrimination includes gender-based violence. CEDAW General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations and CEDAW General Recommendation No. 33 on Women's Access to Justice also both emphasize that justice delivery must traverse development, conflict, post-conflict and other forms of crisis contexts, because women and girls are at risk of violence and other forms of violations in all these settings.

The 2030 Agenda for Sustainable Development prioritizes those who are furthest behind, and in many cases, this means women. The diversity of women's personal characteristics and circumstances can lead to complex forms of exclusion, aggravating systemic and structural discrimination, prejudice and stereotyping which may affect access to justice. The agenda 2030 thus advocates for strategies to be in place to protect women and other vulnerable groups like children and refugees, to ensure they have access to justice.

The International Criminal Tribunals for the former Yugoslavia and Rwanda have prosecuted crimes of sexual violence, thereby providing legal precedents for protecting women and combating impunity for violations of their rights. The Rome Statute of the International Criminal Court (ICC) explicitly recognizes that, under specified circumstances, sexual violence constitutes an international crime.

Other UN resolutions and world conferences have sought to strengthen the protection and promotion of women's human rights. These include the 1993 World Conference on Human rights, which affirmed the universality of women's rights as human rights, and stressed the importance of eliminating violence against women, and especially recognizing violence against women in armed conflict as a violation of human rights and humanitarian law.

The 1993 Declaration on the Elimination of Violence against Women emphasized that violence against women and girls is not only a grievous human rights abuse in itself, but also a serious impediment to the realization of many other rights for women and girls.

The 1995 Beijing World Conference on Women included strategic objectives to address access to justice for women and children as laid out in objective C – specifically C.11 which highlights the

¹⁵ International Covenant on Civil and Political Rights, Adopted 16 December 1966, GA Res 2200A (XXI), 21 UN GAOR Supp (No 16) 49, UN Doc. A/6316 (1966), 993 UNTS 3.

¹⁶ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights*, 16 December 1966, A/RES/2200,

¹⁷ UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, A/RES/34/180

¹⁸ UN Commission on Human Rights, *Convention on the Rights of the Child*, 7 March 1990, E/CN.4/RES/1990/74

need for prevention of violence against women and ensuring access to justice for survivors; objective D talks about mitigating the impact of armed conflict on women which includes ensuring access to justice to seek remedial actions for war crimes experienced; objective I which relates to promotion of human rights for women which also includes ensuring that discriminatory laws and practices are removed to foster access to justice by women.

The Security Council, in resolution 1325 (2000), also reiterated that civilians, particularly women and children, account for the vast majority of those negatively affected by conflict, and called for measures to ensure that women are more equally represented in all stages of peace processes. The document also emphasizes access to justice for women

Further, in September 2015, the UN adopted the 2030 Agenda for Sustainable Development (2030 Agenda) and its 17 SDGs. The SDGs seek to end extreme poverty, fight inequality and injustice, and reverse climate change by 2030. Goal 16 states that countries should, “promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable and inclusive institutions at all levels.” There are important synergies between SDG 16 and other SDGs: as many as 36 SDG Targets are relevant to peace, inclusion or access to justice. However, justice will not be “equal” and for “all” unless the root causes of discrimination in access and delivery are addressed. Persistent discrimination in the exercise of women’s rights through official bias, corruption, impunity, stigma, indifference and systematic failures are all barriers to access to justice for women and children.

Similarly, the concept of the United Nations Standard Minimum Rules for Administration of Juvenile Justice (the Beijing Rules) 1995, provide minimum standards on juvenile justice particularly under detention. While the framework is not express on the concept of access to justice, it provides for the care protection of juveniles while in custody.¹⁹

1.2.4 Regional Protocols that address Access to Justice

The African charter on human and peoples’ rights²⁰ safeguards the rights and freedoms of African people in the political, social, economic and cultural spheres. The instrument provides a bedrock for individual states to establish an access to justice framework. It lays emphasis on the principle of equality of all people before the law and thus equal protection by the law in the same spirit.²¹ The African union human rights legal regime is also cognizant of category rights of women and children who are protected under the thematic charters. The thematic charters of the African union and the protocols uphold the spirit of equality before the law.²² Several other regional protocols including the principles and guidelines on the right to a fair trial and legal assistance in Africa, 2003 (Dakar declaration); the Lilongwe declaration on accessing legal aid in the criminal justice system (2004); Kyiv declaration on the right to legal aid conference on the protection and promotion of human rights through provision of legal services 2007; all similarly speak towards the importance of legal aid in enhancing access to justice in the region; recognize the right to a fair trial; and the need for adequate resources to be allocated to judicial and law enforcement institutions to enable them to provide better and more effective fair trial guarantees to users of the legal process. Other issues like

¹⁹ LASPNET; STATE OF ACCESS TO JUSTICE REPORT 2017 Annual Trends Analysis "Denying access to justice, is injustice" Dr. Mohammed Abad Alrazak

²⁰ *African Charter on Human and Peoples' Rights ("Banjul Charter")*, 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982)

²¹ Article 7 of *African Charter on Human and Peoples' Rights*

²² The African Charter on the Rights and Welfare of the Child and The Protocol to African Charter on Human and Peoples Rights

the need for ensuring legal assistance, public defender and legal aid schemes, allowing paralegals to provide legal assistance and pro-bono representation for accused persons in criminal proceedings are all upheld by the declarations.

The documents also mention the need for effective representation of women in judicial institutions, reform of judicial procedures which discriminate against women and provision of gender awareness training to judicial and law enforcement officials. Similarly, the 'Maputo protocol' is a ground breaking instrument that addresses concerns of African women. Article 8 specifically recognises access to justice and equal protection before the law by stating that women and men are equal before the law and shall have the right to equal protection and benefit of the law. Particularly, it recognises the right to effective access by women to judicial and legal services, including legal aid.

1.2.5 Ugandan Legal Framework on Access to Justice for Women and Children

Uganda as a signatory to several international protocols that promote women's rights including the African Charter on Human and Peoples' Rights; the UN International Covenant on Civil and Political Rights; the UN Convention against Torture and other Cruel, inhuman and Degrading Treatment or Punishment; the UN Convention on the Rights of the Child and the UN Convention on Elimination of All Forms of Discrimination against Women; the International Covenant on economic, social and cultural rights; Universal declaration of human rights; the protocol of the African charter on the rights of women in Africa; and the 2011 Declaration of heads of state and government of the member states of the International conference on the great lakes region, and SDGs. All these protocols highlight the need for gender equality and extoll the urgency for elimination of gender inequalities and violations of women's rights. Uganda has also made efforts to include the aspirations contained therein, within the different legal frameworks used in the country. The Constitution of the Republic of Uganda (1995) provides substratum for implementation of the principles contained in the international and regional human rights instruments including those on access to justice as noted above. The Constitution guarantees a number of freedoms and rights, especially equality before the law to all citizens and the right to seek redress from courts of law in case of violation of rights. The right to a fair trial is guaranteed in both civil and criminal proceedings in the Uganda Constitution. In relation to criminal proceedings, the right to a fair hearing entails a number of guarantees to an offender to ensure he or she gets justice including the right to legal representation at the expense of the state for offenders charged with capital offences. It also secures and safeguards the rights of women and children in social, political, economic and other aspects of life including access to justice.

The National Gender Policy 2007 and the draft national Gender Policy (2017), the Sexual and Gender Based Violence Policy (2015) all lay a firm foundation for equal treatment before the law, and access to justice for women and men, boys and girls. Other Statutory laws that focus on women and children include the following; The Domestic Violence Act (2010), The Prohibition of Female Genital Mutilation Act (2009), and The Succession Act - which all protect women and children as well as men from various rights violations. The Children's Act reiterates many of the positive and enabling positions contained in the Convention on the Rights of the Child (CRC) and offers substantial protection for children's rights as well as offering legal assistance for children in need of care and protection in conjunction with the Local Councils, one of whom is in charge of children affairs by virtue of office. Other frameworks that offer protection include The Judicature Act, Cap.

12, The Magistrates' Courts Act, Cap 16 and The Local Council Courts Act, which all lay down stipulations that promote access to justice for women and children.

It is also noted that The National Action Plan on Women, 1999 (NAPW) emerged out of a consultative process that sought to implement government commitments at the 4th World Conference on Women in Beijing. The Plan identifies 'the legal framework and decision making' as one of the four priority areas of concern. The strategic objectives under this area mainly relate to the promotion of gender sensitive administration of justice as a strategy toward improving overall access to justice, particularly for women. In addition, the National Transitional Justice Policy is an overreaching framework of the Government of Uganda (GoU); designed to address justice, accountability and reconciliation needs of post-conflict Uganda. The Policy, provides a holistic intervention to achieving lasting peace in a country whose history has until recently, been marred by political and constitutional instability. A combination of justice mechanisms is proposed in the Policy

Further, the National Development Plan 3 (NDP III) focuses on Enhancing access to "Justice for All", particularly for the poor and marginalized. JLOS Strategic Investment Plan SIP III is currently being implemented and a law on Access to Justice Act is envisaged. JLOS since the initiation of its first Sector Investment Plan (SIP I) in 2000, has focused on how to improve the efficiency, effectiveness, fairness, outreach and scope of the institutions involved in administering justice and ensuring that it reaches those most in need, the poor and vulnerable.

Although the constitution of the republic of Uganda in Article 28 (3) entitles a person charged with an offence carrying a sentence of death or imprisonment for life to free legal aid provided by Government, there is lack of a clear government policy on access to legal aid by indigent or vulnerable persons beyond what the Constitution guarantees. Considering that the Government is not under any legal obligation to provide legal aid to any other person in Uganda, this has negatively affected access to justice, especially among the indigent and vulnerable members of society like women and children. Other legal instruments in Uganda, such as the Poor Persons Defense Act Cap 20 are limited in scope and are not up to date with the international best practices as expressed in various international legal instruments. In this regard, the Legal Aid Bill that could address all these gaps, is yet to be passed into a law. The Bill consolidates, updates, and modernizes the law on legal aid in Uganda; to codify Government's obligation in relation to the provision of legal aid to indigent or vulnerable persons; to create Justice Centres Uganda and designate them as the government agency responsible for providing legal aid on behalf of Government; repeal the Poor Persons Defense Act; to make provision for the grant of legal aid services to indigent and vulnerable persons; to make provision for eligibility for the grant of legal aid, to make provision for the termination of legal aid; to make provision for the payment of court fees, costs and damages by an aided person and for other related matters. However, the bill is yet to be passed into a law, and despite a lot of demand for it to be tabled before parliament, this has not been done. It is noted that provision of legal aid has over time been left to the private sector and to NGOs supported by various donors whose support is temporary and biased to specific areas, thus excluding other pivotal areas. It is also noted that under LASPNET, there are 55 Non-Government organizations providing legal services but the challenge with non-state legal providers is that they are not sustainable and are biased and focused on specific areas of interest to the agencies concerned or their donor. This may leave many vulnerable people unable to access support through such agencies.

1.2.6 Informal Justice in Uganda

The term informal justice system is used here to draw a distinction between state-administered formal justice systems discussed earlier and non-state administered informal justice systems. Informal justice systems refer to forms of disputes resolution that take place outside of formal court systems and that have a certain degree of stability, institutionalisation, and legitimacy within a designated constituency.²³ Informal justice systems usually operate under ‘Legal pluralism’ - legal systems in which pre-colonial traditional, indigenous, customary or religious systems are formally recognised (to varying degrees) and continue to operate side-by-side with the common-law or civil-law based systems introduced later.²⁴ The traditional justice systems through cultural/ traditional leaders serves as an alternative for many people who are unable to, or choose not to, access the formal justice system. This is due to the fact that Cultural leaders are the closest to the people and therefore interact more with the citizens. International human rights law recognizes legal pluralism within States, provided that they conform to international human rights standards. It should also be noted that there currently exist some customary courts and tribunals dispensing justice though they are not yet regulated by any law. The Bataka Courts in Kagadi are a local initiative to improve access to justice but they too are not regulated. The Qhadi Courts are mentioned in Article 129 (1) (d) of the 1995 Constitution of Uganda however, an Act to define their powers and procedure has never been passed. The manner in which jurisdiction over various cases is defined and exercised is a crucial element on access to justice.

Informal justice systems are varied and may include; Traditional, Indigenous, and Religious systems that have typically existed since pre-colonial times and are conducted by hereditary or religious authorities. Informal justice systems also include alternative community-based systems that are initiated by the state or non-governmental organisations (NGOs) for example the SASA approaches adopted and used in many communities as a community structure to address Gender Based Violence. Many draw on community norms, adapted to include human rights, and use modern alternative dispute resolution procedures (such as negotiation and mediation). Other examples include: community mediation centres, community policing and neighbourhood watches.

1.3 THE ASSIGNMENT

UWONET contracted ECASA Group of Consultants to offer consultancy services in the conduct of a national research study to interrogate the factors hindering access to justice for women and children. Subsequently, the Consultant developed an Inception Report that serves as a roadmap to guide execution of the assignment and ensure effective implementation and delivery of the expected outputs and deliverables within the agreed timeframe. After incorporating inputs and getting approval from the Client, the Consultant conducted the study, looking beyond the formal and traditional justice mechanisms, to examine why gender and child justice interventions are not effectively delivering meaningful justice for women and children. The assignment was carried out in a period of 3 months from October, 2020 to December, 2020.

²³Frederick W. Jjuuko, 2018, The role of Informal justice Mechanisms in Deepening Access to Justice: Options and Opportunities for Legal Pluralism in Uganda retrieved <https://judiciary.go.ug/>

²⁴ OHCHR, available at https://www.ohchr.org/Documents/Publications/PractitionerToolkit/WA2J_Module1.pdf as at Nov, 25th, 2019.

This study is anchored on experiences of women and children that access formal or informal justice institutions. The study sought views of women and children that have interfaced with these different justice institutions, but also sought views from individuals involved in the regulation and provision of judicial services as well as those accessing or using either formal or informal justice systems at different levels. At national level, it targeted the Justice, Law and Order Sector (JLOS), Ministry of Gender, Labour and Social Development (MoGLSD); National Women Umbrella Organizations (UWONET, FIDA etc.); Uganda Human Rights Commission (UHRC); National Council of Children (NCC); Uganda Prisons; Uganda Police Force and Remand Homes. At Formal Justice System Level, it targeted Judicial Officers, District Community Development Officers, health sector staff, Police, Legal officers, and NGOs involved in related service delivery, as well as Local council leaders. At Informal Justice System Level, the study targeted women, men and children that have ever accessed or used the informal justice systems. The study was designed in such a way that, experiences of the selected respondents were captured.

1.3.1 Objectives of the Study

The research was aimed at improving understanding of the justice needs of women and children by gaining insight into the unique vulnerabilities and challenges that they face. Specifically, the research aims to:

1. Investigate the experiences of women and children in accessing justice in both the formal and informal sector.
2. Generate data to inform realistic and holistic programming on women and child justice for meaningful access to justice.
3. Establish the impact of existing interventions on access to justice for women and children
4. Identify barriers, best practices and possible solutions.

1.4 METHODOLOGY

Studies have shown that the attainment of access to justice for women and children is integrally linked to normative protections, institutions and mechanisms, legal empowerment as well as other factors (Bridgman, 2007). The consultants thus took all necessary measures throughout the study to be mindful of the known and yet to be identified barriers that face women and children in terms of access to justice; and were mindful of the differences between and among women and how this affects access to justice for each of the different groups. The consultants were mindful of the differences between and among children and how this affects access to justice of the different categories of children; and were mindful in identifying strategies to address these unique and context specific needs of women and children to ensure enhanced access to procedural and normative justice. In this regard, the methodology was reflective of these concerns and ensured that different categories of women and children were included in the discourse (PWDs, elderly, educated, illiterate, wealthy, poor, refugee and host communities, etc.).

1.4.1 Methodological Approach

The study was designed to be qualitative and quantitative in order to be able to generate sufficient data to answer the why questions surrounding women and children's low levels of access to justice, but also to be able to make use of descriptive statistics to illustrate the magnitude of problems under investigation or trends with regard to access to specific forms of justice by women and children.

The Consultants conducted the study in a highly participatory and consultative manner to ensure wider participation of all key stakeholders in legal and other social services and in particular, those involved in the delivery and promotion of access to justice for women and children. The study engaged key stakeholders at national and local levels including staff of government and non-government agencies working in the JLOS or on access to justice for women and children. The consultants engaged key actors involved in dispensing justice in the formal and informal justice systems; engaged users of the formal and informal justice systems through semi structured interviews, FGDs; the consultants had in-depth interviews with incarcerated women and children. Wider stakeholders' consultations were critical in achieving a broader understanding of access to justice programming and issues in the country as well as inculcating a sense of collective responsibility, accountability and ownership of the findings and recommendations of the study among the various stakeholders. The Consultant worked through the existing UWONET structures as the primary point of call for both primary and secondary data collection.

1.4.2 Anchoring of the Study

The study was anchored on experiences of individuals involved in the regulation and provision of judicial services as well as those accessing or using either formal or informal justice systems at different levels. Accordingly, the study was designed in such a way that, experiences of the selected respondents were captured at the different levels as follows:

- i. **Formal justice systems (Level 1 - National):** The study participants at this level comprised of policy makers involved in the formulation and regulation of the formal justice system, including representatives from the relevant national level institutions including; the Justice, Law and Order Sector (JLOS), Ministry of Gender, Labour and Social Development (MoGLSD); National Women Umbrella Organizations (UWONET, FIDA etc.); Uganda Human Rights Commission (UHRC); National Council of Children (NCC); Uganda Prisons; Uganda Police Force and Remand Homes, among others. Detailed list is available in the matrix of respondents under key informant interviews.
- ii. **Formal Justice System (Level 2 - District):** The study participants at this level included district level key informants involved in the provision and promotion of judicial and other related services as well as those accessing or using the formal justice system. These included Judicial Officers, District Community Development Officers, health sector staff, Police, Legal officers, and NGOs involved in related service delivery, as well as Local council leaders. In addition, women and children that have *ever accessed or used* the formal justice systems were interviewed using the semi-structured interviews, child focused interviews (drawing and story-telling), and in FGDs. Also, some women and children that have been incarcerated having conflicted with the law at some point, were engaged to share their experiences using case study. Other women and children that *have never used* the formal justice structures were also consulted through in-depth interviews to document their experiences.
- iii. **Informal Justice System (Level 3 – district):** The Informal Justice Systems were interrogated at community level. At this level, study participants (primary targets) included women, men and children that have *ever accessed or used* the informal justice systems. These were targeted for interviews using the semi-structured interviews, child focused interviews (drawing and storytelling), and through community FGDs.

The other respondents (secondary targets) cultural and religious leaders and other community resource persons involved in the delivery and promotion of justice, using the informal justice system. Women representatives in these institutions were specifically targeted to participate in the leaders FGD.

In addition, Women and children that ***have never used*** the informal justice system were also targeted and interviewed using in-depth interviews to document their experiences and reasons for not seeking justice.

1.4.3 Data collection

Data was collected using various measures including document reviews, semi-structured interviews, key informant interviews, in-depth interviews and FGDS.

Document Review

Extensive document review and analysis was carried out to enable the consultant to have clear understanding of access to justice programming and issues in the country. This process helped to define issues for consideration during other data collection activities. Several documents were reviewed including but not limited to the following: CSOs/ NGOs and other stakeholders project and programme reports; CSO and NGO advocacy documents on enhancing access to justice for women and children; Gender assessment reports and Policies; Vision 2040; National Constitution; NDP III; JLOS Sector Plan; JLOS performance reports; Relevant research studies on access to justice for women and children etc.; Third party and international reports on strengthening access to justice for women and children including global best practices; Police reports on violence against women and children.

Field based Data collection

The sampling was purposively done for all different categories of people to be interviewed as follows:

Study Sites

Nine study locations were selected for this assignment. Eight districts were purposively selected from the four regions of Uganda (Western, Central, Eastern and Northern) – two districts per region. In each region, a high court district and a non high court district, were selected to enable comparison of experiences across different locations and contexts. The selection of high court vs non-high court districts also aided capture of a diverse range of rights violation cases that are experienced most by women and children including capital offences like rape and defilement that are only tried in the high court. Kampala as the capital city was also selected purposively to capture the unique context of a location with diverse categories of people and differing experiences/unique contexts. In total therefore, nine study sites were selected for the study.

Study Respondents

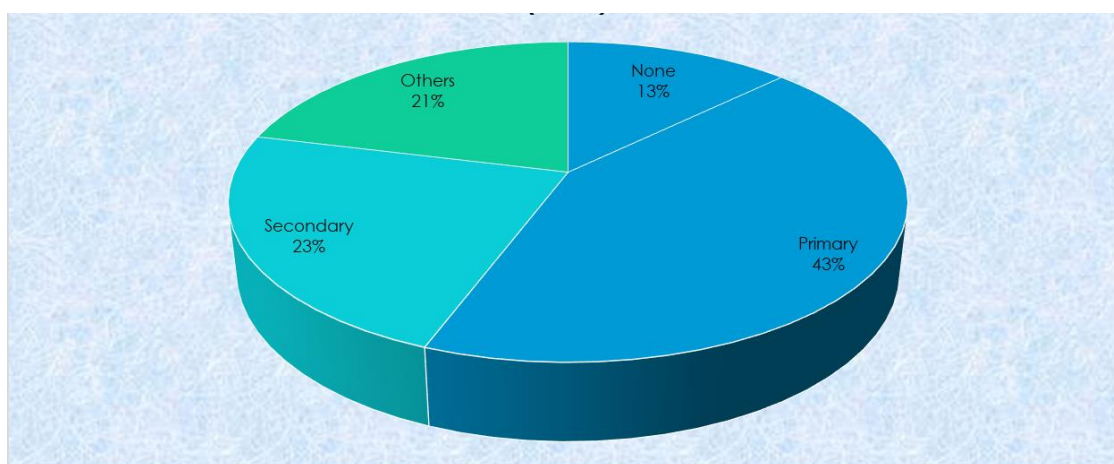
A total of 310 people participated in the study as respondents to the semi-structured interviews, child friendly interviews and key informants. Of these, 157 (120F:37M) were interviewed using semi-structured interviews; 59 key informants; 46 children below 13; and 24 women and children whose rights were violated but did not seek help at all; 24 incarcerated women and children interviewed

using the in-depth tools. The study also held 27 FGDs with a combined population of 322 people participating across the different regions. The respondents in each category included PWDs, different age groups, different wealth statuses, different education levels, different employment statuses, ethnic minorities, etc. The younger children (below 13) were engaged by child specialists on the team using child friendly research methodologies (drawing and discussion of the drawings) in order to understand their experiences and their feelings about their experiences with the law. Since parental consent is required to speak to children, and also because in most cases the decisions regarding whether to seek justice or not is often made by the parent not the child, as such, in cases of children living with a parent or guardian, permission was sought from both the parent/guardian as well as the child before the interview could start.

Semi-Structured Interviews

A total of 157 (120F:37M) respondents were interviewed for the semi-structured interview tool. Half of these were from those that have used the informal justice system and the other half from those that used the formal justice system. The selection of respondents that have interfaced with the formal justice system was done from records of the formal justice institutions (court records, police records, LC court records, and NGOs/legal agencies handling such cases). The selection of respondents that have interfaced with the informal justice system, was done from records of court hearings conducted by the clan courts and or religious institutions. In each district therefore, respondents whose rights were violated and have used either formal or informal systems to seek justice, were selected to respond to the semi-structured interviews. These included women and adolescents that had either used the formal or informal justice systems. Of these respondents, 87.8% were female and the rest were adolescent males and male children below 13 years. In terms of age segregation respondents under 13 years were 0.7%; 13-18 years were 1.3%; those above 18 years were 98.0%. Majority of the respondents had some formal education, with 48% having at least some primary education; 21% had some secondary education; and 10% had completed other types of training like vocational studies or post-secondary education; 10% had no formal education at all. The chart below provides this information.

Fig: Showing level of education of respondents for semi structured interviews



Child friendly interviews

A total of 46 Children below 13 were engaged to answer similar questions as those highlighted in the survey tool, but using child friendly research methodologies. In particular, the study adopted the use of art as a means to kick-start discussions on the children's experiences with rights violations in the home or community and their quest to seek justice. The children were given an opportunity to express themselves visually through drawing pictures about some of their experiences with regard to their rights violations and their access to justice.

Focus Group Discussions

In each district, three FGDs were conducted, each comprised of maximum 10 participants as per the COVID-19 SOPs. One was an FGD for males; an FGD for Females; and community leaders FGD (for clan leaders, protection committee members, religious leaders – Muslim, Christian, etc – at least 1 male 1 female from each of the categories). The community leaders FGD comprised of people that were engaged in dispensing informal justice either at clan level, community level or through their religious institutions.

Key Informant Interview Respondents

These were selected based on an agreed upon criteria with UWONET, and included service providers in the JLOS and those offering supportive services to women and children to enhance access to justice. Among those selected were duty bearers like the Police Family and Child Protection/CID, health unit staff, gender officers/probation officers, judiciary staff (Court magistrate/registrar/DPP/State attorneys), as well as NGO/Legal agency staff in agencies offering diverse services to protect and enhance women's rights to justice, among others. The key informants were interviewed at district and at national level, and were 64 people (31F:33M) in total.

In-depth Interviews

The study documented experiences from 16 women and 8 children (4 male and 4 female) that have been incarcerated in prisons in the country. This helped bring across the perspective of women and children in conflict with the law for purposes of comparison of experiences of women and children as survivors of rights violations, seeking help and redress.

The In-depth interviews also documented the experiences of 24 people - 12 women and 12 children (6male and 6female), whose rights have been violated but they never sought help through the formal and informal justice systems. This second group helped explain the dynamics at play and the factors that lead women and children to shy away from justice seeking and what can be done to empower them to access justice through formal or informal mechanisms available.

1.4.4 Summary of Interviewed Respondents

The table 2 below provides a summary of the different categories of people engaged for purposes of this assignment

Table 1: Summary of the different categories of people engaged in the study

Category	Target National Level	No.	Total targeted	Total reached
Key informant interviews	• JLOS (secretariat – gender officer; children officer) • MOGLSD – commissioner children; commissioner gender • Naguru remand home staff in charge;) • Uganda prisons • Uganda police FCPU/CID - naguru • UHRC • FIDA • National Council for Children • LASPNET - CEO • UWONET • SWGS – Dean/director DGF • Legal aid service providers • UGANET • NUDIPU • Moslem center for justice and law • Justice center	20	20	10
Category	Target per district	No. per district	Total	
Key informant interviews	• Police family and child protection officer/Community Liaison officer (1), • CID officer - 1 • Gender officers/probation officers - 1, • Magistrate/Court registrar/DPP – 1 • Health center in-charge -1 • GBV coordinator – 1 • 1 private legal Agency/NGO handling legal referral or representation	7	56	49
Semi-structured interviews	• 16 women ◦ 8 of these had used formal justice systems; ◦ the other 8 who have used informal justice services ◦ half of these will be in urban setting and half in rural setting • 8 adolescents (13-18)/ ◦ half of these used formal justice systems; ◦ the other half who have used informal justice services ◦ half of these were in urban setting and half in rural setting	24	216	157
Child friendly interviews	• 8 children (below 13) • Half were from rural areas and the other half from urban/peri-urban areas • To share their experiences with rights violations and the quest for seeking justice	8	64	46
In-depth Interviews	• 16 women in prison • 8 children (4M and 4F) in juvenile detention (from Kampala) • 16 women that have never used the formal or informal mechanisms (only 2 per district) • 16 children that have never used the formal or informal justice system (only 2 per district – 1 male and 1 female)	8	64	58

TOTAL		412	310
FGDs	• 1 male's FGDs –10 persons • 1 Female's FGDs – 10 persons • 1 Community leader's FGDs – 8 persons Total of 3 FGS per district = 27	27 FGDs	27 FGDs

1.4.5 Ethics of the study

The consultants were aware of the fact that the study covers delicate and sensitive issues and therefore precautions were taken to ensure that respondent confidentiality and safety during the interview process and in the process of report writing. Specifically, research assistants were trained on essential qualities and ethics critical for the success of the data collection process. The guiding principle throughout the study, was that, the best interests of the women and children as well as key informants holding sensitive positions should be protected at all times throughout the study, and that the assessment activities should do no harm to the participants. Research assistants were trained and given skills for data collection in a manner that protects the respondent's rights to privacy as well as protects their confidentiality and mental /physical wellbeing. The environment for data collection was carefully selected to enhance privacy and to ensure that the respondents are comfortable speaking to the researchers.

The research assistants were trained to be compassionate and sensitive to the needs of the respondents; to be a good listener, patient and willing to listen and learn from the people being consulted; provided good communication skills, and deployment criteria ensured one was able to communicate effectively in the local languages in the study district..Finally, they were urged to be culturally sensitive - being aware and respectful of local customs, norms and beliefs. In writing this report, one will notice that names, positions, and workplaces have been left out. This is deliberate, and again intended to protect the respondents, some of whom mentioned things that were extremely sensitive. Some specifically requested not to be quoted or mentioned by name, and therefore, to honour their requests, such details have been left out of the report.

1.4.6 Challenges and Study Limitations

- Mobilization was a big challenge and accessing some respondents was very difficult in some districts. Some national and district level key informants were difficult to access as they were occupied with other programs.
- High expectation for money among community respondents could have led to subjective responses.
- Parents and guardians were reluctant to allow their children below 13 years to participate in the study.This affected the response rate among this category of respondents.
- Whereas the study aimed at ensuring social inclusion in the assessment, very few people with disability were consulted due to the difficulty in accessing PWDs in the communities visited.
- There was limited research or programme data on access to justice for women and especially for children below 13 years. Most of the cases of abuse relating to children in that age category are not reported.

1.4.7 Mitigation Strategies

- i. The consultant approached several community mobilizers especially community leaders to mobilize the required and targeted respondents. In other districts, the research teams spent extra time (at least day) to ensure that a reasonable number of respondents was interviewed.
- ii. For some of the respondents that were very busy and could not be easily reached, the consultant adopted phone interviews. Some valuable data was generated and has been presented in the report.
- iii. For parents that prohibited their children from participating in interviews, these were convinced through local leaders to allow their children to participate while the objectives of the Study were emphasized. As part of the research ethics however, those that expressed unwillingness to participate in the study were left out.

SECTION 2:

2 KEY FINDINGS

This section presents study findings from various sources including document review, key informant interviews, semi-structured interviews, child friendly interviews, and Focus Group Discussions. The findings are a triangulation of data from all these different data sources, and represent the views of 590 participants in the study, from 9 districts across all regions of Uganda.

2.1 EXPERIENCES OF WOMEN AND CHILDREN WITH ACCESS TO JUSTICE IN UGANDA

2.1.1 The Formal Justice System

2.1.1.1 Structure of the Formal Justice System

The study findings reveal that the formal justice system includes “... *all the institutions under the Justice, Law and Order Sector...*” (**Key Informant, JLOS - Kampala**) and indeed the mission statement of the Justice, Law and Order Sector is “to enable all people in Uganda to live in a safe and just society.”²⁵ Their core mandate therefore is to ensure that there is effective justice delivery for all regardless of their race, religion, economic status or disability. The discussions with key informants show that

...the institutions under the Justice Law and Order sector are varied and include Ministry of Justice and Constitutional Affairs, Ministry of Internal Affairs, The Judiciary, The Uganda Prison Service, The Uganda Police Force, The Office of the Director of Public Prosecutions, The Judicial Services Commission, The Uganda Law Reform Commission, Ministry of Gender Labour and Social Development - Probation Services, Ministry of Local Government – Local Council Courts, Uganda Human Rights Commission, Uganda Registration Services Bureau, National Identity and Registration Authority, Directorate Of Citizenship and Immigration Control, Uganda Law Society, Tax Appeals Tribunal, Law Development Centre and Centre For Arbitration And Dispute Resolution. The focus for this research was on those JLOS institutions that have the main responsibility of gender and justice delivery. These are; Ministry of Gender, Labour and Social Development, Ministry of Justice and Constitutional Affairs, Uganda Police Force, Uganda Prison Services, the Judiciary, the Office of the Director of Public Prosecutions, Uganda Law Society, CSOs, Uganda Human Rights Commission and Local Council Courts. (Key informant discussions with UWONET, LASPNET, JLOS)

The Formal justice system is structured from the grassroots level (local council courts) to the highest level (supreme court). The different institutions within the formal justice include the following with their roles:

...LC courts are tasked with the duty of being the first point of call at community level, when any wrong or rights violation occurs. However, in case the rights violations include rape, aggravated rape,

²⁵ Uganda Legal and Judicial Sector Study Report July 2009

defilement or aggravated defilement of where there is grievous bodily harm involved, LCs are not expected to handle such cases. Such cases are of serious magnitude and therefore must be reported straight to the police. Where cases fall under those that can be tried by LCs, for example civil cases, domestic matters, etc they try to resolve these on their own and only refer cases to the police if they fail to handle.... (key informant, Lira)

Discussions with police indicate that “...where cases are criminal in nature, or where there is grievous bodily harm, or in civil matters if the complainant prefers, the cases are referred to the police either by LCs where they have failed to handle/or where the case is outside their jurisdiction, or complainants go straight to the police to make the necessary report. The police then do investigations, develop a charge sheet, send it to the DPP for sanctioning and forward to court “ **(Police, Amudat).**

Magistrate Court 1 is the starting court and handles cases that involve money matters up to the tune of 30 million. Any cases that cannot be handled at that level are referred to the chief magistrate’s court. Magistrate Court 2 is the family court and handles cases related to family and child protection, marriage and divorce, family. The chief magistrate’s court listens to cases referred from the lower courts and or cases that involve sums of money in the range of 30 million to 50 million shillings. The High court listens to all cases referred from the lower courts which are then referred to the court of appeal. This handles cases referred from the high court and where it fails, the cases are forwarded to the Supreme Court, which is the highest court and the final point of judgement **(discussions with Court staff in Kampala)**

2.1.1.2 Governance of the Formal Justice System

According to the Justice, Law and Order 4th Sector Development Plan²⁶ the Justice Law and Order Sector (JLOS) is a sector wide approach that brings together 18 institutions responsible for administering justice, maintaining law and order and promoting the observance of human rights. Through a sector wide approach, the sector brings together state and non-state actors who play complementary roles in planning, budgeting, programme implementation, monitoring and evaluation. Discussions with JLOS staff indicate that

The JLOs is headed by the Leadership Committee (LC) which is chaired by the Chief Justice and comprises relevant members of government. The Leadership Committee is made up of the following: the Minister of Justice/ Attorney General, the Ministers of Internal Affairs and Finance, Planning and Economic Development, Chairpersons of the Uganda Law Reform and Judicial Service Commissions, Chairperson of the JLOS Steering Committee and the Head of the JLOS Secretariat. The Leadership Committee may invite other key stakeholders deemed necessary to meetings including the Ministers of Public Service, Gender, Labour and Social Development and the Principal Judge. The Leadership Committee was intended to provide political support to the institution, represent the JLOS at Cabinet and Parliament levels and effectively lobby for the benefit of the sector by articulating its issues and raising its profile. It is also in charge of Policy formulation. Next to the Leadership Committee is the Steering Committee (SC) which is responsible for overseeing the implementation of the SIP, making management decisions, providing strategic guidance to the reform process and giving it direction. It also makes policy decisions. The Steering Committee is chaired by the Solicitor General with the JLOS Senior Technical Advisor as its Secretary. It comprises of officials at the highest level of institutions (Police, Prisons and DPP), Permanent Secretaries of the sector institutions/ministries including MoFPED and MoPs,

²⁶ 2017-2020 Fourth Strategic Development Plan (SDP IV) Empowering the People. Building Trust. Upholding Rights.

Chairperson of the JLOS Technical Committee and the Head of the JLOS secretariat. There is a Technical Committee (TC) comprising of technical personnel from all JLOS institutions at Under-Secretary/Commissioner level, or heads of departments. There is one representative from each of the JLOS institutions with one alternate designated by each institution. The TC's key responsibilities are to review the SIP annually, ensure its implementation, and task the working groups to identify sectoral problems and solutions related to their focus areas, report to and advise the SC on implementation and providing the primary link between individual institutions and the sector as a whole. (JLOS, Kampala)

This kind of arrangement offers plenty of space for coordinated efforts to work together towards ensuring improved access to justice for all. However, the multiple linkages also make it very difficult to foster effective coordination and sometimes there are glaring challenges that arise, and vulnerable groups may encounter problems in access to justice as a result of the poor coordination (**Key informant, Kampala**)

The findings also show that the representation of women on all the committees is still wanting. For example the Leadership Committee has a composition of 2F:13M; the Steering committee has a composition of 4F:14M; The technical committee has a composition 7F:13M; and the access to justice committee is the only one that has a more or less equal representation with a composition of 14F: 15M (**Key informant, Kampala**). This kind of structure is problematic since it limits the possibility of women's voices shaping decisions and could imply the outcomes of those decisions may not necessarily benefit women and children.

2.1.1.3 Partnerships at the Formal Justice System

The Technical committee (TC) provides oversight to the JLOS and ensures gender concerns, as well as needs of vulnerable categories are well addressed in the sector. The TC, operates under five Working Groups (WGs), one covering each focus area (Criminal, Commercial, and Land and Family justice) and the fifth for Budget/Finance. Their chairpersons are selected annually on a rotational basis from sector institutions (**key informant, Kampala**) The WGs are responsible for carrying out delegated roles of the TC, maintaining focus on pro-poor, low-cost initiatives, vulnerable groups, conflict/post conflict affected areas; monitoring and evaluating progress of JLOS work plans towards achievement of sector wide objectives; recommending relevant changes to the SIP II activities, continually seeking to mainstream cross-cutting issues, lobbying MoFPED for better funding of the sector and developing annual work plans and budgets.²⁷

JLOS is represented by the JLOS Coordination Committee (JCC) whose purpose is to oversee and coordinate improvements in the administration of justice and maintenance of law and order (i.e. enhancing case management and reducing backlog). The JCC comprises JLOS committees at District level (e.g., Chain Linked Initiative and Community Service Committee) and is chaired by the Chief Magistrate or a Grade I magistrate. Its members are JLOS institution representatives at District level, District Probations and Social Welfare Officers (PSWO), representatives of Juvenile Justice Child Welfare Committees, Uganda Law Society, and civic and local leaders (**key informant, Kampala**). The JLOS Development Partners Group (J/DPG) is comprised of agencies that support JLOS through various mechanisms including general budget support, sector budget support, and project support.²⁴ In terms of donor coordination, there is a Donor SWAP Legal sub-Sector

²⁷ Uganda Legal and Judicial Sector Study Report July 2009

Group, which brings together all contributors to the JLOS and serves as a contact point for JLOS institutions. The Donor group has a chairperson, selected by Donors and meets regularly with government through GOU-Donor Liaison Meetings, Sector Reviews and amongst themselves to concretize issues and speak with one voice. As part of the efforts towards strengthening Chain Linked initiatives, the Sector has 128 functional District Chain Linked Committees (DCCs) and 17 Regional Chain Linked Committees (RCCs) across the country. These structures assist in reducing case backlog, overcrowding in Prisons as well as addressing the demand for fair Justice.²⁸

2.1.1.4 Financing and Logistical Issues at the Formal Justice System

According to the report²⁹ financial performance was satisfactory with 100% release by government and development partners. A fiduciary risk assessment of the Sector was undertaken and an implementation plan was adopted. The Sector's fiduciary discipline and absorption exhibits strong adherence to the Public Finance and Accountability Act.³⁰ Discussions with key informants, however, reveal that challenges remain and there is need to strengthen adherence to the law and best practices as advised by the Office of the Auditor General (OAG). There is also a need to address emerging issues such as the incidences accountability in UHRC and Uganda Law Reform Commission (ULRC). Challenges also remain in delayed procurement, procuring and contracting above approved budgets. ***(Key Informant, Kampala)***

The findings show that the police currently do not have holding cells for women and children in some new districts like Lamwo, Namatumba, etc. As such, in situations of longer holding time, the women are sent to neighbouring districts. For example, those from Lamwo are sent to Kitgum and those from Namatumba sent to Namalembe, while those from Amudat are sent to Moroto or Soroti. Similarly, Juvenile delinquents from Lango and Acholi regions are sent to Gulu; those from eastern Uganda are sent to Mbale remand home. The lack of structures in each district makes handling of cases for these different categories very difficult and frustrates access to justice ***(Police, Lamwo, Lira, Amudat and Namutumba)***.

It was also unearthed that the entire JLOS is significantly underfunded. This has led to a lot of challenges including the failure to scale up the digitalization process to all districts; the failure of police to conduct their work due to logistical challenges; the failure of the judges to handle cases due to overwhelming numbers of cases compared to small staff size – the sector cannot afford to hire more staff to handle the huge volume of cases. Further, Probation offices that handle many cases of rights violations reported by women and children, is so poorly funded that work is crippled at different levels and frustrates access to justice. For example, office and the whole Community Based Services Department of the districts visited rarely had designated means of transport and often relied on NGOs to facilitate their work and movements. Similarly, all case follow ups were either supported by different agencies or not implemented due to lack of funding. The office lacked facilitation even to purchase data bundles for internet to fill OVCMS. All these challenges greatly affected access to justice for women and children in these districts. Discussions with the officers in different districts noted that there is a serious lack of prioritization of women's and children's concerns across these districts and as a result the department suffers greatly yet the number of cases, they need to handle every month is so huge ***(Key Informant, Arua and Lamwo)***.

²⁸ The Justice Law and Order Sector Annual Performance Report 2018/19

²⁹ Ibid

³⁰ The Justice Law and Order Sector Annual Performance Report 2018/19

2.1.1.5 Human Resources

There are low staff numbers across Sector institutions and this has had far reaching implications on the operations of the institutions.³¹ In all the different courts visited, the general consensus is that there are too many cases compared to the number of staff and as such this delays justice. The courts also noted that they are overwhelmed by the high numbers of cases and yet on average there are only three state attorneys handling cases in each district, serving millions of people. Currently, the Court of Appeal has 15 instead of the recommended 25 judges; The high court is also short of 30 judges and this has affected the operations of the High Courts in Luweero, Iganga, Rukungiri, Tororo and Moroto; The High Court Divisions and Circuits are grossly understaffed; all circuits have one resident Judge yet the recommended number is two per circuit; at the Magistrates level, there are about 200 Magistrates yet the recommended number is 532 (**UWONET, Kampala**). The findings reveal that if funds are adequately allocated to the judiciary, it will mitigate the problem of case backlog. The legal aid sector is equally affected with most agencies interviewed expressing concern that they lack staff. Justice center for example, noted that they have only three lawyers to represent all of Lango and part of Acholi region in pro-bono cases, but in the last 10 months they had received more than 200 new cases and other cases have been in court since 2015 (**key informants in all districts**).

The legal aid sector is equally affected with most agencies interviewed expressing concern that they lack staff. Justice center in Lira for example, noted that they have only three lawyers to represent all of Lango and part of Acholi region in pro-bono cases, but in the last 10 months they had received more than 200 new cases and other cases have been in court since 2015 (**Justice Center Staff, Lira**).

It was also noted that few justice sector staff have training on gender concerns and how to mainstream gender in their work. This lack of training greatly affects their services. One respondent that preferred anonymity mentioned that in many cases when staff are trained, they are transferred after a short time and leave a gap in technical skills at their duty stations. Further, it was mentioned that there is a tendency to assume that where there is a need for gender mainstreaming the assumption is that placing a woman in the position will lead to automatic mainstreaming of gender. Sadly, due to lack of technical expertise in gender mainstreaming and handling of gender concerns, this affects outcomes of the services on offer. For example, LCs noted that they lack training on gender across all districts visited. (**LC interviews, all districts**).

Across all the police posts visited, while the bigger Units had staff handling the family and child protection – most of them did not have the training needed to handle matters in this department (**Police in all regions**). Courts are equally “...*overwhelmed with high numbers and many cases are pending since 2014...*” (**Key informants in Mbale**) ... All these affect service delivery and hamper access to justice for women and children. Moreover, there were allegations that Judiciary staff, especially state attorneys lacked knowledge and understanding of how to use the new legal frameworks associated with recent laws like the SGBV Act – which has stiffer penalties compared to the traditional laws under the penal code Act. “...*Due to the lack of knowledge of these Acts, the state attorneys often use traditional laws to replace the SGBV Act. For example, some state attorneys document GBV offenses as assault yet the penalty for assault is limited compared to the penalty for SGBV*” (**Key informant, Lira**).

³¹ Ibid

2.1.1.6 Monitoring and Evaluation Systems at the Formal Justice System

Speaking to an official from JLOS it was noted that “...under the reform of business processes, the Sector is developing a sector-wide integration bus for information sharing starting with critical institutions such as NIRA and the frontline JLOS service institutions. The process of developing protocols for data sharing is being spearheaded by the Sector Information Integration Committee that is chaired by the Minister of Justice and Constitutional Affairs. (**JLOS Kampala**). These views were corroborated with literature stating that in the ODPP the rollout of the Computerised Prosecution Case Management System (PROCAMIS) to 14 out of 131 stations countrywide was done. Roll out to 20 more stations is underway. To ensure efficiency and effectiveness in delivery of services, the Sector is enhancing supervision, monitoring and evaluation (M&E) through retooling, capacity building of Policy and Planning Units (PPUs) and aligning institutional strategic plans to the SDP IV. The Sector M&E framework which is an integral part of the SDP IV monitoring now has annualized targets.³² Indeed discussions with the Lira court team showed that the system is already functional and has greatly helped tracking and monitoring of cases (**Lira court staff**).

The findings however show that data collection and records keeping is still a problem for many facilities. For example, at all police posts and courts not yet on the PROCAMIS there were challenges with regard to information generating and management, and they are still the old manual systems of paper files. They noted for example that:

“...managing old files is not easy... the files are too many and some of them are useless but we can’t just disregard them. the papers can be easily pulled out and storage is a nightmare” (Lamwo court respondent)

“... we are still using poor data management practices...and lack of storage facilities information management is mess...” (Arua, Police respondent)

“...we don’t have staff with training on usage of modern information management and handling so even if someone brought those gadgets, they would just be idle...” (Police respondent Amudat)

“...misplacement and mishandling of files is very common here...the information is on pieces of paper if one paper is lost then the file might be incomplete and rendered useless in court...” (Police Mbarara)

Similar views were shared by LCs who noted that they still use exercise books to record proceedings of cases but these books get lost or torn and there is no way to keep or store the information confidentially. Someone can just pick and run off with it or hide it. The data management concerns therefore are a big challenge for many of the institutions responsible for formal justice dispensation.

2.1.1.7 Justice Sector Attitudes and Beliefs towards Women and Children and the Types of Violence committed against them

The field-based findings show that there are still a lot of negative attitudes that dominate the JLOS sector and greatly impact on women’s and children’s capacity to access justice. For example, discussions with JLOS staff indicate that

³² Ibid

“...access to justice for women is a critical component of delivery of justice globally and at the national level. In Uganda, the Justice Law and Order Sector (JLOS) conducted an audit in May 2011 which revealed, among other factors, the limited capacity of the judiciary to deliver gender-sensitive justice to the general population of Uganda, and more specifically to women. Although a number of training sessions on gender justice have been conducted for judicial officers, some of the court procedures and judgments clearly demonstrate their inability to translate the gender training into concrete benefits for women. The major reason identified for this gap is the lack of tools for the judiciary to make court processes and judgments more gender-sensitive. (JLOS, Kampala).

In a bid to address this weakness, it is noted in the JLOS work plan, under the Strategic Investment Plan (SIP) III (2011 - 2016), one of the key strategies identified for addressing gender capacity gaps in the judiciary was the development of gender bench briefs for judicial officers to use and refer to in adjudication of cases. The discussions with staff at JLOS secretariat reveal that *“...the Gender Bench Book presents judicial officers with local and international best practices, including recommendations from treaty bodies such as the Committee on Elimination of All Forms of Discrimination against Women. It offers guidelines for use by court officials when determining cases where women’s rights are involved. It also assists judicial officers in addressing procedural issues that impede access to justice. (JLOS, Kampala).* Further, it is noted that in 2012, the Judiciary launched its own Gender Policy and Strategy with the overall objective of “ensure(ing) that there is gender sensitivity and responsiveness in the delivery of justice in Uganda” and that since then, *“... Courts in Uganda have passed landmark cases in a bid to enhance women’s access to justice. This is in addition to reviewing laws, rules, policies and practices that are not gender-responsive, to align them to constitutional provisions, and to international and regional laws that promote justice for women. Special measures and procedures have also been established by the judiciary to specifically address women’s access to justice. These include, among others, gender-sensitivity training for judicial officers and law enforcement upon appointment; one-stop legal aid service centres; an amended form (Police Form 3A) to improve evidence collection in gender-based violence cases; and non-custodial sentences (such as community service), which help female offenders to continue to take care of their children” (JLOS, Kampala).*

Despite these interventions however, discussions with other key informants show that numerous gender justice gaps remain, and a lot more needs to be done to close these gaps. Women face institutional barriers: from geographically distant justice service locations and technically complex justice procedures, to discriminatory attitudes based on deeply entrenched male bias at all levels of the legal process, insensitivity to women’s specific needs, and corruption. When compounded with the socio-cultural challenges that women face - such as lower literacy levels, poverty, access to resources, and strictly prescribed cultural norms that dictate their behaviour in society - women are altogether less likely to be aware of their rights, the remedies available to them, and the relevant justice mechanisms that should be accessed (*UWONET*).

Discussions with community members also showed a negative attitude prevails across all districts with regard to women seeking justice. 9/10 women in FGDs noted that the duty bearers work against them and insist that they should go back home and foster reconciliation with their perpetrators especially if the perpetrator is a relative, spouse or family member. **(female FGD participants in all regions)**. For example, the case below depicts the insensitivity of the system to

“My name is Rose; I am 31 years old and I am on remand in Arua Prison. I am a Sudanese refugee from Bidibidi Refugee Settlement, Zone B, in Yumbe District. My husband had a habit of selling off part of the crops harvested which didn’t make me happy. On the fateful day, my husband came home drunk and he demanded for food; but since he had taken part of the maize crop and sold it to buy alcohol, I told him there was no food. When I refused he started abusing me. When I answered him back, he started beating me and I also fought back. During the fight, we knocked over a kerosene lamp that was being used to light the house. All the household items got burnt in the fire. When my husband realized that the house was on fire, he ran to the LC1 who was our immediate neighbor and reported the case. The LC1 immediately called the Police to arrest me. By the time the police came around, my husband had run away to Sudan. I had to leave my children behind including my baby of 1 year. When I was arrested, the Police took me to Yumbe Police Station where I stayed for one (1) month. But since no one at the station understood my language, I was quickly transferred to Arua Police Station. I was brought to Arua Prison in February 2020 and have been here ever since on remand. Since I was brought to this prison, I have only been taken to court once and that was in March 2020. While at court, there was no translator that day, so I don’t know what was said or what update was given or what was written in my file since I can’t read and nobody bothered to tell me. I didn’t have a lawyer or anybody to represent me. Life in prison is not easy. I don’t have any relatives to come and check on me as they are far away in Bidibidi Settlement in Yumbe. And since I don’t have money to buy other things to change my diet, I have to eat beans and posho every day. And even now I am sick, but have no money for treatment as there are only a few drugs here and everyone has to buy what they need. Although Rose has ever been produced in Court, she believes the whole process is unfair. First, she left her children in the settlement on their own yet they are young. She has no money for bail. She fears that she may end up being convicted. She has requested the judge to pardon her for the sake of her young children but she has not been helped. She wishes they commit her to community service in Bidibidi settlement such that she can be closer to her children. Her prayer has never been answered. Third, there are no translators in prison and Court to help the prisoners who don’t speak the local language. This makes the situation even more difficult. Her side of the story will never be heard.

needs of women in incarceration.

Further discussions with women in FGDs showed that most LCs and Police actively discourage them from seeking legal action against spouses, and encourage them instead to reconcile with their partners who may have violated their rights. Even in cases of assault, the women are encouraged to go back and make peace with family members. Similar views are allegedly held by LCs. For example, one lady from Lamwo noted that she “...*was beaten by husband but when I reported to police, they told us to settle the matter at home*” **(Lamwo Female FGD participant)**. This frustrates many women and many see the formal justice system as biased and favouring men.

Discussions with police and LCs on the other hand revealed that there is a history of women withdrawing cases that have already been compiled and ready for submission to court. Court prosecutors also lamented the fact that many women are often put-on pressure to withdraw cases by family members and as a result, the cases are often dropped along the way **(court prosecutors, all regions)**. This has led to a general laxity in handing such cases since the perception is that at some point the women will be convinced to withdraw the cases

2.1.1.8 Women's and Children's Levels of Knowledge of Rights and Understanding of Available Services

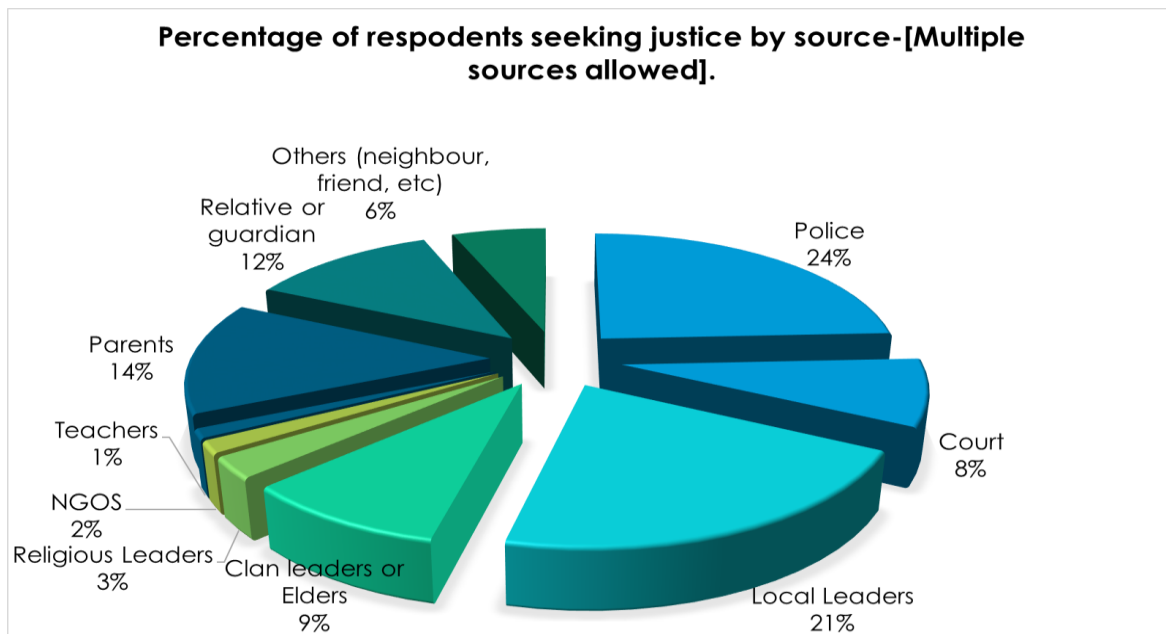
There was generally a relatively good understanding of what rights are and all respondents engaged could identify at least five different rights that they possess. The most common rights identified were the right to life, the right to food, the right to clothing, the right to medication, and the right to vote. Other rights like right to information and right to justice which are so paramount in access to justice, were never mentioned. Children especially seemed very well informed of their rights and noted that they are taught about rights at school, again the right to education, food, clothing, love, protection and medication were the key rights mentioned across the board – while the right to information on justice issues and right to access justice was never mentioned specifically. Both women and children felt cultural norms and family/clan loyalty exceeded their own rights protection and that their rights could be violated in interest of the common good as demanded by culture. ***(FGDs with Women and children, all districts)***

Although some knew about existence of police and availability of options for reporting cases to LCs and police, few were willing to take these options and when they did, it was usually just a precautionary measure to seek intervention and cautioning of the perpetrators. Few wanted to go to court or seek legal redress through these channels. ***(FGDs with Women, all districts)***

There was a general fear of court processes and court procedures with female respondents noting the high levels of corruption, the high cost, and long period of court procedures as key reasons why they find it hard to report to the formal system. Over 90% of respondents were unaware of available legal aid services in their communities or where they could report and seek legal aid services.

2.1.1.9 Women's and Children's Perceptions and Levels of Usage of Formal Justice Sector Institutions

In other communities, there was a general perception that informal systems are less corrupt and more likely to dispense appropriate punishment. For many women interviewed, legal measures that formal courts employ, appear illogical and unjust – for example the dismissal of a case on the grounds of a technicality may be perceived as arbitrary. This is clearly visible in the chart below depicting where most women and children go to report the cases of injustice.



The table above shows that a sizeable number of people still prefer to use informal rather than formal justice institution. The findings also show that in legal cultures where justice is associated with speedy resolutions, the practice of granting bail, plea bargaining, among others, for instance, can be viewed as facilitating impunity and discourages many women from using the services. This is captured clearly in the words of this respondent

The law operates differently until one understands how the law operates then you can perceive it as fair but ordinarily the law is not fair to everyone. The system is complex that is what we need to come up with many interventions to see to it that everyone can access justice from their perspective. Children should not be taken through the same law procedure as the adults; women should be understood that they have other responsibilities in the home so they can't be available all the time to attend court. We should also understand the power relations within a particular set up so all these are dynamics to understand. Outwardly the formal justice system operations are not fair to everyone and can't cater for everyone's interest. **[Justice Law and Order Sector]**

More than half (57.1%) of the respondents that had their cases handled by the formal sector said that they were happy with the legal process that was followed when they went to seek justice. For example, the following respondents shared their views as follows:

The LCs and Police were on my side it was so simple that everyone was out there to help me and the children...they did not ask me for anything...they threatened him (perpetrator) and warned him never to hurt me again... (Betty, Masaka)

"I felt respected the authorities were very helpful and I also think when it comes to women issues, I would not say anything bad about them because when you approach them well, they will listen especially the LCs these ones are with us all the time" (Susan, Mbale)

“The Chairman was able to give me advice on how to handle the matter and on what the next steps in handling the matter will be. I think the Chairman handled the matter very well. He listened and gave me the appropriate advice. He took the matter seriously”. (Munduru, Arua)

It should be noted however, that these were mainly cases that were handled at LC level or handled at Police Family and child protection level. The situation changed drastically in more serious cases that needed to be taken to court. The other 42.9% of those that used the formal system, had their cases handled by police or taken higher to court level and all noted that they were not happy with the process followed. They stated that there are too many bottlenecks in the process. For example, some noted that the high level of corruption along the referral pathway was prohibitive and discouraged them from seeking justice. Others felt that the procedures followed were intimidating especially having to speak to total strangers about sometimes very personal experiences, having people laugh at you or mock you and make you feel inferior etc. yet others noted that the process takes too long and the risk of giving up is very high since they don't see justice happening. Others also noted that the procedures are not fair and often perpetrators are let out even before completion of the case hearing in court, which leaves them vulnerable to further attacks and threats from the perpetrators.

With regard to outcomes of justice processes, 60% of the respondents said that they were not happy with the outcome of the legal process, noting that in most cases perpetrators appeared to be let off the hook lightly. This they argued makes perpetrators bold enough to insult, mock and ridicule survivors once they are out of prison. It also made them bold enough to engage in similar acts over and over again, knowing that they can buy their way out or get off lightly. In essence, such things discourage and disappoint women and the result is less willingness to seek help from the formal justice system. Those that were satisfied with the outcomes of the justice system again tended to be more of the women that used LCs or family and child protection units, where they felt their concerns were handled at a more personal level, and that their voices shaped the judgment passed and therefore in their view, justice was served. Many of those that went to court were not very sure of what the law states and felt they had no control over the sentencing and decision of what kind of punishment should be meted out. The women in FGDs were unanimously in favour of lower level jurisdictions of LCs and Family and child protection stating that reconciliation is possible at these levels but not at higher levels and hence, especially, for family matters, the lower levels are better and safer for them. The lower levels of formal justice systems protect them from ostracisation from the clan (since when they report spouses, the spouses are punished but not severely) which lets them stay around to support the family but also serves as a warning for them not to continue rights violations.

The findings also show that women and children rarely report cases to the formal justice structure due to perceived high costs associated with reporting, corruption in the system, long duration of trials, etc children in particular lack their own money to push for their interests in terms of accessing justice and hence rely on adults to do this for them. Women on the other hand also share limited control over household resources and as such are hampered in terms of accessing justice where payments of fees and other associated costs like transport is involved. It was for example reported across all districts that women and girls are forced to pay for Police form 3 from between UGX30,000-50,000UGX which cost is too high for many women. The health personnel and police are all notorious for doing this according to findings from different districts. This is a form that should be obtained free of charge. The case below shows the dire situation of many women:

*My husband beat me so badly, broke my arm and bit off my ear. I had deep wounds on my body. My friends encouraged me to report the case to the authorities. When I reported to police, I was asked to buy the form P3 at 50,000. I went back home, emptied my savings with my village savings scheme and returned to pay for the form. When I took to the hospital the doctor asked for another 20000 which my sister paid for. I went back home with some medication and I hid the form well, ready to return it to the police the following morning as I was too tired to go back that same day. I was also in too much pain. Someone tipped off my spouse. He came home battered me again and tore the form to shreds and threw it in the latrine. That is where the case ended (**Lira GBV survivor**).*

It was also noted that some health workers charge between UGX10,000-20,000UGX just to fill the form which is costly and prevents many women from pursuing justice since the costs are too high for them. Many accept their fate or push for clan interventions. It was also noted that some police officers make demands of the survivor to look for the perpetrator at their own cost, transport the police to arrest the perpetrator, transport the perpetrator to remand centers which may be several kilometres away, transport witnesses, etc... These cumulative costs deter women and children from accessing justice.

The findings also suggest that some police and health workers collude with perpetrators and undermine justice. Some personnel go as far as reducing ages of the perpetrators to reflect that they are minors; others go as far as increasing ages of the victims to indicate they are adults in order to reduce on the fines and charges levied on the perpetrators. This is a gross violation of rights of women and children and undermines access to justice.

Discussions with women and children in FGDs showed that many had a high level of distrust of the system. They mentioned that they always see criminals being set free after a very short period of incarceration, and this discourages them from pursuing justice. Educated women on the other hand, especially those that had their own sources of income appeared to have a more positive attitude towards the formal justice system compared to their counterparts that were rural based and lacked their own income. The highly educated women – (secondary school level and above) appeared to be more informed of their options, could afford to pay for the lawyers, and also knew about legal aid services they could use. However, a number of them also mentioned that there is a high level of stigma and antagonism associated with women that report their spouses or male relatives to court and as such they only take that option when they have reached a level of no return. A point where they are sure the relationship is over and there is nothing left to fight for. The rural based women that have to live in the same community following the court cases however, felt formal court options were difficult to pursue for cases where close male relatives like spouses were involved.

Discussions also showed a lot of fear among women and children associated with the formal justice system since it is punitive and not reconciliatory. They noted that the non-reconciliatory nature of the court cases led to break ups of family. It could be a case involving a sibling, a spouse, or other relative or even community member but once the case goes to court, there is no hope of rebuilding the broken relationship and sometimes it extends to the entire clan. Since most women leave their homes and settle in their husband's clans, few were willing to risk ostracization of themselves or their children by antagonizing the husband's/children's clan members. As such, rights violations that set them up against spouses, fathers, or other key members of their spouses/children's clan were not likely to be pursued using the formal justice system. The most they would do would be to ask the

police or LCs to engage the perpetrator and warn them to stop inflicting harm on the survivor, but beyond that many women simply kept quiet.

My husband came home and found me brewing alcohol. I had a few customers already seated under the tree drinking as I went about my work. My spouse accused me of sleeping with all the men drinking my alcohol and grabbed me and kicked and beat me so bad I lost consciousness. I was carried to hospital while my spouse was arrested and taken to the police station. When I regained consciousness, I found my brothers in law and other clan members waiting for me to wake up and authorize the release of my husband. They had not even come to pay my bills or ensure I was okay, No one asked how I was feeling or if I needed any emotional and physical support. They threatened me and forced me to withdraw the case against my husband. By the time I was released from hospital a few days later, I found him already back home. That same night he burnt down our home with me and the children inside. We only survived because I got suspicious when he carried out a jerrican of paraffin in the middle of the night. As I got up to wake up my children, the house was already on fire. Lucky enough the walls were weak, I managed to break the walls of the hut and we all survived. He has been in hiding since, and the clan has done nothing. (woman from Palabek- Lamwo)

It is this fear of clan members that leaves many women at great risk and few are able to access justice due to clan interference. Among the Dinka refugees for example, it is a taboo to report a fellow Dinka to the state organs. As such the clan leaders immediately get involved and intervene in any cases that arise. Sadly, the cases may not necessarily favour the survivor. For example, in cases of defilement, the clans usually dictate that the case must not be known or reported to the LCs, or police. Instead, the chances are that the girl will be forced to marry the perpetrator which is a double violation of her rights, and prevents women and girls from accessing justice from the formal justice systems that are available.

Some women reported being afraid to use the formal justice system, noting that after reporting abusive spouses they will be unable to fend for themselves and the children and hence hold back on reporting. The case below for example occurred in Lamwo.

I was 8 months pregnant when he battered me till I lost the baby. I was rushed to hospital and had a still birth. He was arrested but I went and requested him to be released since I cannot mange to fend for the family without him. Besides in my culture, a woman must not change husbands, so if I get him locked up then who will marry me? I got him out of police cells, and although he still batters me, I am content that I am still respected by the community as a wife and not a single mother. (woman from Lamwo)

Such cultural perceptions about marriage, the fear of being single, the social stigma surrounding single mothers, all push many women into silence. Many prefer to live in abusive marriages than set out on their own in search of justice and freedom. These perceptions affect access to justice and encourage rights violations to be perpetrated against women.

The findings also show that highly educated women expressed fear of social stigma due to their social position and this prevented access to formal courts – most opted for informal mechanisms

The elderly and disabled feared distance and the limited ramps at formal courts so opted more for the informal justice system.

Children's cases are barely reported due to parental disinterest, parental involvement, fear by children, cultural beliefs about reporting family, etc. For example, in the case of a little girl who was defiled and had a baby in the refugee settlement, her grandmother knows very well the child was defiled but still blames her and denies her food telling her to go to her husband's home. Her little baby is mistreated and the two of them often sleep out in the cold. When asked why she has not reported the case anywhere, she stated that she was unsure where to go after reporting because her grandmother would throw them out. She was unaware of the GBV shelter just a few kilometers from her home, and was afraid to report to the police so she continued suffering in silence. The team linked her to the GBV shelter and some NGO staff that promised to help protect her and her child. However, discussions with women in the FGD showed that many young women and girls in similar dilemma were in the community without any support.

From the discussions with different stakeholders across all the regions, it came out clearly that children's cases are often handled informally and only in cases where the perpetrators fail to pay agreed upon fines or where negotiations fail, that is when the cases end up going to formal justice institutions. It was also noted that even defilement cases are rarely reported except where negotiations fail. The study findings further reveal that there are no significant gender differences in experiences of boys and girls with regard to reporting various cases, except for cases of sexual assault. What stands out clearly is that cases involving abuse of boys are never reported because they are mired in stigma, while cases of sexual abuse or defilement of girls are quickly reported to informal structures because of the financial gains likely to be made.

It was also noted that the Ugandan law at present does not have provisions for handling cases of abandonment during pregnancy. As such, women that have been abandoned by spouses during pregnancy often present their cases to formal justice structures and fail to get help. The law requires them to wait until the child is born and DNA tests done before they can get help. This then discourages many from seeking redress later on, as they already perceive the system to be biased.

The study also unearthed several cases of land rights violations but the general outcry across all the regions visited was that because many women lack the finances to follow up cases, they often lose hope and abandon land related cases. The cases drag on for too long and become too costly for many women to proceed. On average, land cases can take anywhere between 5 years to 10 years and this is just not sustainable for many women. Also noted was the fact that the long duration makes it appear that the other party has paid off the judiciary and allegations of bribery to delay justice often make women give up and abandon such cases. Mostly rural based women appeared to be more vulnerable to this compared to their urban based counterparts. In many cases, the pressure from relatives was noted as overwhelming that they just gave up in order to have peace in the community.

The findings also show that there is generally limited reporting by communities/parents about violence affecting children. Children themselves rarely report to anyone especially if the perpetrator is their guardian or parent. Across all districts, it was noted that some forms of violence against children and other rights violations, are normalized – child beating/corporal punishment, child labour etc are seen as normal parts of being a child and therefore not much fuss is made with regard to justice seeking for these experiences unless there is grievous bodily harm experienced.

Children in the study were asked to draw their experiences of injustice as a way to tease out the rights violations they had experienced. Following the drawing session, each child was asked to talk about their drawing and explain who perpetrated the injustice against them, who they reported the injustice to, and what was done to the perpetrator, whether they are happy with the outcome of the justice process, etc. The pictures below were drawn by children in the study areas and depict the violations they experience.



Drawing by a little boy from Lira: picture showing burden of domestic work

In the above picture, the little boy, a refugee in Lamwo, notes that he was from a wealthy family living comfortably in south Sudan. His dad had a lot of property and they were a happy family. He goes on to say everything changed when his dad died and their relatives grabbed everything of theirs and forced them to flee into Uganda. His mother ran mad and remained in south Sudan. They currently live in the refugee settlement in Lamwo with a relative who mistreats them a lot. They have to look for their own food and often go hungry. Sometimes he misses school because he lacks the basics required for school and his guardian is unwilling to provide these. He has sought help from community members but no one takes them seriously.

Discussions with children also noted that often they report rights violations to trusted adults but are ignored and as a result they remain silent. No help comes their way. No justice is done. Almost 80% children interviewed noted apathy on the part of parents and guardians or trusted adults towards addressing their plight. In most cases, especially with regard to situations where the parent or guardian is the perpetrator, the child has few options of people to report to, and there is always the risk that no one will believe them, or that they will be beaten. The case below depicts this perfectly.

“My mum left me in the house and went to the bar to drink. I remained alone in the house without eating. A certain man came and gave me beer and I refused. He made me lie down by force and defiled me. When I reported to my mum, she told me not to disturb her with my stories. I also kept quiet” –

8-year-old girl (Amudat)

Similar cases abound, of guardians either choosing to keep quiet or taking no steps at all to address the matter or seek legal redress.

It was also noted that children with HIV are stigmatized in the community and at school and they suffer a lot and as a result, they often fail to concentrate at school. There is a case in Lira, the mother used to go to the school authorities to complain but nothing was ever done and the harassment has persisted. Now the child’s mother is dead and she feels lost since the guardian and the school authorities seem disinterested in handling the case. The child feels she has no one else that can speak on her behalf or take up the case with the formal court systems.

Generally, the findings show that whereas the services are free to be used by all categories of women, men, girls and boys, in reality, children and women generally have limited access due to financial constraints and socio-cultural norms. Discussions with Justice center, an agency providing legal aid services in Lango and Acholi region noted that most of their clients are men, because men tend to be better informed about these services and are more willing to seek out these services than women. Most women are peacemakers and prefer to overlook injustices in the name of building peaceful homes or communities. Further, costs of transportation to the office, mobility constraints and social norms that make it almost impossible for the majority of women and children to access justice.

2.1.1.10 Differences in experiences

Women with low education lacked confidence to seek help through the formal system due to lack of resources, limited knowledge of legal aid opportunities, negative attitudes of formal duty bearers, corruption, high costs etc.

Highly educated career women know their rights, have the resources to seek representation but majority expressed fear of social stigma due to their social position and this prevented use of formal courts – most opted for informal mechanisms.

Children faced significant problems due to the fact that they rely on adults to help them seek justice – this affects their access to justice significantly since most adults they report to prevent their access to justice.

The findings show that the elderly and disabled feared distance to formal justice institutions and the lack of ramps at most formal courts. As a result, most of them opted more for informal justice institutions that are nearer and accessible.

It was also established that police stations and Courts are often situated far away or are inaccessible for PWDs in terms of distance as well as in terms of infrastructure and staffing. For example, lack of sign language interpreters, Braille signage or ramps for physical access all make it impossible for PWDs of different kinds to access and get services at the formal justice institutions.

PWDs also face discriminatory attitudes by the community and family members as well as staff involved in the justice delivery system. – people just don't seem to care much what happens to them. People like the deaf, the mute, the mentally ill all tend to have limitations in terms of care and attention they are accorded when they experience rights abuses.

It was also established that most humanitarian aid organizations do not have specific programs to meet the needs of people with disabilities including protection of their rights. As such these categories find it harder than the average person to access support to seek justice.

2.1.1.11 Barriers in Access to Justice for Women and Children using the Formal Justice system

Economic Barriers

The high cost of justice that is unaffordable by women and children. In most households, women and children do not control resources and this inadvertently limits access to income that is in many cases required to pursue justice at the different levels. The costs that are often incurred include among others; transport costs, investigation costs for Police, legal representation and paying for police forms. Many women and children cannot afford to pay for these, so they opt out of the justice system; more so the formal one.

Greed from parents: sometimes cases of SGBV nature involving children are negotiated between the victim and parents in material and monetary terms. Such cases end up dying off leaving the victim (child) unserved with justice.

Sometimes there is no money to access the medical examination forms by women and children; because there is often a stationery cost attached. This makes some women give up on pursuing justice.

Socio-Cultural Barriers

The deeply entrenched cultural beliefs, norms and practices that place women and children in inferior positions in society makes it even worse for them to pursue justice. For some women this confined them in violent relationships. They feared to report their husbands for fear of ridicule by the families and society, and to “lose” their marital status identity if they reported their husbands to justice institutions. As a result, perseverance was the option. In some districts like Arua, Lamwo and Namatumba, the women shared that it was a “taboo” to report their husbands to Police. The situation is even made worse when the husband enters police or prison cells. This is considered a curse to the children and to the family at large and therefore a cleansing ceremony has to be done for which the woman is responsible for contributing many of the resources to be used in the

cleansing when the husband is out of the cells. *“If you report a case like that to police, it will be a curse to the children in future”, said a woman respondent.*

“In Arua, there is a cultural ritual called “ARUBA”-which means cleansing. When a woman reports a man to police and he enters the Police cells, after the man has been released, that cleansing ritual has to be performed. The woman’s side brings a goat, flour for food and the drinks-usually traditional brew. The same applies to the man. Many times, women lack these resources-so they decide to keep quiet and never to report some of the injustices committed against them”, narrated a Police officer key informant in Arua district.

It is however, not only married women that suffer injustices. Single or widowed and unmarried women also suffer injustices though of different kinds. For example, property grabbing was very common among widows. A key informant added; *“in Arua and generally West Nile sub region, the act of grabbing property of the widows by the relatives of the husbands is very common, but because this is to do with the traditional set up, most women do not report such cases. The thinking that most of the important property belongs to men is still rife in the sub region”*. Unmarried women on the other hand suffered social stigma and were often labeled prostitutes while those that left spouses were given similar labels even if they left their spouses over risks to life due to violence **(Women’s FGDs, all districts)**.

The children on the other hand feared rejection and cessation of support from their parents and or guardians in case they reported them for injustice perpetration. So, they chose to keep silent so as not to expose themselves to socio-economic suffering. Those that try to report on their own are coerced into dropping the cases. For example in the case of a girl from Amudat who was defiled by her own father, she reported the case to police on her own. The father was arrested but her mother and other relatives went and closed the case, claiming it will bring shame to the family. Some rituals were performed and that is as far as the case went. Her father was never punished for what he did. She notes that she will never waste her time reporting any more incidences because *“...the system is biased, they did not consider me and how I feel...”* **(Adolescent SSI, Amudat)**.

It was observed that generally, women and children had limited access to rights and justice information hence contributing to their limited knowledge of the subject. This was cross cutting in all districts for majority of women and children interviewed. It was only those that had some level of education that had some knowledge of their rights, but even pursuing justice was a problem due to the fear of upsetting the social respect and status they held in society. Many educated and career women feared to seek formal justice lest the shame and issues they consider private, become public knowledge. Having this barrier means women and children adapted to “living with injustice and perseverance”, and therefore unable to speak out and seek justice, while some sought help from a smaller circle of relatives or clan members in order to fit in with social expectations of what a good woman should be. Even then, some women and children had limited knowledge of what constitutes an injustice/ rights abuse. Women and children have lived with various forms of injustice and so sometimes believe it was meant to be, it was part of life, marriage and child hood so they opt not to report anywhere. Indeed, many women noted that whenever they report these rights abuses to friends or relatives, they are told to persevere, and that other women are suffering similar problems but just bear it silently.

Fear to breakup family and marriage ties which may occur as a result of reporting the perpetrators. Some of the perpetrators are bread winners e.g., husbands, close relatives and neighbors known to the victims. Reporting such perpetrators means enmity and breakage of the social network and resources support. It also means “children losing the care of their father”. One of the women in Mbarara had this to say, “*If I report the father of my children to Police, where will I go with all these children?*”, she asked. This means that to a large extent, women are tied to abusive relationships because of children.

In some societies, women that report their husbands were rejected by fellow women. They were even given nicknames that depict shame upon those that report their husbands. In Masaka district for instance; among the nicknames include; “*Nakapanka, kamudumpa*” implying a woman that does not persevere. In some societies, women that persevere injustice are respected and given “social credit” by others. Such become experts in marriage counselling and perpetuate the belief that women have to suffer in marriage no matter what and should never quit because one will be regarded a coward.

Fear of threats from the perpetrator’s side: the women reported that even the perpetrators themselves threaten them. It is worse when the perpetrator is in custody or imprisoned. The survivor is threatened and sometimes vulnerable to more harm if found by the family members of the perpetrator. This kind of insecurity, affects children too. For fear of such scenarios therefore, women and children choose to keep silent.

The disappointments many women suffer in obtaining child support is another key factor that discourages others from seeking the help of court in obtaining child support following divorce or neglect by spouses. Women noted that most courts lack a proper enforcement mechanism to ensure men live up to obligations to maintain and care for the family following divorce or separation. These cases below are a testimony to these views:

I cannot waste time following up the man now. I have seen so many educated women struggling taking spouses to court in a search of child maintenance. First you are awarded peanuts by the court system and then even the peanuts are never accessed as the man will keep dodging and there is nothing court does about it. I was also a victim, I suffered and moved till I gave up. My children go to UPE schools as if their dad is not wealthy... **(woman FGD participant, Kampala)**

I was in a relationship with a man working in one of the big companies here. He abandoned me while I was pregnant. I went to police but was told to wait till I give birth and DNA is done. I went back after delivery they called him and he agreed the child is his and that he would pay maintenance. He never paid a coin. I returned to police and got a court order to attach his salary, that was never enforced even though I took the letter to the company. He has done this to many women and he is best friends with people in high levels of police and they protect him. I am jobless and suffering with a sickly baby but I see no hope **(woman FGD participant, Lamwo)**

This lack of proper enforcement of court orders and legal requirements by enforcement mechanisms is a huge barrier in supporting women and children to access justice. It is a challenge that came up in all regions. This discourages many women and children from pursuing justice since they see others have failed before and they fear they will also waste money and fail.

The age and disability factor contributed to women and children's access to justice too. It was established that children mostly feared to report cases of rights violations because they were young and still wanted support from their parents. Relatedly, the elderly and the women and children with disability were least respected by society. They are in most cases voiceless and little is done to help them access justice in case they needed it. In other words, this is a vulnerable category with limited resources and social support network. People with disabilities were often seen as not fully human and therefore mocked or mistreated a lot in the communities. Such people with disabilities are also often the target of rights violations of different forms and their cases never get reported due to social norms about people with disability.

Religious beliefs also play a key role in shaping access to justice. In the Islamic religion for instance, women are not allowed to discuss family problems outside their homes. This has limited women and children from accessing justice, not only in cases of seeking justice using the formal but also the informal systems. They fear to use the Sharia Law too because it's severe in judgment and not friendly to women.

Fear and other negative perceptions of duty bearers also seemed to be a dominant factor in preventing women and children from accessing justice. The findings show that there are women and children afraid to report or even step in a police compound. By implication, there is limited linkage between the Police and the community to facilitate acustomization to each other. The women associated police with arrests, corruption, guns and intimidation making them a fearful institution to report to. Some women reported that because they had no money, they feared that no police officer would listen to their cases, while others associated them with poor attitude towards the poorer complainants. For example, in Kampala a slum dweller reported:

I was harassed by my in-laws over land that my husband left for me. My rich in-law wanted me off the property yet it is the only asset I had and which I hoped to sell part of it to start a business to educate my children, and leave the other portion for them to one day inherit. He came and evicted us off the land, but when I reported to police I was told by the policeman – that there is no justice for the poor. Meaning since I was penniless, I had no voice. We are now squatters on someone else's property. None of my children went to school because of my greedy in-laws. (woman respondent, Komamboga, Kampala)

The women reported that some police officers that handle their cases exhibit biases, and pre-judgments towards complainants even before they investigate the case. To the women, the statements that come out of the police officers are more intimidating. This makes the women predict the negative outcomes of the case and therefore loose interest. In Masaka district for instance, one woman reported how the Police officer said this to her before she was incarcerated “..... I will not struggle with you since am the one with the pen.....”. This statement meant that the police officer had the capacity to doctor the statement in his own favor. Indeed, to the woman, a case that started as stealing children (her own children more over as reported by the husband”), ended up being recorded as a domestic violence case, and this culminated into her sentence to 3 months in prison;

There is delayed reporting of sexual assault cases by parents and children. This affects the nature of evidence-it is altered and sometimes it is lost completely. In one of the districts, a health centre personnel narrated a story of how a young girl below 15 years was defiled and was attending ante-

natal at the facility. Whenever they would ask her about the man responsible for the pregnancy, she would just cry. Later they established it was a close relative that defiled her. In such circumstances, justice is delayed for such categories and they may end up never getting justice at all.

The generally low education levels among women and children whom the researchers interacted with in this study, was noted to affect their ability to read and write and even follow the court proceedings that are often conducted in English. Most of them fear to express or defend themselves before the law because of lack of self-esteem and confidence in themselves.

In Karamoja region, just like in other parts of the country, family based negotiations exist over defilement cases until when the negotiations fail and by then it is too late. Sometimes the girls themselves collude with the boys and elope. Such cases are never reported because it is culturally acceptable.

Institutional and Structural Factors

There was limited knowledge of the comprehensive justice system referral pathways by women and children. Other than the LC's, and Police that women knew and sometimes felt comfortable to report to, beyond those two authorities, women and children felt uncomfortable with others like Courts of law. Among the factors included; costs, procedures and low education levels among others. One of the factors included the invasive nature of the formal court system. The interrogation is frightening for many women. The women stated that they felt intimidated by the probing and questioning that almost hinges on harassment by the legal teams. The whole process of rape and defilement court cases were also reported to be very invasive, embarrassing and humiliating and many would rather forget about justice than go through such humiliation.

Corruption in the justice institutions mainly the formal justice institutions also featured prominently among the cases identified as affecting access to justice. The respondents noted that across the board, leaders/duty bearers end up extorting money from both the complainants and the victims in order to pursue their cases. If the complainant is a poor woman or child, this means no access to justice for them. In Masaka, one of the key informants shared that for those who try to access justice it's barely possible, because the key officials along the reporting pathways are so corrupt and need money e.g., LC 1 asks for 10,000UGX, Police: 30,000UGX, Court Clerks 50,000UGX. A rural woman or child cannot financially meet them, so they remain silent about their plight and utilize the money for something else. Files get lost including vital evidence; leaving many questions unanswered and thwarting all efforts at pursuing justice

For the informal justice systems, some women felt uncomfortable reporting because of male dominance among the leadership including in the judgement of cases. These were always in favor of fellow men, in some societies, hence recycling the cycle of injustice for women.

Limited facilitation to Government Justice Institutions e.g., Police and Prisons. The financial allocations are not adequate to facilitate presenting the victims to courts of law regularly as needed. This therefore affects access to justice including to women and children. There is always no transport for police officers involved in investigating cases far away in communities. This presents disadvantages to women and children especially if the case requires visiting the crime scene. There is limited facilitation for Grade 1 Magistrates. Government allocates as low as 300,000UGX per month

as facilitation for such magistrates. This includes fuel, transport and other related expenses. Land justice is the most difficult to dispense-judicial officers are required to visit the site, with no transport means provided.

Limited availability of formal justice institutions (e.g., Police, Prisons) in some communities coupled with high transport costs, long distance to the institutions and poor roads. According to the women and some police officers interviewed, not every community is served with a police or justice institution. Women and children have to travel long distances to access them. It is worse with the elderly and people with disabilities. In Amudat for instance, while the Court is in Nakapiripirit (which is about 40 kilometers away from Amudat), the main prison is in Kotido, which is over 100 kilometers away. This means Amudat Police has to transport the victims to these two places in pursuit of justice. In the absence of resources e.g., for transport, some victims and complainants cannot attend court.

Costs attached to the Police forms: The forms are not found at health centres, meaning they can only be accessed at Police that requires money to access them. In Mbale, one of the key informants shared that this becomes constraining to the complainant. *“The Complainant spends (10,000UGX) on transport, and surgeon costs (20,000UGX), so it is costly for the victim to take the form from police to the health facility in Mbale, so they give up at the initial stages.*

According to some of the legal officers interviewed, the case backlog that is common is usually caused by limited funding by government. This affects timely access to justice for even women and children.

The legal procedure is lengthy and tedious, making people give up about pursuing certain cases. The same applies to women and children.

The language commonly used (English) is a barrier for many; especially for women and children. It is not common that some courts have interpreters to make women and children understand the proceedings.

There are some gaps in case handling by judicial officers. It is common for women and or children to be convicted without granting them a fair hearing.

Poor investigations-some of the Police officers are “arm-chair-investigators” due to lack of resources. It is sometimes the complainant to bring the witnesses to Police due to many reasons; that include limited funding, poor documentation, poor investigation skills and ill trained staff among others.

The limited staff to dispense formal justice to women and children is another barrier to justice. For instance, there are only 648 officers of FCPU currently countrywide serving over 44 million people. Most of these are low ranking officers which affects their capacity to influence decisions within the institution to ensure positive changes that impact on access to justice for women and children who largely report cases to this unit.

There are 13 districts in West Nile. All capital offenders from all the 13 districts, once committed to High Court are all remanded to Arua Central Prison awaiting trial by one judge handling cases from

all 13 districts. The same Judge also handles civil cases, yet cases are heard on the basis of; *“first in-first out”*. This delays justice for women and children. According to one of the Police key informants, the whole of West Nile sub region has 17 officers in the Family and Child Protection Units spread across the 8 districts. Arua regional office has 5 of them. This man power is limited to handle such cases that are the most commonly reported and wide spread in communities.

The findings also show that there is lack of motivation on the part of the police force. As of March 2021, several police officers had not received their salary for a period of four months. This kills motivation and makes it harder for them to do their work with dedication. Moreover, when refugees arrive to the police station on weekends, sometimes the police have to accommodate or shelter them in the absence of humanitarian aid workers, and they use their own money for this. Having to spend one's own money in a situation where salary is not forthcoming, is a huge burden that the police officers should not be bearing. These are costs that should be planned for and budgeted for by the institutions.

The report also notes that the family and child protection unit in particular operates on a very small budget that cannot sustain the investigations and other logistical requirements of the unit. As such some donor agencies and CSOs like UWONET, CEDOVIP, UN-WOMEN, have stepped in to support the unit with funding for specific activities. This limited budgetary allocation to a unit that is so sensitive, needs to be reviewed to enable them perform their duties and to enhance access to justice for women and children as well as other vulnerable categories of people.

Other logistical challenges that arise include the lack of holding cells, the long distance from the police post to courts, the wide coverage of single police posts etc. For examples, in Lamwo the Palabek Ogili post has to transport files to Kitgum which costs 80,000 UGX and those funds are not provided to the police unit. In some cases therefore, the survivors have to meet these costs in order to expedite the process. In the refugee settlement in Lamwo, Zone 8 is 12 km from the police post in the settlement yet the police post has to handle cases from that area. The wide area of coverage greatly limits access to justice for women and children since few can afford to transport the police to visit the scene of crime.

Prolonged period of court sessions and unnecessary adjournments makes women loose interest in the cases.

There is the issue of illiteracy among the women and children who do not know how to draft the court documents. The clerks end up extorting money from such people.

Most of the laws are pre-colonial in nature; e.g., the Succession Act was enacted on 15th Feb 1906 and The Administrator General's Act-15th August 1933. The Succession was amended in April 2021. The Members of Parliament are perpetrating injustice by their failure to amend laws relevant to access to justice for women and children. Some of existing laws continue to perpetrate injustice against women and children..

Poor coverage of other service providers like NGOs and CSOs. These are not everywhere to help women and children to access justice. Even free legal aid services cannot be accessed by many, and a majority of rural based women and children do not even know that they can access justice through the help of legal aid agencies.

It was also highlighted that legal aid service providers subject survivors to interviews to determine whether to represent them or not – the legal aid service providers represent more wealthy than poor people. There is need to ensure that the legal aid agencies do not move away from their core mandate of giving access to justice for the poor

Many districts do not have juvenile detention centres/ remand homes, including GBV shelters for women and children. For children, mixing them with adults is an abuse of their rights, while not having child protection centres exposes them to repeated cycles of rights abuses by the perpetrators. The same applies to women. It was also established that the Juvenile detention centers are too few and lack funding – no pads for girls, poor health services, etc these are all problems that violate the rights of the children and do not help transform them into better people but rather may instead make them more angry at society – hence failing to serve the purpose.

Through the survey, it was established that some perpetrators disappear never to be traced by the Police institutions. This means no access to justice by the women or children if they are the complainants. This is worse with border districts e.g., Amudat, Lamwo, Arua, etc. The process is quite long and costly to have such people traced and repatriated to Uganda to face the law.

2.1.1.12 Recommendations to address the barriers in Formal justice systems

Recommendations	Locus of responsibility	Time frame	Frameworks addressed
Engage the top leadership and ensure that the findings of this report are shared with them with concrete suggestions for improvement, key advocacy strategies to address these issues	UWONET	Short term	• SDG 16 • Beijing declaration (obj. D, and I • NDP3 • National Gender Policy • Constitution of the republic of Uganda
There is need for CSOs and other agencies working in the JLOS to foster rights awareness among the public, women and children and other stakeholders, since protection of rights is a collective responsibility at all levels from family to institutional level. The increased access to information will contribute to rights awareness enhancement and knowledge among women and children. There is also need to translate the rights information and messages in different languages and according to context so that even the grass roots people and cultural leaders embrace it.	<i>All CSOs working on legal issues or programmes related to access to justice</i>		
At community level, the paralegal social workers can offer rights information to women and children and can act as a link between the formal and informal justice system. This model needs to be embraced, and scaled up; including the mobile court systems for the benefit of women and children in remote locations like Amudat	CSOs working on legal/access to justice programmes		

where there are no courts			
Use social media to push the agenda for access to justice for women and children forward	CSOs		
There is need for all stakeholders in the JLOS as well as stakeholders in the education sector to educate communities about their rights and what constitutes a rights violation. Many people have accepted certain forms of rights violations as normal based on cultural norms and practices. These practices need to be stopped and sensitization must be undertaken to help change mindsets about acceptability of certain norms and practices that lead to violation of women's and children's rights with impunity.	➤ JLOS institutions; ➤ Education sector institutions; ➤ CSOs	Medium term	
Introduce Mobile court system to reach remote communities that do not have courts in the sub-county, to aid access to justice and also to clear case backlogs in a shorter time.	Judiciary	Short term	
Women and children need access to information about the referral pathways in case their rights are violated. CSOs have been doing this and can continue creating awareness about these issues.	➤ JLOS institutions; ➤ Education sector institutions; ➤ CSOs	Medium term	
Free legal aid service providers need to scale up their level of support for women and children. Most women and children keep off from using the formal legal system because of costs.	➤ JLOS ➤ Legal aid service providers ➤ CSOs	Short term	
There is need for a concerted effort to lobby and advocate for the enactment of the National Legal Aid bill to among others provide for the state to cover the costs of legal services for the poor, marginalized and vulnerable.	➤ JLOS ➤ Legal aid service providers ➤ CSOs	Short term	
Police and other justice institutions need to be supported materially and financially so as to enhance their capacity to offer services that support access to justice for vulnerable groups. More development partners need to be mobilized to offer this support including knowledge enhancement support on the rights of women and children for police officers.	➤ JLOS sector to allocate sufficient funds for logistical support to police ➤ Development partners –	Short term	

	CSOs, Donor agencies, etc should allocate funds and support training and capacity building of police and prisons as well as local council leaders, elders, etc		
All archaic laws should be repealed by Parliament, and enact laws that are in conformity with the current context. The principle of inter-generational equity should be upheld.	JLOS and Parliament	Medium term	• SDG 16 • Beijing declaration (obj. D, and I • NDP3 • National Gender Policy • Constitution of the republic of Uganda
• Civil Society needs to lobby for government to increase funding to the justice sector so that women and children can easily access justice. • Lobby for increased staffing of the JLOS . Its grossly understaffed. Conduct refresher courses to judicial officers as well and advocate for the passing of the National Legal Aid Bill	CSOs; development partners; donors	Short term	
• Child marriage should become a crime and clearly outlined in the legal frameworks (should address all aspects of cultural issues, law, faith, etc all in one law) • Parliament should pass the Marriage and Divorce bill to among others criminalize child marriage.	CSOS – advocacy JLOS make this a law Parliament should pass the Marriage and Divorce Bill into law.	Short term	
Address the issue of regional imbalances in access to services and ensure remote communities have access to justice institutions – police, court, legal aid, etc	CSOS – advocacy JLOS prioritize this Parliament appropriate funding to enable		

	this to happen		
Need independent programmes specifically handling children's cases – eg school based points for reporting child abuse so children can reach these areas	CSOS – advocacy MoES – implement this		
• Sensitize communities that there is a facilitation given to doctors to testify in court to prevent medical personnel from charging the survivors • Need to sensitize health workers to be willing to fill the forms to help the concerned people access justice • Invest in training of medical workers for gender lens; rights issues, legal issues regarding their roles and responsibilities, etc	CSOs, MoH, JLOS		
Frameworks should be developed to hold accountable the police and other people handling cases to ensure they adhere to speeding up case disposal	CSOS – advocacy JLOS make this a priority in planning and implementation		
• Agencies handling vulnerable groups should ensure all staff sign documents on child safeguarding and protection • Youth in these programmes should also be made to sign a code of conduct • Capacity building for all staff to understand what safeguarding means and how to safeguard vulnerable groups in their care	CSOS – advocacy JLOS prioritize this in planning and implement it		• SDG 16 • Beijing declaration (obj. D, and I) • NDP3 • National Gender Policy • Constitution of the republic of Uganda
Special needs women and children need to be catered for in considering issues of access to justice eg people with dyslexia, ADD, etc	CSOS – advocacy JLOS prioritize this in planning and implementation		
Parents that hide children that are raped need to be arrested – this is an advocacy issue – people that facilitate and perpetuate violence against children should be treated as aiding and abetting	Parliament amend the relevant laws accordingly		

criminality			
Need specific research into women and children with special needs in relation to access to justice	CSOS, JLOS	Short term	
Need to put in place systems and mechanisms of sustainability – consider the grassroots groups that stepped in to provide needed services to other women during lockdown and even cases of other pandemics and acts of God like landslides	CSOS, JLOS		

2.1.2 The Informal Justice System

2.1.2.1 Governance, Structure and Functioning of the Informal Justice System

The governance of the informal justice structures is dependent on the location and the customs of that area. “...the way informal justice systems function will therefore, also depend on the specific cultural context in which they are situated and value systems and the norms/ customs that govern them. In Uganda, each region has its own traditional system based on its customs, and therefore a different set of values guiding their informal justice system. The important aspect to note is that article 2.2 of the constitution must be upheld according to the guidelines governing the functioning of informal justice systems in Uganda. All customs are acceptable as long as they are not repugnant and do not violate the constitution. Another aspect is the inclusion and participation of women in the decision-making process...which is expected but seldom adhered to” (**JLOS, Kampala**). It is also noted that there are many informal justice systems within the country and it is often not possible to give a characterisation of a system that can be safely generalized across one country, let alone the world. They do however often share many common features indicated below;³³

- a) The problem is viewed as relating to the whole community as a group – there is strong consideration for the collective interests at stake in disputes;
- b) Decisions are based on a process of consultation;
- c) There is an emphasis on reconciliation and restoring social harmony;
- d) Arbitrators are appointed from within the community on the basis of status or lineage;
- e) There is often a high degree of public participation;
- f) The rules of evidence and procedure are flexible;
- g) There is no professional legal representation;
- h) The process is voluntary and the decision is based on agreement;
- i) They have a high level of acceptance and legitimacy;
- j) There is no distinction between criminal and civil cases, informal justice systems often deal with both;
- k) Often there is no separation between informal justice systems and local governance structures – a person who exercises judicial authority through an informal justice system may also have executive authority over the same property or territory;

³³ Penal Reform International (2000), Access to justice in sub-Saharan Africa: the role of traditional and informal justice systems

- l) Enforcement of decisions is secured through social pressure.³⁴

Informal justice systems exhibit different characteristics from their formal state counterparts, including an emphasis on restorative justice, flexible rules and procedures, and consent-based negotiated solutions, which result in more contentment among disputing parties, that their views were considered and hence more satisfaction with process and outcomes. The informal justice systems are restorative, participatory, non-adversarial and society focused.³⁵ This is best exemplified by the debate about *Mato Oput* when issues of transitional justice arose in the aftermath of the war and its atrocities in Northern Uganda and secondly on the rendering issues on customary law. *“The traditional Acholi culture views justice as a means of restoring social relations. In other words, justice in the traditional Acholi culture is considered as restorative and therefore forgiveness and reconciliation are at the centre of the traditional Acholi cultural perception of justice. Traditionally, among the Acholi, Jok (Gods or divine spirits) and ancestors guide the moral order, and when a wrong is committed the gods send misfortune and illness (cen) until appropriate actions are taken by Elders and the offender. As a result, the Acholi discourage an individual from being a troublemaker since the individual’s actions can have grave consequences for his/her whole clan (clan leader, Lamwo). This phenomenon of cen illustrates the centrality of relationships between the natural and supernatural worlds of the Acholi and the dead, the normative continuity between an individual and the community.”*³⁶ This also explains why there is insistence on respect, sincerity, reconciliation, harmony, forgiveness, problem solving and discussion in the informal justice system of the Acholi. *Mato Oput* is both a process and ritual ceremony that aims at restoring relationships between clans that would have been affected by either intentional murder or accidental killing.³⁷ The Acholi traditional justice and Western justice are therefore complementary in sense.

In the Karamoja region, the communities in Karamoja rely on the set traditional mechanism of justice that has traditionally been entrenched in the very bedrock of the community. The Karamojong traditional Justice system is highly organised and consultative in nature right from the Ekeno to the Akiriket. The Household (Ekeno) is the first point of reference where good and bad are defined by socialisation. 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).³⁸

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

³⁴ Drawn from Julio Faundez (2006), Should Justice reform projects take non-state justice systems seriously? Perspectives from Latin America. DFID (2004), Briefing: Non-state justice and security systems. Penal Reform International (2000), Access to justice in sub-Saharan Africa: the role of traditional and informal justice systems.

³⁵ The Role of Informal Justice Mechanisms in Deepening Access to Justice by Prof. Fredrick Jjuuko 2018

³⁶ Patrick Tom, The Acholi Traditional Approach to justice and the War in Northern Uganda. <https://www.beyondintractability.org>

³⁷ Ibid

³⁸ Chapman, Chris & Kagaha, Alexander (2009). “Resolving Conflicts Using Traditional Mechanisms in the Karamoja and Teso Regions of Uganda.” Minority Rights International, August

calamity. Women are currently represented in the clan structures and thus play a key role in dispensation of justice in these structures **(FGD with clan leaders)**.

Other informal justice mechanisms included the religious groupings/denominations that many members approached to help them solve mostly marital problems. These based on the religious norms of the denomination and followed the teachings of their religion to solve the cases that were presented before them. These were operational in all districts but were rarely used by the community members hence was not discussed much by respondents.

Other informal justice institutions included community based structures like the SASA groups, the Child protection committees set up by civil society agencies, etc. These also addressed community concerns and based more on a mix of traditional law/cultural norms and existing rights frameworks. These too were available in several communities but not used much by community members compared to the clan based structures.

2.1.2.2 Partnerships, Financing and Human resources

The Informal justice system was noted as having partnership arrangements with some NGOs that support them with training/capacity building, but beyond these, they are usually left to operate on their own **(FGD with clan leaders)**. The handling of cases is usually independent and based on traditional norms and codes of conduct. It is noted that few agencies have the power to intervene except where there is a cause for concern like in cases where the clan leaders may have battered someone and violated their rights in the process of trying to address another person's rights.

The informal justice system was noted as not having any source of funding and hence relies mainly on the fees levied on the parties that come for dispute handling. In terms of human resources, the findings show that the informal justice providers lacked skills for gender mainstreaming, were not sure about rights issues and laws governing the country, and were often dominated by men **(FGD with clan leaders)**. This often placed them in positions where they were accused of violating rights of people that approached them for help. In Lango region for example some of the respondents that had used the system noted that *"sometimes the decisions appear to favour men more since they are related to the clan leaders..."* **(Women's FGD Participant)**. In Acholi, many women noted that *"there are a lot of biases in the traditional system, and they tend to favour wealthier people that are involved in the dispute"* **(women's FGD participant, lamwo)**. These views also came up in Amudat, where some concerns raised by the women noted that *"... the leaders on the panel are very demanding and request for money before they can hear your case. This prevents poor women and children from accessing justice"* **(women's FGD participant, Amudat)**.

2.1.2.3 Monitoring and Evaluation Systems of the Informal Justice System

Discussions with different categories of informal justice providers, showed that there is no proper M and E system in place across all districts. A few leaders keep records in an exercise book. Others just operate based on memory **(FGD with clan and religious leaders)**.

2.1.2.4 Attitudes and Beliefs of Informal Sector Justice Workers towards Women and Children

Attitudes and beliefs of informal sector justice workers towards women and children are key in mediating access to justice for women and children. A specific area of concern with informal justice systems is gender discrimination or discriminatory attitudes and biases of informal justice workers towards women and children. Informal justice systems handle the majority of disputes that directly affect poor women's physical and economic security. Examples include domestic violence, inheritance, child custody, allowances and access to, and ownership of, land and natural and productive resources. However, many informal justice systems are gender-biased, male-dominated, and apply customary and religious rules and laws that are themselves discriminatory. The study however identified some cases where there was some evidence of gender responsiveness in traditional law. For example, "...among the Acholi the institution of **Rwotkweri (male) and Rwotokoro (female)** and have massive knowledge on land given the cultural roles in the Agri-economy and this knowledge is essential in conflict resolution over land..." (**Key Informant, SWGS, Kampala**). Challenges with informal justice systems therefore are related to several issues including the accountability of the systems; the extent to which they are fair and responsive to the needs of men, women, children, etc; the extent to which they respect the physical integrity of all individuals; and the extent to which they discriminate against women, children and others.

Discussions with some key informants show that "... *informal justice systems are handled by people that in most cases are either illiterate or semi-literate, lack understanding of human rights principles and principles of gender equality, are deeply grounded in patriarchal customs and use patriarchal norms and values to decide on cases in accordance with their culture*" (**Key informant, Women's Rights agency**) Such circumstances do not bode well for women and children since they would still be handled in a manner that fosters male supremacy and subjugation of women and children. The key informants interviewed noted that informal justice systems are therefore more likely to promote further harm through violation of women and children's rights using culturally normalised overtures that resonate with and promote GBV (**UWONET; Staff respondent SWGS**).

2.1.2.5 Capacity of Relevant Informal Justice Agencies to Deliver Services or Trainings targeted to and in Support of Women and Children Access to Justice

It was noted that most clan leaders are either illiterate or semi literate and as such lack technical skills for gender mainstreaming in service delivery. The lack of training and exposure to discussions around gender equality and gender mainstreaming in service delivery implies that most clan leaders involved in dispute resolution lack understanding of how culturally accepted norms and practices could jeopardize the wellbeing of women and children. The findings also show that the clans lack funding to provide needed services and therefore rely on the fees paid by the people coming to resolve cases, which places them in a compromising situation in some instances.

The findings show that most religious institutions merely support their parishioners in the quest to enhance reconciliation and love amongst their flock. However, it was noted that there are few people that take cases to religious institutions for dispute handling, compared to the clan system. It was also noted that the religious institutions tend to be understaffed and underfunded and therefore also charge their parishioners to handle cases. The investigations also show that most religious leaders lack skills in handling especially juvenile cases and this makes it difficult to address such needs in the community.

The lack of training and exposure to discussions around gender equality and gender mainstreaming in service delivery implies that most religious leaders lack understanding of religious norms and practices which could jeopardize the wellbeing of women and children or become a barrier in terms of accessing justice.

2.1.2.6 Women's and Children's Perceptions and Usage of the Informal Justice Systems

The study findings show that a significant part of the population, use the informal justice systems. Almost 90% of the women engaged in FGDs preferred to use the informal justice system to address their complaints. Majority of these relied mainly on clan leaders or elders and relatives or guardians to resolve their family and community disputes. Children mostly relied on their parents and teachers for accessing justice. The semi structured interview respondents on the other hand revealed that 43% had used the informal justice system while 23% had used LCs, another 26% had reported cases to police and had them resolved at that level, while a small percentage (7%) had taken cases to court. The overwhelming preference for informal justice systems by women and children had a lot to do with proximity and affordability of the informal justice systems as well as knowledge that they could take along some relatives for moral support during sessions, which may not be the case with formal justice systems.

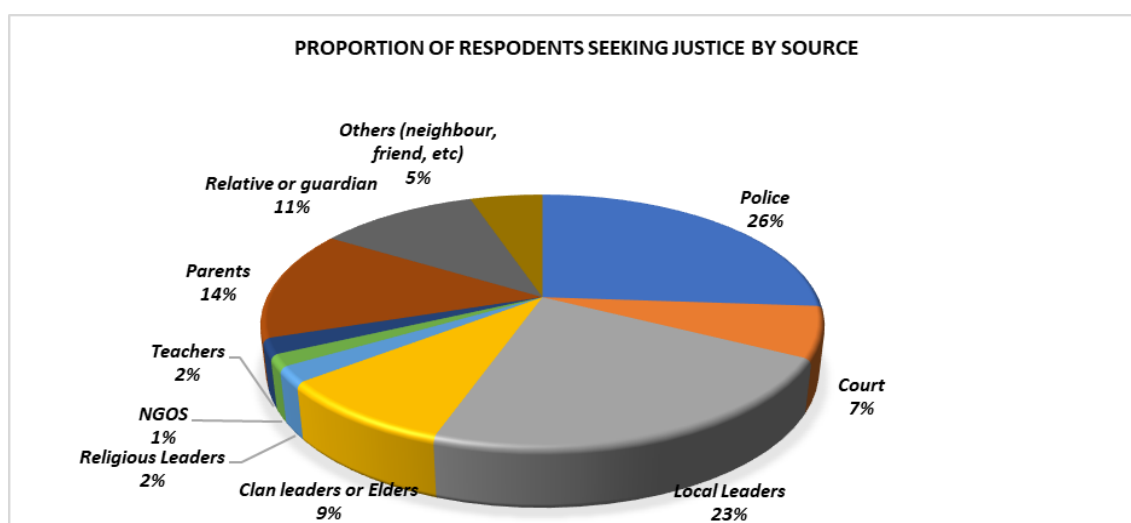


Figure 2.1: Type of justice (formal and informal justice) systems used by respondents

The informal justice mechanism varies across the different cultures, they have different structures that support access to justice for community including women and children. For instance, among the Lango culture the structure is very strict and very efficient in handling cases of abuse with minimal payment required before cases can be heard by clan members. Among the Langi the case starts at the level of Adwong dogola (head of the extended family unit). This is usually male. When he fails, it moves to the level of Jago (clan leader at parish level). When the Jago fails to handle the case, it goes to the Awitong – the clan leader that brings together several extended families in a wider setting that share a common ancestor. When this fails then the case may proceed higher to the Lango cultural leader – the Rwot Nyaci, who oversees all clans (in case the conflict involves several clans), or the case is taken to LCs, then to police and referred to court. At all these levels, women are increasingly being included in the structures as part of the council responsible for handling cases.

Similar structures exist in Acholi, where Ker Kal Kwaro has made efforts to integrate women into the decision making structures and also the council that sits to handle cases.

Among the other cultures in the districts visited, similar structures existed within the different clan structures. Cases are first handled by different levels of the clan structure before they are taken through higher levels of appeal through referral to formal structures like LCs and Police except, where there is violence which is reported directly to the Police.

Across the different districts, most of the rural based, semi-literate/illiterate, and poorer women and children noted that they mostly use informal institutions as a first point to report cases of rights violations before the cases are taken higher. It was however noted that many women that have some level of exposure, are more educated, have some own income, etc are more likely to take cases of rights violations direct to the police or LCs and escalate these to higher levels where they feel the need to do so. Other Communities like the Pokot, Bagisu, and Lugbara had similar views, while in Mbarara, Kampala, and Masaka the more urban nature of these communities made access to justice more likely to be done using formal structures than informal structures since in many cases people were far from their clans.

Among refugee populations especially among the Dinka, it was noted that preference is for cases to be handled by clan rather than by formal justice systems and the clans tend to withdraw cases reported to the formal justice structures. The findings also show that religious institutions are not frequently used as avenues for accessing justice. Only 2% of the respondents had used religious institutions to resolve their cases. However, religion is considered more reliable and accessible since no money is paid and cases are followed up closely to ensure reconciliatory outcomes and forgiveness. During interactions with women groups, it was noted that, majority of people that belong to religious groups like Pentecostal churches prefer to report cases to churches and not to the formal justice system.

Discussions with community members regarding access to justice using religious institutions showed that these are rarely used except by religious groups like Pentecostals and other categories where the religious institutions place a strong need for church community involvement in members lives. As such, the findings show that the religious leaders usually handled cases guided by biblical verses and code of conduct. They extol their members to adhere to principles of brotherly love, compassion, forgiveness and reconciliation. These institutions also follow up after the initial sessions to ensure that the conflicting parties are reconciling and that they are adhering to the discussions held with the religious leaders. One FGD participant noted that *“Most of the cases handled by religious leaders are settled well, they involve penalties of fines to the culprit, and efforts are made to enhance reconciliation as part of order and peace restoration”* (**Female FGD Participant, Namutumba District**). The general consensus was that this approach helped enhance reconciliation and peaceful co-existence. However, the FGD participants noted that in some cases where the culprit has already made up his/her mind to keep doing wrong, they disregard the wise words of the religious leaders and simply do what they want. They noted that the religious leaders lack proper enforcement power and as such are only successful if the culprit is ready to give them such power, otherwise they are largely unsuccessful in addressing and ensuring justice is serviced in cases of women’s and children’s rights violations.

Analysis of the data collected showed that majority of the poorer and less educated women seem to prefer the informal justice system. They argued that the informal systems are a more effective

approach for resolving disputes where members share mutually dependent social and economic links and need to continue living together. Informal justice systems facilitate reconciliation by focusing on the future relationship between the parties and situating dispute resolution in the broader social context. They noted that formal systems on the other hand are punitive and focus on individual responsibility and pre-determined rules thereby failing to appreciate that disputes are often multifaceted and have complex histories, and most importantly that the parties in the dispute will need to co-exist in harmony at some point after the dispute has been settled. Such prescription prevents adjudicators from isolating and responding to the underlying cause of the dispute, and also fails to promote social cohesion, harmony, and forgiveness/reconciliation.

The women also noted that formal justice systems are unappealing to resolve a dispute, especially in relation to criminal matters. Crimes of rape, homicide or physical assault, for example, can have a temporary or permanent impact on the victim's income which is unaccounted for in the formal criminal justice system. Imprisonment of the perpetrator is complicated as it: (1) ignores the victim's needs; (2) may not be seen as an appropriate punishment if the perpetrator is provided with accommodation, food and protection in a setting of general poverty; and (3) does not address the perpetrator's debt to society. The women noted on the other hand that informal systems usually account for the social and logistical consequences of crime through compensation-based solutions; this is particularly important where other services for victims of crime are not routinely provided.

In remote communities and among poorer women again in all districts, the general perception was that the informal justice system was seen as the only option for resolving a dispute due to perceptions that formal justice locations are too far away, inaccessible, expensive (payments of fees, transport costs, costs of transportation of witnesses, costs of arresting the perpetrator, etc) complicated and do not lead to satisfactory outcomes in judgement.

Women further noted that the informal justice system processes are usually led by persons familiar to the disputants, who enjoy social authority, and have insight into matters that may be important to the dispute's resolution, such as a transgressor's capacity to pay damages. In contrast, judges at state courts may be vested with ostensible authority but tend to be regarded as detached and foreign to disputants, lack understanding of local contexts and emotionally detached therefore lack empathy.

Further, respondents noted that informal justice systems are more familiar, culturally relevant, and easy to navigate compared to formal court proceedings and the formal atmosphere of the courts which can intimidate users.

The findings also show most women feel the values of informal court systems are more in tune with their own cultural values, what they find acceptable and what they believe in. In contrast, formal court systems may not be in line with their cultural norms and values. Among the Dinka refugees for example, a girl getting married at 15 is normal and culturally acceptable. They do not therefore understand why the formal Ugandan courts arrest husbands of these young underage girls. Differences in terms of what constitutes misconduct, notions of responsibility and perceptions of fairness push most illiterate and semi literate women towards the informal justice systems where they feel they are better understood and where the concept of misconduct, crime, etc is shared and mutually accepted.

The women spoken to noted that resolving disputes using the informal justice system is generally affordable in terms of transaction costs. They noted that customary norms rarely impose dispute resolution fees and where they do, it is usually a sitting allowance for the leaders and often it is affordable to the parties concerned, moreover, in kind payments in form of livestock or foodstuff is accepted. The system is structured in such a way as to limit the costs that disputants would otherwise need to absorb. For example, informal justice hearings are usually within walking distance of users' homes and flexible operating procedures mean that dispute resolution can occur at times that do not interrupt income-earning activities. The cost-effectiveness of the informal justice system was often contrasted to the cost of accessing the formal state justice system during discussions with women, and the general consensus was that the formal justice system is way too costly for most women. The women noted that in formal justice systems, one has to consider both direct costs (such as case filing fees and the costs of representation), indirect costs (such as those associated with bribery, travel), and the opportunity cost of being absent from employment.

The women interviewed also noted that informal justice systems are usually situated in or close to the communities in which disputants live, and adjudication takes place in local languages. Formal courts, by contrast, are usually located a bit far, and usually operate in national languages, and can impose administrative requirements that exclude those with little education or who lack literacy.

The community consultations also noted that informal systems are more expedient than resorting to the courts. They noted for instance that in some cases disputes would be finalized in one day, compared to formal courts where sessions could take years.

The study findings show that there is generally limited reporting by communities/parents about violence affecting children. Children themselves rarely report to anyone especially if the perpetrator is their guardian or parent. The findings suggest that because across the board, violence against children is normalized and treated as a way of enforcing discipline (for example corporal punishment) or a way of teaching a child hard work, resilience and other values (child labour, neglect and forcing children to fend for themselves), as such community members across all districts saw such violence against children or violation of children's rights as not worth reporting. The case below presents such a situation where a young child is in a dilemma, unsure who to report to in the community and where the report elicits a backlash from the caretakers.

His views were shared by other children across other districts. The risks of a backlash were often great when they reported and as such, they opted to keep a low profile and bear the pain and suffering they were going through. Some chose to run away from home and go to relatives where they felt they might get better care or live on the streets if they had no one else to run to. For example, the case below:

I came to Uganda together with my aunt (caretaker) as refugee (Palabek Refugee Settlement) but the condition that I am facing here is very bad. My aunt does not take good care of me, does not give me enough food, I am ever sleeping hungry or eat from friends home. My aunt is a drunkard and whenever she gets food ration, she exchanges it with alcohol or sells it. I also wake up so early (5am) while still dark to go and fetch water from the well and yet it's very far from home. Life generally is hard and I want to go back to South Sudan and join my parents Ever since I came from South Sudan, I am still experiencing the same condition. One day, I went to Block 12 and shared it with my friend (age mate) but he kept quiet over the matter. Fortunately, our neighbours one day got concerned and warned my Aunt, but it even made the situation worse for me because she is ever annoyed with me and mistreats me even more than before. I feel bad that I am a child and no one has bothered to rescue me. Such bad people like my Aunt should not be entrusted with young children like me. My parent did bad to give me to her. I want to go back and join my parents in South Sudan (10-year-old boy in Palabek refugee settlement)

.My grandmother does not want me to rest and the worst part of it, she is also a drunkard and likes beating and treats me harshly and makes me do a lot of domestic work. During school time, I am ever late because of domestic work. I also lack scholastic material like books, school bag, pen, shoes, and soap to wash my clothes. I have so far tried to seek help from two parties which includes my own sister who is married. I asked if I could stay with her and also explained to her about my condition, but she just told me to persevere until I become an adult. Her husband also on realizing that I had wanted to stay at their home, chased me out his home. When I came back home, my grandmother beat me that I ashamed her by going to her in-law's home. The second attempt was a local NGO where I had lodged my complaint but I haven't heard from them.

It was also noted across all districts that harm to children and violation of their rights, were only reported to higher authorities and reactions obtained when the harm caused is grievous necessitating medical intervention or where the parent or guardian sees a possibility of financial gain through fines levied on the perpetrator. For example, cases of defilement were often handled at community level and perpetrators forced to either marry the survivor or pay a compensation of substantial amounts of money or livestock to appease the parents.

The study findings noted that children across all districts technically are allowed to report their cases of interest to the informal justice systems in their communities. However, it was noted that the younger children generally do not have access to the services except with support of adults. Older children aged 15 years and above are noted as more informed and aware of these services and more secure in their understanding of the way the systems function as well as their place in these clans. As such the older children were more likely to access and use these services. However, discussions with adolescent boys and girls showed that boys are more confident and therefore more likely to access these services compared to girls. This was noted to be due to the socio-cultural norms that place greater value of boys as male heirs in the lineage, while girls are seen as wives of other clans and therefore less valued. As such, many girls find it difficult to interface with the informal justice system except when supported by adults to do so.

The study findings show that women generally have easy access to informal justice systems due to the fact that it is within the community, and affordable as well as quick in passing out justice compared to the formal justice systems. Hence, the informal justice system appeared to be more favoured by women.

2.1.2.7 Differences in experiences of women and children

Women with low education, lack of resources, limited knowledge of legal aid opportunities, fear of negative attitudes of formal duty bearers, corruption, high costs etc find the informal justice system a better option. For example, women in Kampala noted that whenever they try to access justice at the police station their poverty is thrown in their faces and they are told, “...*the poor do not have justice...*” (***FGD respondents, Kampala***)

Low income rural women however noted that powerful and well connected men in the community collude with the informal sector judges and therefore it is hard to bring cases against them.

Highly educated career women expressed fear of social stigma due to their social position and though they use informal mechanisms, they prefer to have the issues addressed within a **tight family setting rather than at clan level.**

The elderly and the disabled find the informal justice system easier to use and navigate than the formal justice system due to proximity which makes getting there easier. Further those that need interpreters can just walk over with the interpreters, unlike in cases of the formal justice institutions that usually require transport fare and long distances to cover to access them.

Children faced significant problems due to the fact that they rely on adults to help them seek for justice – this affects their access to justice significantly since most adults they report to prevent their access to justice.

Urban women found it hard to use the informal justice systems since the cosmopolitan nature of the urban centers means people come from different clans/religions and hence informal systems cannot work well.

2.1.2.8 Barriers in Access to Justice for Women and Children using the Informal Justice system

Key Barriers affecting Women and children

Whereas, informal justice systems are often more accessible to poor and vulnerable women and children and may have the potential to provide quick, cheap and culturally relevant remedies to resolve a range of family and community disputes through mediation or arbitration, there are significant barriers in the system. These barriers restrict women and children's ability to use the system to seek protection and uphold their rights when it is violated. Due to these barriers, women and children seeking justice are often re-traumatized and placed at a heightened risk of further violence or death.

Socio-Cultural Barriers

The findings show that many women in the communities visited, fear that clan members will support their own. Several women mentioned the fact that in most cases, they report cases to the spouse's clans since many reside in the clan area of their spouses. Where the perpetrator is likely to be a spouse or a clan member, his rights are seen to supersede the rights of the woman.

In informal justice systems clan members are compelled to support their own regardless of the gravity of the case being addressed. Several women interacted with, mentioned the fact that, in most cases when they report cases against their spouses to the spouse's clans, they do not receive a fair hearing, since many relatives of spouses that reside in the clan area are coerced to side with the perpetrator.

“One woman was battered by the spouse but when she reported to the police the clan came down hard on her and accused her of being very evil hearted to report the father of her children to court. She was put on pressure to withdraw the case yet she had serious injuries. Upon withdrawing the case the man again beat her and almost killed her and her children” **Woman, Respondent, Lamwo District**

Some young mothers also noted that when they cohabit with men, they are never introduced to the man's relatives and this makes it harder to seek intervention of clan leaders using the informal mechanisms since they are not known. Most men have therefore started using this as a strategy to have a marriage of convenience, knowing they can leave at any time without any pressure to support the resulting family. One lady in Lira mentioned that she had lived with her “ex-husband” for 4 years and he abandoned her when she had their first child. She goes on to state “*I don't know his village or his relatives. He kept refusing to take me home. Now i understand it was just a game for him. I have no one to report to even if i have his child*” (**Child Mother, Lira**). Interviews in other parts of the country revealed similar stories of abandoned young mothers, left with no knowledge of where to report and hence unable to seek justice anywhere despite the existence of the informal and formal systems.



This lady was hacked by her husband over a minor dispute. She had to stay in hospital for several weeks and underwent several stitches to put her leg back together. She currently walks with a limp and still experiences great pain in the leg. Although the wounds have healed, the bones don't seem to be set well. The husband was immediately arrested after the crime, as she was unconscious when she was taken to hospital. When she regained consciousness her in-laws were all around her demanding that the husband be released. No one bothered to ask how she was feeling and none contributed a coin to her treatment. Their interest was for the case to be handled at clan level since to them taking such cases to formal institutions was a source of shame to the clan. The case was never handled when she returned home, since the man is in hiding

Economic Barriers

It was also noted that in most cases the clan seating requests for money from the victim and the perpetrator and this opens up possibilities for corruption and bribery. Women noted for example that the poorer women in the community may never obtain justice if they cannot pay the seating allowance requested by the informal justice providers. Sometimes they just grab your livestock instead. This they noted could easily bias them to favour the perpetrator who probably is their drinking buddy or who wields some power in the community or who simply decides to use finances and power to sway their decision in his/her favour.

Whereas, the informal justice mechanism is meant to be free and therefore most affordable, accessible and easy to use by vulnerable women for dispute resolution, in most cases the conveners usually request for compensation from the victims and the perpetrator in form of gifts like; chicken, goats, local brew etc. which is unaffordable by poor women. Consequently decisions are frequently in favor of the perpetrators who are more wealthy or influential individuals in a community and can afford these gifts. In addition, transport to designated sites for clan meetings was considered a big challenge as most poor women cannot afford to pay for locally available transport e.g., Boda boda motorbikes, most of them have to walk long distances to attend these meetings.

Institutional and Structural Barriers

Informal justice systems seldom handle cases of grievous body harm which undermines their capacity to provide holistic justice to vulnerable women. Cases of grievous body harm have to be taken to police, yet many women fear police and they also do not want to get their husbands or relatives (who are the main perpetrators at the same time bread winners) into trouble. This leaves many such cases unreported. The case below for example brings this out clearly: *"Here in our village, issues are kept at family level unless they are too serious to handle at that level. (LC for Men and Nabakyala for women) is the most preferred here when the family level fails. The women avoid the courts and police, since they do not want to get their husbands or relatives (who are the main perpetrators) into trouble."* **FDG participant, Namutumba District.** Since clan leaders seldom handle cases of grievous body harm, this implies

that such cases have to be taken to police, yet many women fear police. This affects reporting of such cases to the clan or religious leaders

The informal justice systems use culturally aligned methods that incorporate patriarchal beliefs, customs and norms that underscore men's superiority to women and often contradict the international human rights laws and norms, and undermines the status of women, keeping them marginalized and inferior in the society. There is usually no training or sensitisation on how to handle cases with gender responsiveness, and because of the predominant patriarchal beliefs they do often condone practices such as women battering, denial of inheritance, bride sales, dowry, or forced and child marriage. They force women to live with their spouses despite the continued abuse and violence against them. This is further aggravated by widespread cultural stigma that prevents women from pursuing prosecution or leaving an abusive spouse since women who are divorced, living alone, or who have chosen to leave a relationship are often looked down upon, ostracized by the community, and there is substantial social pressure to stay in a relationship and bear the pain.

Often, the cultural leaders (clan leaders), village leaders and elders, or religious leaders that preside over informal justice mechanisms and make the ultimate decisions, are predominantly men with patriarchal tendencies which disadvantage women in the informal justice procedures, usually leading to discriminatory outcomes such as, forcing a rape victim to marry her rapist, or forcing a victim of domestic violence to continue living with her abuser. Gender-biased attitudes among cultural leaders also underlie the high social tolerance or even justification of human rights abuse among women. Some leaders are also perpetrators, leaving the victims stranded with nowhere to report cases of violence. Gender stereotypes that place women inferior to men in society; further perpetuate the belief of inequality before the law. This is worse with the clan-based forms of informal justice system where cultures are deeply entrenched.



The image on the left is a photo of a female respondent that was battered by the spouse. When she reported the case to police, the man was immediately arrested but the husband's clan where she resides, descended upon her and forced her to withdraw the case, citing the fact that formal justice systems break up marriages. She complied with their wish and withdrew the case, since the clan promised to address the matter and punish the man. When the man was released, he got home that night, set the house on fire and brutally battered her and bit off a portion of her ear. The clan did nothing and he is still at large

Access to justice by women is further compromised by lack of clear referral pathways between the informal and the formal justice systems. There is no follow up done, and no communication between the referral points. Whereas, the Probation Office and Community Based Services Department of the district is expected to work with the local communities and cultural institutions to supervise cultural activities and provide linkage with the formal systems, it was observed that this

department played very little or no role in supporting the informal justice system. Furthermore, the staff of Community Services Department are few and they lack transport to supervise these activities

Key Barriers affecting Children specifically

Equally, there are many barriers restricting children's ability to access justice in the informal justice system. The study findings from the different districts visited show that across the different cultures practiced in the nine districts, it is culturally and socially unacceptable for children to lodge complaints and claim redress without the support of their family. The findings show that Children lack power to make their own decisions and their complaints are not taken seriously and not fairly assessed. If they lodge complaints against perpetrators without the support of the family, they face risks of reprisals, including violence, intimidation, exclusion and ostracism from immediate family, especially in cases where the perpetrators are family members. As a result, there is generally limited reporting by children, parents or communities about violence affecting children.

Through interactions with the community in Lamwo district it was revealed that children rarely report to anyone cases of abuse, especially if the perpetrator is their guardian, relative or parent. Worse still, some forms of violence like child beating and corporal punishment are considered a fact of life rather than a rights violation in many societies and are therefore not reported. Among the refugee populations, cases of defilement and rape are often handled informally and, in most cases, result in forced marriage of the victim to the perpetrator. It was noted that, the clan works hard to block any possibility of these cases being reported to the formal system.

2.1.2.9 Recommendations for addressing these Barriers

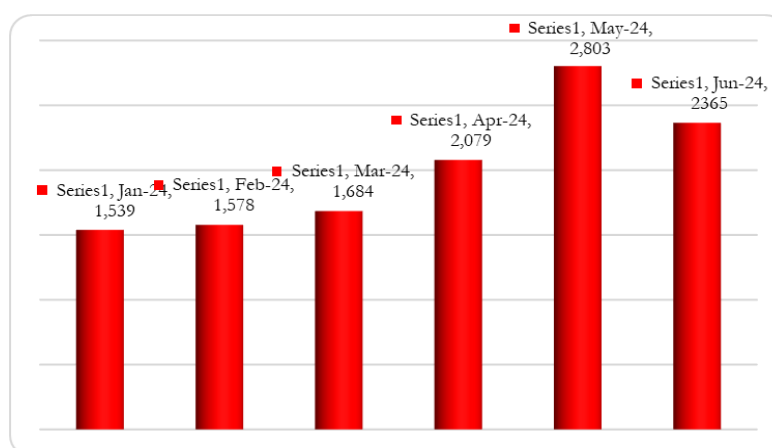
Recommendation	Locus of responsibility	Urgency/ time frame	Legal frameworks addressed
There is need to provide capacity building support to clan leaders, religious leaders and others engaged in dispensing informal justice. It is vital that these categories receive training on human rights, women's and children's rights, gender responsive settlement of cases and records keeping among other issues.	<i>All CSOs working on legal issues or programmes related to access to justice</i>	Short term	• SDG 16 • Beijing declaration (obj. D, and I • NDP3 • National Gender Policy • Constitution of the republic of Uganda
There is need for increased support to non-clan-based structures like the SASA networks, child protection committees etc to support promotion of rights of women and children in communities, especially in communities that are cosmopolitan and have a mix of people from different clans	<i>All CSOs working on legal issues or programmes related to access to justice</i>	Short term	
Sensitize community members on	<i>All CSOs working</i>	Short	

alternative dispute resolution mechanisms that are available so that they can have options to choose from and to prevent them from feeling trapped with no alternative options.	<i>on legal issues or programmes related to access to justice</i>	term	
Provide legal frameworks that give informal justice systems powers to imprison/levy proper punishment.	<i>JLOS, Parliament</i>	Medium term	

2.2 ACCESS TO JUSTICE FOR WOMEN AND CHILDREN IN THE CONTEXT OF COVID-19

In the wake of the COVID-19 public health crisis, many governments have adopted legal and policy responses to counter the spread of the pandemic. However, the impact of the legal and policy measures appears to be far worse than the effects of the pandemic itself. For example, the lockdown measures adopted by many countries have resulted in a broad range of human rights violations including curtailing the ability of people to access justice in a timely, fair, and effective manner; while other problems like defilement, rape, domestic violence, murder, all seem to be on the rise. Media reports for example show that the Acholi and Lango region alone have over 15,000 cases of teen pregnancies just over the period March-September 2020. The figure 2.2 below provides additional statistics of violence against women and children between January and June 2020.

Figure 2.2: Cases for domestic violence reported by Police Jan-June 2020



Source: Uganda Police CFPD Crime Statistics

Data shows that reported cases of domestic violence increased by 82.1% between January and May 2020 from 1,539 cases in January to 2,803 in May 2020. This increase has been associated with the impact of COVID-19 during that period. Domestic violence has mainly been caused by, dispute over family property, failure to provide for the family, drug and alcohol abuse, and cases of infidelity.

Incidences of murder as a result of Domestic Violence reported to the police between January and

March 2020 were 161 cases compared to 134 cases reported over the same period in 2019, giving a 20.1% increase. A total of 165 persons were killed as a result of aggravated domestic violence, of whom, 83 were male adults, 62 were female adults, 12 were male juveniles and 08 were female juveniles. 80 suspects were arrested and charged to court and by the end of April 2020, they were still awaiting trial³⁹.

Table 2: Reported GBV and VAC cases January to June 2020

	Refer red	Counse lled	Under investigations	Taken to court	Convic tion	Put Away	Totals-GBV and VAC cases
Jan-20	28.7%	44.4%	15.5%	3.2%	0.8%	7.3%	2949
Feb-20	21.0%	42.1%	20.2%	2.9%	1.0%	12.8%	3174
Mar-20	30.6%	48.4%	9.3%	5.8%	2.4%	3.5%	3165
Apr-20	30.0%	51.0%	6.3%	8.0%	0.0%	4.7%	3328
May-20	13.7%	42.2%	27.9%	3.6%	0.4%	12.3%	3907
Jun-20	8.9%	41.5%	32.9%	4.3%	0.5%	11.9%	3207
January to June 2020	21.8%	44.9%	19.0%	4.6%	0.8%	8.9%	19730

Source: Uganda Police CFPD Crime Statistics

A ridiculously small percentage of GBV (domestic violence) and VAC (Child neglect, child abductions, child sacrifice, child in conflict with the law, missing child, child labour, child stealing) cases reported get convictions based on data obtained from Police records. For example, data shows that out of the total 19,730 GBV and VAC cases reported to Police January to June 2020, only 4.6% were taken to court, 44.9% counselled and no charges preferred 19.0% still under investigations and 0.8% got convicted.

A key concern is that the economic fallout of the crisis has put many groups in society further behind, including children, women, older persons, persons with disabilities, indigenous peoples, displaced populations, stateless people, migrants, asylum seekers, victims of human trafficking, day labourers, and people living at or below the poverty line. The pandemic is making inequalities more visible, such as acute disparities in wealth, access to health, employment and livelihood, and in the ability to adopt recommended preventive and isolation measures (e.g., space, access to water and sanitation, etc.). These same inequalities have already been identified and discussed earlier, as key factors in restricting access to justice for women and children. In the context of COVID-19 therefore, these barriers are likely to be worse and impact more heavily on women and children and restrict access to justice for a bigger number that was probably not affected before.⁴⁰

These inequalities show the need for accessible mechanisms to resolve disputes, redress rights violations, and/or counter discrimination – whether related to employment, legal/residency status, access to health benefits, or other social protection mechanisms. Access to legal services and legal information is critical for empowering people and communities to address these issues. Based on the already highlighted situation of women and children, and knowing that women and children in particular are often worst affected by such inequalities, the effects of COVID-19 were noted as significant in blocking access to justice for women and children.

³⁹ Uganda Police Criminal Investigation Department, SGBV Report Jan-April 2020

⁴⁰ UNODC (2020), Guidance Note: Ensuring Access to Justice in the Context of COVID-19, UNODC, New York

2.3 BEST PRACTICES IN PROMOTION OF WOMEN’S AND CHILDREN’S ACCESS TO JUSTICE IN UGANDA

The study has identified a number of strategic local and international best practices for women’s and children’s access to justice. These best practices constitute vital data to inform holistic programming for women’s and children’s access to justice. They should be adopted and applied by various stakeholders in the justice delivery system to ensure women’s and children’s access to justice. Accordingly, all justice professionals, policy makers, programmers and all other implementing partners involved in the justice delivery system should adopt and apply these best practices where applicable to remove obstacles and increase access to justice for women and children in Uganda.

It is also important to note that best practices keep evolving, as new and better solutions evolve from increased awareness, new technology, or simply different ways of looking at things. Therefore, there is need for continued search for best practices for improved planning and reprogramming to ensure that women’s and children’s access to justice is within the national and international context.

2.3.1 Best Practices in the Formal Justice System

2.3.1.1 Addressing Gender Issues in the Formal Justice Systems

The Uganda justice system remains rooted in its colonial origins fostering the adversarial system as the formal means of justice delivery. The formal justice system remains mostly understood and easily accessible to those who have attained high levels of education and is a far cry to those who have not. According to the statistics, women form the majority of the illiterate population⁴¹ find it hard to access justice institutions and mechanisms whose technicalities and complexities remain a huge barrier.⁴² Discussions with staff in courts across the nine districts visited, reveal that many women remain unable to manoeuvre the justice system and in the absence of officials using simplified language or strictly following prescribed procedure, many women are left at the mercy of a system that largely remains unknown to them (*Key informants in courts, all districts*). Worse still, discussions with PILAC staff shows that where the law is unclear in instances such as handling children of arrested women, many at times not only is the whole process prolonged but it also in turn leaves their children without care. It suffices to say that justice delayed is justice denied (*staff of PILAC, Kampala*).

GBV in all its manifestations; physical, sexual, emotional and psychological remains a huge factor that undermines women and children’s access to justice. In assessing trends of vulnerability in relation to access to justice, it has been found that female victims of GBV often fail to obtain meaningful remedies in the public sphere and particularly in institutions like the Police, due to gender and cultural stereotypes steeped in patriarchal attitudes.⁴³ In a 2016 report by HiiL⁴⁴, it was noted that women’s access to justice needs were undermined largely by violence or threats of violence to them or their children. Many women fear to report their issues to the responsible authorities for fear of being harmed by their partners who are usually men.⁴⁵ In 2019, UBOS

⁴¹ <http://uis.unesco.org/en/country/ug>

⁴² LASPNET, Fn. 3, 56.

⁴³ *Ibid.*

⁴⁴ HiiL, *Justice Need in Uganda: Legal Problems in Daily Life*. 2016. 54 – 55. <https://www.hiil.org/wp-content/uploads/2018/07/Uganda-JNST-Data-Report-2016.pdf>

⁴⁵ Vision Reporter, Victims of gender based violence to get free legal services,’ *New Vision*, November 27, 2018 Accessed at: <https://www.newvision.co.ug/news/1490285/victims-gender-violence-free-legal-services>

reported that instances of GBV were largely perpetrated by men against women.⁴⁶ According to institutions such as FIDA, GBV fosters women's silence and not only directly undermines their access to justice but impedes the process from starting at all.

To address these concerns, Uganda has been progressively reviewing the legal framework to ensure the frameworks align with the human rights needs of all people especially women. Not only are women recognised as vulnerable members of society but they are also accorded special protections and recognised as human beings with dignity.⁴⁷ However, this is yet to materialise into laws aimed at protecting women's access to justice needs. Bills such as the Marriage and Divorce Bill,⁴⁸ and the Sexual Offences bill⁴⁹ that offer protection for women on issues such as marital property, sexual harassment are yet to be passed into laws. Additionally, while women have persistently been reported as a vulnerable group in need of access to legal assistance, laws such as the National Legal Aid Bill that aim to address issues such as access to legal representation are yet to be passed into law. It is also important to note that women's justice needs have been reported to be characterised with property rights matters, GBV especially sexual violence and finance related issues, all of which could be addressed by the enactment of these laws particularly as well as furthering the expunging of discriminatory practices.

Access to justice when one is financially capable is an ideal that many women in Uganda are yet to realise. High levels of poverty are evidenced more among women than men. The Poverty Status Report, 2014 states that women are vulnerable to poverty.⁵⁰ Many women in Uganda are yet to realise means of financial sustenance. The 2019 UBOS Gender issues report noted that for instance, the share of men in paid employment doubled that of women in 2016/17 at 67.1% for men against 32.9% for women. The explanation for this financial disparity noted that the patriarchal nature of the Ugandan society relegates women largely to unpaid care work or poorly remunerated domestic jobs such as household chores.⁵¹ These limited financial means directly undermine women's access to justice. It is well known that justice requires one to have financial support in order to access legal representation, transport themselves to a legal aid office or even access medical services to fill in the Police Form 3. As such, the persistence of poverty due to issues such as discrimination in employment, laws that limit women's access to production such as land not only limit their financial growth but also foster co-dependency on male figures. This leaves access to justice further out of women's reach.

In a similar situation as the women, children are progressively provided for in Uganda's legal system under the 1995 constitution and the Children Act Cap. 59, (as amended). However, it is noteworthy that many of the provisions of the law are yet to be fully realized or need to be differently attained and this undermines children's access to justice. Section 14 of the Children Act establishes the Family and Children's Court (FCC) in all districts of Uganda. The FCC's mandate covers

⁴⁶ Uganda Bureau of Statistics and Ministry of Gender Labour and Social Development. Gender Issues in Uganda: An analysis of Gender Based Violence, Asset Ownership and Employment. 2019. 8 – 9. <https://www.africaportal.org/publications/gender-issues-uganda-analysis-gender-based-violence-asset-ownership-and-employment/>

⁴⁷ The 1995 Uganda Constitution (as amended), Art. 33.

⁴⁸ Maria Nassali *ed.*, The Politics of Putting Asunder: The Family, Law and Divorce in Uganda. 2017. 40 – 41.

⁴⁹ Vision Reporter, Pass gender-related bills before 2021 - rights activists, *New Vision*, March 19, 2020. <https://www.newvision.co.ug/news/1516756/pass-gender-related-bills-2021-rights-activists>

⁵⁰ United Nations Development Programme, Poverty Status Report: Structural Change and Poverty Reduction in Uganda. 2014. 81. <https://www.ug.undp.org/content/dam/uganda/docs/UNDPUG2014%20-%20POVERTY%20STATUS%20REPORT%202014.compressed.pdf>

⁵¹ UBOS and MGLSD, Fn. 11. 26.

criminal matters as well as childcare and protection. Magistrates not below Grade II should preside over the FCC (Section 13). The FCC's jurisdiction leaves the court swamped and barely able to attend to juvenile matters. Worse still, with the phasing out of the magistrate Grade IIs has left magistrate Grade Is with a larger case load to which children's matters are added.⁵² Additionally, FHRI has reported that issues such as failure to inform parents or guardians of children's arrest, lack of legal representation and children's limited knowledge of the formal justice system have compounded the situation.⁵³ The case backlog and number of unaccompanied children in court alone when stacked against the expediency with which children's matters should be resolved is a huge barrier to their access to justice.

Corruption continues to plague the justice delivery system at various points in turn undermining women's access to justice. The Inspector of Government report 2014 indicates that 37% of respondents believed the Judiciary is very much involved in corruption. They identified services that attract bribes to include: accessing court files, bail payment, fixing hearing dates and accessing magistrates. Corruption whether real or perceived has a strong bearing on how women interact with the justice system. For many Ugandans there is real fear of the justice system institutions such as the police and courts and their fear is backed by media investigations.⁵⁴ The Legal Service Providers Network has reported that when the poor and vulnerable cannot afford to pay requested bribes for services that should be free, their claims and cases are delayed, denied or discontinued.⁵⁵ This greatly undermines women's access to justice considering the poverty situation discussed above.

In addressing barriers faced by women in accessing justice, Sylvia Tamale has cautioned us to always pay attention to women's legal status and how it in turn affects how they interact with the world. She invites us to apply a lens of inter-sectionality in order to unearth how one's legal status may for instance affect their access to justice.⁵⁶ It is thus noteworthy that women with disabilities, refugees, women in cohabitation relationships and LGBTIQ+ among others face great barriers to their access to justice. Not only is the justice system ill equipped to handle matters of women with disabilities even to provide information in an accessible manner as required by the Persons with Disabilities Act,⁵⁷ but also having refugee status, lack of a marriage license or one's sexuality is a precursor for discrimination. This largely undermines women's access to justice. It is thus important that the non-discrimination provisions in Uganda's constitution be fully realised for women's justice needs.

As a response to the devastating abrogation to the right to legal representation for any Ugandan before the courts of law, Uganda has seen an increase in provision of legal aid services by various entities in the country all aiming to meet the justice needs of the vulnerable including women. Many of these legal aid service providers are members of the umbrella body the Legal Aid Service

⁵² Legal Vice Presidency, The World Bank, *Uganda Legal and Judicial Sector Study Report*, 2009, 39.

<https://documents.worldbank.org/en/publication/documents-reports/documentdetail/922811468309343817/uganda-legal-and-judicial-sector-study-report>

⁵³ Foundation for Human Rights Initiative (FHRI), *Juvenile Justice in Uganda: Report for the Period January – July*, 2009, 5 – 6.

<https://www.fhri.or.ug/index.php/2015-07-22-14-08-32/thematic-reports/32-juvenile-justice-in-uganda-january-july-2009/file>

⁵⁴ Vision Reporter, Taskforce to probe corruption in Judiciary unveiled, *New Vision*, August 8, 2019.

<https://www.newvision.co.ug/news/1505104/taskforce-probe-corruption-judiciary-unveiled>

⁵⁵ LASPNET. State of Access to Justice Report: 2017 Annual Trends Analysis. 2017. 15. <http://www.laspnet.org/joomla-pages/reports/access-to-justice-report/499-access-to-justice-report-2017/file>

⁵⁶ Sylvia Tamale. Decolonization and Afro-feminism. 2020. 62 – 74.

⁵⁷ Zahara Nampewo, 'We Have A Right to Love: The Right to Marry and Reproduce for Women with Disabilities in Uganda. East African Journal of Peace & Human Rights. Vol 24:1. 2018. p.78. See also: Global Accessibility News, 'Persons with disabilities need access to justice in Uganda,' September 19, 2013. <http://globalaccessibilitynews.com/2013/09/19/persons-with-disabilities-need-access-to-justice-in-uganda/>

Providers Network, which boasts of over 40 member institutions providing legal aid all over Uganda.⁵⁸ It is thus devastating that in spite of the efforts to provide legal aid undertaken by both civil society and the government, *all* women are yet to have access to justice. Reports from these organisations note that many people do not know about the availability of these services and this is why they may not reach out for assistance. Additionally, many women do not believe that the services are free and so they do not reach out when faced with legal issues. Perhaps because many service providers are urban based.⁵⁹ Nevertheless, access to justice remains impossible for many.

The JLOS sector has made efforts in accordance with requirements of the PFM Act and The National Gender Policy as well as the National Action Plan on Women, to ensure gender concerns are addressed within their institutions and services delivery systems. For example, access to Justice by women and children is being addressed through various affirmative action strategies taken by the judiciary-JLOS. One of these strategies is to speed up handling of pregnant women's cases or cases that involve very elderly populations especially women, and cases that involve children. Across all districts visited the State prosecutors all mentioned that there is emphasis placed on speedy trial for vulnerable groups to reduce the likelihood of them giving up on justice. Their views are summed up by the view of one volunteer in the department, that said:

“we are here to serve everyone regardless of gender, but we also know that women and children are most vulnerable, so we give them a priority, but we are helping everyone who requires our service. Most of the legal advocacy strategies are pro-poor and pro-vulnerable where we see women and children dominating so many strategies are designed to help bridge the gap between access to justice and the end user”
[Assistant Legal (Volunteer) –JLOS Mbale]

Other efforts made include planning for children's court sessions to be held in camera in order to enhance privacy and create conditions that allow the child to relax. This implies that in cases of defilement especially young girls are given the opportunity to play in the children's special room, where they can relax and a child counsellor speaks to them in camera to take down their testimony and prepare them for what to expect during the court sessions. This environment is friendly and helps the child not to feel intimidated, and therefore the entire court process ceases to be traumatizing for the child.

Efforts have also been made by the judiciary to increase the number of female staff to handle sensitive cases that relate to women and girls especially defilement and rape cases. However, the numbers of female staff still remain relatively lower than male staff.

In terms of gender mainstreaming efforts, the sector is further making efforts to document and track cases using gender disaggregated statistics. These aids speedy analysis of pending cases by gender and by age, thereby enabling easier identification of cases that require speedy intervention – for example cases of vulnerable children, elderly women, and other categories that require special attention.

All court premises have also been fitted with ramps to aid movement for people with disabilities and elderly persons, again ensuring that social inclusion is considered in the enhancement of access to justice.

⁵⁸ <http://www.laspnet.org/about-us/historical-background>

⁵⁹ LASPNET, Fn. 20.

2.3.1.2 Other Innovations /Best Practices in the formal justice sector

The use of non-custodial sentences and diversion of child cases. A diversion rate of 76.2% which is 95% performance against the 2021 target was recorded while the number of service points offering child-friendly services increased to 72% according to the recently published Uganda Bureau of Statistics (UBOS) National Governance Peace and Security Survey 2017. Children cases were fast-tracked in many of the service centers and the best interest of a child was emphasised during the handling of such cases with 10,902 cases disposed of. Under the Special Sexual and Gender Based Violence (SGBV) Court Sessions, 788 cases were disposed of, 78% of which were child-related cases including defilement both simple and aggravated with some victims being five years old. It was established that 70% of the cases involve relatives of victims thus the need for a victim support system. The use of non-custodial sentences was emphasised, however, given the nature of some cases that cannot be diverted construction of Moroto Remand Home is ongoing. In addition, Uganda Police Force (UPF) launched the Children Diversion Guidelines for Police Officers that were initiated by the Ministry of Gender, Labour and Social Development (MoGLSD).

The FCC has endeavoured to set aside special days and court sessions to attend to matters involving juveniles or addressing their matters at the start of business. This is an effort to ensure that children's matters are not backlogged in the system and are expediently dealt with. This is complemented with diversion options.⁶⁰

Access to legal aid services is vital in the administration of justice. Under the existing arrangement, 39.02% of the magisterial areas have access to state funded legal aid services. This state funded legal aid service is limited to state brief for capital offenses only. This is supplemented by pro bono services currently offered by Uganda Law Society under its pro bono project. Free legal services are also offered by Justice Centres under the Judiciary. They receive funds from the government and outside donors and by other civil society organizations like FIDA, Refugee Law Project, PILAC, Landnet, Justice center in Lira, among others. However, findings show that many women and children are unaware of these services; the lawyers available and willing to offer pro-bono services are also very few; the agencies offering these services have few staff and cover small areas; a large number of women and children are unable to reach the available legal aid offices due to mobility constraints, lack of information, etc

The sector continued implementation of the programme of strengthening the capacity of crime fighting agencies including investigation, prosecution, and correctional institutions to reduce the crime rate and effectively and efficiently respond to crime through capacity building, installation of CCTV cameras in strategic locations, and purchase of various equipment to aid the process of investigations.⁶¹

In addition, the JLOS is implementing measures to boost rehabilitation of offenders including juveniles to reduce the levels of recidivism in the country. Crime prevention strategies and measures that seek to reduce the risk of crimes occurring, and their potentially harmful effects on individuals and society, including fear of crime are being implemented.

⁶⁰ Center for Justice studies and Innovations, Justice for Children: Reference Manual on Restorative Justice. 2014. <https://www.jlos.go.ug/index.php/document-centre/justice-for-children/362-justice-for-children-reference-manual-on-restorative-justice/file>

⁶¹ The Justice Law and Order Sector Annual Performance Report 2018/19

The Closed-Circuit Television (CCTV) project was launched by the President of Uganda in October 2018 at the National Command Center at Natete covering Kampala Metropolitan Police (KMP). Cameras have been installed and 60% of UPF guns have been fingerprinted, discussion of the construction and equipping of the modern forensic laboratory is near conclusion while motorcycles to ease reach have been verified.

Use of Alternative Dispute Resolution (ADR) mechanisms. Many institutions working on access to justice for women have embraced use of ADR means such as mediation which involve less technicalities, utilise the language best understood by the women in need and foster reconciliatory justice.⁶²

Judicial activism. While Ugandan women may not fully rely on the law for their justice needs, the courts have endeavoured to interpret and put to use clauses such as non-discrimination and equitable principles in recognition of women's contribution to marital property in the absence of a marriage license among others. These efforts are aimed at ensuring that justice prevails for many women who are often at loss with no recourse.⁶³

Increasing visibility and access to legal aid systems. Many legal aid service providers have taken the initiative to establish toll free helplines in an effort to increase accessibility for Ugandan women in need of legal aid services. Such entities include FIDA – Uganda and LASPNET.

Other innovations include the computerization of records and case tracking systems by Lira court, which "...has helped track the cases to understand case load for each state attorney, allocate cases more efficiently and ensure cases can be tracked to assess progress...". (Key Informant, Lira)

At the national level, DPP department has introduced a system of plea bargaining and most DPPs are adopting this to reduce backlog of cases in court, enhance efficiency in disposing cases and speed up trials in general, reduce time spent in remand, etc

The judiciary has introduced the child friendly system where children's cases are heard in camera and their testimony taken from a child friendly room that allows the child to speak in a relaxed environment. The judiciary has also ensured that women rape victims are given the chance to choose whether they want a closed court session or open court session.

GBV shelters and women's safe spaces have been introduced by NGOs to protect women and remove them from spaces where they are vulnerable or at risk of further harm.

2.3.1.3 Impact of these Innovations/Best Practices in the Formal Justice Sector

- a) Use of plea bargaining has helped speed up case handling and reduced case backlogs and hence speedy trials.
- b) Small claims court has ensured that people can recover moneys less than 10,000,000/= in court without presence of a lawyer.

⁶² John Ochepa E. Arutu, 'The Recent Judicial Reforms In Uganda With Emphasis On "ADR And Mediation,' 2012. <https://www.jlos.go.ug/index.php/document-centre/mediation/258-recent-judicial-reforms-in-uganda-emphasis-on-alternative-dispute-resolution-adr-and-mediation/file>

⁶³ Maria Nassali *ed.*, Fn. 13. 238 – 244.

- c) Child friendly court systems enable children to testify in a friendly and relaxed environment hence reduce trauma that was experienced in earlier systems.
- d) Women rape victims have been given the opportunity to choose whether they want a closed court session or open court session. This allows women to have their sessions in an environment they are comfortable with, reduced embarrassment and trauma, and this increases likelihood of women reporting cases – more justice served and more perpetrators locked up.
- e) Pro-bono services offered by agencies like Uganda Law Society and free legal aid services offered by justice center, PILAC, refugee law project, FIDA, and others means – more women and children are able to take matters to court and get good representation even if they do not have money – increased access to justice.
- f) GBV shelters and women's safe spaces introduced by NGOs – have increased safety and increased access to justice for women. For example UWONET, Lutheran World Federation, DRC, Action-aid and others have set up safe spaces for women and shelters for survivors that need a safe place to stay and recover.

2.3.2 Best Practices in The Informal Justice System

2.3.2.1 Gender Concerns in Informal Justice Systems

Majority of women argued that clan systems and religious institutions that hear their cases, are less likely to be biased since the women often know the committee members and can draw on these relations to get sympathy and a hearing that results in a positive outcome.

The informal institutions are usually within the community, which addresses issues of mobility constraints and other barriers to accessing justice that women face including money constraints and information gaps. This therefore enables women to access justice.

One of the biggest challenges however is the fact that the justice dispensers in the informal justice system are largely male and hence likely to be steeped in traditional gender biases and guided by patriarchal cultural norms or religious norms that may not favour women and children. For instance, one woman in Arua noted that “...*cultural leaders are biased against women, and believe that women's rights are secondary to men's rights. They operate in a manner that is not favourable to women and children...even these churches, some do not allow women to hold leadership positions, so how can they then support women to win cases that are brought for them to handle...*” (FGD participant in Arua). The lack of training in gender responsive dispute handling only makes this worse. Indeed, discussions with community leaders in Acholi region and in Lango region confirmed that no formal training has been provided to help them solve disputes in a gender responsive manner. They noted that, sometimes, in hindsight they feel that their decisions have never really favoured the vulnerable that needed protection.

2.4.2.2 Other Innovations / Best Practices

SASA! is a methodology for addressing the link between violence against women and HIV/AIDS. SASA is meant to inspire, enable and structure effective community mobilization to prevent violence against women and HIV/AIDS. SASA is a Kiswahili word that means now. Now is the time to prevent violence against women and HIV/ AIDS. The name SASA! was chosen as a reminder of the urgency to act! SASA! offers tools, guidance and encouragement for individual activists and activist organizations ready to start a process of change. SASA! is based on the understanding that violence against women does not occur in isolation, but within families,

communities, and societies. Thus, SASA! encourages engagement within all circles of influence across the Ecological Model (e.g., individuals, families and neighbors, community institutions and groups, and broader societal members such as the media or policy makers). It is an approach that uses multiple strategies to tackle issues of violence against women and children, including Local Activism, Media & Advocacy, Communication Materials, and Training.

At community level the SASA committees (community-based activists) are also informal justice dispensers. They are called in to settle grievances at household and community level and use their skills to prevent conflicts from escalating out of control. They also handle cases of rights violations in the community and where necessary refer to NGOs for case management; or to police for further escalation to court. These were found to be functional in Amudat, Namatumaba, and Lamwo among refugee communities and host communities. International Rescue Committee, UWONET, LWF, WORUDET, and many other agencies have adopted the SASA approach in their work with communities to facilitate quick dispute settlement and prevention of conflict escalating in the communities.

Child Protection Committees have also been established in some communities, especially where child rights issues are known to be a big area of concern. These committees were found to be very helpful in identifying cases related to child rights violations and addressing these cases quickly and referring them where necessary to police or to LCs where they cannot handle. This has helped to ensure that children's cases are handled at community level despite community perceptions that normalize children's rights abuses.

2.3.2.2 Impact of these Innovations / Best Practices

- The discussions with community members noted that the SASA innovation has helped speed up justice and it is more powerful than the religious institutions in terms of having decisions enforced since it has community backing.
- The approach does not require payment of fees and other monies and hence, it is more friendly to poorer women than other forms of informal justice. It is therefore helping to ensure more women access justice.
- The approach is also noted as an approach that has led to building community structures that will outlive the agencies that introduced them. These structures will therefore always be available and affordable for women and children to access justice.
- The child protection committees have helped to ensure that children's cases are handled at community level despite community perceptions that normalize children's rights abuses.
- Act as a watchdog in the community to identify vulnerable children and to address their concerns as quickly as possible by intervening and handling these cases.

2.4 PROGRAMMING ON ACCESS TO JUSTICE FOR WOMEN AND CHILDREN

Women's and children's rights need to be protected if Uganda is to attain the goals inherent in the vision 2040 agenda. However, women's and children's rights must be protected and respected since these categories are human and therefore deserving of equal rights enjoyment just like men in society. Designing advocacy around women's and children's rights issues and working together with others to support existing ones or starting up complementary campaigns to address various child

rights issues would be a good way to go right now. Campaign issues to focus on are so many and varied but below are some programmatic ideas/thematic areas that could be adopted.

2.4.1 Reform Customary Laws

The informal sector presents significant challenges primarily because the laws that guide dispute resolution, the punishments, the definition of various crimes, are all unique and vary based on tribe, and regional differences. This presents a challenge also for programming since there is no single process or entry point for reforming informal laws to make them uniform or to amend them to suit internationally accepted human rights principles – at least not in the short term, it takes time to make these changes happen. It is also important to acknowledge that informal justice systems often embody the dominant social code and power hierarchies. The lack of written procedural and substantive rules in informal justice systems means that outcomes are determined on a case-by-case basis according to the “power, status and wealth differentials and relations between disputants, discriminatory social norms, and leaders’ perceptions of group cohesion. In addition, the parties’ individual relationship with the community leader can influence the outcome of the dispute. Indeed, it has been noted that community-mediated settlements often reflect “what the stronger is willing to concede and the weaker can successfully demand.

Some countries have tried to overcome this through statutes which regulate the application of customary and religious laws as well as customary and religious institutions. Changes in customary law however, often require shifts in deep-rooted sociocultural norms. Challenges to existing sociocultural norms may be resisted, particularly by gatekeepers such as traditional and religious leaders who may perceive change as a challenge to their own authority and power.

Best practice example from Namibia

In Namibia, the traditional court system exists side-by-side with the formal justice system, and is specifically provided for by legislation. Since 1993 there has been a push in Namibia to increase women’s participation in traditional courts, for example by appointing women as leaders and as representatives in village court cases. The Uukwambi Traditional Authority in northern Namibia sought to address gender concerns by opening up spaces for women to participate on an equal footing with men on the courts; providing for women’s representative to sit on equal footing with male elders on the council of elders and addressing traditional laws and practices that caused inequalities and difficulties in accessing justice by women. This has helped address the inequities that existed before and enhanced access to justice for women who are now more confident in using the traditional systems of justice.⁶⁴

⁶⁴ Meintjies, Pillay and Turshen (eds), *The Aftermath: Women in Post-Conflict Transformation* (2001) 255, 277

Recommended Programmatic Focus Strategies

Recommendations	Locus of responsibility	Time/ frame	Legal frameworks addressed
Identify and work towards addressing existing negative customary laws jointly with traditional leaders and working with them to create reforms that have broad buy-in. Encourage women's equal participation and inclusion in the council of elders that sits to decide cases in informal courts or in religious institutions. Identify existing or eroded positive traditional norms. Cultural legitimacy for women's rights may be asserted from positive traditional norms which are still in existence or have been eroded over time. Programming interventions may simultaneously acknowledge that customary laws exist and remain an important source of law, while recognizing that the formal justice system is better equipped to address specific areas of women's rights (e.g., SGBV), as determined by national stakeholders. Ensure that interventions are community-driven and community-defined to foster sustainability. It is important therefore to identify and work with allies who can point to drivers of change within customary or religious sources of law. Coalition-building and mobilization could also generate energy around a larger movement to strengthen women's access to justice, with clusters of different thematic groups or communities of practice among informal justice actors offering a useful platform for addressing the many culture barriers to women and children accessing justice. Create dedicated, safe spaces for women of all generations, backgrounds and literacy levels to voice their opinions and priorities. These should guide development of new approaches to addressing the barriers affecting access to justice at community level. The safe spaces can also be used as pressure groups to influence local leaders to adopt new ways of handling complaints in a manner that addresses the unique needs of women and children. These efforts need to operate hand in hand with changing attitudes and building the capacities of relevant institutions and decision makers to ensure that the reforms are acceptable to all, and that women and children are able to make use of the opportunities provided by the reforms. For example, it may take time to convince a community that a perpetrator who is a breadwinner should be reported to the police and should pay for his/her crimes, despite the fact that he is a breadwinner. Seek out opportunities for strategic interventions that improve the operation of informal or customary justice systems and facilitate the efficient integration of formal and informal systems. This will ensure that the informal systems operate within a framework that is in line with international rights documents and uphold women's rights. Also having trained legal counsel and	➤ JLOS ➤ CSOs working on access to justice	Short term	• SDG 16 • Beijing declaration (obj. D, and I • NDP3 • National Gender Policy • Constitution of the republic of Uganda

judges sitting on the informal justice benches may help foster more justice for women and children than when only clan elders are left to handle such matters. A blended form of justice at lower levels would probably therefore be more effective, accessible and easy to understand for vulnerable groups			
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2.4.2 Legal Empowerment programmes for women and children

The findings show that although a number of agencies like FIDA, ActionAid, and others like UWONET have been providing legal awareness sensitization messages to different groups of people, there is still a gap that needs to be addressed. Most of the programmes target a small geographical area, and target mainly women. Men are not being targeted while women in other areas where these agencies are not operational are not reached. As such, even in areas where these agencies have been operational, there are pockets of community members that lack knowledge of legal rights and options for seeking justice.

The study findings also show that a high number of children know their rights, this has not translated into them seeking for help due partly to the fact that their efforts to seek justice depend a lot on the adults in their life – parents and guardians especially and their willingness to support the child to seek justice. Many women on the other hand either do not know their rights or know their rights but feel disempowered in many ways to seek for help due to social norms, lack of money, or other factors that prohibit or constrain access to justice. Considering legal empowerment approaches as part of the solution to advance women's access to justice could address these problems.

Recommended Strategies

Recommendations	Locus of responsibility	Time frame	Legal frameworks addressed
Engage wider areas of the country and target all categories of people with legal awareness. This includes awareness raising and provision of legal empowerment to women and children. This should cover knowledge of their rights, knowledge of what constitutes rights violations; where to go when in trouble or in need of help; who to talk to; where to obtain legal aid services, etc	JLOS/CSOs	Short term	• SDG 16 • Beijing declaration (obj. D, and I) • NDP3 • National Gender Policy • Constitution of the republic of Uganda
Provide legal aid services for women within their communities, to facilitate easy access and overcome mobility constraints that women face.			
Support paralegals to offer support services to women to help them lodge cases in police and follow up these cases to completion.			

2.4.3 Multi-Faceted Programmes

There is need to invest more resources to identify and design effective, context-specific strategies to promote gender equality. These could include development of multifaceted programmes that empower women economically to address the economic barriers to access justice; address the social aspects through rights awareness and address the lack of knowledge of support services through legal empowerment with knowledge about the law, where to go, who to get help from, etc.

Recommended Strategies

Recommendations	Locus of responsibility	Time frame	Legal frameworks addressed
Design and invest more resources towards effective, context-specific strategies to promote gender equality in a multifaceted manner. For example, programmes that have components of economic empowerment; address legal empowerment; social empowerment through building social support bases for women in each community; awareness raising on negative aspects of normalized violence against women and children, etc	CSOs	Short term	• SDG 16 • Beijing declaration (obj. A, D F, and I) • NDP3 • National Gender Policy • Constitution of the republic of Uganda
Explore potential of partnerships between legal and non-legal service providers, in particular those working in the areas of women's economic empowerment and income generation, protection from violence and food security. Best practices include legal aid service providers teaming up with non-legal service providers, such as combining with domestic violence counselling in women's shelters, or bundling legal aid delivery with existing services frequently accessed by women, such as midwifery services or microcredit schemes			

2.4.4 Engage with Informal Justice Systems

Program activities aimed at addressing the weaknesses in the informal justice sector need to be organized. In many cases traditional leaders tend to be illiterate or semi-literate elders in the community, and are deeply grounded in traditional and customary practices and norms that may be discriminatory, patriarchal and lead to rights violations against women and children by maintaining traditional patriarchal gender hierarchies. These can be addressed through efforts aimed at directly training the elders to change their mindsets or working through legal reforms that criminalize certain aspects of their behavior.

Recommended Strategies

Recommendations	Locus of responsibility	Time frame	Legal Frameworks Addressed
Gender and human rights related training offered to informal justice dispensers – clan elders, religious leaders, SASA activists, etc.			• SDG 16 • Beijing

Advocacy to have laws criminalizing some practices that may constitute rights violations carried out by elders in the name of justice seeking. Although the constitution outlaws some of these practices, they are not effectively addressed in legal practice and often go unreported, unpunished, and hence normalized – for example public flogging of women considered in disciplined by their husband's clans	CSOs	Short term	declaration (obj. D, and I • NDP3 • National Gender Policy • Constitution of the republic of Uganda
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2.4.5 Awareness raising through Sensitization, Media, School Curriculum

The findings of this study show that many women view violence from their partner as part of family life that should be kept undisclosed and free of outside intervention. About 90% of women interviewed or spoken to in FGDs had experienced spousal violence and either withdrew the case from police or did not report at all, preferring only to tell a relative about the violence. The reasons include: the fear of retaliation and escalation of violence, shame and fear of impact on the family's reputation, not being believed, being blamed, the belief that official reporting would not help (as reflected in the experiences of other women), the fear that it would end the relationship, and the fear of losing their children. The lack of knowledge of their rights is also one of the main reasons of such fears, especially the fear of losing their children; the ineffectiveness of official reporting mechanisms also plays a role. This situation emphasises the importance of raising awareness on the rights of women and children.

Widely accepted customary attitudes and practices of women's subordination and the stereotypical roles applied to both sexes, often expose women and children to rights violations and prevents access to justice. Gender stereotypes affect women's attitude to being subjected to domestic violence. Most women in violent situations consider domestic violence 'normal' and do not perceive a need to seek assistance. Social stigma, shame and dependence on the husband and his family for economic support also severely restrict a woman's perceived ability to report violence. Measures to address these could include awareness raising and educational campaigns addressing women and men, girls and boys, religious and community leaders, parents, teachers and officials, in accordance with the obligations under articles 2 (f) and 5 (a) of the Convention on elimination of all forms of discrimination against women - CEDAW. Other measures could include encouraging the media to discuss and promote non-stereotypical and positive images of women, and promote the value of gender equality to society as a whole. Evidence from countries battling to enhance access to justice for women, show several strategies being adopted in this regard. For example:

Global best practice example - Armenia⁶⁵:

The action plan for the period of 2015-2017 was drafted in a manner aimed at promoting gender equality and gender balance within the judiciary of Armenia. Public events were organised for students of

⁶⁵ Council of Europe. Compilation of Good Practices. Legal Aid for Women. Armenia 2015

the Department of Law, where female Judges shared their successful experience and encouraged female students to trust in their abilities and to strive for a successful career and to become a judge.

Gender Policy Strategic Action Plan for 2011-2015 provided strategic directions for educational and methodological groundwork for teaching the basic knowledge of gender, as well as introducing criteria for gender expertise of academic literature. Thematic topics on gender issues were included in the module of training courses for teachers engaged in teaching at elementary schools. Topics on gender issues were included in school textbooks for elementary school. A teacher's manual "Teaching Tolerance" was elaborated, in which topics on gender issues were also introduced. Thematic units on fundamental rights, gender equality, tolerance and civil society were incorporated in the syllabus of Social Studies. All these helped to enhance tolerance but also laid the groundwork to ensure change in attitudes towards women and girls in society and reduced tolerance to stereotypical views of women

Recommended Programmatic Approaches:

Recommendations	Locus of Responsibility	Time frame	Legal frameworks Addressed
Advocacy on the need to address all factors that lock girls out of school. These factors directly affect rights of girls but also make girls more vulnerable to future rights violations and create barriers in access to justice. Areas of focus here include: ✓ The need for programmes offering Social, economic and moral support for pregnant teens ✓ Drafting laws allowing pregnant girls to return to school and complete their education ✓ Advocacy for free pads for school girls to provide a conducive learning environment ✓ Support actions to push ministry of education to support provision of free scholastic materials, to UPE/USE schools to ensure girls that are rarely prioritized by parents are still able to study ✓ Advocacy for school curriculum to be revised and gender insensitive sections removed, illustrations to become more gender sensitive, include GBV prevention and response in the curriculum from primary level education ✓ Advocacy around prevention and response to school related and other forms of GBV	CSOs to lead on this	Short term	• SDG 16 • Beijing declaration (obj. B, D, F, and I) • NDP3 • National Gender Policy • Constitution of the republic of Uganda
Engage the media on the need to eliminate gender stereotypes in their sourcing of stories, reporting and coverage of news,	UCC CSOs can lobby and take lead on this	Short terms	
Advocacy to revise school text books, teaching curricula, and other teaching materials and remove	Ministry of	medium term	

inherent discriminatory gender stereotypes	education CSOs can lobby for this		
Introduce mandatory education on women's rights and gender equality in school curricula and in professional training for teachers at all levels of education	Ministry of education CSOs can lobby for this	Medium term	
Advocacy to introduce intensive gender related courses in law school and in LDC to ensure that all those that acquire a law degree/diploma/certificate have skills and knowledge for gender responsive service delivery	CSOs can lobby for this Universities can ensure the curriculum contains gender responsive courses Uganda Law Society	Medium term	
It is necessary to develop guidelines on women's rights protection, especially in the justice system, and women's access to justice. The guidelines should encompass the best practices of international experience of modern jurisprudence and how to apply the newly adopted laws on GBV which many older state prosecutors are unsure how to use	JLOS Uganda Law Society	Short term	
Advocacy around women's land rights issues should be stepped up	CSOs, JLOS	Short term	
SRHR are still a major cause of concern as women's sexuality is still largely controlled by spouses and relatives. Cultural norms normalize this making it difficult for women to seek justice to enforce their rights to choose – most formal and informal justice dispensers still see this as a private issue and hence rarely take decisions in the woman's favour. These need to be addressed	CSOs to lobby for legal protection for women on such matters CSOs to engage in awareness raising in communities MoH to provide services nearer to communities JLOS to	Short term	

	criminalise infringement on women's rights to SRHs		
Special mandatory courses/training for prosecutors, judges and investigators can be prepared and targeted to all on a yearly basis to enhance understanding of gender mainstreaming and how they can do it in the exercise of their duties	JLOS	Short term	

2.4.6 Advocacy to Criminalize and Punish Corrupt Officials

One of the key barriers to justice for women and children is corruption and high handedness of the duty bearers at different levels. There is need to directly initiate programmes that create awareness of these; design policies to address these concerns; and punish offenders caught doing this to ensure that more women are able to comfortably seek and obtain justice.

Global Best practice example in Azerbaijan

According to the Law of Azerbaijan on Reimbursement of damages to the individuals caused by the illegal acts of the preliminary investigating bodies, prosecutors and courts adopted on 29 December 1998, all damages caused to the individuals by the preliminary investigating bodies, prosecutors and courts should be reimbursed by the state. According to the Code of Criminal Procedures, the court considers the application of the victim of crime about compensation of damages caused by the crime at the expense of state budget⁶⁶

Recommended Programming Approaches

Recommendations	Locus of responsibility	Time frame	Legal frameworks addressed
Advocate for laws to enable apprehending and punishment of duty bearers caught asking for bribes or hiking costs to access justice	CSOs	Short term	• SDG 16 • Beijing declaration (obj. D, and I • NDP3 • National Gender Policy • Constitution of the republic of Uganda
Awareness raising to ensure women and children know about where to pick relevant documents needed to pursue justice and to let them know that these are free services and that whoever charges them money is doing so illegally and can be prosecuted for doing that			
Sensitize and create structures to enable and encourage women to report such corrupt officials anonymously to foster investigation and punishment			

⁶⁶ Report of the Special Rapporteur on Violence against Women, its causes and consequences, Rashida Manjoo. Addendum, Mission to Azerbaijan. 25 April 2014

2.4.7 Enhancing Women's and Children's Access to Information on Rights

The discussions with community members revealed that majority of women (80%) and children (90%) know their rights, however, what is needed more is a combination of messages that provide detailed information about what constitutes violation of rights as well as where to obtain legal aid if they need to use formal justice mechanisms, or where else they can seek for support to get redress affordably. Considering that the key challenges to women's and children's access to justice is lack of funds, lack of power in decision making at home, lack of knowledge of the legal procedures, mobility constraints, etc, the way to address the information gaps is to package it in a manner that also addresses these barriers and shows them how to overcome these barriers in the quest for justice.

- Such information should be made available to populations in schools, hospitals, mosques, churches e.tc through music dance and drama sessions, posters, and dialogue.
- Community sensitization is also a good way to pass across the message.
- Identify and target men with these messages to change mindsets on violence.
- Hold community meetings and workshops because it's cheaper for the women and doesn't require transport given that it takes place around the locality.
- Form groups on thematic issues. People are loyal to their group membership they respect each other and can support one another so it would be a good avenue to deliver messages on protection of women's rights and encourage members to strive to protect these rights.
- Stickers should be put up at different trading centres with messages on women and children's rights in bright and attractive colours.
- Men should be taught on the importance of protecting women and children's rights and how they are key stakeholders in the fight against injustice.
- For the children, charts with messages and drawings about children's rights should be placed in their classrooms.
- Creating institutional clubs for instance law enforcement groups in the community to link the community to services and information.
- Women should be taught about their rights and where to go to seek for justice in case their rights have been abused.

Community proposals on messages that could be used to change community mind-sets and enhance access to justice

- When you educate a girl, you educate a nation.
- An empowered woman means an empowered country.
- Justice for all will lead to development.
- We are all equal in the eyes of Justice.
- Say No to corruption in justice delivery.

Recommended strategies include the following

Recommendations	Locus of responsibility	Time frame	Legal frameworks addressed
Develop and implement a multimedia communication strategy, to spread key messages and facts about children and women rights issues	CSOs	Short term	• SDG 16 • Beijing declaration (obj. B, D, I and J) • NDP3 • National Gender Policy • Constitution of the republic of Uganda
Build partnerships with key Ugandan media entities to tell the story of why investing in children's and women's rights is important to Uganda realizing its Vision 2040.			
Use social media to digitally drive the campaign.			
Engage influential public figures from sports, music, arts, religious leadership and the private sector to participate in and make calls to action for the campaign.			
Organize compelling events to mobilize the public around women's and children's rights issues.			
Build strong coalitions and alliances around key issues of concern for women's and children's rights.			
Collect gender disaggregated data to support advocacy			
Mobilize strategic partnerships in catalyzing investments in the country's children, and to build broad-based support to urgently prioritize these investments.			

2.4.8 Strengthening the Linkage between Formal and Informal Justice Systems

The links between informal justice systems and the formal justice systems range from partial state recognition of traditional, customary or religious systems as alternative dispute resolution mechanisms for specific matters – but without legal procedures that link them to formal institutions – to extensive state integration, with formal appeal procedures, cross-referrals, and legal regulation.

Some informal justice systems are not recognized at all (even though people continue to use them), while others are only indirectly recognized in specific laws dealing with customary practices – for example, succession or land allocation and use.

Irrespective of the legal framework, there are also often informal links in practice – both between informal justice systems and formal courts, and between informal systems and the local police, administrators and service providers. Informal links can take the form of collaboration, competition and efforts by local state officials to control the informal justice systems. Such informal practices can enhance access to justice and be used to inspire support to improve or establish formal links. However, it is important to ensure that such links do not lead to human rights violations.

Great care has to be taken not to undermine the self-sustainability of informal justice systems. Support aimed at improving the quality of dispute resolution and the human rights compliance of these systems should therefore not necessarily involve the provision of direct financial support to them. Care also has to be taken that support to state integration of informal justice systems does not affect the informality and ease-of-use that makes these systems so appealing.

Recommendation for Strategies to Enhance Synergy between the Two Systems to improve Access to Justice for Women and Children

Recommendations	Locus of responsibility	Time frame	Legal frameworks addressed
The current frameworks governing informal justice institutions need to be strengthened to legitimize these institutions and provide them stronger basis to function. Formal legal frameworks need to be put in place to make provisions that empower the informal justice institutions to have fully trained judges that sit on the informal justice courts to ensure they bridge the gap in terms of access to justice for women and children, by providing a legally binding court session in the informal justice institutions – in a manner that is in line with the laws of Uganda The formal justice system needs to be empowered to delegate some cases to the informal justice systems to ensure that the petty cases are handled expeditiously at community level. This can be done by having the judiciary budget for salaries of judges that sit in the informal courts and salaries paid for by the State	JLOS	Medium term	• SDG 16 • Beijing declaration n (obj. D, and I • NDP3 • National Gender Policy • Constitution of the republic of Uganda

2.4.9 Advocacy to Fast Track passing of the Legal Aid Bill into Law

Although there are currently laws that exist in Uganda governing aspects of legal aid for example the Constitution of the Republic of Uganda, 1995, the Poor Persons Defence Act Cap 20, the Civil Procedure Act, Cap 71, the Children Act, Cap 59, the Persons with Disabilities Act, 2006, the Refugee Act, 2006, the Criminal Procedure Code, Act and the Advocates Act; as well as other international legal instruments Uganda has acceded to including the Universal Declaration of Human Rights 1948, International Covenant on Civil and Political Rights 1966, African Charter on Human and People Rights 1981, and other non-binding instruments such as the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems 2012; There is however, no legal framework to effectively coordinate and sustainably streamline the provision of Legal aid services to indigent and vulnerable persons in Uganda. Apart from Article 28 (3) of the Constitution which entitles a person charged with an offence carrying a sentence of death or imprisonment for life to free legal aid provided by Government, there is lack of a clear government policy on access to legal aid by indigent or vulnerable persons beyond what the Constitution guarantees. This negatively affects access to justice for poor and vulnerable groups like women and children who cannot afford the costs associated with retaining the services of a lawyer.

The Bill seeks to improve access to legal representation for indigent and vulnerable persons including women and children, by:-

- Expanding the meaning of legal aid beyond merely providing counsel;

- Designating the Justice Centres of Justice as the Government entity that is responsible for the provision of legal aid on behalf of the State;
- Imposing an obligation on the Government to provide legal aid to indigent or vulnerable persons;
- Prescribing the procedure for accessing legal aid to persons entitled to legal aid according to Article 28 (3) of the Constitution.
- Imposing a criteria for providing legal aid by Government and the accredited legal aid service providers

All this will lead to improved access to legal aid to poor and vulnerable groups and would make it possible for such services to be delivered at grassroots levels and thereby be within easy access of the rural poor and vulnerable that are most affected by the lack of legal aid services. The bill is yet to be passed into law. Although under LASPNET, there are 55 non-government organisations providing legal aid services, the challenge with non-state legal aid providers is that they are not sustainable and are biased to specific areas of interest to the agency or the donor. This may leave many vulnerable people unable to access support through such agencies.

Recommendations for fast tracking passing of the legal aid bill into law

Recommendations	Locus of responsibility	Time frame	Legal frameworks addressed
Form a lobby and advocacy group composed of diverse actors, to put pressure on Parliament to adopt the legal aid bill and pass it into law as a matter of urgency	CSOs	Short terms	• SDG 16 • Beijing declaration (obj. D, and I • NDP3 • National Gender Policy • Constitution of the republic of Uganda
Generate statistics to support the advocacy activities and mobilize support from various stakeholders including women, women activists, women groups, donors, academic institutions, and other civil society agencies			
Generate a petition to be signed by citizens urging Parliament to pass the bill. Have the petition presented to the speaker of Parliament for her quick action.. The findings of this report should be sufficient to build the case for why the bill must be passed with urgency			

SECTION 3

3 GENERAL CONCLUSIONS AND RECOMMENDATIONS

From the preceding sections, it is evident that although the Government of Uganda has made elaborate effort to ensure access to justice for women and children, by protecting and promoting of their rights through various mostly legal frameworks, there is still a significant gap that hinders progress towards achievement of the constitutional provisions for equal justice for all. Many people in Uganda, particularly the poor and marginalized groups like women, and children have, limited access to justice and little protection within the justice system to ensure their safety and security. Women and children face additional and specific obstacles to justice that arise because of their status as women and children. It has also been observed that certain shared barriers may affect women and men differently or predominantly affect women and children more than they do men due to other existing contextual factors in the community including access to resources, mobility constraints, decision making power, cultural expectations and identity issues that affect women and children more than they affect men.

The consulting team through this study, have shown that while legal frameworks are important, it is equally important to consider access to multidisciplinary support services as well, taking into account women's and children's unique needs/contexts and ensuring their informed and active participation, agency, and empowerment in the overall process; their specific needs for immediate protective orders where necessary, and the circumstances of access which lie beyond the law and the legal system for example the cost of litigation and other geographic, political, cultural, social, and economic factors affecting different categories of women and children. These factors therefore need to be understood and addressed with respect to how they affect women's and children's ability to seek and obtain justice in different contexts, rather than merely focusing on whether existing laws include clauses that relate to women's and children's protection.

It is important to note that factors such as women's and children's hierarchy in society, level of subordination and subjugation, and the identity they hold in the eyes of the law and those that work in the legal structures; as well as other aspects pertaining to structural inequalities between men and women/children, the systemic and historic disadvantaged position of women/children, the culture of impunity in cases of Violence Against Women (VAW), and the prevailing gender bias and system of patriarchy that continue to persist in the judicial system and in society; costs of litigation; attitudes of staff in the justice system (duty bearers, legal counsel, etc.); geographical location; and other cultural norms and expectations associated with being a woman or a child in a given community, all have a role to play in affecting women's and children's access to justice.

It is clear that women and children face gender and age specific barriers to access to justice. The findings presented in this report show that despite numerous international and national legal frameworks protecting women's and children's rights, women and children still face significant constraints to access justice for intended beneficiaries. These challenges have been attributed to weaknesses in existing legal frameworks and to gender biases at different levels of society. Several best practices and programmatic suggestions have been provided in the report, however, there is urgent need for awareness raising on rights issues and capacity building for duty bearers to ensure a

better reporting environment. There is a need to design programmatic strategies that look beyond legal measures and into the interplay of politics, economics, and culture in as far as they affect women's and children's levels of access to justice. Looking alone at the existence of laws protecting women and children, is insufficient for addressing all the factors that have been identified and that play a part in limiting women's and children's levels of access to justice. These factors differ from society to society and thus require context specific interventions especially where informal justice systems are concerned. Ensuring the availability of legal aid/affordable legal representation, ensuring a gender responsive process of adjudication and enforcement of laws, could all work to enhance women's and children's access to justice.

3.1 PROPOSED RECOMMENDATIONS FOR CONSIDERATION

Recommendations	Locus of Responsibility	Time Frame	Legal Frameworks Addressed
As a matter of urgency, start up lobby and advocacy activities to ensure the passing of the National Legal aid bill into law	CSOs	Short term	• SDG 16 • Beijing declaration (obj. D, and I • NDP3 • National Gender Policy • Constitution of the republic of Uganda
Promote male involvement and engagement as champions and agents of change in elimination of all forms of GBV in communities, families, schools, places of worship and as well as workplace e.g. markets. This can be effectively done through adopting the SASA Model focusing on mind set change of beliefs, values, attitudes and perceptions toward women empowerment in society.			
Advocate for gender equality in access to employment opportunities to improve staffing levels among women prosecutors, judges, police, prison and other law enforcers at all levels to enhance gender equality and equity among justice providers	CSOs	Medium term	
Work with paralegal organizations and CSOs at national and community levels to build their capacity and equip them to provide legal services to women and children, including provision of appropriate information and assistance in navigating judicial processes and traditional justice systems.			
Review the training curricula for the training institutions for police and prisons to integrate women’s rights and access to justice. This should be coupled with conduct of periodic mentoring and coaching programmes for judicial officers, police and police administrative staff, operational staff and decision makers.	JLOS	Medium term	
Improve collaboration and linkage between the formal and informal justice systems to harmonize legal norms for the informal justice systems to comply with human rights laws and ensure some form of accountability of informal justice systems to the formal justice system.		Short term	
Extend legal aid clinics and mobile courts to rural settings and remote areas and ensure adoption of the local language for ease of access and utilization of pro-bono services by the rural poor women and children			

Considering that, barriers to access to justice varies among different groups and categories of women (i.e., women with disability, living in poverty, with mental illness, women in prison, asylum seekers and refugees, women in rural and remote areas, older and younger women), the distinct needs and situations of the diverse groups of women should be considered when addressing barriers to access to justice for women	JLOS	Short term	
Improve the infrastructure to create special spaces in courts to ensure confidentiality for children, women, including the elderly, pregnant and lactating and nursing mothers			
Strengthen the M&E capacity in the judiciary to improve data collection, analysis on clearly defined institutional performance indicators and ensure better record-keeping, case management and tracking. The M&E system should integrate feedback mechanisms for justice users			
Since the judgments of clan leaders, village elders or community leaders that constitute the informal justice mechanism are often highly respected and valued, and seen to contribute to a sense of social cohesion in a community, there is need to meaningfully engage the leaders as key stakeholders in the transformation of the informal justice system. This will encourage appropriate reforms that will enable women to access justice through this system which is more affordable and easily accessible to the vulnerable women that cannot afford the formal justice system.	JLOS/CSOs	Short term	
There is need to provide capacity building for informal and formal justice staff to ensure they know the current laws that have integrated gender in access to justice and how to mainstream gender in justice dispensation.			
There is need to address the underlying economic, social and cultural reasons that disadvantage women in accessing justice through the informal justice mechanism			
Cultural leaders and other stakeholders involved in the informal justice system should be trained on gender equality to minimize negative approaches to the notion of gender and to improve handling of cases involving women. Cultural leaders should also through the informal justice system help to ensure compliance with international human rights law and norms.			
Strengthen research and documentation to support evidence based programming for women’s and children’s access to justice			
Strengthen and equip the District Probation Office and District Community Development Offices to provide technical support and guidance and work closely with the informal justice system to increase access to justice for women and children. CDOs should support referral or linkage of victims to next point of service by Police, health workers etc.	JLOS/MOGLS D	Short term	

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