

Making the law count:



Uganda: An audit of legal practice on sexual violence

**MAKING THE LAW COUNT:
A SYNTHESIS AUDIT OF LEGAL PRACTICE
ON SEXUAL VIOLENCE IN UGANDA**

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ACORD is a Pan African organisation working for social justice and development. Our mission is to work in common cause with people who are poor and those who have been denied their rights to obtain social justice and development and be part of locally rooted citizen movements. We are present in 17 countries in Africa, working with communities on livelihoods and food sovereignty, women’s rights, conflict and HIV/AIDS. We also advocate and campaign at Pan Africa level.

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Acronyms

ACORD	Agency for Co-operation and Research in Development
ACHPR	African Charter on Human and Peoples Rights
ACRWC	African Charter on the Rights and Welfare of the Child
AIDS	Acquired Immune Deficiency Syndrome
Art	Article
CDPF	Convention on the Political Rights of Women
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEDOVIP	Centre for Domestic Violence Prevention
CID	Criminal Investigation Department
CSTPEPO	Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others
DEVAW	Declaration on the Elimination of All Forms of Violence against Women
DNA	Deoxyribonucleic Acid
DPP	Director of Public Prosecutions
DV	Domestic Violence
DW	Defence Witness
ECP	Emergency Contraception Pill
FGM	Female Genital Mutilation
FIDA	Federation of Women Lawyers
GBV	Gender Based Violence
HIV	Human Immune Deficiency Virus
ICC	International Criminal Court
ICGLR	International Conference on the Great Lakes Region
IDP	Internally Displaced Person
IPCPR	International Pact on Civil and Political Rights
LC	Local Council
MDG	Millennium Development Goals
NGO	Non Governmental Organization
PC	Penal Code
PEP	Post-exposure prophylaxis
PF 3	Form Police Form number 3
PP	Public Prosecutor
PRDP	Peace Recovery and Development Plan
RP	Criminal Register
SGBV	Sexual and Gender Based Violence
STI	Sexually Transmitted Infection
TIA	Trial and Indictment Act
UDHR	Universal Declaration of Human Rights
UNFPA	United Nations population Fund
UNHCR	United Nations High Commission for Refugees
UNIFEM	United Nations Development Fund for Women
UPDF	Uganda People's Defence Force
USAID	United States Agency for International Development
USD	United States Dollar
VAW	Violence Against Women
WHO	World Health Organization

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¹ *"The Hidden War Crimes: Challenging the Impunity on Sexual and Gender Based Violence in Countries of the International Conference on the Great Lakes Region (ICGLR)"*

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Preface

The Agency for Cooperation and Research in Development (ACORD) is a pan-African organisation working for social justice and development. With its headquarters in Nairobi, Kenya, ACORD is implementing development initiatives in 17 countries in Africa with a focus on the poorest and most marginalised areas. ACORD's interventions comprise relief, rehabilitation, and sustainable capacity building programmes for local and national organisations, as well as government institutions. The organisation focuses on four thematic areas, namely, Gender, Conflict, Livelihoods as well as HIV/AIDS.

ACORD's research history in the area of gender and conflict dates back many years. ACORD has made several notable contributions in these areas through publications and research documents such as *Gender Sensitive Programme Design and Planning in Conflict-affected situations² Research Report*; *Cycles of Violence*; *Gender Relations and Armed Conflict³* and *A Lost Generation: Young People and Conflict in Africa⁴*. From 2006, ACORD has given priority to sexual and gender based violence (SGBV) in conflict and post-conflict societies as the focus for its gender theme. This is aimed at facilitating the development of a culture of effective and efficient gender justice in the states that are in, or have emerged from, conflict. ACORD aims to do this by challenging impunity and bringing perpetrators of sexual and gender based crimes to justice while restoring the health and livelihoods of the survivors.

ACORD's recent sub regional project funded by the MDG3 Fund of the Dutch government is an initiative geared towards combating violence against women with the focus being on women and girls in situations of conflict. Targeting five countries: DRC, Burundi, Kenya, Tanzania and Uganda, it's three key outcomes are cultural change and practice on impunity as it relates to sexual abuse of women and girls in pre, conflict and post conflict circumstances; strengthening the institutions and mechanisms of justice and uphold of the rule of law to protect women and girls against SGBV and punish perpetrators; and facilitate restitution for survivors of sexual crimes perpetuated particularly in conflict and post conflict situations. A key outcome of the project will be establishing a community oriented fund and provision of vocational training for survivors of SGBV for entrepreneurship development and improved livelihoods.

This project builds upon our broad development work and proposes to create platforms for enhancing women's rights work. In Uganda, several interventions have been undertaken to raise the issue of the prevailing impunity in relation to sexual crimes particularly in the context of the conflict in the Greater North of Uganda. Highlighting sexual crimes and the needed justice for women and communities need to be integrated into the discussions and the accountability frameworks that will be established for Uganda to have true reconciliation.

This study is therefore a continuation of ACORD's focus on sexual and gender-based violence and builds upon a foundation that we have laid in alliance with other organisations. This study recognises that a lot of work has been done in the general area of advocacy and service delivery for survivors of sexual and gender based violence. While we recognise that multiple layers of activism exist to address sexual and gender based violence across the continent, we believe that the adoption of sub regional approaches that address the structural problems rather than isolated country processes are particularly critical to advancing the SGBV agenda.

² Judy El-Bushra, Asha El-Karib and Angela Hadjipateras, ACORD, January 2002

³ Judy El Bushra & Ibrahim Sahl, 2005

⁴ ACORD, May 2007.

Executive Summary

This report is based on an audit initiated by ACORD Uganda in 2009. This audit seeks to understand the intersections, the gaps and linkages or lack thereof within the actors that form part of the framework that makes a legal case for SGBV. The first section of this report outlines the methodology and structure of the audit. The second section sums up the historical development of Sexual and Gender based violence as a crime against humanity, which leads to a summary of the findings in the third section. The fourth and final section presents consolidated recommendations.

It demonstrates how Uganda has responded to the phenomenon of SGBV especially in the parts of the country where there has been conflict for the past two decades. In a country where there is conflict, the incidents of gender-based violence tend to increase due to social upheaval and mobility, disruption of traditional social protections, changes in gender roles, and widespread vulnerabilities. This audit alludes to the range of difficulties survivors face in seeking justice and redress in situations of conflict, such as the

It describes the main obstacles that persons who seek access to justice have to face. It provides an analysis of the impact that these obstacles have on the enjoyment of human rights. The report concludes with recommendations made to the Government of Uganda, civil society and other stakeholders in line with observations made by various stakeholders aimed at contributing to end impunity of SGBV in Uganda. The annex to the report provides general background information on the judicial system in Uganda, from the Local Council Courts system to the Supreme Court.

Overview of Judicial Audit Findings

The incidence of sexual gender based violence (SGBV) has continued to rise at alarming levels, while arrests and convictions of perpetrators are negligible. Embarking on a journey in the form of auditing structures that respond, manage and adjudicate sexual gender based violence is boldly questioning the level of the states' human rights commitment and obligations.

It is only when SGBV is fully recognised as a gross human rights violation [and not a "private" sphere concern] and when law enforcement agents become socialized and capacitated to treat SGBV as a human rights violation and provide commensurate services to survivors, shall we witness a reversal of the patriarchal attitudes that hinders SGBV survivors' protection and redress.

Whilst international and regional human rights instruments, protocols, declarations and resolutions adopt a stern approach towards SGBV, the application of the national frameworks are intercepted by weak structures and systems accompanied by socialized cultures that close their eyes to SGBV and in particular violations against women. Even though SGBV is captured in policy and legal documents as having priority stature, [that is, recognised as a human rights violation] in terms of political will and resource allocation this prioritisation is not clearly evident. Where political will is voiced in the form of a law, the weak institutional capacities and minimal resources to adequately investigate, prosecute, sentence as well as heal survivors undermines the effectiveness of such laws. To a large extent, SGBV as a human rights violation is gendered; and in most cases, as this audit affirms survivors and victims of SGBV are women and children, whilst perpetrators are often male.

The national structures such as judiciary, police and health sectors, receive numerous survivors on a daily basis, with maimed bodies, scarred and fragmented souls, lost voices, and little faith in justice. This judicial audit presents several issues relating to SGBV including; how and where the legal frameworks locate SGBV; how judicial officers interpret the law and the factors influencing their adjudication on SGBV matters; how police receive survivors, how they determine whether to investigate, the protocols of investigations and prosecutions; how the health institutions respond to survivors and finally how non-state actors engage to prevent SGBV. The audit reveals the insurmountable challenges survivors of SGBV encounter during the process of seeking health services, legal redress for injustices including during reintegration processes within their families. The report also highlights model interventions that can be undertaken for managing survivors of SGBV.

Overall, the human rights normative framework in Uganda is facilitative in preventing and protecting survivors of SGBV Uganda has signed and ratified relevant international and regional human rights instruments and protocols that condemn SGBV as presented in the **Annex 1**. Regionally, The International Conference on the Great Lakes Region has been the incubator for the formulation of a landmark protocol and model legislation for the region in the areas of Prevention and Suppression of Sexual Violence against Women and Children. The Protocol seeks to fill the legal void that prevails in most of the legal systems in the countries of the region as a response to the systemic rape of women and children in the Great Lakes Region.⁵

⁵ *Liberata Mulamula, Sex and Gender Based Violence in the Great Lakes Region*

At the national levels, different legal and policy frameworks are in place to respond to SGBV. The Laws of Uganda provide legal safeguards for preventing and responding to SGBV, with the most notable being the amendments of the Penal Code 2007, the Domestic Violence Bill (2009) and the Female Genital Mutilation Bill (2009). The penal Code (as amended 2007) creates the offence of aggravated defilement in circumstances where offender is infected with HIV. The Penal Code further provides for compensation and reparations for GBV victims, according to Section 129 B of the Penal Code Act (as amended 2007). Convicts of defilement or aggravated defilement may, in addition to receiving any sentences, be ordered to pay compensation to the survivor. The Code provides discretion to the court to determine the amount of compensation to award, taking into consideration, the extent of harm to the victim, the degree of force used by the offender and medical and other expenses incurred by victim as a result of the offence. Other pieces of legislation like the DV Bill and the Magistrates Courts Act, the Trial and Indictments Act (TIA) also provide compensation under the civil law. Implementation of the law is still quite deficient at community level.

An assessment of the challenges experienced within the judiciary in determining SGBV cases in Uganda includes; the insufficiency of the law where some internationally recognised sexual crimes are not captured in the domestic law such as marital rape, and the rape of men⁶. Thus a survivor who testifies to such violations can only get redress through normal assault or other sexual offence provisions. Secondly, the provisions that allow survivors to withdraw charges against the accused person undermine survivors redress. Most SGBV survivors withdraw their cases due to family pressure, threats and trauma they experience while testifying in courts. The other challenge is the court process of determining cases which takes unduly long periods, at times up to 5 or 10 years. In operational terms, the weak court infrastructure such as inadequate computer skills, traditional methods of recording evidence in writing, insufficient courts, few magistrates and judges are challenges which need to be addressed.

The assessment of service provision for survivors of SGBV reveals that both health and police centres are ill equipped to respond to the needs of SGBV survivors. At the level of the police, there is insufficient knowledge that SGBV is a crime and little empathy and skills towards handling survivors of SGBV particularly in terms of sensitivity and confidentiality. The inadequate resources availed to the police sector hinder their ability to respond to SGBV as well as other crimes. For instance, in Uganda, at the Gulu District Police station, there are only 2 motorbikes for outreach to the whole district and only one motor vehicle.

Forensic evidence is needed to confirm the occurrence of sexual assault and to prove or disprove a link between the alleged perpetrator and the assault⁷. Forensic examination, specimen collection, analysis and documentation provide the link between the health and the criminal justice system.⁸ These are crucial elements in securing successful prosecution and appropriate sentencing. The poor availability of health services greatly compromises the physical, mental and emotional well being of survivors of SGBV. Most of the health centres reviewed for this audit reveal that health personnel are not well equipped (in terms of skills and equipment) to manage the full range of consequences of SGBV. Health centres that are private or operate as non-governmental organizations tend to have the entire range of services such as the PEP, emergency contraception, STI/D prophylaxis as well as trauma counseling.

There is a very vibrant civil society movement working in a variety of campaigns to end impunity on SGBV. They use a variety of methods including rights awareness to get communities to know and claim their rights, legal aid services to represent SGBV survivors to seeking redress, advocacy for improved policies and law enforcement practices that are sensitive and appropriate for SGBV survivors. Lack of basic information on rights inhibits many survivors from seeking support from institutions. The absence of structured and strong referral linkages hinder survivors' access to appropriate care and support.

6 *Liberata Mulamula, Sex and Gender Based Violence in the Great Lakes Region*

7 *2003, World Health Organisation*

8 *2008, Ministry of health Uganda*

1.0 OBJECTIVES AND METHODOLOGY OF THE AUDIT

Overall objective

The objective of this process was to develop a comprehensive audit that offers an opportunity to analyse the possibilities of advocating for the adoption of the model legislation for SGBV in the region adopted by the International Conference for the Great Lakes Region.

Specific objectives

- Assess the legal framework within the five countries with regard to their ability to address SGBV. This involved an analysis of the gaps and strengths of the said systems by interacting with legal precedents: hallmark cases that have been tried with regard to SGBV and have succeeded in providing awards or otherwise, as well as sampling cases that have been dismissed due to technicalities. The goal was to arrive at an understanding of common loopholes within the system.
- To gain an understanding of the reportage of SGBV cases. Of necessity this involved an assessment of other institutions (police, health institutions, amongst other service providers) that are critical to the chain of evidence, their efficacy and synergies with legal institutions or lack thereof and best practices.

Mobilisation and training of researchers

Researchers were recruited amongst ACORD partners with specific expertise in the area. A three day researchers' training workshop was conducted factoring in field visits, testing of the tools and validation.

Audit methodology

The audit was a qualitative study that utilised:

- Literature review: an assessment of the legal statues and case law in the five countries over the last three years.
- Key informant interviews: These were interviews with key persons: police officers, prosecutors, judges, medical staff, staff of international and national NGOs/institutions involved in preventing and addressing SGBV, national and provincial government authorities.
- Focus Groups Discussions: were conducted with women and human rights organizations and specialised discussions with internally displaced persons and survivors of SGBV.
- Participant observation: Guides were developed and used for observation of service providers at health facilities and police stations

Sites:

The study sites were purposively selected and identified by ACORD in consultation with local partners. In Uganda the study was carried out in the northern Uganda districts of Gulu, Kitgum and Pader. Desk review of legal documents and some key informant interviews were conducted in Kampala.

2.0. OVERALL CONTEXT

Sexual and Gender Based Violence (SGBV), in its various forms, is endemic in communities around the world, cutting across age, sex, class religion and national boundaries. There is no universal or single definition of SGBV. It is the expression used to differentiate violence aimed at individuals on the basis of their gender from violence in general. In its widest sense, it refers to the physical, emotional or sexual abuse of a survivor.⁹ According to the United Nations High Commission for Refugees (UNHCR), sexual and gender based violence include acts which cause physical, mental or sexual suffering or injuries such as threats, constraints and other restrictions on freedom.

Sexual and gender based violence includes, but is not limited to:

- (i) Physical, sexual and psychological acts of violence inflicted on women within the family (i.e. domestic violence etc)
- (ii) Physical, sexual and psychological acts of violence inflicted on women within their communities (i.e. community violence).

“Physical violence” means any act of physical aggression, as well as threats of violence, with or without a weapon. “Sexual Violence” includes verbal aggression and obscenities, acts such as sexual touching, forced sexual intercourse or intercourse under duress, as well as being undressed or forced to undress.

“Psychological violence” includes insults, restriction on freedom of movement, isolation or the deprivation of material resources (e.g. money, water and food). Acts of sexual and gender based violence may occur anywhere, in so called developed societies or developing countries, in conflict or peace environments.

It is undisputable that Sexual Gender Based Violence (SGBV) is a form of discrimination and a gross violation of human rights¹⁰. It is equally undisputable that every single violation of one’s human rights is legally repressible and that the responsibility of dispensing justice rests within the criminal justice system. In crises brought on by war, forced displacement, or natural disasters, incidents of gender-based violence tend to increase due to social upheaval and mobility, disruption of traditional social protections, changes in gender roles, and widespread vulnerabilities. During conflict, women frequently lack the traditional protection of their families and spouses, and often face the additional threat of armed soldiers who regard them as “spoils of war”. Even when abuses are not aimed at them individually, women suffer violations of their human rights disproportionately when normal codes of social conduct are ignored in times of crisis.

During armed conflict, social structures are disrupted. Women and children face the additional risks of being subjected to sexual and gender-based violence when fleeing the fighting and seeking asylum. Family members are often dispersed during flight, leaving children separated from the rest of their families and women solely responsible for protecting and maintaining their households.

The culture of impunity in relation to sexual abuse and violation of girls and women is rooted in pre conflict and post conflict situations. Sexual and gender based violence is prevalent throughout all regions of Uganda, including the post-conflict and early recovery regions of Northern and Eastern Uganda and all other parts of the country. According to the Uganda Demographic Health Survey of 2006, over 60% of women aged 15-49 years experienced physical violence, 39% experienced sexual violence and 16% experienced violence during pregnancy. Amongst ever married women, 48% were physically violated by their husband or former husband¹¹. In Gulu, service providers received approximately 880 cases of gender-based violence in ten months. In Pader, service providers received approximately 960 cases in the same period¹² and according to the Annual Crime Report 2008, 156 persons lost their lives due to Domestic violence.

SGBV does not only take place during situations of conflict or war but is practiced when and where legal frameworks and institutions are functional. Communities uphold, practice and normalise various forms of abuse on the female gender which among others include female genital mutilation (FGM), child and forced marriage, virginity testing, and parents willingly receiving bribes/tokens when their girl child is sexually violated. Discussions on sex are often taboo and the value attached to female chastity so high that even when one is a survivor of sexual abuse, the community response is typically to isolate and stigmatize them¹³

⁹ 2008, Population Council, *Sexual and Gender Based Violence in Africa*

¹⁰ *United Nations Secretary General Bulletin on Sexual Violence 2009*

¹¹ *Uganda Demographic Health Survey 2006*

¹² *IASC Gender Based Violence Sub Cluster, February 2008 – “Obstacles for Survivors of Gender Based Violence in Accessing Health Care and Legal Redress”*

¹³ *ACORD Proposal, Investing in Equality*

3.0. DEVELOPMENT OF SEXUAL AND GENDER BASED VIOLENCE AS A CRIME AGAINST HUMANITY

Globally, the twentieth century has earned its distinction of being the bloodiest in all of human history. The rise of fascism graphically witnessed in the Second World War and increasing identity politics has done much to undermine the potential for human co-existence.

At the outset, it is crucial to note that over the last 50 years, the character of armed conflict and war has significantly changed. During World War I, civilians accounted for only ten percent of casualties; today they account for ninety percent. Since the Second World War, concentrated attempts have been made to prevent abuse of power as well as providing for the lives of people and respecting communities of people.¹⁴ The development of the language of human rights has been one such attempt. The Universal Declaration of Human Rights adopted by the United Nations General Assembly on 10th December 1948 signified the critical point in the evolution of human consciousness while establishing universally accepted principles of human dignity. This however was not able to curb the practice of violence and violations even in genocidal dimensions as witnessed in Bosnia and Rwanda, nor protracted civil wars as witnessed Liberia, Uganda and the Democratic Republic of Congo.

In terms of recognising crimes against women, the 1945 Statutes of Nuremberg and Far East Tribunals failed to recognise rape as a war crime. The Tokyo War Tribunal charged rape as an offence relating to “family honour”. The Geneva convention, when adopted in 1949 referred to sexual violence in similar language, that is one of honour and dignity as captured in Article 3 and 27. It was not until 1990 when the former “comfort women” broke their silence about their sexual enslavement by the Japanese military in the Second World War that an international movement was sparked seeking reparations, accountability and apology.¹⁵ The 1993, Vienna World Conference on Human Rights recognized the need to address grave violations of women’s rights within the United Nations agenda. In 1995, the Fourth World Conference on Women in Beijing confirmed rape as a war crime.

The world community, in seeking to bring to trial mass violators set up two *ad hoc* tribunals with an after- the- fact listing of crimes that could be tried. The Statutes of the International Criminal Tribunal for Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). The *ad hoc* tribunals defined rape as a crime against humanity alongside murder, extermination, enslavement, deportation and persecution on political, racial and religious grounds. The jurisprudence emerging from Akayesu case¹⁶ (ICTR) affirmed this by defining rape for the first time – rape was found to be a form of genocide as well as torture and could amount to enslavement. The ICTY through the Delalic¹⁷ and Furundzija¹⁸ judgments affirmed Akayesu and found rape to be a form of torture.

The establishment of the International Criminal Court (ICC) constitutes a departure from this ad-hoc and retrospective justice experience of trial and accountability. The ICC is the world’s first permanent international tribunal that will try individuals for serious crimes of an international nature. The ICC has jurisdiction over cases of genocide, war crimes, crimes against humanity and aggression. The court acts as the court of last resort.

The ICC Statute, drawing upon experience elaborates on what constitutes war crime and crimes against humanity¹⁹. The definition of crimes has universal application, meaning that when an act is defined as a crime in the ICC statute, it would be a crime in the eyes of the court whether or not any state defines or whether or not a state is a party to the Statute. The most detailed codification of rape, sexual violence and other serious violations are found in the ICC, defined as crimes against humanity. These categories of crimes are broad and all encompassing, and include gender specific violence perpetrated on women during wartime and peace time.²⁰ The ICC provides the best framework for prosecuting gender based crimes under international law.²¹ For the first time under international law, gender based persecution is included as a crime against humanity. In the past, the

14 Combating Impunity, Vahida Nainar and Saumya Uma, Women’s Research and Action Group 2007

15 Murungi Betty, Ending Impunity for Gender Crimes – Regional Tribunals and the International Criminal court, FIDA Kenya annual report, “Staking our Claim” 2002

16 Prosecutor v. Jean Paul Akayesu 2nd September 1998 Case Number ICTR-96-4-T

17 Prosecutor v. Delalic et al 16th November 1998 Case Number IT-96-21T

18 Prosecutor v. Anto Furundzija 10th Dec 1998, Case Number IT-95-17/1

19 Crime against humanity includes extermination, enslavement, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, torture, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of sexual violence of comparable gravity, enforced disappearance of persons... And it includes “other inhuman acts of similar character intentionally causing great suffering or serious injury to body or to mental or physical health”

20 Combating Impunity, Vahida Nainar and Saumya Uma, Women’s Research and Action Group 2007

21 Murungi Betty, Ending Impunity for Gender Crimes – Regional Tribunals and the International Criminal court, FIDA Kenya annual report, “Staking our Claim” 2002

marginalisation of crimes against women in the exercise of universal jurisdiction has been starkly evident²².

At the regional level, the International Conference on the Great Lakes region has adopted the landmark protocol and model legislation in the areas of prevention and suppression of sexual violence against women and children. The Protocol is designed to fill the legal void that prevails in most of the legal systems in the countries of the region as a response to the systemic rape of women and children in the Great Lakes Region. Under the milestone initiative of the International Conference for the Great Lakes Region (IC/GLR), the eleven²³ Heads of State and Governments have committed themselves to set up regional mechanisms to protect women and children and provide legal and material assistance for victims and survivors of sexual violence.

This legislation, the first in the area of protection against sexual violence in time of conflict and post conflict establishes international standards to address the crime of sexual violence in regions affected by conflicts. The legislation further defines the offence of sexual violence based on the definition provided under the Statutes of the International Criminal Tribunal for Rwanda and Yugoslavia and the International Criminal Court. The legislation further establishes links between the crime of sexual violence and the offences of trafficking; slavery, genocide and war crimes. The protocol further incorporates preventive aspects as encapsulated in the CEDAW, the African Charter and the UN Convention on the Rights of the Child. Counseling procedures are also provided for as part of the rehabilitation of survivors of sexual violence. The protocol also advocates for maximum sentencing as per the domestic legislation of individual states.

With the entry into force of the Pact on Security, Stability and Development in the Great Lakes Region, the Protocol on the prevention and suppression of sexual violence against women and children, there is a strong legal basis for full implementation of the Programme of Action for Eradicating Sexual Violence by member states.²⁴

Other regional initiatives also providing opportunities for advocacy towards ending SGBV include; the Nairobi Communiqué of 9 November 2007 signed between DRC and Rwanda; the Tripartite Plus Joint Commission (Burundi, DRC, Rwanda and Uganda) as well the Goma Accord (L'Acte d'Engagement) of 21 January 2008 signed between the DRC and Congolese armed groups. Uganda is a signatory of various international and regional human rights instruments that promote the respect and protection of women's human rights. Annex 1 shows Uganda's commitments to these instruments.

22 *Ibid*

23 *Angola, Burundi, CAR, Congo, DRC, Kenya, Rwanda, Sudan, Tanzania, Uganda and Zambia*

24 *Liberata Mulamula, Sex and Gender Based Violence in the Great Lakes Region*

4.0 SECTION ONE: ASSESSMENT OF THE NORMATIVE FRAMEWORK

4.1 The Legal System

The Ugandan legal system is primarily based upon the English Common Law system inherited British. These systems are premised upon a hierarchy of administration of courts and laws with those lower in the hierarchy being subject to the superior ones. Under this system, the decisions of superior courts of law are binding upon the lower courts unless and until the superior courts depart there from. The doctrine of precedent i.e. the *stare decisis* rule is rigorously applied. The outcome of this is that superior courts of record, create law from their interpretation of Acts of Parliament which law must be followed and applied by the lower courts without fail. In terms of application of international law, the legal systems have common law jurisdiction which requires that international law can only be implemented if it has been specifically incorporated²⁵ into the domestic law. Therefore, local legislation has to be passed, for international law to be integrated into the local legal system.

4.1.1 Location of GBV in the Laws of Uganda

Uganda has domesticated most international and regional human rights instruments including the CEDAW, DEVAW, Goma Declaration, the UNSCR 1325 and 1820; and these are spread in various laws and policies which include; The Constitution of Uganda, the Penal Code, The Succession Act, The Marriage and Divorce Act, the Children's Act, the National Gender Policy, the National Action Plan on Women, the National Development plan, most recently, the Ugandan Parliament enacted four land mark Bills notably the Domestic violence Bill (2009), the Female Genital Mutilation Bill (2009), Trafficking in Persons Act (Act 26 /2007), and the HIV Prevention Bill (18/2006), which have been commended as some of the most significant legislations to prevent and respond to SGBV in the Country. The Domestic Violence Bill provides very explicit definitions of Domestic violence and also answers various concerns of women suffering from Violence.

The laws in Uganda are being amended to provide better legal safeguards for preventing and responding to SGBV, for instance, the amendments of the Penal Code 2007 creating the offence of aggravated defilement in circumstances where the offender is infected with HIV. The Penal Code further provides for compensation and reparations for GBV victims. The Code provides discretion to the court to determine the amount of compensation to award, taking into consideration, the extent of harm on the victim, the degree of force used by the offender and medical and other expenses incurred by victim as a result of the offence. Other pieces of legislation like the DV Bill and the Magistrates Courts Act, the TIA also provide compensation under the civil law.

Proposals to develop more laws such as Marriage and Divorce Bill 2009, the Prevention of Trafficking in Persons Act 26 /2007 (not yet assented to by the President), the International Criminal Court Bill 18/2006, the HIV prevention and Control Bill 18/2006 as well as the sexual offences Bill, all demonstrates corresponding enthusiasm to create a society in which human rights are respected and in which gender justice is promoted, this unfortunately may not be the case because so far, respect and implementation of the existing law is very deficient at community level.

4.1.2. The Judiciary

In Uganda, **The Supreme Court** is the highest court and indeed the final court in Uganda. Save for presidential election petitions, where the Supreme Court has original jurisdiction, it lacks original jurisdiction but rather sits as the final appellate court on all other matters brought before it. The Supreme Court bench is constituted by the Chief Justice and no less than six Justices²⁶. The decisions of the Supreme Court form precedents which all lower courts are required to follow. **The Court of Appeal** is next in hierarchy after the Supreme Court. It sits as the Constitutional Court in determining matters that require Constitutional interpretation.

The Court of Appeal also handles appeals from the High Court which is the court directly below it, in the judicial pecking order. The Court of Appeal consists of, the Deputy Chief Justice and such number of Justices of Appeal not being less than seven as Parliament may by law prescribe. Cases coming before the Court of Appeal may be decided by a single Justice. Any person

²⁵ Uganda has a dualist system of treaty implementation. As such, the domestication is through legislation.

²⁶ Five Justices are sufficient to hear most cases, but when hearing appeals from decisions of the Court of Appeal, a full bench of seven justices has to be present

dissatisfied with the decision of a single Justice of Appeal is, however, entitled to have the matter determined by a bench of three Justices of Appeal, which may confirm, vary or reverse the decision. With the exception of election petitions filed after parliamentary elections, all cases decided by the Court of Appeal may be appealed in the Supreme Court.

The High Court of Uganda has unlimited original jurisdiction which means that, it can try any case of any value or crime of any magnitude and also acts as an appeals court from decisions of Subordinate Courts. The Ugandan High Court is decentralized to twelve High Court stations, up country, and one within greater Kampala, the capital of Uganda has five Divisions; the Civil Division, the Commercial Division, the Family Division, the Land Division and the Criminal Division. The High Court is headed by the Principal Judge who is responsible for the administration of the court and has supervisory powers over Magistrate's courts.

Magistrates Courts: Magistrate's Courts handle the bulk of civil and criminal cases in Uganda. There are three levels of Magistrates courts: Chief Magistrates, Magistrates Grade I and Magistrates Grade II. Presently the country is divided into 26 Chief Magisterial areas administered by Chief Magistrates who have general powers of supervision over all magisterial courts within the area of their jurisdiction.

The Subordinate Courts include **Local Council Courts**²⁷ located throughout Uganda, and **Qadhis' courts for marriage, divorce, inheritance of property and guardianship** in respect of Ugandan Muslims, and **specialized tribunals** created under Acts of Parliament. Decisions of the Subordinate Courts are subject to appeal before the High Court which has supervisory powers over them.

²⁷ Established by the Local Council Courts Act, 2006 to preside over minor cases in their jurisdictions including land matters, family disagreements, child neglect among others. LC courts do not preside over any criminal matters and are only restricted to Alternative Dispute Resolutions like mediation and negotiation

5.0 SERVICE PROVISION IN RELATION TO SGBV IN UGANDA

Service provision for prevention and response to SGBV in Uganda is through a multi-sectoral framework that includes provision of medical assistance to survivors, provision of psycho-social assistance, provision of legal and justice support and provision of protection services for survivors. These services are provided through the National structures which include, health centres, Police stations and Posts, community welfare and social services department.

5.1 Prosecution of cases

5.1.1 Investigation

Under Ugandan law, the police is first point of contact in the criminal justice system and is therefore responsible for the arrest and investigations of crimes. The Police is spread all over the country, headed by district police commander at district level. Every village is supposed to have a police post²⁸. In the recent past, police deployment has increased in rural areas as the Government has opened more outposts, with every sub-county having at-least one out post. Despite this progress, this is insufficient when taken in the context of a rapidly growing population.

The police posts are inadequate to support police operations in the sub-county. These police posts are few and far between and are usually manned by a maximum of three police officers; mostly new recruits and poorly trained Special Police Constables (SPC's) or junior police officers who lack legal authority to deal with the investigation of most cases of SGBV. In addition, victims have to walk considerable distances to access these police posts and will generally be referred to the main police stations (headquarters) which are all based in the town centres, miles away from the sub-counties.

The main police stations are themselves grossly understaffed and ill equipped. In an interview with a police officer based at the Gulu police station, the audit team was informed that the police station has only one running motor vehicle for administrative duties and for transporting all criminal suspects in Gulu and Amuru districts. There are only two running police vehicles to serve the whole of Kitgum district, while in Pader district the only police vehicle broke down about a year ago. Most police posts which are at sub-county level have no means of transport at all.

According to police officers interviewed in Gulu district, many times the monthly funding from the central government for fuel for the police vehicle is 600,000 Ugandan Shillings (about US \$ 300) for Gulu and Amuru, which is grossly inadequate for their needs. The police officer noted,

“other times we receive only about 200 litres of fuel per month from the central government for transport of suspects and every day policing including the apprehension of criminal suspects, traffic policing and logistics.”

The police stations and posts lack even basic material resources such as stationery and office equipment and human resources. For example, there are less than five police officers who can deal with criminal investigations in Gulu Police Station, let alone cases of SGBV. In most police stations, none of the officers charged with handling cases are female. Most police officers stated that this situation has hampered their effectiveness and drastically limited the number of cases of SGBV reported to the police.

5.1.2 Challenges faced by SGBV Survivors during investigation

In addition to the inadequate police services, survivors of violence often face many other challenges. Survivors interviewed indicated that it had become standard practice for the police officers to demand money for transport during investigation. (This money is also supposedly used to arrest and transport suspects). This was widely confirmed in interviews with local and international NGOs providing survivors of sexual and gender-based violence with support and legal advice. The amounts demanded by the police vary between 4,000 and 60,000 Ugandan Shillings. Failure to pay the amount demanded by the police usually results in the police abandoning the investigation.

²⁸ Uganda Police reform strategy 2009

According to the focus group discussions informing this audit, in most districts in Northern Uganda, it is considered a normal practice for the police to demand money from victims and their families for transporting suspects because the police have no running vehicle at the main police station and have only one or two bicycles in a few police posts.

Police officers interviewed in all the districts were unanimous that it was not official police policy to charge victims for the apprehension and transport of suspects. However, they all explained that the lack of transport was a huge challenge in carrying out their duty to investigate crime, and as such had to resort to requesting victims for money to enable them discharge their duties on time. Whereas this may be viewed as a bribe, most police officers mentioned that it is the only remedy under the circumstances to ensure that justice is not delayed.

The police hierarchy seems to be aware of this phenomenon and is taking necessary measures to stop such practices, through education campaigns. The police established a Human Rights and Complaints desk at the Police Headquarters in order to receive and investigate complaints made against police officers; from July to November 2008, the desk received 336 complaints and by the time of writing this report, 89 complaints had been investigated and concluded²⁹.

Another impediment to accessing justice is the requirement of a Local Council (LC) letter or referral in order for complaints to be lodged with the police. Much as the law does not provide for an LC letter as a mandatory requirement to file a complaint, it is now common practice that the police asks for such letters from survivors upon complaint. This requirement is another window for LC's to make money out of defilement cases. Survivors interviewed mentioned that they are often asked to pay for the stamp and paper before the LC writes the letter and this may cost between 5000-10000 Uganda Shillings. With this requirement, most survivors opt not to continue with the process of seeking justice, because they are frustrated by the various costs within the system.

5.1.3 Attitudes of Legal and justice officers

It was noted during the audit, that some officers cannot even classify which incident to record in the criminal record book, when it comes to domestic violence, the cases are even not recorded, they are usually brushed off as “domestic issues” and survivors are sent back to their abusive relationships without any redress. Interviews with survivors of domestic violence revealed that most police officers regard domestic violence, including marital rape “as a domestic matter.” Most survivors spoke of the typical police response upon receiving a domestic violence complaint being; “that is a domestic matter; you should talk it out at home.” Such attitudes condone discrimination against women and entrenches the culture of impunity.

Similarly some rape cases are recorded as indecent assault, this is irrespective of whether the cases reported were rape, defilement, or any other SGBV incident. As one police officer noted, “recording all cases as indecent assault covers all crimes of sexual and gender-based violence.” Although many of these officers are usually required to refer the cases to senior police officers in the main police stations, their report entries are most critical in informing the basis for further police investigation.

Considering the trauma and shock that survivors experience following the violence that they have suffered, the police have not made any attempt to extend care and assistance to survivors in the process of police investigation. Survivors are hardly informed about other remedies available to support their full recovery, neither are they referred to other service providers for assistance. This is mainly because; most police officers are only interested in the apprehension of perpetrators and not survivors and as such work towards ensuring that the perpetrator is arrested.

Another impediment is the lack of feedback on the progress of investigation to survivors. In most cases, police do not follow up cases or inform survivors of progress made; they consider their role as limited to the arrest of the suspect only. The police often tell survivors that it was not their duty to provide updates or answers on progress of cases. This is contrary to Article 6 of the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power³⁰.

²⁹ Police monthly crime update report of September 2008

³⁰ “The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by among others, (a) informing victims of their role and the scope, timing and progress of proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information.”

5.2 Evidence Gathering

1.1.1 Medical Evidence

Upon making a report, survivors of violence must obtain from the police, a medical examination form also known as a Police Form 3 (PF3) in order to be examined by a doctor. The PF3 form is a document that is used by all victims of crime to document physical or other injury. The form is divided into two sections, to be filled in by the police and by the doctor indicating any injuries or forensic information related to the incident. Under Ugandan law, proof of any crime including sexual violence, does not exclusively depend on medical evidence. The audit established that since most of the police investigations are usually ineffectual, the case then hinges on the medical examination and hence the PF3 form. Further, the practice is that the police would usually not pursue further investigation of cases without the PF3 form.

5.2.2 Challenges in Securing Legal Forms

The difficulties in obtaining the PF3 form and being medically examined are insurmountable for survivors of SGBV. In principle the forms should always be available at all police posts and stations. The police however, rarely have enough PF3 forms. Many times, local police rely on UN agencies and NGOs to photocopy these forms. The situation is even worse for rural police posts that resort to writing the form out on ordinary paper instead of the actual PF3 form. It is not clear whether the use of handwritten forms in these instances would satisfy evidentiary requirements of proof in court.

The PF3 form should be free of charge. Yet many victims informed the audit that they have to pay the police to obtain the form. Local and international NGOs explained that the practice of police demanding a fee for the issuance of the form is widespread. On occasion police admitted that they charged survivors for the PF3 forms.

A few local and international NGOs are assisting victims of sexual and gender-based violence to obtain the PF3 form. These NGOs also assist victims in seeking medical officers to conduct the medical examination and fill in the form. However, for the vast majority of victims who are not able to access the limited services of these NGOs, the process of obtaining the form usually entails many trips to a police post/station often a long distance from where the victims live. Many victims said that they would rather forget about accessing justice because of the difficulty and costs involved in acquiring the PF3 form.

5.2.3 Challenges in obtaining Medical Evidence

By the time of this audit, the police required that the PF3 form must be filled in by government medical doctors or police surgeons appointed by the Inspector general of Police. Government doctors are however very few and are rarely available in the government hospital. Survivors have to wait for days, sometimes weeks or months, in order to be medically examined and have the medical examination (PF3) form filled. Medical examination usually occurs many days after the incident. In addition, many health centres turn away victims who seek medical treatment on the basis that survivors must first obtain the PF3 form from the police. This leads to the failure by many survivors to access timely medical attention including post exposure prophylaxis to prevent HIV infection and emergency medical treatment. The delay in conducting medical examination is not only traumatizing for survivors but also renders cases against perpetrators weak as crucial evidence is often lost due to delays.

In the recent legal developments, the Domestic Violence Bill attempts to address this issue, the Bill defines what ‘medical officer’ means for medical-legal procedures. It clarifies that a medical officer shall include a **Clinical officer** who is the most probably medical personnel available in rural health centres. This Law however is hardly known to members of the community let alone police and health officials in the rural areas. Another attempt towards addressing the bottlenecks around medical legal processes is the Ministry of Health; *Manual on Clinical Management of Sexual and Gender Based Violence Survivors*, which provides guidelines to all health workers countrywide on how to deal with victims of sexual and gender-based violence. It seeks to encourage all health facilities to use other detailed forms (included in the Manual) in addition to or as an alternative to PF3 forms and to ensure that a detailed examination of survivors is done even upon first visit to the health facility, hence avoiding a situation where the victim must be examined twice. This Manual however has not been rolled out to all health centers in the country.

According to most survivors, filling in the PF3 form requires payment of a “doctor’s fee.” This fee usually varies between 25,000 to 35,000 depending on the doctor. Most of the survivors are too poor to afford these amounts. Although a few NGOs are assisting victims to meet these costs, the NGOs are only able to run such programmes in a few sub-counties. The vast majority of survivors cannot access these limited services provided by NGOs. Most doctors require survivors to undergo the examination at their

private medical facilities rather than the government hospital. The reason for this is often that they are overwhelmed with so many patients and other medical duties during work hours and may therefore find it time consuming to fill in forms.

Under Ugandan criminal procedure law, the government doctor who fills in the medical form must present medical evidence in courts one of the principal witnesses. Local and international NGOs working with victims of sexual and gender-based violence mentioned that the available government doctors are reluctant to examine victims and fill in the PF3 form because they considered the process of attending court as laborious and costly. The situation is however that although doctors examine victims of sexual and gender-based violence, they are rarely called to give evidence, a fact linked to the reality that very few cases ever get to the stage of a trial in court³¹.

5.3 Prosecution of Cases

In Uganda, Criminal proceedings may be instituted by either a police officer (i.e. any attested member of the police force) or a prosecutor. The police officer does this by, bringing a person arrested with or without a warrant before a magistrate upon a charge, while a public prosecutor lays a charge against a person before a magistrate and requests for issuance of a warrant or summon. Any other person can file a complaint and apply for the issuance of a warrant or summon (Section 42, Magistrates Court Act).

The Director of Public Prosecutions (DPP), under the Ministry of Justice and constitutional Affairs, is mandated by Article 120 of the Constitution to; (a) direct the police to investigate any information of a criminal nature and to report to him expeditiously, (b) institute civilian criminal proceedings against any person or authority in any court with competent jurisdiction, (c) take over and continue any criminal proceedings instituted by any other person or authority and (d) discontinue at any stage before judgment is delivered, any criminal proceedings instituted by himself, and, with the consent of the court in case of criminal proceedings instituted by any other person or authority. The DPP may delegate his authority to state attorneys to perform any of the above-mentioned functions, with the exception of the discontinuation of criminal proceedings which can be exercised only by the DPP (Article 120 (4) (b) of the Constitution).

The DPP supervises police criminal investigations and ultimately, upon review of the evidence collected, sanction the charges and institute, on behalf of the victims, the criminal case before the court that has jurisdiction to hear the matter, either a Magistrate Court or the High Court (as courts of first instance). The DPP is thus responsible for determining which court is competent according to the territorial jurisdiction and the nature of the offence.

5.3.1 Challenges during Prosecution

One of the major challenges in prosecution is the severe shortage of public prosecutors and state attorneys in most courts in the country. This shortage has contributed to delays in conclusion of cases as well as case backlogs.

Table 1. Statistics regarding the presence of public prosecutors and state attorneys in selected districts in northern and north eastern Uganda in 2008

District	Public Prosecutors	State Attorneys
Gulu	2	2
Pader	1	None
Kitgum	1	None
Lira	2	1

As noted above, in the selected districts, the number of public prosecutors and state attorneys remains grossly inadequate. The same situation is said to exist in many other districts. The Government notes that “the DPP is thinly spread out in the region with only 14 operating stations out of 32 districts, with a staff capacity of only seven Resident State Attorneys and 22 State Prosecutors.”³²

³¹ As mentioned by the DHO Lira district during a police sensitization session on medical-legal issues in regards to SGBV in September 2009; “that in his over 30 years of Practice, he has only been called to testify in sexual violence cases once and that was in the 1980s.”

³² Peace Recovery and Development Plan Pg. 46

Due to their heavy workload, prosecutors/attorneys complain of not having enough time to properly peruse files, supervise police investigations or prepare court hearings. They have difficulties attending all court sessions, especially when a district has several courts. It is not uncommon that a prosecutor/attorney is required to appear before three different Magistrates Courts on the same day, such as in Kitgum district. Furthermore, when public prosecutors and state attorneys are in a position to attend court sessions, they might appear unprepared, with little knowledge of the case.

In addition, prosecutors/attorneys have scarce resources at their disposal, for instance, when investigating crimes committed in Kitgum district, the prosecutor must send his indictments to Gulu for typing. Prosecutors and attorneys also complain of the poor quality of the reports they receive from the police, which often have to be sent back for further investigations. Moreover, when a prosecutor/ attorney is absent or on leave, cases allocated to him/ her are delayed by repeated court adjournments. On the other hand Magistrates and judges complain that the prosecutors/attorneys delay court proceedings, by being absent from their offices. The police complain that files are frequently received from the Prosecutor’s office on which the next court appearance date has not been noted and for survivors of SGBV, this implies delay in accessing justice.

The Government intends to expand geographical coverage of services provided by public prosecutors and state attorneys by recruiting and deploying more staff (in particular two senior state attorneys to handle capital offences, and over the next three years, recruit 27 attorneys), construct resident state attorney’s stations and operationalise them by equipping them with vehicle, furniture, computers, telephones and solar panels³³

5.4 Challenges in Court

Due to the many constraints that victims face, it is rare for sexual and gender-based violence cases to reach the trial stage in court. Only a few cases of sexual and gender-based violence in particular, rape and defilement cases are investigated by the police and the files forwarded for prosecution. This is partly due to the lack of resident High court Judges in most districts of Northern Uganda. Most SGBV cases have to wait for a High court session for the case to be heard, creating a lot of case backlogs especially for criminal offences. It is therefore common to find many criminals remaining on remand for more than three years while awaiting trial. The official reason for this situation is usually that funds are not available from government to facilitate frequent high court sessions. Once or twice in a year, the High Court may hold special court sessions which involve two or more judges joining the resident judge to dispose off backlog of cases. These include rape and defilement cases.

Table II. Statistics regarding the presence of magistrates and judges in selected districts of northern and northeastern Uganda in 2007³⁴

	High Court Sessions	Chief Magistrate	Magistrate Grade I	Magistrate Grade II
Gulu	Approximately two-week session every quarter	1	1	2
Pader	None	None	1	None
Kitgum	None	None	1	1
Lira	Approximately two-week session every quarter	1	2	2

These inordinate delays in bringing cases for trial in court affects the implementation of the existing Ugandan laws on sexual and gender based violence. This is contrary to the Article 23 (4) of the Constitution obliges the police to bring suspects before a court of law as soon as possible and not later than 48 hours from the time of arrest. The Constitution also makes provision for the right of suspects to be released from remand custody after 360 days where a case triable before the High court (including rape and defilement) has not been committed for trial Police officers mentioned that they routinely release alleged perpetrators of sexual and gender based violence in order to comply with the constitutional limits on pre-trial detention. one police officer noted;

“In the circumstances we are operating in without proper facilities, including the basics, it is impossible for us to comply with the constitutional provision which requires suspects to be arraigned in court within 48 hours and the committal of cases such as rape to the High court within 360 days.”

³³ Peace Recovery and Development Plan pg. 46

³⁴ JLOS annual Progress report 2006

In an effort to improve access to justice, the High Court constituted Circuit Divisions located in Jinja, Mbale, Masaka, Mbarara, Nakawa, Fort Portal and Gulu. Each Circuit has full jurisdiction within its territorial coverage. Judicial officials complain that they receive little support from the Government and have difficulties holding sufficient court sessions considering the number of cases falling within their respective jurisdiction. The courts have also been equipped with necessary tools like computers, vehicles and fuel, and a library. Civil society organisations, as well as the JLOS, have provided judicial staff with some refresher courses, but most magistrates, especially at the lower level, have had little or no training specifically in human rights norms and standards pertaining to the administration of justice.

5.4.1 Convictions

Under Ugandan law, both rape and defilement carry a maximum sentence of life imprisonment³⁵. There is, however, no minimum sentence set down. It is judicial discretion that is therefore employed in sentencing. Every judge is left to decide on the basis of the facts before them on the sentence that is to be handed out to the accused person who has been found guilty. Where specific sexual crimes laws are in place, the wide discretion by courts is largely minimised and stricter sentencing is observed. A review of the types of crimes cases that are presented in the courts indicates that domestic violence, rape and defilement are the highest reported offences with very minimal convictions. In addition, the court analysis presented in the audit demonstrates that in very rare circumstances will courts impose the maximum sentence to the perpetrators.

Offences commonly tried in Uganda

The most common criminal offences committed in Uganda are reported to include the following offences (in no particular order):

- **Child negligence** (section 157 of the Penal Code (PC)) to be tried before a Magistrates Grade II Court functioning as Family and Children Court and eliciting a sentence of less than three-year imprisonment term.
- **Common assault** (section 235, PC) and **assault causing actual bodily harm** (section 236, PC), both to be tried before a Magistrates Grade I Court, eliciting a sentence of one- to five-year imprisonment term.
- **Elopement** (section 127, PC, which however does not define it - this refers to a married person leaving her/his marriage to get involved with another person without formally dissolving it and enter into a new relationship) to be tried by a Magistrates Grade I Court and eliciting a sentence of a less than 12-month imprisonment term or a fine not exceeding Ugandan Shillings (UGX) 200 on first conviction and UGX 600 as compensation for the aggrieved party.
- **Defilement** (section 129, PC, which is defined as “an unlawful sexual intercourse with a girl under the age of 18 years”) is a capital offence to be tried by the High Court.
- **Rape** (section 123 & 124. PC) is a capital offence to be tried by the High Court.
- **Domestic Violence**
- **Theft** (section 254 & 261, PC) to be tried a Magistrates Grade I Court and eliciting a less than ten-year imprisonment.
- **House-breaking and burglary** (section 295, PC) to be tried by a Magistrates Grade I Court and eliciting seven- and ten-year imprisonment terms, respectively.

* *Crime Report 2008, released by the UPF on 22 March 2009*

For instance in the 2008, Incidences of Domestic Violence reported to the police were 137, in which 156 persons lost lives. Defilement was the leading Sex Related Crime reported in the country with a total of 8,635 cases. A total of 4,124 suspects were arrested and taken Court, of whom 333 were convicted while 3,791 cases were pending in Courts of Law. As regards to Rape, 1,536 cases were reported out of which 239 suspects were arrested and charged to Court, of whom 3 convictions were secured, 3 persons were acquitted, 11 persons were discharged and 222 persons were awaiting trial by end of the year³⁶.

This has resulted not only in inconsistent sentences being meted out by the courts, but also, in largely moderate sentences which are not at all commensurate with the gravity of these offences. Mitigation by the accused is taken into consideration often resulting in low sentences. From the cases analyzed, sentences in respect of the offence of defilement range from 4 to 20 years. It is only, in two cases discussed below, that the maximum prescribed sentence of life imprisonment was handed out to an accused. Even where a judge lays emphasis on the gravity of the offence, he/she nevertheless goes ahead to hand down a light sentence, mostly under 10 years.

³⁵ See sections 124 and 129 of the Penal Code Act

³⁶ Annual Crime Report 2008, released on the 22nd of March 2009 by the Inspector General of the Uganda Police Force

This was the case *In Uganda V Tangit Martin* where the accused was indicted for the offence of aggravated defilement. The prosecution successfully proved its case beyond reasonable doubt that the accused had sexual intercourse with the complainant severally, between February and March 2004, during which time she was nursing his wife who was her sister. The sexual intercourse resulted in the impregnation of the complainant, a minor.

In his judgment, the judge stated thus: *“This is a very serious offence which entails maximum sentence. The accused ravished his sister-in-law a girl who was under his care. The accused had the audacity to perform sexual acts against the survivor without respecting his sick wife who was even sharing the same room. That reckless relationship resulted in pregnancy as a result of which the survivor is now a helpless single mother. This court should therefore take a serious view of this offence. However, I have listened to the submissions of the counsel for the accused and the accused himself in mitigation. He has seen his fault at last and appears to be remorseful. He is a young]man who should be given a chance to reform and live a useful citizen both to the state and his family. I do not think a long custodial sentence would serve any purpose. He is accordingly sentenced to four years’ imprisonment.*

The appellate courts however do not interfere with the exercise of a judge’s discretion to reduce sentences given by the trial judge except where it is shown that there was failure to take into account some mitigating factor or that the sentence is illegal, harsh or excessive in the circumstances of the case: Per *Sande Martin v Uganda*³⁷. In this case the appellant charged with and convicted of defilement and sentenced to 8 years imprisonment. From December 2001 to March 2002, the appellant used to collect the complainant from her parents’ home at night, take her to his own home and have sexual intercourse with her. This was done more than ten times before the appellant was arrested. The appellate court in declining to reduce the sentence stated *“The maximum sentence for the offence of defilement is death. We find the sentence of 8 years imprisonment neither illegal nor manifestly excessive.”*

Similarly in *Mushabe Abdul v Uganda*³⁸, the appellant was convicted of defilement³⁹ and was sentenced to 14 years imprisonment by the trial court. Dissatisfied with the sentence, he appealed. In declining to reduce the sentence, the appellate court expressed itself thus: *“We are of the considered view that the sentence passed by the learned trial judge was neither illegal nor excessive. We see no reason for reducing the same. The learned trial judge considered all what was said in mitigation for the appellant and passed the sentence, which was appropriate in the circumstances.”*

Life imprisonment sentences are passed although they are very rare. It is only in 3 of the 22 cases analyzed that this maximum sentence was passed at first instance. One, *Senyondo Umar v Uganda* has already been discussed above under the corroboration head.

The only case where this maximum sentence was upheld even on appeal is in *Tigo Stephen v Uganda*⁴⁰ where the accused, a 45 year old man who was found guilty of defiling his granddaughter who was 8 years old, was sentenced to life imprisonment; the court of appeal upheld his conviction and sentence, finding that the learned trial judge had taken into account all mitigating factors available to the appellant and passed a proper sentence. However, in *Mutumbwe William v Uganda*⁴¹ where the appellant appealed against the judgment of Mwonaha J in the High Court at Mbale, who found him guilty of the offence of defilement, convicted and sentenced him to life imprisonment. The court of appeal, upon reviewing the evidence, found the appellant not guilty of the offence of defilement but, guilty of the lesser offence of attempted defilement. It, therefore, quashed the conviction for defilement and set aside the sentence of life imprisonment.

Appeals on sentence are very common. However, from the cases analyzed, there is no attempt by prosecutors to cross appeal and seek higher sentences. The Supreme Court, the highest court in the land decried this fact in *Katende Ahamad v Uganda*⁴² in which, a 5 judge bench headed by the Ugandan Chief Justice B.J. Odoki stated that, it was unfortunate based on the circumstances of the case that there was no cross appeal by the prosecution. The appellant, Katende Ahamad, was tried and convicted by the High Court (C.A. Okello, J.) on an indictment of defilement.⁴³ He was sentenced to a period of ten years imprisonment. The court upheld this sentence and stated thus: *“We are doing this as a matter of duty. However, we take a serious view of the fact that the appellant defiled his daughter more than once. Normally this would attract a deterrent sentence. But as there was no cross appeal against the sentence, we cannot pass a sentence of more than ten years. Considering that the appellant was in custody for a period of 21/2 years before he was convicted by the High Court, the ends of justice will be met by sentencing him to imprisonment for ten (10) years. We order accordingly.”*

37 CRIMINAL APPEAL NO. 278 OF 2003 [2007] UGCA 8 (Delivered 27 March 2007)

38 CRIMINAL APPEAL NO. 237 OF 2003 [2007] UGCA 60 (Delivered 29 January 2007)

39 Contrary to section 123((i) and 129(1) (new) of the Penal Code Act

40 Criminal Appeal No. 170 of 2003 [2009] UGCA 6 (Delivered 23 March 2009)

41 Criminal Appeal NO.252 OF 2002

42 Criminal appeal No.6 of 2004 [2007] UGSC 11 (5 July 2007)

43 Contrary to S.123 (1) of the Penal Code

5.4.2 Protection of the Survivor

There is no specific provision under Ugandan law that caters for the protection of a survivor of SGBV. All that is provided under the substantive law is the ingredients of the offence and the penalty upon conviction. The only protection that seems to apply is that accorded to children under Section 102 of Ugandan Children Act⁴⁴ which prohibits publication of details of any child involved in the court process.

More emphasis seems to be laid on the accused person's constitutional rights than the survivor's rights and needs. Survivors of these horrendous crimes are dealt with in the same manner as survivors of ordinary criminal offences, with no special consideration being accorded to them despite the emotional trauma sustained as a direct result of the offence being perpetrated against them.

The courts also do not appear to be innovative in protecting SGBV survivors who appear before them. The survivor gives evidence in open court and is directly cross-examined by the accused or his advocate. As per Section 72 of the Trial on Indictment Act, all prosecution witnesses must be cross examined. Failure to cross-examine leads to the inference that the evidence is accepted as being true.

In all the judgments analysed, the full names of the survivor, their place of abode and details of the crime are published in the court's judgment and subsequently in the law reports that report the case. There is no legal requirement, as in other countries, to hide and keep secret such details due to the intimate, embarrassing and traumatising nature of SGBV crimes. This is the case even in defilement cases where the survivor is a child. Full details are provided in reported cases including name, age, and school etc of the child survivor. Therefore, the privacy provision of section 102 of the Children Act is not being enforced, despite its penal consequences which provide for a 6 months prison term if contravened.

Sexual offences are bailable offences under the laws of Uganda. An accused person can therefore apply for bail and this may be granted by the court at its discretion. Due to case backlogs, this not only means that the survivor has to wait so long for justice, the chances of the accused being released on bail are high. Fear of revenge by perpetrators is one of the main reasons why rape survivors do not report incidents to police. Where they have reported and chosen to prosecute the case, the release of the offender on bail may very well subvert the successful prosecution in one way or the other.

Section 15 of the Trial and Indictment Act, bail is granted for rape cases if the accused demonstrates exceptional justification warranting his or her release on bail; and that he or she will not abscond when released on bail. Nothing is said on the security and wellbeing of the survivor.

For example in the case of *Odeke George v Uganda*⁴⁵, the accused was charged with defilement. He applied for bail as he had been charged in November 2004 and committed for trial in High Court in 2005 but had since then remained in custody pending trial. According to the Counsel for the State, the DPP was ready to proceed with the prosecution in April, 2008. The court stated that it had much sympathy for the accused as the delay was inordinate and unexcused; but, because the accused had lied to the court whilst making the application, bail was denied. The court however stated that, if by the end of April 2008 the trial had not commenced, the accused would be at liberty to renew his application for, whether he was truthful or untruthful, the State was not entitled to have him remanded in custody indefinitely; if it could not proceed with the prosecution, the accused would have the right to be released on bail pending trial. It is highly likely that such an accused person will interfere with the complainant and curtail the successful prosecution of the case, one way or the other. Although it is laudable that the legal system cares for the rights of an accused person, similar consideration, if not more, should be given to a survivor of sexual violence whatever their age or status in life.

5.4.3 The Strict Requirement of Corroboration

In order to prove SGBV offences, Ugandan law stipulates that corroborative evidence supporting the claim must be tendered. It cannot be disputed that sexual offences such as defilement and rape, are rarely reported, if indeed never committed in public. They are among the most surreptitiously committed criminal offences. It would be expected that courts would appreciate easily the difficulty of assembling witnesses to such type of offences. But in Uganda, as a matter of practice cultivated out of caution, courts maintain the rule strict corroboration. Very rarely can a conviction be made for sexual offences in a court of first instance neither by an appellate court, in the absence of corroboration.

⁴⁴ CAP 59 Laws of Uganda

⁴⁵ (Criminal Miscellaneous Application No.247 of 2007) [2008] UGHC 38 (Decided 25 February 2008)

Most countries have done away with this archaic requirement, but Uganda applies it strictly. It is only where a judicial officer exercises their discretion to convict without strict corroboration that this rule does not apply. But in such rare cases, the chances of an appeal succeeding are very high.

This rule is applied most vigorously in defilement cases where it is held that the evidence of the survivor who is a child must be corroborated by independent evidence. This is based upon the provision of section 40 (3) of the Trial on Indictments Act.

In the case of *Uganda versus Kyeyune Paul*,⁴⁶ where the accused was charged with the offence of defilement, the court in refusing to convict the accused based on the evidence of the survivor despite her having been medically examined and found to have been defiled. It was stated that the evidence of a child of tender age given under section 40 (3) of the Trial and Indictments Act requires corroboration by some other material evidence before it can base a conviction upon it.

In the court's view, such material or independent evidence that would suffice to corroborate the evidence under Section 40 (3) of the Act would, for instance, be either direct or circumstantial evidence from a witness testifying to either seeing or hearing the accused in action or speaking with the survivor at the time or place in issue. Another example of such evidence could be some scientific examination and findings of the blood or other cells of the accused on the survivor's body at the time in issue. In this case, the fact that it was the father of the survivor who corroborated her evidence was held to be unsatisfactory and a conviction could not be based upon it.

In *Senyondo Umar v Uganda*⁴⁷ the appellant appealed against the conviction and sentence passed by the High Court sitting at Masaka which convicted him of the offence of defilement of a 7 month old girl and sentenced him to life imprisonment. The court of appeal allowed the appeal though it did not dispute that the survivor was defiled on the grounds that the only witness linking the accused to the crime was the 12 year old brother of the survivor whose evidence on who did it, was never corroborated. The court explained that the law on this matter was contained in the case Supreme court decision in *Patrick Akol vs. Uganda*,⁴⁸ where the highest court relied on the case of *R vs. Campbell*⁴⁹ in which he summed up the law at page 276 as follows:-

“To sum up, the unsworn evidence of a child must be corroborated by sworn evidence; if then the only evidence implicating the accused is that of unsworn children the judge must stop the case. It makes no difference whether the child's evidence relates to an assault on him or herself or to any other charge, for example, where an unsworn child says that he saw the accused person steal an article. The sworn evidence of a child need not as a matter of law be corroborated, but a jury should be warned not that they must find corroboration but that there is a risk in acting on the uncorroborated evidence of young boys or girls though they may do so if convinced the witness is telling the truth, and this warning should also be given where a young boy or girl is called to corroborate evidence either of another child, sworn or unsworn, or of an adult. The evidence of an unsworn child can amount to corroboration of sworn evidence though a particularly careful warning should in that case be given.”

The holding in this case is that no amount of self warning or warning of the assessor can justify convicting an accused on the unsworn evidence of a single identifying witness of a child of tender years.

5.4.4 Reparations and civil remedies

As mentioned earlier, Ugandan laws on protection from crimes of SGBV all provide for avenues for claiming reparations and civil remedies. Notable examples are Section 129 B of the Penal Code Act (as amended 2007), which states that; convicts of defilement or aggravated defilement, may in addition to receiving any sentences, be ordered to pay compensation to the survivor. The Code provides discretion to the court to determine the amount of compensation to award, taking into consideration, the extent of harm on the survivors, the degree of force used by the offender and medical and other expenses incurred by survivor as a result of the offence. Other pieces of legislation like the DV Bill and the Magistrates Courts Act, the TIA also provide compensation under the civil law.

Gender-sensitive national or domestic criminal law on its own is not enough to protect women. Women and girl survivors of violence frequently need civil remedies, including compensation and orders such as those barring violent men from the home or orders requiring men not to undertake any form of contact with the women.

⁴⁶ *Supra. Note 26 above*

⁴⁷ *Criminal Appeal 267 of 2002 [2009] UGCA 4 (23 March 2009)*

⁴⁸ *Criminal Appeal No.123 of 1992*

⁴⁹ *(1956) 2 All. E.R. 272*

For instance, none of the survivors interviewed was able to access any form of court awarded compensation or other court orders for their protection. Similarly, very few cases reviewed indicated some form of reparation for the survivor. Under Ugandan law, survivors must initiate civil law suits so as to access any compensation and civil remedies. This process depends on the conclusion of the criminal procedure and the trial of cases relating to the violence they have suffered. Most survivors are unlikely to succeed based on the reality that their cases are rarely prosecuted because of the insurmountable challenges discussed in this report. Further most survivors are unfamiliar with the legal process of pursuing civil remedies and compensation. The survivors are mostly indigent and therefore unable to afford the high monetary costs that pursuing this legal process entails.

5.5 Knowledge Gaps

Past research shows that the population in Uganda, especially in the northern and north-eastern districts, is poorly informed about the formal justice system.⁵⁰ Most survivors do not understand the applicable laws and the judicial process. Yet survivors have no recourse to legal assistance. Only a few human rights NGOs with limited reach provide some level of legal aid and assistance. Moreover, survivors are not accorded any legal counseling or awareness by the government to prepare them for the court process. It is noteworthy however, that accused persons are availed legal representation in the form of a state brief to assist them in defending the case where they cannot afford an advocate. Indeed, in all the appeal cases analyzed, the accused is represented by a lawyer. Survivors, on the other hand, get no form of assistance at all from the justice system e.g. counseling, privacy etc. They are forced to rely on state prosecutors who are, more often than not, overwhelmed by their case loads and therefore do not go out of their way to protect survivors.

⁵⁰ See in particular, “Forgotten Voices: A Population based survey about attitudes to peace and justice in northern Uganda”, International Center for Transitional Justice and Human Rights Center, University of California-Berkley, July 2005, pp. 29 et sq.

6.0 CONCLUSION

From the analysis undertaken, it is evident that the Ugandan judiciary and the judicial system at large are in need of urgent reform in respect of SGBV cases. The judiciary is failing the survivors of SGBV and this is as a result of not only delaying court processes, but also, lack of innovation to use their discretion to do the needful. Such reform must first be targeted towards the substantive law. Aspects of the law such as the need for corroboration, the lack of express provision on minimum sentences for SGBV crimes, the need for express stipulation on survivor's rights and protection mechanisms has to be amended.

7.0 RECOMMENDATIONS

The audit recommends a variety of interventions that would work towards addressing SGBV within the legislative framework as well as affording sufficient and adequate protection to survivors of SGBV within larger connected structures.

(i) National legislation on sexual crimes and accountability mechanisms in place

Additionally, as signatories to the ICGLR, Uganda is obliged to honour the governments' commitment to "harmonise all relevant national laws and criminal procedures in accordance to the provisions of this Protocol".⁵¹ Whereas Uganda has laws in place against SGBV, as mentioned in this report, these laws are scattered across various pieces of legislation, making it very difficult for the police and also the judiciary to refer to, it is therefore important that the laws should be collated into one piece of legislation for easier reference. Additionally in recognition of the alarming rates of sexual gender based violence, Uganda should include sexual violence legislation compliance reporting as part and parcel of the obligations of Parliamentary committees concerned with Legal Affairs and Administration of Justice. This can be accompanied by designated task forces on sexual offences laws to support the effective implementation of these laws through awareness raising on application of provisions and monitoring attitudinal changes.

(ii) Facilitating transformation interventions within the Informal Justice Systems

As SGBV occurs amongst communities and households where perpetrators are often known, interventions should be encouraged and promoted from the community level, where local community leaders and faith based organisation leaders are located. The Legal position therefore for most survivors of SGBV is determined by their social, political and cultural status, In most instances survivors prefer to do so at the family level and/or go to the cultural leaders and chiefs. The implementers of customary law such as village and community elders, opinion leaders and local chiefs have a potentially influential reach. Therefore, interventions targeting chiefs and community elders as part of a social transformation agenda would be most appropriate. As custodians of cultural norms, intensified action in the "sites" where potential transformation of discriminatory attitudes is likely to occur is recommended. Awareness on rights and particularly on SGBV should be designed so as to ensure that the gravity of SGBV is understood amongst such leaders who often act as arbiters at local levels. It is integral that at this level, leaders understand that quite apart from punishing the perpetrator, there is need to promote survivors' confidence and comfort so that the stigma that is likely within the community is halted.

(iii) Reformed and sustained skills building for handling SGBV within the police force

With a view to enhancing sensitivity and responsiveness of the police in handling SGBV a variety of initiatives would be required. In the first instance, policy guidelines and protocols on handling SGBV would effectively anchor other necessary reforms in the sector. Such guidelines would be developed through consultative processes with a multi-sectoral expert group drawn from the police force, health sector, social workers, psychologists, judiciary, justice, finance and economic planning ministries as well as rights activists. Comprehensively designed protocols that are informed by their specific sectoral experiences of the challenges of SGBV survivors would be critical.

For the applicability of such protocols, intensified training of the police on the protocols as well as the broad human rights issues would facilitate appropriate grounding and adaptation. Alongside this, should be the allocation of specially targeted resources within the JLOS to handle and respond to SGBV. These resources should comprehensively correspond to the collective needs of the entire police force including relevant infrastructure for the police work as well as basic welfare such as housing, medical insurance and sufficient pay. As this audit reveals, most police stations are ill equipped in terms of vehicles, motorcycles and necessary forensic equipment. Through the specially targeted resources to handle SGBV, it is recommended that in each police station set up specialised gender units that would handle SGBV incidents.

⁵¹ Article 6(10) Protocol on the Prevention and Suppression of Sexual violence against women and children

Where the units work, this audit confirms that they are effectively responding to SGBV survivor needs. Within the police sector, appropriate collaborative protocols should also be in place with health facilities, particularly in relation to the relevant medical reporting form that is the basis of any prosecution. Some of the requirements elaborated in the protocols would include: commitment to protect the complainant at all times; commitment to respect confidentiality; commitment to give testimony when called upon to; sharing of as much information as necessary for effective agency intervention, understanding and respect for each agency's competence and authority as well as agreed mechanisms for conflict management (in a sensitive manner)

(iv) capacity building of the judiciary

The continuum of administration of justice is not complete without magistrates and judges. Without sufficient training judicial decisions like many others in Africa are likely to be influenced by patriarchal notions. Unless sufficient punitive measures around sexual gender based violence crimes are meted out to perpetrators, levels of impunity would thrive. Thus investing in capacities for judicial officers to interpret and formulate new jurisprudence that is gender responsive would strategically reform the practices around gender based violence. Provide gender-specific training to all judges, magistrates and lawyers on the international human rights law relating to violence against women to enhance knowledge and ensure the effectiveness and sensitivity of the judicial officers in the prosecution of acts of violence against women;

It is also recommended that the judiciary reforms court rules and procedures so as to accommodate the specialised needs of SGBV survivors. These include hearings of SGBV cases in camera or special divisions so as to ensure that special procedures for prosecution of SGBV are sensitive to the emotional state of survivors. The use of a survivor's character as a basis or excuse to place responsibility of SGBV crimes should also be highly discouraged.⁵² Establish effective programs for the participation of survivors and witnesses called to give testimony during the judicial process and take effective measures to ensure that women are able to participate actively in the judicial process without shame, fear or retribution. Compensation of survivors as a means of recognising and acknowledging the gravity of the crimes committed to them should also be promoted.

In order to address case backlogs, government should ensure that the judiciary has adequate human and financial resources to discharge its duties, in particular, the hearing and conclusion of all cases of sexual and gender-based violence.

Ensure that victims of SGBV and their dependants are informed of their right to and are able to obtain prompt reparations, including civil remedies such as court orders, restitution, medical care and rehabilitation

In terms of accountability, it is recommended that both the police and judiciary be obliged to produce gender disaggregated data on the cases they handle, so as to adequately inform policy and legislative reforms.

(v) Medical-legal reforms

The appreciation and recognition by survivors of violence of the value addition of responsive health structures cannot be underestimated. It is recommended that adequate numbers of medical examination (PF3) forms are available in all police stations and police posts and that these forms are easily accessible and issued without any charges and without discrimination to all victims of sexual and gender-based violence. Government should also, ensure that adequate numbers of qualified health personnel are available to promptly conduct medical examination of victims and fill in the PF3 form and are accessible to survivors of sexual and gender-based violence without costs/fees. Develop Information materials to educate survivors, police and health personnel that the PF3 form is issued promptly and not considered a condition for survivors to access medical treatment; and to ensure that all survivors, including those who report their allegations to the police and those who choose not to report are promptly medically examined. Such examination should conform to the to a respect of women's right to privacy, physical and mental integrity.

(vi) Strengthened NGO and CBO capacity for advocacy and monitoring

It is also recommended that where agencies are working to respond to SGBV, stronger coordination mechanisms are put in place. More specifically, for SGBV survivors, rapid referral interventions are necessary so as not to undermine the "window of opportunity" for forensic examination and medical management. The process of seeking help may at times increase the vulnerability of the survivors where it may not be safe for health personnel to advise a woman to file a complaint alone, as they may be violated again or the perpetrator becomes aware of it and threatens him or her. In most instances, referrals assist where community based organisations (CBOs) and non-governmental organisations (NGOs) are working collaboratively and keenly aware of each others core competence. Promoting rights awareness at the community levels needs to be supported and intensified so that survivors of SGBV are aware of their rights and how to protect them. This education would enable survivors and their families learn how to overcome stigma associated with SGBV as well as understand that sexual crimes attract criminal liability and punishment and are not subject to "settlements".

⁵² Article 6 (5) Protocol on the Prevention and Suppression of Sexual violence against women and children

(vii) Legislative Advocacy

As a collective thematic group working on SGBV, there is opportunity for effective and more sustained advocacy. Hence it is recommended that where such working groups are present, intensive advocacy skills particularly legislative advocacy are strengthened. The members of these groups would be drawn from women's rights organisations working on policy and legal reform, human rights advocacy organisations, health rights organisations working on policy and legal reform, existing gender based violence cluster groups and other institutions working towards ending sexual and gender based violence.

(viii) Gender Budgeting in National Development Plans

Knowledge on gender responsive budgeting and analysis allows for consistent monitoring on governments with regard to appropriate allocation of resources (human and financial) and commitment to end SGBV. Communities should be equipped to monitor compliance of government's commitments to protection and fulfillment to human rights. Communities should have Skills to analyse the security, health and justice sector budgets in order to initiate advocacy initiatives in a variety of ways particularly in the identification of specific resource allocations to improve SGBV services. For instance, within the health sector gender budget analysis would reveal relevant data on national resource allocation to manage sexual and reproductive health complications including access for emergency contraception and PEP as well as trauma counseling departments and skills building for trauma management. Whilst in the security sector reviews of the percentage of resources to gender based crimes would be analysed in terms of targeted resources for special gender units, support to training, increased equipment and vehicles to police stations inter alia. In the justice sector, gender budget analysis would reveal increased prosecutorial training on SGBV management, increased financial and personnel allocations for judicial officers handling SGBV cases. In all these sectors, where gender budgeting is applied, requirements to supply gender disaggregated data in terms of accounting for expenditure as well as in requisitions ultimately improving the terrain for SGBV survivors.

(ix) Political will – Developing and utilising diagnostic tools to monitor governments

There is a need to fortify regional approaches towards lobbying governments. There is scope for utilising a diagnostic tool in the form of an SGBV index that measures much in the same manner as that used for states levels of corruption, namely their zero tolerance on SGBV. Such mechanisms allow for the development of sufficient data, pool public opinion and mobilisation of a critical mass that pushes for accountability from the lowest to the highest rank of government as a duty bearer.

(x) Engagement in the Democratisation process

All the recommendations above are contingent on a civil society and citizenry that are informed and aware of how their governments function, their obligations to citizens and their ability to hold the state culpable for failing to meet its end of the bargain. Being part of state rebuilding processes is central to transforming the structures that normalise sexual and gender based violence. Where transitional justice initiatives are taking place, they provide opportunities to challenge and reshape the structural and systemic discrimination.

(xi) Partnerships with the media.

The media has the potential to play a lead role in changing perceptions of sexual gender-based violence that in turn can help galvanise a move for change. There is need to invest in building the capacities of media personnel so as to assist in changing the culture of acceptance that surrounds sexual gender-based violence, for instance, in building skills around responsible and sensitive publishing of articles about perpetrators and victims. Organisations working in the SGBV arena should of necessity partner with the media as part of the implementation of their advocacy campaigns. The media should be encouraged to play their role in ending the stigma of talking about sexual gender-based violence by writing about it and interviewing law enforcement professionals, medical personnel, experts, perpetrators, survivors and victims. In terms of creating awareness of services, the media can also play a critical role in educating the public by offering information about programmes that address sexual gender-based violence.

8.0 ANNEXES

ANNEX 1: International Human Rights Instruments

Instrument	UG
African charter on Human and People's Rights 1981	✓
African Union Solemn Declaration on Gender Equality in Africa 2004	✓
Beijing Declaration and Platform of Action 1995	✓
Convention against Torture and other cruel, inhuman or degrading treatment or punishment 1984	✓
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others 1948	✓
Convention on the Elimination of all Forms of Discrimination Against Women CEDAW 1979	✓
Convention on the Prevention and Punishment of the Crime of Genocide 1948	✓
Convention on the Rights of the Child 1989	✓
Convention relating to the status of refugees 1951	✓
Declaration of the Rights of the Child 1959	✓
Declaration on the elimination of Discrimination against women 1967	✓
International Covenant on Civil and Political Rights ICCPR 1966	✓
International Covenant on Economic, Social and Cultural Rights 1966	✓
Protocol Relating to the status of refugees 1967	✓
Protocol to Prevent, Suppress and Punish trafficking of persons, especially women and children supplementing the United Nations Convention against Transnational Organised crime 2000	✓
Rome Statute on the International Criminal Court 1998	✓
The Protocol to the African Charter on Human and Peoples Rights on the Rights of women 2002	✓

Other Instruments

	UGANDA
Optional Protocol of the International Pact on Civil and Political Rights 1966	✓
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2000	✓
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict 2001	✓
Organization of African Unity, Convention Governing the Specific Aspects of Refugee Problems in Africa 1969	✓
Ouagadougou Protocol on June 1998 on the Establishment of the African Court on Human and Peoples' Rights	
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 1956	
The United Nations Resolution 1325	✓

ANNEX 2: ADMINISTRATION OF JUSTICE STRUCTURES IN UGANDA

A. The Court System

Article 129 (1) of the 1995 Constitution provides for the structure of the civilian court system in Uganda, as described below.

1. Local Council Courts

Wide consultations held in 2000 recognized the need for improved access to justice for all. At the initiative of the Ministry of Local Government, the Government decided to draft a bill requesting parliamentary approval to give some judicial powers to the Local Councils (LC). Accordingly, the Local Councils Courts Act was adopted in 2006, to expedite the dispensation of justice at a local level, especially with respect to justice matters that affect the daily life of citizens, and to promote justice and reconciliation at the community level. LC courts are

an attempt to promote a more accessible, cost-effective and popular system of justice. The Act provides for the establishment of LC courts at the following levels: (1) village (LC I), (2) parish (LC II) and (3) sub-county level (LC III). According to the Government, in 2006, there were 50,700 LC courts across the country⁵³.

According to the LC Courts Act, LC courts have jurisdiction over a whole range of matters, from debt recovery to assault and battery, and damage to property (Section 10 of the Act). Their jurisdiction is unlimited as far as civil disputes governed by customary law are concerned, such as disputes over land held under customary tenure, disputes over issues regarding marriage, divorce and parental care, and disputes relating to the identity of customary heirs. Furthermore, Section 92 of the Children's Act provides that all civil matters concerning children shall be dealt with by village LC courts. It also confers criminal jurisdiction (of first instance) to the latter with respect to the following offences when committed by minors: assault and bodily harm, theft, criminal trespass and malicious damage to property, as well as offences related to being "idle and disorderly", which cover acts of prostitution, gambling and indecent behaviour in a public place.

Finally, the jurisdiction of LC Courts extends to matters arising out of infringement of byelaws and ordinances duly made by local government authorities (in particular Executive Committees) under the Local Government Act.

Section 21 provides that the proceedings and their records must be in the language most widely spoken in the area of jurisdiction, while it specifies that an interpreter must be provided to the parties who do not understand the language. Section 22 provides that the proceedings must be recorded in writing. In addition to community services, Section 13 of the Act provides that LC Courts may order any of the following remedies: reconciliation, declaration⁵⁴, compensation⁵⁵, restitution, apology, attachment and sale⁵⁶, court fees, and in the case of infringement of a bye-law, a fine or any other penalty imposed by the bye-law.

Furthermore, Section 41 of the Act provides that the plaintiff must pay the court fees. The party found guilty is usually asked to cover the expenses related to the court proceedings incurred by the adverse party.

Magistrates Grade II and I Courts

Magistrates Grade II (who are required to hold a diploma in law), may preside over criminal offences which are not of serious nature, in accordance with Section 161 (1) of the Magistrates Court Act. In addition, they hear any civil matters where the value of the subject does not exceed Ugandan Shillings (UGX) 500,000.¹²⁴ Magistrates Grade I, who must hold a post-graduate diploma in legal practice following a Bachelor of Laws degree from a recognised University (Bar course), can hear civil claims whose value does not exceed UGX 2,000,000 and have an unlimited jurisdiction over civil matters governed solely by civil customary law. With respect to criminal matters, they preside over any offences other than those which punishment attract death or life imprisonment.

⁵³ As of September 2007, there were about 950 LC courts at sub-county level, 5,250 courts at parish level and 44,500 at village level, making a total of 50,700 LC courts country-wide. In northern Uganda (including Karamoja sub-region), there were 13,913 LC courts, including 231 at sub-county level, 1,172 at parish level and 12,510 at village level (PRDP, p. 47)

⁵⁴ For example, declaring whether someone is married or who is the customary heir.

⁵⁵ In the form of money or property deemed by the court as equivalent to the complainant's property or right which was damaged, lost or injured

⁵⁶ Public auction of a good/property of the defendant to cover his debts.

Chief Magistrate Court

Chief Magistrates, who in addition to holding a post-graduate diploma in legal practice have an extensive professional experience in legal practice, supervise both LC and Magistrates courts. They have jurisdiction over civil claims whose monetary value does not exceed UGX 5,000,000 (Section 207 (1), Magistrates Courts Act) and have an unlimited jurisdiction in disputes related to conversion, damage to property or trespass, as well as any matter solely governed by civil customary law. They are competent to hear criminal cases that attract a sentence of life imprisonment, such as terrorism (section 26, PC), incest (section 149, PC), attempt to commit a rape (section 125, PC) Defilement (Penal code Amendment 2007), aiding committing suicide (section 209, PC), killing an unborn child (section 212, PC), acts intended to cause grievous harm or prevent arrest (section 216, PC), arson (section 327, PC). They are however not competent to hear capital offences. Appeals against decisions by Chief Magistrates are to be made to the High Court.

3. Superior Courts

The High Court

The High Court, which is headed by the Principal Judge, is the lowest of the superior courts exercising unlimited jurisdiction in both criminal and civil case. In addition to hearing all capital criminal offences as a court of first instance, it is the first court of appeal for judgments passed by Chief Magistrates and Magistrates Grade I Courts and it exercises overall supervisory powers over all lower instances. The President, upon recommendation from the Judicial Service Commission and approval by the Parliament, appoints the Principal Judge and other High Court judges (Article 142 (1), Constitution). High Court judges sit individually on each case, and their jurisdiction is all-encompassing and the Court is divided into Commercial, Civil, Criminal, Family and Circuit Divisions. Appeals against judgements by the High Court are to be made to the Court of Appeal.

The Court of Appeal

The Court of Appeal is headed by the Deputy Chief Justice, who is assisted by not less than seven judges. According to Article 142 (1) of the Constitution, upon recommendation from the Judicial Service Commission and approval by the Parliament, the President appoints all Justices. The Court of Appeal serves as the instance of appeal for judgments made by the High Court. It is not a court of first instance, except when, in accordance with Article 137 (1) of the Constitution, it sits as the Constitutional Court with respect to petitions challenging the constitutionality of laws. Appeals against its judgments are to be made to the Supreme Court.

The Supreme Court

Article 130 of the Constitution establishes the Supreme Court, composed of the Chief Justice and not less than six judges, as the final civilian instance of appeal in Uganda. The Supreme Court as the last appellate court has no original jurisdiction in any matter, and may decide to confirm or vary from a judgment by the Court of Appeal, or even ask for a new trial.

B. Public Prosecutions

The Director of Public Prosecutions (DPP), under the Ministry of Justice and constitutional Affairs, is mandated by Article 120 of the Constitution to: (a) direct the police to investigate any information of a criminal nature and to report to him expeditiously, (b) institute civilian criminal proceedings against any person or authority in any court with competent jurisdiction, (c) take over and continue any criminal proceedings instituted by any other person or authority and (d) discontinue at any stage before judgment is delivered, any criminal proceedings instituted by himself, and, with the consent of the court in case of criminal proceedings instituted by any other person or authority. The DPP may delegate his authority to state attorneys (who are holders of a Bachelor of Laws and are appointed by the Public Service Commission) to perform any of the above-mentioned functions, with the exception of the discontinuation of criminal proceedings which can be exercised only by the DPP (Article 120 (4) (b), Constitution).

The DPP supervise police criminal investigations and ultimately, upon review of the evidence collected, sanction the charges and institute, on behalf of the victims, a criminal case before the court that has jurisdiction to hear the matter, either a Magistrate Court or the High Court (as courts of first instance). The DPP is thus responsible for determining which court is competent according to the territorial jurisdiction and the nature of the offence. It must be recalled that the DPP does not assume any function with respect to the LC Court system.

C. Police

At the district level, the police is under the overall command of the District Police commander (DPC), who reports directly to the Regional Police Commander (RPC). All police stations (in urban centres) and outposts (in rural areas and in internally displaced persons (IDPS) camps) are under an officer-in-charge (OC). Criminal investigations fall within the District Criminal Investigation Department (CID) answerable directly to the DPC. Minor crimes are however usually investigated by an officer answerable to the OC of the police station/outpost to which the person belongs. In addition, there are Child and Family Protection officers who are responsible for handling family-related complaints, as well as district Special Branch Officers who collect intelligence information. In addition to the regular police forces, the police structure also includes Special Police Constables (SPCs), SPCs provide support to the central police to ensure respect of law and order as well as to prevent and detect crimes, especially at the sub-county level where they are deployed.

The Local Administration Police (LAP), which was formerly under the local government system (Section 67 of the Police Act), has recently been integrated into the central police structure¹³⁰ and is under the command of the Inspector General of Police (IGP) who is responsible for all its operations (Section 67 (a), Police (Amendment) Act, 2006). At the district level, local administration police are under the command of the DPC. Since LAP elements are said to receive the same training as regular UPF officers, they have the same powers, duties and responsibilities as central police officers. On the ground, they however, mainly perform functions related to the enforcement of ordinances and bye-laws issued by local governments, and work closely with local council members (daily security and order activities) and LC Courts (investigation of minor criminal offences).

ANNEX 3: STUDY TOOLS

A. Tool to assess normative framework on SGBV – Judiciary Key Informant Interview

1. Is your country a signatory to international and regional human rights instruments that promote the respect and protection of women’s human rights? For example

Instrument	Yes	No
African charter on Human and People’s Rights 1981		
Universal Declaration of Human Rights 1948		
Convention on the Prevention and Punishment of the Crime of Genocide 1948		
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others 1948		
Convention relating to the status of refugees 1951		
Declaration of the Rights of the Child 1959		
International Covenant on Economic, Social and Cultural Rights 1966		
International Covenant on Civil and Political Rights ICCPR 1966		
Protocol Relating to the status of refugees 1967		
Declaration on the elimination of Discrimination against women 1967		
Convention on the Elimination of al Forms of Discrimination Against Women CEDAW 1979		
African charter on Human and People’s Rights 1981		
Convention against Torture and other cruel, inhuman or degrading treatment or punishment 1984		
Beijing Declaration and Platform of Action 1995		
Convention on the Rights of the Child 1989		
Optional Protocol to the convention on the Rights of the child on the involvement of children in armed conflicts 2000		
Optional protocol to the convention on the rights of the children on the sale of children, child prostitution and child pornography 2000		
Rome Statute on the International Criminal Court 1998		
Protocol to Prevent, Suppress and Punish trafficking of persons, especially women and children supplementing the United Nations Convention against Trans national Organised crime 2000		
The Protocol to the African Charter on Human and Peoples Rights on the Rights of women 202		
African Union Solemn Declaration on Gender Equality in Africa 2004		
Others		

1. Does your country constitution contain a section on Fundamental rights and freedoms and does it include following categories of rights?

Security rights to protect citizens from violent crime

Liberty rights to protect freedoms like belief and religion, assembly and movement

Due process rights to protect citizens from abuses stemming from the legal system

Equality rights to guarantee equal citizenship and non-discrimination

2. Is the crime of rape included in your Country’s Penal code? How broadly is rape defined⁵⁷ ?

For example:

- Is the definition gender-neutral?
- Does the definition include penetration by any body part or object?
- Does the definition include forced oral and anal penetration?
- Does the definition focus on the acts of the perpetrator?

⁵⁷ *Is the definition consistent with the International Criminal Court (ICC) Statute*

- Is there need to prove overwhelming physical force (*State the provisions*)
 - What is the sentence for a convicted rapist? What factors determine and guide sentencing? Are victims compensated by perpetrators?
3. Does your Penal Code capture other sexual gender based violence crimes such as, sexual harassment, sexual slavery, incest, and trafficking, forced pregnancy?
If yes, list them and state the relevant legal provisions
- What is the sentence for the above offences? What factors determine and guide sentencing? Are victims compensated by perpetrators?
4. Penal Code and Laws of Evidence

Are there rules that restrict the admission of **evidence of consent** in trials of crimes of sexual violence? Under what circumstances does the court determine whether a complainant consented? *Specifically probe:*

Is it impermissible to imply consent due to **silence** or a **lack of resistance** by the victim?

Can consent **not** be inferred from words or conduct of the victim where there was force, threat of force or a coercive environment?

- Is the admission of such evidence considered *in camera* (closed proceedings)?
- Is evidence of prior or subsequent sexual conduct of the victim inadmissible in trials for crimes of sexual violence?
- Is **corroboration** of the victim's testimony required in crimes of sexual violence?

5. Rules and procedures for handling sexual Gender based violence

Are there specific rules or guidelines for survivors/victims of gender based violence utilised in your court? Do they include for example victim's participation in court proceedings with a lawyer? Is legal representation for such a victim provided by the state through a national legal aid scheme or otherwise? Are cases conducted in camera or in open court? Are there benefits of either option?

6. How many SGBV cases have you conducted in the past 1 (one) year? *Specifically probe on outcome;* How many convictions and how many acquittals were they successfully prosecuted? Did complainant withdraw? Was perpetrator convicted and what was the sentence?

7. Are there effective measures to ensure that there is **gender balance and expertise** amongst staff of the judiciary? *Specifically probe for policies, resource allocation and technical expertise, for example;*

- a) Is there any affirmative action requirement for appointing authorities to achieve a fair balance between men and women amongst prosecutors, judges and other staff of the criminal justice system?
- b) Do national laws and court rules require that court staff have expertise on issues surrounding gender-based violence?
- c) Do national laws and court rules require the adoption and implementation of effective training for staff of the criminal justice system? Is gender mainstreaming considered a priority in such training?
- d) Does the judiciary have resources for gender specific initiatives? Is there a conducive environment for these initiatives and/or support for fundraising for them
- e) Why are some cases not successfully prosecuted?
- f) What are the reasons for acquittals in SGBV cases?

8. What would you recommend as effective judicial interventions for handling SGBV cases? Probe a variety of levels; at investigations stage, prosecutorial stage, witnesses as they testify, laws etc

B. Tool to assess service provision for SGBV – Police Key Informant Interview

- 1) What is your own understanding of Sexual Gender Based Violence?
- 2) Is there specific training for the police on handling sexual and gender based crimes? *Specifically probe at what stage training is offered and whether it is institutionalized; at police training school? Is it continuing education and who provides the training? If you do not have the training what are difficulties you encounter while investigating SGBV cases?*
- 3) Does your police station keep records on the types of crimes reported? If so how many can be categorized as SGBV crimes in the past one year? *Specifically probe statistics; whether they are disaggregated by sex? How many complaints are by women vis a vis men? How many are withdrawn (for women and for men)?*
- 4) (a) What are the most common forms of SGBV present in your setting (e.g. rape, domestic violence, early/forced marriage, FGM, trafficking in women and children etc)?
(b) What mechanisms are in place for identifying and recording SGBV case?
(c) Does your situation have a desk for reviewing SGBV survivors? *Probe if it exists? How are survivors received? What efforts are in place to ensure privacy for the survivors etc?*
(d) Has the problem of sexual violence gotten worse or stayed the same in the last year?
(e) What particular types of sexual violence have gotten worse?
- 5) Who are the main perpetrators of SGBV? *Probe to find the profile, in terms of education, socio-economic status, marital status, age?*
- 6) What is the hierarchy of reporting when in receipt of a SGBV complaint? Is there a law under which the victims of SGBV report the complaints?
- 7) Do you provide the survivors with any information on legal mechanisms on what to expect from the legal process? Are the survivors adequately informed of their rights, procedures and time involved in the legal process?
- 8) (a) Do victims of SGBV have access to medical support and legal action?
(b) Do you refer the victims of SGBV to institution for judicial support and counseling?
- 9) What has the Government done to improve the safety of women and girls in this community? Do women and men look for help when they experience sexual violence? Do they tell anyone (family member, police, community leader)? What is the attitude of the community towards women who have been raped?
- 10) Do women's support networks exist to help the survivors? What social and legal services exist to help address problems associated with sexual violence (health, police, legal counseling, and social counseling)? Who provides these services? How could the efforts be improved?
- 11) What are the challenges the police face in investigating and prosecuting cases of SGBV?

C. Tool to assess service provision for SGBV – Healthcare Provider Key Informant Interview

1. How many health care providers do you have at the Hospital or Health Care Centre?
2. How many are trained in clinical management of SGBV? How many are trained to undertake forensic examination for SGBV survivors?
3. Do you require a police report prior to treating SGBV survivors?
4. Do you have a rape kit? What items does the rape kit contain?
5. What are the clinical procedures that are followed on attending to survivors of SGBV?
6. Is there a laboratory for test analysis?
7. Are medical personnel willing to testify in court?
8. What are the most common forms of SGBV that you receive? *Probe* on location and types of SGBV and profile of victims in terms of age, gender, marital status etc.?
9. What is the trend of SGBV cases for the past 12 months?
10. Do women's support networks exist to keep the survivors? If they exist, what form of support do they provide? *Probe* health, counseling, social and legal? Is it sufficient? If not, is there need for their improvement?

Checklist of supplies of clinical management of rape survivors (Referral Hospital)

1. Protocol Available

Written medical protocol translated in language of provider

2. Personnel Available

Trained (local) health care professionals (on call 24 hour/day)

For female survivors, a female health provider speaking the same language is optimal. If this is not possible a female health worker (or companion) should be in the room during the examination.

3. Furniture/Setting Available

Room (private, quiet, accessible to a toilet or latrine)

Examination table

Lighting, preferably fixed (a torch may be threatening for children)

4. Administrative Supplies Available

Medical chart with pictograms

Forms for recording post-rape care

Consent forms

Information pamphlets for post-rape care (for survivors)

Safe, locked filing space to keep confidential records

Tool D: Focus Group Discussion with Women's Organisations, SGBV Survivors and Traditional Birth Attendants

- 1) In your own words define SGBV?
- 2) Are there national statistics on the magnitude, forms and consequences of SGBV? (Probe for reports).
- 3) What are the major forms of SGBV and how do they manifest themselves? Is there a difference in manifestation during times of peace and in times of conflict?
 - If yes, elaborate
 - Probe to see if the problem of SGBV has it gotten worse or stayed the same reduced. What form of SGBV has gotten worse, stayed the same or reduced?
 - Who are the main perpetrators?
- 4) Does the constitution and national law conform to international and regional human rights with gender equality and SGBV provisions?
 - If yes, is this compliance in conformity with the practice?
- 5) What challenges do women and men face in accessing courts in instances of SGBV?
 - What challenges do women and men face in reporting SGBV?
- 6) In your own experience is there any distinction in how the court systems deal with women and men? Is this treatment similar in instances of SGBV?
- 7) In your own experience is there any distinction in how the police deal with women and men reporting crimes? Is this treatment similar in instances of SGBV (Probe whether police make recommendations for complainants to negotiate or settle and whether the intensity is same for both women and men)
 - To what extent are sexual minorities treated similarly
 - Is the treatment of lesbian women and gay men different?
 - Are sexual identities a hindrance to availability of health services?
- 8) In your own experience is there any distinction on how the health systems deal with women and men seeking treatment or other health services? Is this treatment similar in instances of SGBV (Probe to establish requirements for spousal or male consent, confidentiality)
- 9) Do you consider that the cases of SGBV are adequately processed and punished? Probe processed to establish investigation and prosecution and witnesses
Probe punished to establish mechanisms to protect and support witnesses' e.g. counseling, legal aid, shelter, hotline PEP?
- 10) Are there any government led interventions to reform governance justice and legal sector?
 - To what extent are CSO's involved?
- 11) Are there community mechanisms to prevent SGBV and punish perpetrators of SGBV? Probe community capacity to respond to SGBV and manage SGBV
- 12) If you were to make reform recommendations to prevent and manage the incidents of SGBV, what would you propose at the following levels
 - Community
 - Police
 - Health
 - Judiciary
 - Other

Focus Group Discussion Questions – Specific to Internally Displaced Persons

1. What problems did the community face as a whole?
2. What problems were specific to men?
3. What problems were specific to women?
4. What problems were specific to children?
5. What is sexual and gender based violence?
6. What constitutes acts of sexual and gender based violence?
7. Where did incidents occur?
8. Who were/are the survivors?
9. Who were/are the perpetrators?
10. How do survivors cope?
11. What support structures exist in the camp for the survivor?
12. Who are the governing bodies officially charged with this issue?
13. What happens to survivors and perpetrators in the judicial system?
14. How has the community responded to this issue?
15. How have Women’s Representatives responded?
16. What have been successful responses?
17. How could these responses be improved?

Tool E: Key Informant Interviews, International NGO's, Human Rights Watchdogs

1. In your own words define SGBV?
2. Are there national statistics on the magnitude, forms and consequences of SGBV? (Probe for reports).
3. What are the major forms of SGBV and how do they manifest themselves? Is there a difference in manifestation during times of peace and in times of conflict?
4. If yes, elaborate (Probe to see if the problem of SGBV has it gotten worse or stayed the same reduced. What form of SGBV has gotten worse, stayed the same or reduced?)
5. Who are the main perpetrators?
6. Does the constitution and national law conform to international and regional human rights with gender equality and SGBV provisions?
7. If yes, is this compliance in conformity with the practice?
8. What challenges do women and men face in accessing courts in instances of SGBV?
9. What challenges do women and men face in reporting SGBV?
10. In your own experience is there any distinction in how the court systems deal with women and men? Is this treatment similar in instances of SGBV?
11. In your own experience is there any distinction in how the police deal with women and men reporting crimes? Is this treatment similar in instances of SGBV (Probe whether police make recommendations for complainants to negotiate or settle and whether the intensity is same for both women and men)
12. To what extent are sexual minorities treated similarly
13. Is the treatment of lesbian women and gay men different?
14. Are sexual identities a hindrance to availability of health services?
15. In your own experience is there any distinction on how the health systems deal with women and men seeking treatment or other health services? Is this treatment similar in instances of SGBV (Probe to establish requirements for spousal or male consent, confidentiality)
16. Do you consider that the cases of SGBV are adequately processed and punished? Probe processed to establish investigation and prosecution and witnesses
17. Probe punished to establish mechanisms to protect and support witnesses' e.g. counseling, legal aid, shelter, hotline PEP?
18. Are there any government led interventions to reform governance justice and legal sector?
19. To what extent are CSO's involved?
20. Are there community mechanisms to prevent SGBV and punish perpetrators of SGBV? Probe community capacity to respond to SGBV and manage SGBV
21. If you were to make reform recommendations to prevent and manage the incidents of SGBV, what would you propose at the following levels
 - Community
 - Police
 - Health
 - Judiciary
 - Other

Respondents for the key informant interviews

	Designation	Organisation
HUMAN RIGHTS WATCHDOGS	Programme Manager	CARE International
	Programme Manager	AMERICAN REFUGEE COUNCIL (ARC)
	Programme Manager	Legal Aid Organization
	GBV Coordinator	UNFPA
	Chairman	Uganda Human Right Commission
	Lawyer	FIDA Offices
	Manager	CEDOVIP
POLICE	Regional Police Commandant, Gulu	Uganda Police
	OC Station	Kabalagala Police Station
	CPS	Kawempe Police Station
JUDICIARY	Resident State Attorney	Gulu High Court
	Magistrate, Registrar	High Court
HEALTH PROVIDERS	Medical Superintendent	Gulu Government referral Hospital, Mulago and Nsambya Hospital
	Midwife	Health Centre
FOCUS GROUP DISCUSSIONS	Chairman	Human Right Focus
	Staff	
	Manager/staff	GWED-G
	Survivors	IDP camp
	Women	Kochgoma Sub-county head quarter
	Men	
Youth		
Child mothers		
Formerly abducted children		
Survivors		

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