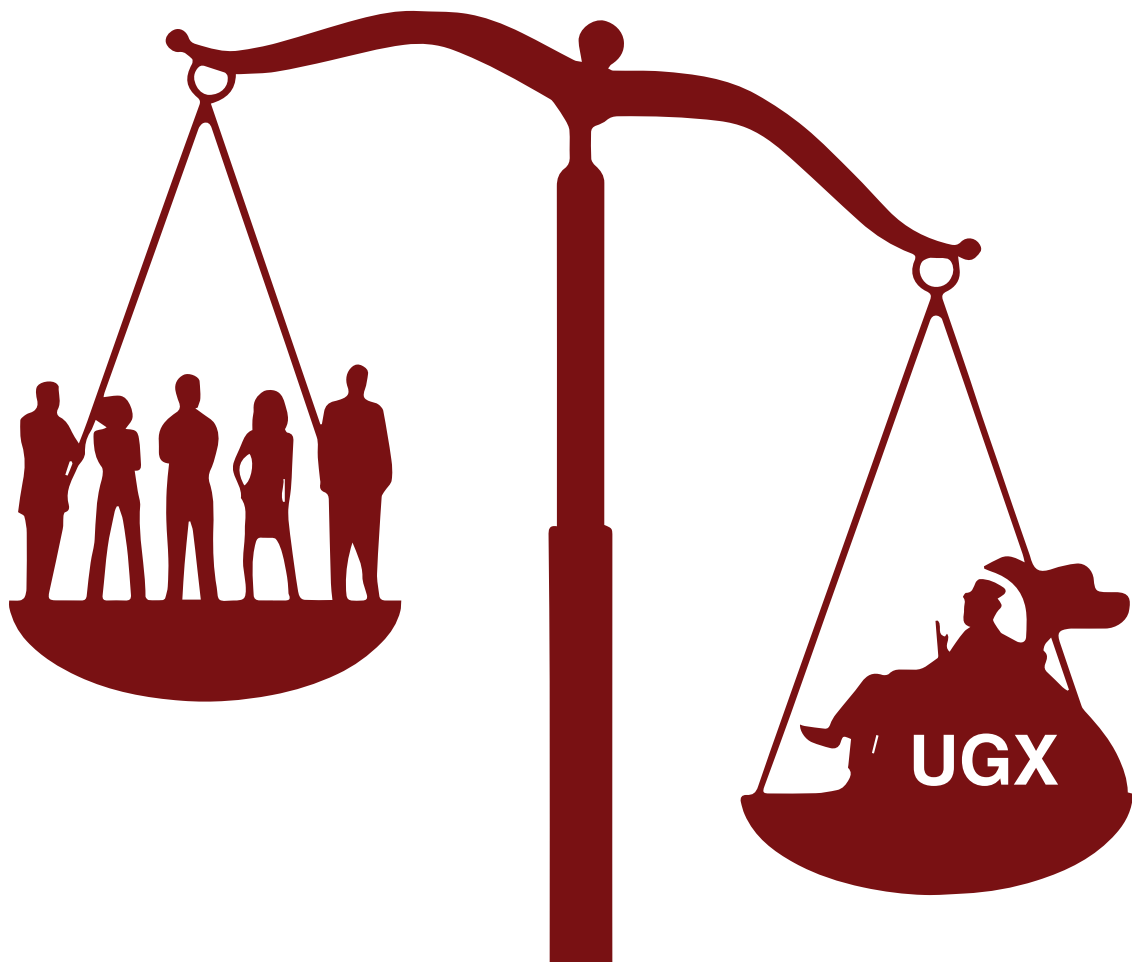




LASPNET
LEGAL AID SERVICE PROVIDERS' NETWORK

STATE OF ACCESS TO JUSTICE REPORT

2017 ANNUAL TRENDS ANALYSIS



OCTOBER 2017

STATE OF ACCESS TO JUSTICE REPORT 2017 Annual Trends Analysis

"Denying access to justice, is injustice"

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FOREWORD

Access to justice is at the core of Legal Aid Service Providers' Network (LASPNET)'s mandate and existence. For the last thirteen (13) years of LASPNET's existence, the organisation has worked towards enhancing access to justice through research and documentation, networking and partnership, lobbying and advocacy, information data management and capacity building. LASPNET's goals and values are hinged on the JLOS vision of, "*Justice for all.*"

To deepen the interventions of LASPNET and its member organizations on access to justice, a process has been initiated to monitor access to justice in Uganda on an annual basis. The process kick started in February 2017 with the development of access to justice indicators to help monitor justice delivery in Uganda. Following the validation of the access to justice indicators in March 2017, a monitoring tool was developed and has been administered amongst some Legal Aid Service Providers (LASPs), duty bearers and users of justice services to analyse trends and track the state of access to justice. The analysis of access to justice trend using established indicators has been complimented by existing literature to develop this Annual Access to Justice Trends Analysis.

The 2017 Access to Justice Trends Analysis Report is the first of its kind by LASPNET. It is an initiative that LASPNET hopes to undertake every year to measure its intervention and those of justice system stakeholders on access to justice. It is hoped that the justice trends analysis report will increase learning and sharing, document good practices and make recommendations to inform and shape the future of access to justice in Uganda.

LASPNET therefore started small in terms of the sample identified to respond to the justice survey tool and the geographical coverage that informed the current report. This report provides the first step into a process that LASPNET will nurture and grow into a concrete exercise to analyse, assess, monitor and improve the state of access to justice.

ACKNOWLEDGEMENT

LASPNET is thankful to DGF for the technical and financial support committed towards the development of this report. We especially thank the technical team for the valuable assistance and guidance at all levels of the process. LASPNET is grateful for the support offered by its membership and partners in the process of developing this report which included: responding to the survey tool, reaching out to other respondents, granting interviews and attending the validation meetings. We acknowledge the special contributions of the Secretariat team led by the Executive Director and the General Secretary, Ms. Lydia Namuli Lubega for their invaluable inputs that informed the indicators as well as preparation of the final report. Thank you all.

EXECUTIVE SUMMARY

Access to justice is a critical element of the rule of law, and it is, therefore, integral to ensuring economic development. This was recognised at international level when the sustainable development goals were adopted and at the international level, during the Universal Periodic Review (UPR) process and is reflected nationally in various legal and policy framework.

However, the issue remains the difference between the law and the practice related also to the actual struggle to claim and obtain a remedy. The implementation of the legal framework continues to be marred by institutional inefficiencies and non-observance of the rule of law the latter witnessed by the arbitrary use of power to undermine the rights of the citizens which are safeguarded by law. The report documents the status of access to justice along the parameters of legal protection; legal awareness; legal assistance; redress mechanisms and enforcements.

The findings show that the justice system is plagued by corruption, case backlog, lack of judicial officers, lack of legal representation and lack of respect for the rule of law. The report therefore makes recommendations to address some of these challenges to include: increasing the spread and number of community based paralegals; increasing the use of ADR at all levels of the justice chain; passing of the national legal aid policy and law as documented in various media report, institution reports and forums. The report ends with action points for the different JLOS institutions to address some of these challenges that are hampering access to justice.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

The access to justice process starts from the normative protection, to the legal awareness, legal assistance, redress and conflict resolution and enforcement. Uganda has made progressive steps by enacting laws that protect the right to access to justice. Further, the institutional structure to implement the legal framework is already in place. However, both the legal and institutional framework has been impacted by a number of factors as highlighted in the report, such the lack of capacity of stakeholders, ignorance of duty bearers, poor funding and poor accountability system which continue to undermine the right of citizens to access to justice.

The 2017 State of Access to Justice Trends Analysis Report is informed by a mixed approach of both qualitative and quantitative methods. Information and data were gathered through Literature review, Key informant interviews¹ and Survey tools.² The report lists challenges.

Summary of key findings

- 87% of respondents were of the view that the current law guarantees human rights to the citizens whereas 96% of the respondents are knowledgeable on where to find justice services or where to seek remedies.
- The survey reveals that 62% of the respondents were ignorant about the procedures required to seek a remedy.
- 96% of the respondents reached stated they had encountered a problem while using justice institutions. Most of the challenges were encountered at the Police, Court and ODPP respectively, including the prevalence of corruption, delays in judicial process and high cost of litigation.
- The findings point out that 64% of the Duty bearers dispute the independence of the Judiciary alluding to the constant overt and covert intrusion by the Executive and other arms of government.
- Land matters formed the highest justice issues at 44%, criminal matters at 24% and Domestic violence at 17%.
- 69% of justice seekers were satisfied with Alternative Dispute Resolution because it's associated with less costs of litigation.

¹ With JLOS institutions i.e. Uganda Prisons Services and Judiciary

² Administered among LASPs in Eastern, Central, Western and Northern regions.

Institutional Recommendations

(i) LASPNET/ LASPs;

- Strengthen sensitization and awareness programmes to ensure mass sensitization of the citizens on the laws and rights.
- Continue advocating and lobbying for pro-poor laws and policies i.e. Witness Protection Bill, Marriage Bill, Administration of Justice Bill, National Legal Aid Policy and Bill.
- Enhance safeguard of freedoms through Public Interest Litigation to reinstate the observance of rule of law.
- Develop protocols to standardise ADR mechanisms.

(ii) Judiciary;

- Strengthen through revival and replication of sustainable innovations in access to justice such as plea bargaining, mediation and state brief schemes.
- Provide supervisory role to Local Council Courts upon establishment.
- Ensure efficiency and effectiveness in the way cases are handled for example trials should be done upon committal to reduce on case backlog.
- Rethink complex court procedure to enhance efficiency.
- Facilitate more appointments of judicial officers and increase resources to the Judiciary to enhance its independence.

(iii) JLOS Secretariat and Ministry of Justice and Constitutional Affairs;

- Engage and Support Uganda Law Council to incorporate informal justice delivery mechanism issuance of practice direction.
- Facilitate the process to formally recognize informal justice systems by the sector.
- Lobby for increase of the budget of JLOS institutions to ensure effective operationalization and administration of justice in Uganda.
- Fast track the passing of the NLAP and Administration of Justice Bill to ensure the indigent access justice and guarantee independence of the Judiciary.
- Strengthen mechanisms to address justice giving emphasis to diversion, rehabilitation and legal representation.

(iv) Uganda Police Force;

- Improve welfare of Police Officers to reduce on corruption incidences.
- Protect human rights by refraining from use of excessive force on civilians.
- Enhance community-driven approaches to policing.

(v) Office of the Director of Public Prosecutions;

- Fast track and adequately advice on timely investigations.
- Adopt and fast track the Anti-corruption strategy.

ACRONYMS

ADR	ALTERNATIVE DISPUTE RESOLUTION
CSOs	CIVIL SOCIETY ORGANISATIONS
DPP	DIRECTORATE OF PUBLIC PROSECUTION
JLOS	JUSTICE LAW AND ORDER SECTOR
IG	INSPECTOR OF GOVERNMENT
LASPNET	LEGAL AID SERVICE PROVIDERS' NETWORK
LASPs	LEGAL AID SERVICE PROVIDERS
MDGs	MILLENNIUM DEVELOPMENT PLAN
NDPI	NATIONAL DEVELOPMENT PLAN ONE
NDPII	NATIONAL DEVELOPMENT PLAN TWO
NGOs	NON-GOVERNMENTAL ORGANIZATIONS
POMA	PUBLIC ORDER MANAGEMENT ACT
PWDs	PERSON WITH DISABILITIES
SDGs	SUSTAINABLE DEVELOPMENT GOALS
SDPIV	STRATEGIC DEVELOPMENT PLAN FOUR
UN	UNITED NATIONS
UPR	UNIVERSAL PERIODIC REVIEW

Access to Justice Trends in 2017

8 NEW PAGES, Friday, April 14, 2017

Chief Justice asked to explain bail cash refunds

By Betty Amambua
Katureebe asked members of the public to be vigilant and report any Judiciary staff who ask for a bribe

Members of the public have asked the Chief Justice, Bart M. Katureebe, to clarify why he has asked them to be vigilant and report any Judiciary staff who ask for a bribe. He said he has asked them to be vigilant and report any Judiciary staff who ask for a bribe. He said he has asked them to be vigilant and report any Judiciary staff who ask for a bribe.

Military Nsamu

Court ruling on interim orders challenged

Elizabeth Musoke
Kingnet Kakuru

The Constitutional Court has ruled on interim orders challenged by Elizabeth Musoke and Kingnet Kakuru. The court found that the orders were valid and should be upheld.

New Vision, Monday, May 8, 2017

High Court registrar recovers 20 lost files

By Jackie Nambooga

The High Court registrar has recovered 20 lost files. The registrar, Jackie Nambooga, said that the files were found after a thorough search of the court's records.

Police chief suspended over sexual harassment

By Betty Amambua

The police chief has been suspended over allegations of sexual harassment. The suspension is effective immediately.

Kaweesi murder: Kasingye sued over holding children

By Betty Amambua

Kaweesi's family has sued Kasingye over the alleged murder and the holding of children. The lawsuit is currently pending in court.

Bart M. Katureebe, Chief Justice Vigilant citizenry guarantees right

By Betty Amambua

Chief Justice Bart M. Katureebe has urged a vigilant citizenry to ensure the rights of all citizens are protected. He said that the judiciary is committed to upholding the rule of law.

14-year-old detained for 432 hours without trial

By Betty Amambua

A 14-year-old child has been detained for 432 hours without trial. The case has raised concerns about the treatment of children in the justice system.

Police, Judiciary most corrupt in East Africa

By Betty Amambua

A survey has found that the police and judiciary are the most corrupt institutions in East Africa. The survey was conducted in Uganda and Kenya.

Wakiso councillors convicted over assaulting journalist, fined sh15m

By Betty Amambua

Wakiso councillors have been convicted for assaulting a journalist and fined sh15 million. The court found them guilty of multiple offenses.

Govt creates more magistrate's courts countrywide

By Betty Amambua

The government has created more magistrate's courts across the country to improve access to justice. The new courts are being established in rural areas.

Courts fail to try 470 cases over 10 years

By Betty Amambua

Courts have failed to try 470 cases over a period of 10 years. This backlog of cases is a major concern for the judiciary.

Attorney general defends interim ruling

By Betty Amambua

The Attorney General has defended an interim ruling. He said that the ruling is in the best interests of the country.

19, 2017 Vol.33 No.014 Price: USH 2,000 (K)

MUNGIWA PROBED OVER CORRUPTION

Says the Principal Judge is fighting him, page 4

KAMPALA. Deputy Chief Justice Kavuma is retiring, Judiciary insists

BY ANTHONY WESAKA awesaka@ug.nationmedia.com

CHAPTER ONE

1.0 INTRODUCTION

The Legal Aid Service Providers Network (LASPNET) is a national membership based Non-Governmental Organization established in 2004. Its purpose is to create and drive strategic and collaborative linkages for Legal Aid Service Providers (LASPs) and other pertinent partners in Uganda. One of the key objectives is to enable LASPs maintain a common and united front while interfacing with various actors in the Justice Law and Order Sector (JLOS). For the last 13 years the network has been at the front of amplifying issues of access to justice and rule of law with a focus on coordination, strategic thinking, learning, capacity development of members, research, documentation and sharing.

LASPNET has a current membership comprising of fifty two (52) members in 70 districts across the country. The members provide a range of legal aid services in one form or another including legal advice and counselling, legal court representation, human rights awareness and advocacy of on key issues in the area of access to justice.

Over the past 13 years, LASPNET has worked to coordinate LASPs to interface effectively with state, non-state and development partners. LASPNET uses a five pronged approach to its interventions which include; research and documentation, networking and partnership, lobbying and advocacy, information data management and capacity building.

The 2017 Access to Justice Trends Analysis Report feeds into the thematic area on research and documentation. The findings from the report will be launched and disseminated to stakeholders in the justice system at the Annual access to justice conference organized by LASPNET.

1.1 RATIONALE FOR THE TRENDS ANALYSIS

The trends analysis was conducted to take stock of emerging trends in the access to justice in Uganda. In particular, the exercise was intended to fulfil three objectives;

1. To give an account of overall implementation of the access to justice legal framework;
2. To document emerging trends in access to justice
3. To identify the key challenges and impediments to access to justice;
4. To document emerging issues for dissemination to inform advocacy and improve service delivery.

1.2 APPROACH AND METHODOLOGY

The trends analysis was conducted using both qualitative and quantitative methods. The qualitative method was key in providing background information on the normative principles on access to justice and yardstick for measuring access to justice. The quantitative methods helped to highlight the trends and perception within the context of Uganda. Therefore, the exercise draws upon both primary and secondary sources of data. In detail, the exercise adopted the following methods of data collection;

Literature Review: An extensive literature review was conducted on international human rights instruments, the national legal and policy framework on key Ugandan legislation relating to access to justice, reports and reviews of the Justice Law and Order Sector, publications on access to justice from other jurisdictions, evaluation reports, Civil Society Reports, JLOS Strategic Investment Plan III, JLOS Strategic Development Plan IV, newspaper articles, case law, and previous researches and publications of LASPNET. See Annex 1.

Key informant interviews: Key informant interviews were conducted guided by semi structured questions with 13 stakeholders in the justice system during the development of the indicators and the report. See Annex 2.

Survey tools: Survey tools were administered across the country to LASPs, various duty bearers and 29 users of the justice system. The category of LASPs included those registered with LASPNET based in the four regions of Uganda namely: Northern, Western, Eastern and Central Region. The LASPs were further used to administer the tool to the duty bearers within the justice system including: judicial officers, state

prosecutors and police officers. The court users included those that have interacted with LASPs and were targeted at either court or at the premises of LASPs. *See Annex 3.*

1.3 LIMITATIONS

The limitations of the trends analysis relates first to inadequate financial and human resource to facilitate detailed interviews and a wider area for interaction which provides a chance for clarification of issues.

The trends analysis was also constrained by the short period of time within which the numerous processes had to be conducted against human resource constraints. Further, the sample that responded to the tool was restricted to: LASPs under the umbrella of LASPNET, to the clients of LASPs and duty bearers located in the same area as the LASPs. Therefore, the respondents are largely urban oriented since the LASPs are mainly based at the district level. It is also important to note that the data generated during the research has been analysed manually.

1.4 REPORT STRUCTURE

This report is comprised of six chapters. Chapter One provides the introduction and background of the research including the objectives, rationale and the methodology used. Chapter Two defines access to justice and highlights the principles and standards of measuring access to justice to pave way for the analysis of the justice trends. Chapter Three covers the International, Regional and National legal framework that define access to justice. Chapter Four covers the access to justice trends analysis, key emerging issues, challenges and recommendations. Chapter Five provides action points pegged to the responsible stakeholders while Chapter six concludes the research.

CHAPTER TWO: CONTEXTUALIZING ACCESS TO JUSTICE

2.1 DEFINING ACCESS TO JUSTICE IN THE CONTEMPORARY ERA

Access to Justice has been defined as *“a condition in which all people are able to resolve conflicts, seek and obtain remedies for grievances, through formal or informal institutions of justice, in compliance with human rights standards.”*³

The scope of Access to Justice has been expansively defined by scholarly writings, researches, practice notes by the UNDP and working papers over a period of time. Some definitions associate access to justice to availability of legal services and justice institutions⁴; others relate it to the balancing of the justice needs of people with justice services that government plans for the people.⁵ Important to note is that the costs involved to access the justice service must be affordable and the outcome effective. Access to Justice has been analyzed around the concept of existence of a right that can be a basis of seeking a remedy in case the right is violated.⁶ This creates a relationship between the rights holder and the duty bearers which must be recognized and respected to make access to justice a reality. Both the rights holder and duty bearer operate in a justice system which may be formal or informal.

Courts of law have also been very instrumental in defining Access to Justice. The case of **Okenyo Omwansa George**⁷ defined Access to Justice to include:

*“..... the enshrinement of rights in the law; awareness of and understanding of the law; easy availability of information pertinent to one’s rights; equal right to the protection of those rights by the law enforcement agencies; easy access to the justice system particularly the formal adjudicatory processes; availability of physical legal infrastructure; affordability of legal services; provision of a conducive environment within the judicial system; expeditious disposal of cases and enforcement of judicial decisions without delay.”*⁸

Access to Justice is therefore a possible reality. If the laws offer rights and entitlements, the rights holders are aware of their rights, there is prevalence of or access to mechanisms to enforce and protect the rights through legal and judicial services in a timely and fair manner thus remedies as well as the ability to enforce the remedy with ease.

Also critical in defining Access to Justice is the ability to access legal services. Thus, assessing access to justice has been linked to the availability of legal and quasi legal institutions.⁹ The concept of access to justice therefore confers an array of interlocking factors which must be considered together to get the complete picture. It is in this light that the access to justice trends in Uganda is analyzed.

The LASPNET research on Poverty, Vulnerability and Marginalization¹⁰ in the context of access to justice published in 2015 highlighted a number of bottlenecks to accessing justice including physical accessibility to justice delivery institutions to the extent that only 18.2% of people in rural areas are able to access a Magistrate’s Court within a distance of less than 5km¹¹; lack of confidence in the justice system; complexities such as English being the official language used yet most rural people are illiterate; corruption; high court related costs and cultural or social barriers, among others.¹² A 2016 HiiL research on justice needs in Uganda showed 88% of citizens to have experienced difficulty in resolving justice problems in a period of four years. The study also found the justice system complex to navigate, expensive and in many cases not capable of producing fair outcomes.¹³ The poor and vulnerable are the primary victims of marginalization, discrimination, exclusion and exploitation which further exacerbates their situation,

³ United Nations Development Programme, Programming for Justice: Access for All: A Practitioner’s Guide to a Human Rights-Based Approach to Access to Justice, Bangkok, UNDP, 2005

⁴ The UNDP and Sida have facilitated a number of researches on access to justice at the continental and regional levels.

⁵ M. Cappelletti Rabel, Parker C, 1999, Heywood, 1999, Carothers, 1999.

⁶ La Salle Institute of Governance, 2003. Background Paper on Access to Justice Indicators in Asia Pacific Region.

⁷ Okenyo Omwansa George & another v Attorney General & 2 others [2012] eKLR

⁸ Ibid

⁹ UNDP, 2003.

¹⁰ LASPNET 2015 'Access to Justice for the Poor, Vulnerable and Marginalised People of Uganda ' p 13.

¹¹ Ibid

¹² Ibid

¹³ HiiL Justice needs in Uganda 2016

leading to extreme forms of poverty and vulnerability.¹⁴ They face attitudinal barriers, technical and complex practices that are confusing for laypersons who may be literate. The poor and vulnerable persons, already faced with difficulty in several ways including illiteracy, interacting with the legal procedures and adversarial is a daunting task.¹⁵ Also many who are poor and vulnerable cannot afford to retain the services of lawyers, due to high poverty levels. The often highly charged and adversarial system of justice combined with several procedures and rules can be distressing and disempowering. The most prevalent justice problems in Uganda related to land, family matters and crime, with specifically high occurrences of disputes with neighbors over boundaries, rights of way or access to property, theft/robbery and domestic violence.¹⁶

2.2 JUSTICE SYSTEM AT A GLANCE

According to the HILL 2016 survey on justice needs in Uganda;

1. More than a third of the people faced with a problem did not take any steps to resolve it. This is mainly because people feel that they are unlikely to succeed in their efforts to solve the problem, either because of a lack of knowledge or because it entailed a high anticipated risk, such as an aggravation of the relationship with the other party (especially in case of family problems) or high investment in terms of time and money.
2. When people do take action, direct personal action, the involvement of family and the social network are crucial to deal with their justice problem. LCCs play an important role too, especially for the vulnerable population.
3. Courts and lawyers are marginal to the experience of day-to-day justice of the people in Uganda: less than 5% of dispute resolution takes place in a court of law and in less than 1% of the cases a lawyer is involved.
4. The LCCs, particularly at the lowest level (LC1), hold an important place in Uganda's justice system. Despite the fact that these courts, prior to the recent election, have been ruled to be not validly constituted, they are presently the most widely used institution for dispute resolution in Uganda.
5. Trust in justice institutions, in particular the formal system, is low. Whereas informal fora of dispute resolution (NGOs, legal aid centers) enjoy considerable levels of trust, courts and lawyers are among the least trusted institutions.
6. The majority of Ugandans seek information and advice from their social network and the Local Council Courts (LCCs). Formal legal sources are used as well, but to a lesser extent. More vulnerable people (poor people in rural areas and people who received less education) tend to seek less information and advice because of a lack of knowledge and greater negative perception about the prospects of solving their problem.
7. Over a four year period, almost 90% of Ugandan people experienced one or more serious justice need(s) that were difficult to resolve. Most people experience more than one problem, with 23% even encountering three or more problems.¹⁷

The current exercise based on indicators developed from extensive literature review and interviews therefore an effort to track progress on the understanding of the perspectives and experiences of ordinary citizens that can facilitate the identification of barriers to access justice and ultimately make recommendations. The present process serves to actualize the Access to Justice Indicators previously developed and validated by justice stakeholders to lead a process of monitoring access to justice.

The development of indicators involved the review of the access to justice background and key frameworks at various levels including the national, regional and the international level. The evolving definitions and ways of measuring access to justice were analyzed to inform the process of developing

¹⁴ LASPNET 2015 'Access to Justice for the Poor, Vulnerable and Marginalised People of Uganda.

¹⁵ LASPNET 2015 'Access to Justice for the Poor, Vulnerable and Marginalized People of Uganda' p 75 ; HiiL 2016 'Justice Needs in Uganda'

¹⁶ HiiL 2016 'Justice Needs in Uganda'

¹⁷ Justice Needs in Uganda 2016

indicators that LASPNET will continuously use within its operating environment, first to determine the emerging issues on access to justice, document them and use them as a basis for advocacy, second is to identify good practices, document them and disseminate them for replication and third to generate information that will influence planning to attend to the actual justice needs of the people.

The development of the access to justice trends report therefore draws largely from the development of the access to justice indicators in terms of the theoretical framework but also the critical benchmarks of assessing the prevalence of access to justice and the situational analysis of the Ugandan context. The situational analysis highlighted key achievements including government and Civil Society Organizations (CSOs) initiatives but also the challenges that affect the realization of the right to access justice. Key emerging issues in the previous exercise included: cognizance of a robust legal and regulatory framework comprised of a series of access to justice laws and institutions, the implementation of the legal framework, the functionality of the institutions and the interrelations between the legal regime, the justice institutions and citizens. The development of the access to justice trends report therefore highlight progress on key access to justice issues through highlighting achievements and challenges. Essentially the current process provides recommendations to drive a successful access to justice agenda.

2.3 KEY BARRIERS LIMITING ACCESS TO JUSTICE

Access to justice is constrained by a number of several factors and some of these include;

Poverty: Appreciation is made to the contemporary issues that influence our operating environment and affect access to justice including the poverty. Poverty rated at 33% to 35%¹⁸ is largely responsible for illiteracy and low levels of education which in a sense defeats access to justice due to ignorance. The second National Development Plan estimates that there are about 7 million Ugandans trapped in chronic poverty. Uganda is also faced with a challenge of marginalized and vulnerable groups who also mirror in the issues of access to justice and therefore their special needs must be considered. Categories of the marginalized and vulnerable groups include those disadvantaged by age, gender, history, economic status and disability. Some of these groups include persons with disabilities; the elderly, lonely and isolated; children with parents in prison; children, persons with disabilities; the homeless; island-based communities amongst others.¹⁹ These categories have bigger challenges in accessing justice and face multiple disadvantages while interfacing with the justice system. They are often victims of discrimination, abuse, exploitation and neglect and yet lack capacity to enforce their rights through meaningful remedies. Without effective inclusive and affordable access to justice mechanisms, the poor, vulnerable and marginalized are denied the opportunity to enjoy, claim or reassert their rights.

Corruption: Despite strong anti-corruption and institutional framework,²⁰ the 2015 Corruption Perceptions Index of Transparency International ranked Uganda 139th out of 167 countries. According to the 2015 National Service Delivery Survey, 83% Ugandans believed that corruption has increased with three out of four household's survey indicating that they were required to make some payments for the services at court. Such payments included informal payments that are not receipted. The same report ranked the Uganda police as the most corrupt institution. Further, the Inspector of Government report 2014 indicates that 37% of respondents believed the Judiciary is very much involved in corruption. They identified services that attract bribes to include: accessing court files, bail payment, fixing hearing dates and accessing magistrates. It's also important to note that corruption –whether real or perceived has a strong bearing on how or if at all people will choose to interact with the justice system According to the 2016 study by the Fletcher Facilitation in the Criminal Justice System: A Systems Analysis of Corruption in the Police and Courts in Northern Uganda, there is a fear of criminal justice and where to go to obtain justice. That makes people vulnerable to bribes. There seems to be an acceptance and legitimisation of corruption, with fear and lack of trust increasing the prevalence of corruption.²¹

¹⁸ Uganda Poverty Assessment Report 2016.

¹⁹ Poverty Vulnerability Marginalized Report, pg58

²⁰ Facilitation in the Criminal Justice System Institute for Human Security • The Fletcher School of Law and Diplomacy • SEPTEMBER 2016 Series 1, Number 2 Occasional Paper A Systems Analysis of Corruption in the Police and Courts in Northern Uganda.

²¹ Facilitation in the Criminal Justice System Institute for Human Security • The Fletcher School of Law and Diplomacy September 2016 Series 1, Number 2 Occasional Paper A Systems Analysis of Corruption in the Police and Courts in Northern Uganda.

When the poor and vulnerable cannot afford to pay requested bribes for services that should be free, their claims and cases are delayed, denied or discontinued. Moreover, bribes represent a greater burden for persons living in poverty, increasing transactional costs of accessing justice institutions and services.²² They are not only denied access to justice when they are unable to meet the costs of bribes or engage in other corrupt activities, but they are also discouraged from accessing the justice system when they perceive the system to be corrupt and hence are denied an opportunity to enforce their legal rights.²³

Lack of Confidence: Persons who are poor, vulnerable and marginalized lack confidence in navigating the justice delivery system as they view it as impartial and are fearful of power structures. Their status as poor persons in a highly monetized justice system and environment raises fears of further marginalization and re-victimization.²⁴

Urban based Legal Aid Service Providers: It is important to note that legal services provided by over 2600 advocates including the LASPs²⁵ are mainly based in urban areas leaving out majority of the target audiences that are based in the rural areas unattended. Note is made of the reality that legal aid in Uganda is largely donor funded and labour intensive. This situation is unsustainable considering the shifting priorities of donors. Legal aid service providers have not made much effort to shift from donor dependency to social enterprises that can generate their own incomes or explore other opportunities to make legal aid sustainable.

Cost: The costs of accessing justice remains high and unsustainable for both legal aid service providers and clients particularly in absence of nationwide state funded legal aid scheme. Many poor, vulnerable and marginalised persons cannot afford to pay for services such as filing fees or facilitating witnesses to court²⁶

This is further complicated by lack of a unified and systematic mechanism of identifying deserving poor, vulnerable and marginalised persons. Many beneficiaries are constantly engaged in forum shopping which often results in wastage of resources.

Structural and human resource challenges of the regulator: The Uganda Law Council (ULC), the regulator faces institutional challenges that include human and financial resources. This has resulted into restrictive and sometimes irregular monitoring of standards of legal service provision. It is also curtailed by its current legal framework in as far as supporting progressive developments in legal aid service provision such as allowing use of paralegals or what is commonly referred to community volunteers in legal service provision. LASPs face challenges of standards of service delivery and limited geographical distribution compared to the level of demand. While efforts have been made towards development of paralegal regulations and amendments to the pro bono regulations and soon guidelines for university legal aid clinics, despite engagement policy framework for community based paralegals who are closet to the community was left out. It is therefore important to track the state of access to justice especially in light of the needs of the poor and vulnerable and further map strategies for improvement.

In conclusion, government has made considerable efforts towards improving access to justice in form of laws and policies, establishment of key justice institutions and capacity building of personnel. Government has responded to the above challenges with interventions buttressed by a number of strategies and innovations meant to accelerate access to justice. While acknowledging that the broader vision of access to justice; that is “Justice for all,” popularly held by JLOS is attainable progressively, it is imperative that all efforts are made to monitor and measure access to justice trends especially from the demand side.

UGX 6 Billion
Money given to the judiciary to support computerization of processes"

²² Ibid.

²³ Ibid.

²⁴ LASPNET 2015 'Access to Justice for the Poor, Vulnerable People of Uganda.'

²⁵ ULS members' Register 2016.

²⁶ Interview with World Voices Uganda 28th June 2017

CHAPTER THREE: INTERNATIONAL, REGIONAL AND NATIONAL LEGAL FRAMEWORK

International, regional and National planning frameworks speak to joint efforts of state, development partners including non-state actors to deliver on a set vision, mission and goal. It is in the spirit of the latter that LASPNET seeks to make its contribution by conducting an annual trends analysis on access to justice.

3.1 THE INTERNATIONAL PERSPECTIVE

Access to Justice is a human right guaranteed under the international and regional human rights regime. The Universal Declaration of Human Rights recognises the equality of all before the law and equal protection of the law.²⁷ Further, the Declaration guarantees the right for all persons to seek an effective remedy from the competent national tribunals for any violation of fundamental rights guaranteed under the law.²⁸ The above provisions form the bedrock of access to justice at the universal level.

Critical to the above rights is the due process of law that provides the standard for the realization of a remedy by explicitly guaranteeing equality for all to a fair and public hearing before an independent and impartial tribunal.²⁹

There have been successive human rights instruments at the international and regional level aimed at safeguarding categorical rights namely civic and political rights,³⁰ socio economic rights,³¹ to women's rights,³² children's rights,³³ PWDs³⁴ owing to the historical injustices. All the categorical human rights instruments have re-echoed the principles in the Universal Declaration of Human Rights that is, equality before the law, equal protection of the law and right to seek redress as the foundation to enforce the rights guaranteed in those instruments. Further and specifically, the instruments speak to the right to legal representation to present a claim before the adjudication forums.

Key concepts associated with access to justice as read from the above guarantees is *justice* and *fairness*. While *Justice* relates to the accountability process, *fairness* is associated with protection and vindication of rights and punishment of wrongs.³⁵ The administration of justice is usually attached to seeking recourse to formal judicial processes. However, there is an increase in the advocacy for use of traditional dispute resolution mechanisms even at the international level as a means of accelerating access to justice. First, because they are relevant to the people and secondly because they are easily accessible.³⁶

3.1.1 THE INTERNATIONAL PLANNING FRAMEWORK

Access to Justice is a critical element of the rule of law, and it is, therefore, integral to ensuring economic development. Access to justice is fundamental to the actualisation of other rights embedded in International, national legal and policy frameworks. It enhances law and order, reduces poverty and creates a conducive environment for development among the poor, vulnerable and marginalised. Without effective, inclusive and affordable access to justice mechanisms, the poor, vulnerable and marginalized which includes children, persons with disability, women amongst others are denied the opportunity to enjoy, claim or reassert their rights or challenge breaches thereof. In the absence of access to justice, people are unable to have their voice heard, exercise their rights, challenge discrimination or hold decision-makers accountable. This has led to people resorting to taking the law into their own lands. It further justifies the world's commitment in the United Nations' Sustainable Development Goals not to leave

²⁷ Article 1 and 7, Universal Declaration of Human Rights, 1948.

²⁸ Ibid., Article 8.

²⁹ Ibid., Article 10.

³⁰ See the International Covenant on Civil and Political Rights,

³¹ See International Covenant on Social Economic and Cultural Rights.

³² See Convention on Elimination of all forms of Discrimination Against Women.

³³ See Convention on the Rights of the Children.

³⁴ Convention on the Rights of Persons with Disabilities.

³⁵ See UN ICCPR on www.unodc.org

³⁶ Ibid,

anyone behind.³⁷ Access to Justice was recognised at international level when the Sustainable Development Goals (SDGs) were adopted.

In September 2015, the UN adopted the 2030 Agenda for Sustainable Development (2030 Agenda) and its 17 SDGs.³⁸ The SDGs seek to end extreme poverty, fight inequality and injustice, and reverse climate change by 2030. It is the first global agenda to recognize that sustainable development cannot be achieved without equal access to justice for all.

Sustainable development can only be realized when people are able to understand and use the law to protect their rights, obtain justice and ensure that their basic needs are met. It is therefore important that people are protected by the law. For these people, the law is broken. In setting forth its unprecedented call for access to justice, Goal 16 states that countries should.

“[p]romote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable and inclusive institutions at all levels.”

Target 16.3 states that countries should “[p]romote the rule of law at the national and international levels and ensure equal access to justice for all.”

The objective of Goal 16.3 of the SDGs is to promote the rule of law at national and international level and ensuring equal access to justice for all. The inclusion of the access to justice agenda in the international development goals creates a nexus between access to justice and development. Thus, access to justice shall be planned and implemented in a manner that enhances growth and eliminates poverty.

Further, during the Universal Periodic Review (UPR) process, Uganda adopted several recommendations such as accelerating improvement of police, judicial and prison systems, improve juvenile system, improve prison conditions by tackling over-crowding, unsatisfactory state of prisons and health care shortcomings and adoption of the state funded legal aid.

The *International Covenant on Civil and Political rights (ICCPR)* grants a spectrum of rights and obliges the State to put in place enabling legislation for the realization of rights if not alright in existence.³⁹ The ICCPR is very emphatic in the protection of rights of an offender of the law against injustices and moves from normative aspects to procedural aspects that ensure due process of law to ideally enhance access to justice.⁴⁰ The ICCPR thus combines the existence of the normative aspects of justice, the structures and the systems coupled with procedure or processes as key in access to justice.⁴¹

Several other international instruments have been enacted and ratified at the international level to guarantee rights of vulnerable and marginalized groups but also enhance their protection through the adjudication platforms. The instruments guarantee rights of the specific vulnerable groups; restate the principle of non-discrimination and equality to access and remedial avenues. These include: *the International Covenant on Economic Social and Cultural Rights (ICESCR)* guarantees the social and economic rights while the *Covenant on the Elimination of all Forms of Discrimination (CEDAW)*; safeguard the rights of women in the domestic, social work and political spheres. The latter two Covenants set the pace in as far as providing for the normative principles is concerned but do not cover judicial remedies.

On the other hand, the *Convention on the Rights of Persons with Disabilities (CRPWD)* and *Convention on the Rights of the Child (CRC)* have been more progressive in protecting the right to access justice for Persons with Disabilities (PWDs) and children respectively. CRPWD reaffirms the right of persons with disabilities to enjoy legal capacity on equal basis with others and obliges the state to provide support they require to

³⁷ Note Goal 16 of the Sustainable Development Goal whose objective is to “promote just, peaceful and inclusive societies.”

³⁸ The United Nations has successfully transitioned from the Millennium Development Goals (MDGs) to the Sustainable Development Goals (SDGs).

³⁹ International Covenant on Civil and Political Rights, Article 2 (2).

⁴⁰ Ibid., Article 14.

⁴¹ Further Article 14(3) (d) expressly guarantees right to legal assistance during criminal proceedings where States are encouraged to provide free legal aid for individuals who can't afford it. Article 14 provides due process guarantees during criminal proceedings. Thus, the ICCPR sets the standard of access to justice in criminal proceeding or in determination of one's rights and obligations by elaborating on due process; Further Article 14(3) (d) expressly guarantees right to legal assistance during criminal proceedings where States are encouraged to provide free legal aid for individuals who can't afford it.

exercise their legal capacity under the necessary and appropriate safe guards.⁴² Similarly to the CPWRD, the UNCRC is progressive in providing protection to children. The CRC has been very explicit in its provisions relating to the child's right to access justice. The convention sets the standard for treatment of children in conflict with the law. The CRPWD specifically obliges the state to ensure that effective access to justice for persons with disabilities on an equal basis with others. This includes the provision of procedural and age appropriate accommodation to facilitate their effective role as direct and indirect participants including as witnesses in all legal proceedings, at investigative and other preliminary stages.⁴³ A key component CRPWD that makes the instrument progressive relates to promotion of appropriate training for those working in the field of administration of justice including police and prisons staff.

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

3.2 THE REGIONAL PERSPECTIVE

The African Charter on Human and Peoples' Rights safeguards the rights and freedoms of African people in the political, social, economic and cultural spheres. The instrument provides a bedrock for individual states to establish an access to justice framework. It lays emphasis on the principle of equality of all people before the law and thus equal protection by the law in the same spirit. The Charter also speaks to remedial aspects including right to due process of law. The Charter guarantees the right to be heard which entails the right to appeal to competent national organs against acts of violation of fundamental rights, the right to be presumed innocent until proved guilty by a competent court, the right to defence, including employment of a counsel of choice, right to timely adjudication of the matter.⁴⁴ The African Union Human rights legal regime is also cognizant of category rights of women and children who are protected under the thematic charters. The thematic Charters of the African Union and the Protocols uphold the spirit of equality before the law.⁴⁵

In essence the regional and international instruments are strong on the principle of equality and non-discrimination. Thus, issues of accessibility, affordability, timeliness and effectiveness of remedies on an equal basis are paramount for consideration in planning justice delivery framework. To emphasize protection, guidance has been given to state parties through further guidelines and declarations, general and specific. The Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice system (2004) is one of such efforts. Drawing from both international and regional instruments it re-echoed the importance of legal aid to access to justice and the role it plays in ensuring a fair and speedy trial. The Declaration further called on the state to provide legal aid to persons accused of having offended the law and calls upon state governments to allocate sufficient funds to enable the poor and vulnerable particularly women and children have access to justice. The Declaration also calls for sensitization of criminal justice stakeholders on the importance of legal aid in the administration of criminal justice and hence the state obligation to ensure that it is implemented

3.2.1 THE PROTOCOL ON THE RIGHTS OF WOMEN IN AFRICA (MAPUTO PROTOCOL)

On 22nd July 2010 Uganda ratified the African Charter on Human and Peoples' Rights on the Rights of women in Africa-'Maputo Protocol' with a reservation. The Maputo protocol is groundbreaking instrument that addresses concerns of African women. Since ratification Uganda has not yet domesticated the protocol but has taken deliberate measures to implement the Protocol through the enactment of numerous legal and policy instruments that seek to promote the equality of both women and men and uphold their dignity.⁴⁶

The Protocol on the Rights of Women in Africa is very progressive in its pronouncement of women rights. Article 8 specifically recognises Access to justice and equal protection before the law by stating that

⁴² Article, Convention on the Rights of Persons with Disabilities, 2006.

⁴³ Ibid., article 13.

⁴⁴ Article 7.

⁴⁵ The African Charter on the Rights and Welfare of the Child and The Protocol to African Charter on Human and Peoples Rights.

⁴⁶ Laws such the Prohibition of Female Genital Mutilation Act (2011), the Domestic Violence Act (2010), and the 2016 National Strategy to End Child Marriage and Teenage Pregnancy, among others demonstrate Uganda's efforts towards implementation of the Protocol.

women and men are equal before the law and shall have the right to equal protection and benefit of the law. Particularly, it recognises the right to effective access by women to judicial and legal services, including legal aid.

Important to note is the provision relating to equipping law enforcement agencies with skills to interpret and enforce gender equality. The Protocol further calls for reform of existing discriminatory laws and practices.

3.2.2 THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD

This charter from the outset recognizes the ‘needs of the child due to his physical, mental, moral and social development, and requires legal protection in conditions of freedom, dignity and security’. Within that framework, it recognizes the rights of children in the area of civil, political, economic and social cultural rights.

3.2.3 AFRICAN YOUTH CHARTER

African Youth Charter is an instrument of the African Union. The Charter enumerates the socio economic rights and responsibilities of the youth. In its preamble, the Charter recognizes the plight of the youth with challenges such as unemployment, income inequality and the need for cross-sectoral policies and programmes that attend to the needs of youth. The Charter mandates states to ensure that accused and convicted young people are given legal aid ⁴⁷ and that the state employs rehabilitative practices for those in conflict with the law.

The regional and international instruments guarantee rights and freedoms enforceable on the principle of equality and non-discrimination. It is therefore of utmost importance that the state takes positive steps to guarantee accessibility, affordability, timeliness and effectiveness of remedies on an equal basis. To emphasize protection, guidance has been given to state parties through further guidelines and declarations, general and specific.

Other instruments

3.2.4 THE LILONGWE DECLARATION ON ACCESSING LEGAL AID IN THE CRIMINAL JUSTICE SYSTEM

The Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice system (2004) re-echoed the importance of legal aid to access to justice and the role it plays in ensuring a fair and speedy trial. The Declaration further called on the state to provide legal aid to persons accused of having offended the law and called upon state governments to allocate sufficient funds to enable the poor and vulnerable particularly women and children have access. The Declaration also called for sensitization of criminal justice stakeholders on the importance of legal aid in the administration of criminal justice and hence the state obligation to ensure that it is important. A critical aspect emphasized by the Declaration is access to legal aid at all stages of the criminal justice process and availed to suspects immediately after arrest.

3.2.5 PRINCIPLES AND GUIDELINES ON THE RIGHT TO A FAIR TRIAL AND LEGAL ASSISTANCE IN AFRICA, 2003 (DAKAR DECLARATION)

The declaration recognizes the right to a fair trial as a fundamental right, the non-observance of which undermines all other human rights. Therefore the right to a fair trial is a non-derogable right, especially as the African Charter does not expressly allow for any derogation from the rights it enshrines. The realization of this right is dependent on the existence of certain conditions and is impeded by certain practices. These include: rule of law, democracy and fair trial; independence and Impartiality of the Judiciary; traditional courts; Independence of Lawyers and Bar Associations; Other Human Rights Defenders; impunity and effective remedies; victims of crimes and abuse of power; legal aid; children and fair trial; women and fair trial. The Dakar Declaration recommends that African States should allocate adequate resources to judicial and law enforcement institutions to enable them to provide better and more effective fair trial guarantees to users of the legal process; urgently examine ways in which legal assistance could be extended to indigent accused persons, including through adequately funded public defender and legal aid schemes; in collaboration with Bar Associations and NGOs enable innovative and additional legal assistance programmes to be established including allowing paralegals to provide legal assistance to indigent suspects at the pre-trial stage and pro-bono representation for accused in criminal proceedings; Improve judicial

⁴⁷ Article 18 African Youth Charter.

skills through programmes of continuing education, giving specific attention to the domestic implementation of international human rights standards, and to increase the resources available to judicial and law enforcement – and take immediate measures to ensure better and effective representation of women in judicial institutions, reform judicial procedures which discriminate against women and provide gender awareness training to judicial and law enforcement officials

3.2.6 Kyiv Declaration on the Right to Legal Aid Conference on the Protection and Promotion of Human Rights through Provision of Legal Services 2007

Signed by 115 states as the outcome of the 2007 conference, this document recognizes legal aid as a right. It is meant to influence development of national policies and programmes addressing legal aid, access to justice and rule of law. The preamble recognizes that people in the legal systems of many states are denied access to justice and are ignorant about their human and legal rights and procedures and obligates government to implement sustainable, quality controlled legal aid programs at all stages of the justice system. The preamble also lists the benefits of legal aid to include the elimination of unnecessary detention, speedy processing of cases, fair and impartial trials and dispute resolution, the reduction of prison populations, the lowering of appeal rates, decreased reliance on a range of social services, the advancement of social and economic rights, and greater social harmony.

As discussed, the international and regional instruments have provided a standard which must be carefully benchmarked in the legislative making process at the national level to influence customized delivery of justice as per the state commitments at ratification. The above instruments have also been influential in guiding the world planning framework at national, regional and international level and selection of overall goals and objectives. The study acknowledges that the instruments have in essence set the standards. The responsibility of implementing the standard lies primarily with the state and secondly with all citizens of Uganda.

3.3 THE UGANDAN PERSPECTIVE

Uganda has been quite progressive at ratifying and domesticating international and regional human rights instruments as and when they fall due. At the preliminary level, it is therefore acknowledged that the legitimacy for implementation of access to justice has been recognized and ushered into our system.

3.3.1 THE LEGAL FRAMEWORK ON ACCESS TO JUSTICE IN UGANDA

The *Constitution of the Republic of Uganda*⁴⁸ provides substratum for implementation of the principles contained in the international and regional human rights instruments including those on access to justice as noted above. The Constitution *prima facie* is a very progressive instrument and a reflection of the aspiration of the universal human rights regime. The Constitution guarantees a number of freedoms and rights, especially equality before the law to all citizens and the right to seek redress from courts of law in case of violation of rights.⁴⁹ The right to a fair trial is at the heart of the subject of access to justice. The right to a fair trial is guaranteed in both civil and criminal proceedings in the Ugandan Constitution.⁵⁰ In relation to criminal proceedings, the right to a fair hearing entails a number of guarantees to an offender to ensure he or she gets justice including the right to legal representation at the expense of the state for offenders charged with capital offences.⁵¹ Legal representation is extremely important in the pattern of access to justice, first it acts as a bridge between the claimant/right holder/accused/offender and the duty bearer by rightly positioning and introducing the user to the justice system. Second, it is meant to simplify the judicial process to the users of the justice system. Lastly, legal representation safeguards the abuse of the users' rights.

The Constitution is buttressed by a number of operational legislation that guides access to justice. For instance, we witness an expansive provision in relation to legal representative of persons interfacing with

⁴⁸ Cap 1, Laws of Uganda 2000.

⁴⁹ *Ibid.*, Article 21 (1).

⁵⁰ *Ibid.*, Article 28 (1)

⁵¹ Under Article 28, the presumption of innocence until proven guilty is guaranteed. Further, the article guarantees the right to receive information in an appropriate language on the nature of charges levied against a person. The offender is also entitled to be given adequate time to prepare a defence, use of a lawyer of one's choice, interpretation services were he or she does not understand the language of court, right to examine witnesses and produce witnesses in court, attend the trial in person, obtain a copy of the judgment and protection from double jeopardy.

the justice system in the *Advocates Amendment Act*⁵² which makes it mandatory for advocates registered with the Uganda Law Council to provide pro bono services when required or pay money in lieu. This goes beyond the Constitutional limitations of the right to free legal representation to offences that carry the death penalty or imprisonment for life as sentence.⁵³ The Advocates Amendment Act also defines pro bono as professional services of an Advocate given for public good to indigent persons at no charge.⁵⁴ The essence of this law is to enable even the most impoverished access legal services to effectively claim their rights. The regulations⁵⁵ under the act provide for legal aid services to the indigents according to set standards. The regulations for legal aid service providers are important because they ensure a policy and operational environment for legal aid and access to justice. Key principles espoused by the regulations include: focus on the quality of service delivery, effectiveness and efficiency, facilities and qualification of personnel, criteria for selection of clients and geographical coverage, emphasis on the quality of service and client care.

The regulations call for quality client care including hospitality, accessibility, appropriateness of services and conducive environment for confidentiality. The regulations are gender and equity sensitive witnessed in the call for professionalism and sensitivity when handling special groups. Special groups targeted include juveniles, elderly or vulnerable children, orphans, people with disabilities, internally displaced persons, people living with HIV/AIDS, prisoners on remand or refugees. The mention of the above groups as requiring special attention is a move to ensure that they are not excluded from effectively addressing access to justice. *The Advocates (Student Practice) Regulations, 2004* from spiraling access to justice provide affordable and viable options to indigents for legal representation by empowering law students at the Law Development to provide legal aid in Magistrates Court with the supervision of an advocate.

Equally important is the *Poor Persons Defence Act*⁵⁶ which empowers judicial officers to call for legal service for indigents under charges but with no legal representation. The critical issue for this particular study is the overall implementation of the legal framework and the practicability of some of the laws. For instance, even as the laws call for free legal aid services to the poor, there is a cost that is attached to the service that must be paid by someone if not the poor. Often there are no funds to meet the cost of legal aid services apart from programmed legal aid services by LASPs and the state briefs which also have limitations.

3.4.2 THE INSTITUTIONAL FRAMEWORK

The current analysis takes cognize of the prevalence of government institutions set up to administer law and justice. All key government agencies mandated to administer justice and enforce law and order are established under the Constitution of the Republic of Uganda.⁵⁷ The institutions are mandated to guarantee good governance, enhance the rule of law, assure personal safety and security and ultimately enhance access to justice. There are 18 institutions that form the justice sector under the umbrella of JLOS.⁵⁸ The institutions are also spread out at the regional and district level. While at the national level the establishments are concerned with policy, standard setting and monitoring and supervision support; at the sub-national level the actual service delivery is extended to the users of justice services. The effectiveness of the institutions will be assessed using the current trends analysis for effectiveness in enhancing access to justice.

3.4.3 THE NATIONAL PLANNING FRAMEWORK

⁵² Advocate Act Cap 267 as amendment by the Advocates (Amendment) Act of 2002.

⁵³ Ibid., Article 28 (3)(e).

⁵⁴ See note 31, Section 15A.

⁵⁵ The Advocates (Legal Aid to Indigent) Regulation 2007.

⁵⁶ Cap 20, Laws of Uganda.

⁵⁷ The Constitution establishes the Uganda Human Rights Commission under article 51, the Parliament of Uganda under article 77, the Directorate of Public Prosecution, article 119 establishes the office of the Attorney General, article 126 establishes the Judiciary while article 129-141 establish the Courts of Judicature. The law enforcement agencies of Uganda that is the Uganda Police Force and the Uganda Prisons Service are established under articles 208 and 215 respectively.

⁵⁸ The 18 JLOS institutions include: Ministry of Justice and Constitutional Affairs (MoJCA); Judiciary Adjudication; Centre for Arbitration and Dispute Resolution (CADER); Directorate of Citizenship and Immigration Control (DCIC) Citizenship and immigration services) Directorate of Public Prosecutions (DPP) Prosecution; Judicial Service Commission (JSC) ; Law Development Centre (LDC) ;Ministry of Gender, Labor and Social Development(MoGLSD); Ministry of Local Government 11 Tax Appeals Tribunal (TAT Tax 12 Uganda Human Rights Commission (UHRC)13 Uganda Law Reform Commission (ULRC)14 Uganda Law Society (ULS) 15 Uganda Police Force (UPF) 16 Uganda Prison Service (UPS) Prison; Uganda Registration Services Bureau (URSB); National Information and Registration Authority (NIRA)

This study seeks to analyse access to justice in light of the current national planning framework which draws from Uganda Vision 2040- broken down into five year plans coached in the National Development Plan (NDP) currently the NDP II 2016- 21, further informing sector plans currently for the justice sector the Justice Law and Order Sector Strategic Development Plan IV 2017- 2022.

Uganda Vision 2040

The Vision 2040 highlights the observance of human rights as an important component of Uganda's governance and rule of law design. This is also a fundamental intervention that promotes the citizens' dignity in development, and impacts on Uganda's national and international governance rating. Continued human rights violations undermine the rule of law and constitutionalism in Uganda, erode public confidence and trust in JLOS institutions, and stands in stern contrast to our regional and international obligations. The vision commits to respect human rights and fundamental principles during development planning process by applying human rights based approach. This shall be mirrored in legislation and policies, plans and programs. Critical strategies envisioned include: capacity of the duty bearers to respect, fulfil and protect human rights; and that of the rights holders to know, claim and realize their rights. Further, an inclusive approach is envisaged for vulnerable and marginalized groups in society. It is envisaged that the above strategies will be buttressed by implementation and a monitoring framework. Vision 2040 foresees a Uganda where the rule of law and all citizens obey the law and have equal access to justice.

The vision particularly speaks to strengthening of the independence of the Judiciary and increase in the remuneration for judicial officers. Judgements of courts will be respected by all arms of government and enforced. Over the Vision period the capacity, security of tenure and the independence of the Directorate of Public Prosecution (DPP) is targeted for strengthening.

The capacity of the police is also targeted for strengthening through equipment with specialized training in criminal and forensic investigations to ensure prevention and detection of crimes. There will be emphasis on prevention of crime through establishing community policing in Uganda. The conditions of service shall be improved to match the global standards. The intentions of Vision 2040 on access to justice will be analysis in the current access to justice trends analysis.

Second National Development Plan (NDPII) 2015/16 – 2019/20

This National Development Plan (NDPII) is the second in a series of six-five-year Plans aimed at achieving the Uganda Vision 2040 highlighting the challenges and achievements in the JLOS. The JLOS must feed into and contribute to the achievement of the goals set out in the National Development Plan (NDPII).

The plan calls on the sector to plan and improve the legal, policy and regulatory environment that is conducive for doing business to create wealth and employment; enhance access to JLOS services particularly for vulnerable persons; promote human rights in order to ensure accountability, inclusive growth and competitiveness in Uganda; and fight corruption in order to strengthen Uganda's competitiveness for wealth creation and inclusive growth. Another strategy is the development of enabling policy and a framework for provision of legal aid countrywide and the development, implementation and integration of innovative pilots and low cost model of legal aid including paralegal advisory services, juvenile justice and use of paralegal services.

Justice Law and Order Sector Strategic Investment Plan Three (SIPIII) 2012-2017

In designing the SIP III, the Sector took into account the national planning framework namely, the National Development Plan (NDP I), within which the JLOS must feed into and contribute. The Goal of this plan is to promote the rule of law. The sector plan is the heart of government of Uganda to deliver on the component of access to justice through the following objectives: i) strengthening the legislative, regulatory and policy background to ensure JLOS operations; human rights and the rule of law, and national development; ii) enhancing JLOS infrastructure and access to JLOS services; ii) promoting the observance of human rights and fighting corruption.

The vulnerable along the lines of age, social class, location, gender, disaster, vulnerable youths, the destitute and persons with disabilities are a target group. Key focus areas include; land justice, family justice, gender justice, poverty and transitional justice which are in tandem with the justice needs established by the HiiL Report 2016. The above framework provide a favourable platform for realization of access to justice.

MEASURING ACCESS TO JUSTICE

In the development of indicators on access to justice, LASPNET embarked on developing access to justice indicators from a process of document review and key informant interviews. The process largely relied on comprehensive access to justice definitions⁵⁹, case law⁶⁰ and perceptions of respondents to develop indicators for measuring access to justice. The indicators informed the development of the monitoring tool that was used to generate access to justice data that informs the current trends analysis.

Five fundamental broader indicators were identified and validated at a stakeholders' meeting. The indicators are based on government, development partners and civil society organizations' criteria and priorities in the first instance but also drawn from the perception of user of justice service in the second. The access to justice indicators that were formulated and agreed upon include:

- i) the existence of a legal framework which provides the normative principles on the right to redress;*
- ii) knowledge of the existence of the right to enable the holder to speak to the right;*
- iii) access to technical services of a lawyer to assist the holder of the rights to ably claim the rights before an adjudication platform;*
- iv) the presence of clear and effective mechanisms to adjudicate and handle complaints of claims and;*
- v) the existence of mechanisms to enforce the outcomes of adjudication platforms.*

The five indicators make Access to Justice a complete picture in light of the above definition. A mixture of indicators is recommended for mutual benefits but also ensure a holistic picture of access to justice. The current process analyzed the current justice trends based on the five indicators highlighted above which are recommended by the UNDP but also largely validated by the stakeholders as critical in the assessment of access to justice.

⁵⁹ Supra, note 7.

⁶⁰ Supra, note 11.

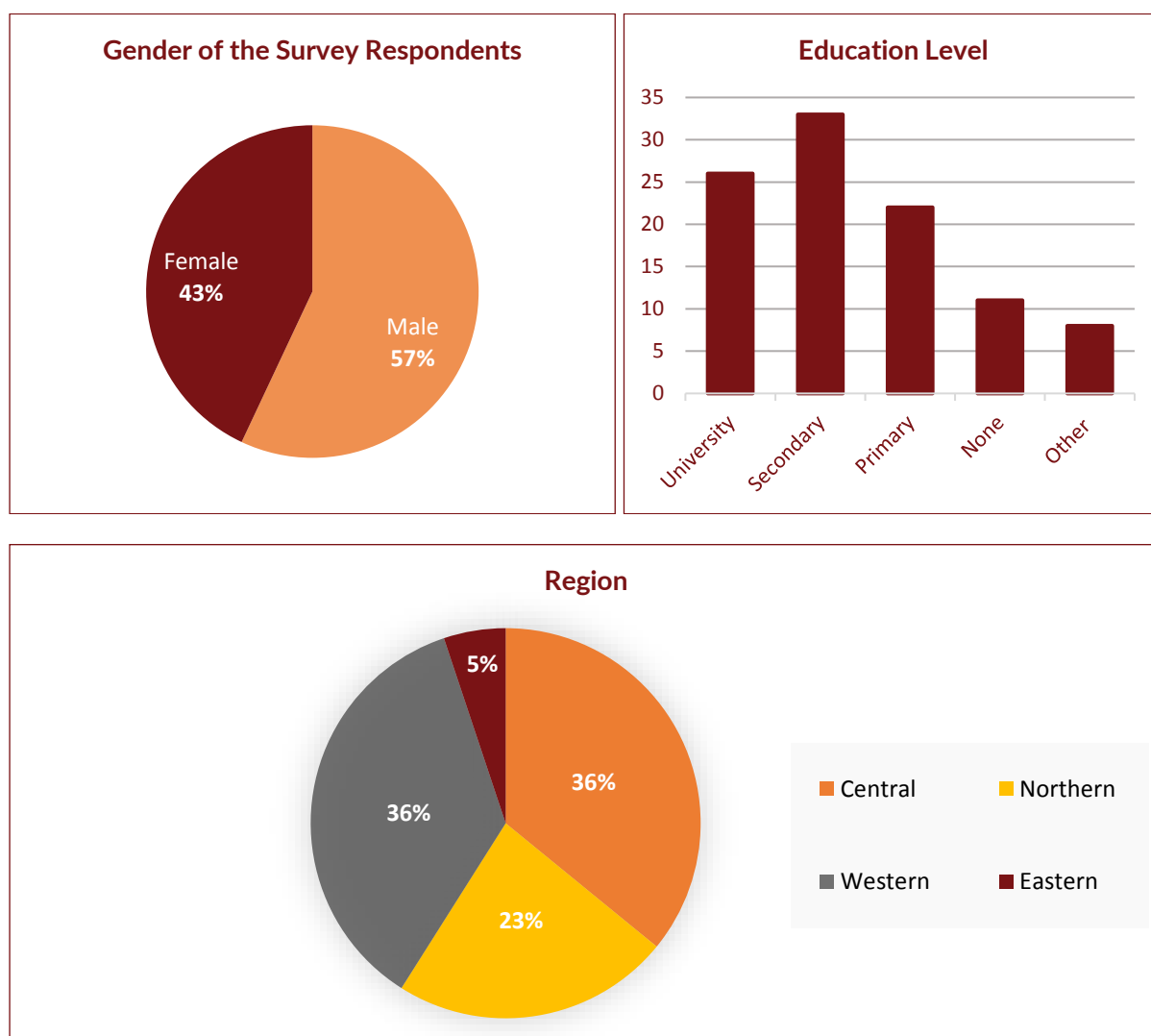
CHAPTER FOUR

4.0 KEY FINDINGS, RECOMMENDATIONS AND CONCLUSION

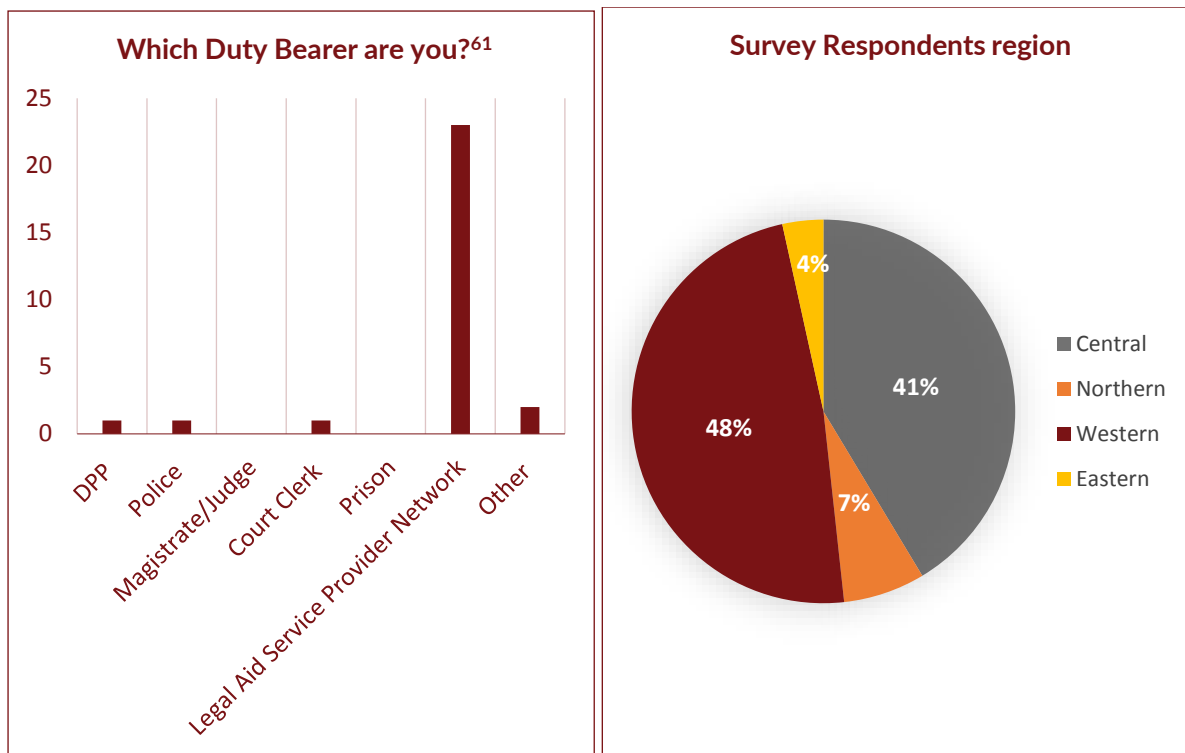
The findings of this study have been analysed based on the international, regional and national legal and regulatory framework stated above. The planning frameworks at the international, regional and national level that set the vision, goals and objectives highlighted above have to a large extent informed the current analysis. Further, the scholarly writings, practice notice and theoretical frameworks have been used to assess the state of access to justice in Uganda. It is important to note that the analysis draws heavily from the contemporary occurrences nationally and also in the justice system.

4.1 TREND ANALYSIS

The current survey conducted by LASPNET informs analysis of the justice trends. The survey was fed by two categories of respondents namely the duty bearers and the users of justice services. At the level of the users of court, the respondents are categorized according to gender, educational level and regions. Duty bearers were categorized according to gender, institution and region. The trends analysis was conducted based on the five indicators of access to justice that broadly indicate the prevalence of access to justice in a functional governance frame.



Categories of users of justice services who responded to the survey.



Categories of users of justice services who responded to the survey

4.1.1 EXISTENCE OF A LEGAL AND POLICY FRAMEWORK

There is a traditionally held view that presence of the normative principle/right and the remedy is at the helm of the process of access to justice. The nature of the legal framework determines whether people access or are denied justice. Elements to be identified for monitoring and rectification include discriminatory norms particularly to vulnerable and marginalized groups. This offers the necessary legal protection of the law and if recognized can definitely help resolve a grievance.

Uganda has since 1995 with the ushering in of Constitution embarked on building a legislative and institutional framework as noted above for realization of access to justice. Key laws for consideration here include the Bill of rights in the Constitution, the Advocates Act as amended and the various regulations⁶² and the Poor Persons Defence Act.⁶³ Justice institutions are also established under the Constitution which lays a firm background for access to justice.

In 2007, the Equal Opportunities Commission was passed into law. The Act established the Equal Opportunities Commission pursuant to articles 32 (3) and 32 (4). The gist of the Act is to operationalize a framework to give effect to the State's constitutional mandate to eliminate discrimination and inequalities against any individual or group of persons on the ground of sex, age, race, colour, ethnic origin, tribe, birth, creed or religion, health status, social or economic standing, political opinion or disability. It is envisaged that the Equal Opportunities Commission will champion affirmative action in favour of groups marginalized on the basis of gender, age, disability or any other reason created by history, tradition or custom and redress the imbalances which exist.

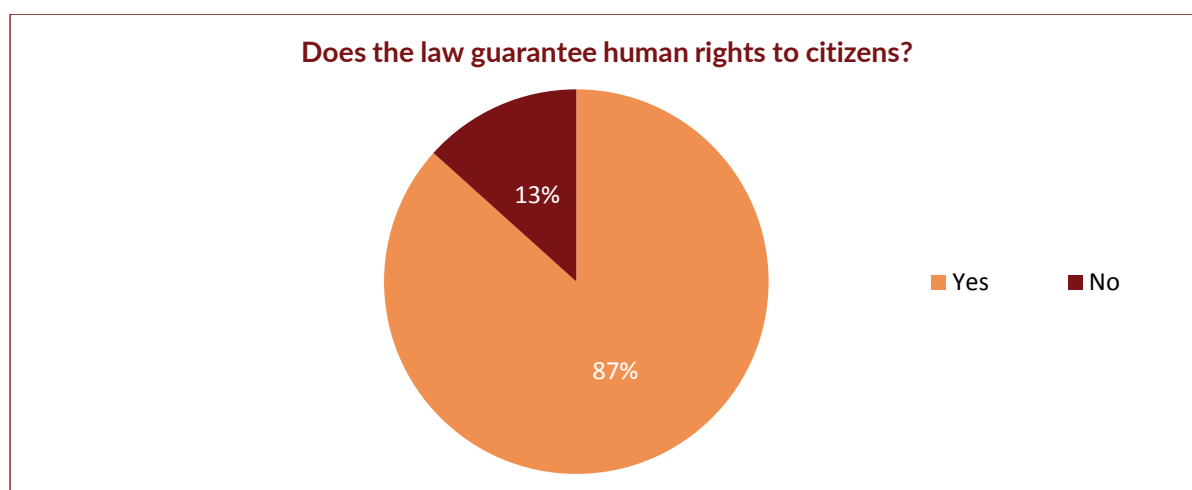
The Uganda Human Rights Commission Act Cap 24 also lays fertile ground for the implementation of 52(1)(i) and 58 of the Constitution. The Commission is charged with the function of championing defend of human rights through monitoring, sensitization, capacity development and standard setting.

⁶¹ Both Judicial and Prison Officials didn't fill in survey questionnaires although they were interviewed.

⁶² Advocates (Legal Aid to Indigent Persons) Regulations, 2007, The Advocates (Student Practice) Regulations

⁶³ Cap 20, Laws of Uganda 2000.

The respondents to the recent survey were of the view that the current law guarantees human rights to the citizens. This was based purely on what is the law and not in any way attached to the practice and implementation of the law. See diagram below



13% who held the opinion that the law does not guarantee human rights qualified their opinion with the divergence between the law and the practice. They spoke to the main challenges experienced as they interface with the justice system which include corruption that has made access to justice so expensive.

Challenge: The teething issue however remains the difference between the law and the practice related also to the actual struggle to claim and obtain a remedy. The implementation of the legal framework continues to be marred by institutional inefficiencies and non-observance of the rule of law the latter witnessed by the arbitrary use of power to undermine the rights of the citizens which are safeguarded by law. There have also been instances when the law has been used to undermine judicial process culminating into rule by law as opposed to rule of law. A case in question was the demonstration by *Boda boda* cyclists staged at the Makindye Chief Magistrate Court in protest of court summons for the Inspector General of Police to appear before court to answer to charges of human rights violation. The Inspector General of Police, Kale Kayihura was jointly charged with senior police officers such as Andrew Kaggwa, James Ruhweza, Moses Nanoka, Samuel Bamuzibire, Patrick Muhumuza, Wesley Nganizi and Geoffrey Kaheebwa (acting regional police commander for Kampala East).

The eight senior police officers were charged and indicted for torture. The charge sheet maintained that Kayihura and his aforementioned senior officers were liable for the acts of torture committed against Joseph Kaddu, Andrew Ssebitosi, Rogers Ddiba, and other members of the general public including boda boda riders and supporters of Besigye.

Kayihura supporters besieged Court and threatened to attack the Lord Mayor Erias Lukwago and his lawyers who included Abdallah Kiwanuka, Nicholas Opiyo and Daniel Walyemera, among others.



Lord Mayor, Erias Lukwago held inside court during besiege of Makindye court by IGP Kayihura supporters. Photo Credit: The Observer.

Proposed laws

Recent developments show tendencies to initiate laws that affect people's right to access justice while other critical legislation that enhance access to justice have been stalled in favour of other priorities. A previous research into justice needs highlights land justice as the most pressing need for the Ugandan justice users.⁶⁴ The problem is manifest in form of land grabbing which often results into unlawful evictions and displacements. On 7th June 2017 there erupted land wrangles in Apaa and Amuru districts which caused fierce clashes between the communities of Acholi in Amuru and Madi in Adjumani.⁶⁵ These land wrangles resulted into 8 people losing their lives, over 100 others reported with serious bodily injuries while tens of thousands were left with psychological and emotional injuries especially the youth, women, children, the elderly and persons with disabilities. There were also several human rights violations committed such as physical assault, burning of houses and destruction of food stuff were witnessed hence leaving more than 7000 people displaced.⁶⁶ Other land evictions included *gold miners* in Mubende district where over 60000 *people* were evicted and 130 families unlawfully evicted by a corporate body in Chawente, Mubende district and many more.

In spite of the increased land injustices, in 2017 the government introduced a controversial Constitutional Amendment Bill that seeks to amend Article (26)⁶⁷ of the Constitution. The proposed amendment has sparked controversy because it seeks to allow forceful acquisition of land prior to compensation of land or property owners. This is contrary to the constitutional principles in article 26 but also the right to a fair hearing before an independent tribunal in determination of a right under article 28(1). It is alleged that the proposed amendment will ignite and expedite the implementation of the government development programs which have stalled as government fails to agree with the property owners subject to the current Land Acquisition Act. The proposed amendment seeks to resolve a problem that is expedite the acquisition of land by government to fast track development programmes. However, the manner in which the proposal is to be implemented creates another which is the arbitrary taking away of people's property without first seeking recourse to court by simply depositing what government deems as adequate compensation in court. It erodes the independence of courts of law and seeks to turn them into collecting centers for compensation instead of being adjudicators of disputes. Further, it infringes on the right to recourse to courts of law.

Even more controversial is the proposed amendment of the article 102 of the Constitution to lift the set age limit at which a person can run for president from seventy five (75). The proposal poses a lot of challenges, first to the civic rights of the citizens of Uganda since it will be decided at the level of Parliament, secondly the proposal has ignited tensions as it is fronted leading to arrests and detention of members of parliament and citizens incommunicado which is an infringement to the right to due process of law.

Repressive Legal Regime

The Political Organizations are still struggling to operate and be effective upon enactment of the Public Order Management Act (POMA) of 2013 which has curtailed freedom of association. Being a restrictive law POMA also affects LASPs depending on the activities they choose to undertake. The effect has been limitation in making effective outreach to the communities to sensitize people on their rights including civic rights and duties. In a bid to implement POMA the Uganda Police Force has been arbitrary witnessed by granting of permission only to subsequently interject processes leading to injuries to persons. The police permission has also been granted very subjectively; with favour to the ruling party and restrictive to political parties. The police is known for violating and brutally dispersing gatherings or demonstrations however peaceful if they are opposed to the government. The 2016 NGO Act has also effected the operating environment for CSOs and NGOs which has continued to shrink and narrow down thus limiting space for NGOs to promote human rights and access to justice. The provisions of the NGO Act were recently used to siege the office of Action Aid International in Uganda, Solidarity Uganda and Great Lakes

⁶⁴ Hiil 2016 'Justice Needs in Uganda'

⁶⁵ <https://www.independent.co.ug/week-land-wrangles-rock-apaa-northern-uganda/>

⁶⁶ <http://www.seatiniuganda.org/publications/press-statements/159-take-action-civil-society-organisations-call-for-an-end-to-land-conflicts-in-uganda/file.html>

⁶⁷ Suffice to note that such amendment will infringe on the right to ownership of property as enshrined under Article 26 (2) which stipulates: "No person shall be compulsorily deprived of property or any interest in right over property of any description except where the taking of possession is necessary for public use and or is made under the law after prompt payment of fair and adequate compensation.

Institute of Strategic Studies (GLISS) in the guise of undeclared funds. However, the two organizations are well known for being outspoken about issues of poverty reduction, community empowerment, good governance and democracy with specific criticism to the current regime in a bid to promote accountable institutions that have respect for human rights.



Left: The sieged premises of Action Aid International in Kansanga. Right: Mr. Godber Tumushabe under siege at his office premises in Ntinda. Photo Credit: Daily Monitor.

Besides the restrictive legal framework⁶⁸, the environment in which NGOs function is uncertain, insecure and risky.⁶⁹ The risky environment is characterized by the increasing number of office break-ins of NGOs. Between April and May 2016, intruders broke into the offices of at least three NGOs in Kampala that is Forum for African Women Educationalists (FAWE), Human Rights Awareness and Promotion Forum (HRAPF), and Human Rights Network for Journalists-Uganda (HRNJ-Uganda). The break-ins followed more than two dozen previous break-ins at the offices of NGOs since 2012. Although the police inspector general formed a Committee of eight officers to investigate the break-ins in July 2014, no one has yet been brought to justice.⁷⁰ On 2nd February 2017, LASPNET offices were also broken into. Two laptops, one belonging to the Executive Director and four camcorders were stolen. A safe was also broken and money taken. This adds LASPNET to the list of over 28 CSOs broken into between 2013 and 2016.

The continued failure and or refuse of the state to pass the National Legal Aid Policy continue to promote a repressive legal regime especially for the poor and vulnerable population which has been in draft since 2012. The National Legal Aid Policy is aimed at operationalizing government-funded legal aid to enhance sustainability of legal aid services to the population. A lot of information has been provided to the government including the Cost Benefit Analysis report that provides for the cost benefit analysis that analyses the cost on government to provide legal aid services. Lessons drawn from other countries for instance Kenya which has this framework in place have been advanced including, Tanzania and Rwanda who have progressed well on the same issue. In Uganda policy has shelved for lack of finances for the last 10 years, an indication of lack of political will to commit resources to this core tenant of access to justice. The consequences have been the users' inability to have effective and efficient legal representation hence impacting negatively on justice and fairness. Without a National legal aid schemes led by government, it is impossible to ensure sustainable access to justice and or justice for all.

Poor observance of the rights on access to justice

It is common occurrence in Uganda to hold suspects incommunicado beyond the constitutional recognised time of 48 hours.⁷¹ It is equally a prevalent manifestation for accused persons to be tried in courts other than where the subject matter arises. A prominent case to speak to this is the trial of the Omusinga Wesley Mumbere and his subjects who were tried in Jinja yet the alleged offence was committed in Kasese. The same scenario arose in regard to the Kaweesi murder suspects and the mayor of Kamwenge. Retired Colonel Kiiza Besigye has often been detained and tried out of his jurisdiction. Nalufenya and Nagalama

⁶⁸ The Non – Governmental Organizations Act, 2006 and its regulations, as well as other laws that hinder press freedom, freedom of assembly, association and demonstration accessed on <http://www.hrcug.org/publications/file/Human%20Rights%20Defenders%20in%20Uganda%20M.pdf>

⁶⁹ <https://www.hrw.org/report/2012/08/21/curtailing-criticism/intimidation-and-obstruction-civil-society-uganda>

⁷⁰ <http://chapterfouruganda.com/articles/2016/06/13/uganda-investigate-break-ins-groups%E2%80%99-offices>

⁷¹ Article 23.

prison have been a holding facility for almost all people who openly oppose the currently government. The practice is contrary to the Magistrate Court Act, the Trial on Indictment Act and the Judicature Act. It is important to note that the suspects are kept beyond 48 hours and often their lawyers are denied access to them. The above occurrences definitely undermine the access to justice legal regime and erode public confidence in the justice.

Continued and perpetuated torture

According to the Uganda Human Rights Report Annual Report (2016) the number of registered torture-related complaints increased from 345 in 2015 to 380 in 2016. The report added that security and law enforcement agents⁷² contributed 320 out of 380 torture cases registered by Uganda Human Rights Commission. The findings further revealed that confession; punishment, obtaining information, intimidation and coercion were among the reasons why victims were subjected to torture.



Above: The gruesome pictures of the mayor of Kamwenge following torture in Nalufenya.

Incidences of torture, unlawful arrests and detention were more witnessed in the Kasese clashes where it was reported that at least 100 people including 15 children were killed.⁷³ Further, it is noted that government arrested and charged more than 180 people, including the cultural institution's king, known as the Omusinga, with murder, treason, and terrorism, among other charges. In the wake to the gruesome murder of Assistant IGP Felix Kaweesa, Police arraigned a total of Thirteen (13) suspects before the Nakawa Chief Magistrates Court where they were charged with terrorism, murder, aggravated robbery. It was later revealed that while at Nalufenya prison these suspects were subjected to torture of varying severity in attempts to extract confessions from them.⁷⁴

The Police also held twelve (12) children of the suspects, including a two-year-old baby, incommunicado for 49 days.⁷⁵ This act amounted to violation of children's rights as enshrined under article 37 (b) which stipulates that; no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

Recommendations: Mass sensitization of the citizens on the law from inception to allow people get involved in the formulation and further at implementation. This will increase claim of rights and improve the implementation and observance of the law. That way citizens will be empowered to safeguard the Constitution from amendments that violate rights and limits enjoyment of freedoms and protection.

JLOS should work with the Police and security operatives to implement the Anti-Torture legislation.

⁷² Uganda Police Force, Uganda Prisons Services and Uganda Prisons Service

⁷³ <https://www.hrw.org/news/2017/03/15/uganda-ensure-independent-investigation-kasese-killings>

⁷⁴ <http://www.monitor.co.ug/News/National/Kaweesi-suspects-reveal-torture--death-at-Nalufenya/688334-3942506-bpvrki/index.html>

⁷⁵ <http://allafrica.com/stories/201705090609.html>

Advocacy for law that is pro-poor particularly because the current category of people affected by the land injustices is the majority poor. They should be safe guarded from the interests of the middle class termed as investors.

The due process of law should be safeguarded through Public Interest Litigation to reinstate the observance of the rights contained therein.

There is need to expedite the passing of the National Legal Policy and bill into law.

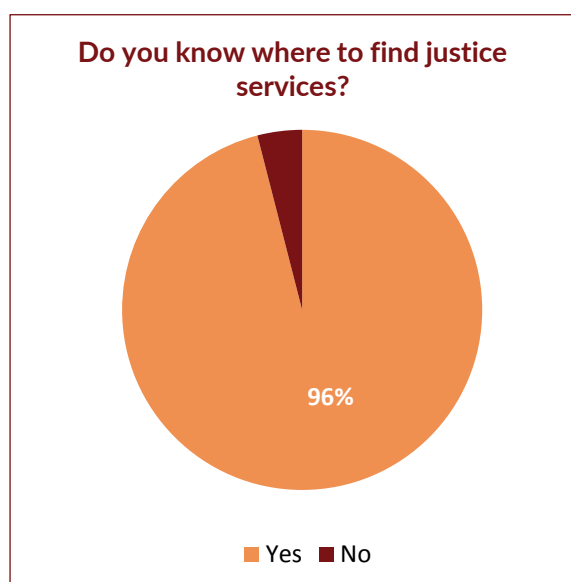
4.1.2 LEGAL AWARENESS

Legal awareness of the majority about the law stipulating their rights and the needs of the poor, vulnerable and marginalized members of the society should be a key consideration for stakeholders in the area of access to justice. This calls for creating legal awareness through trainings, simplification of laws, availing the laws and creating awareness about justice institutions. Awareness therefore enhances the ability the claim a right and seek remedy for grievances.

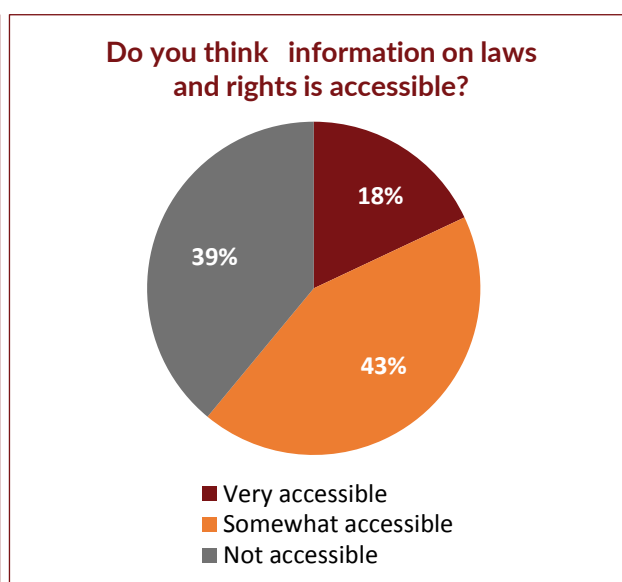
Legal awareness continues a form part of the activities most LASPs. The Judicial Service Commission and the Uganda Human Rights Commission do outreach and sensitization on rights and administration of justice.

The recent LASPNET survey reveals that 96% of the respondents are knowledgeable on where to find justice services or where to seek remedies. This point at knowledge and awareness of users of justice services on mechanisms that are meant to provide redress and remedy. However, this is not matched with the availability of information laws on rights. Only 18% of the users of justice services were of the view that information on laws and rights is accessible as opposed 43% who thought it is somewhat available and 39% who felt that such information was not available. Duty bearers within the justice system further qualified the opinion of the justice users by rating the inaccessibility of information thus citizens unawareness at 48%. Those who believed that the citizens are aware of their rights formed 28% while 24% held an opinion different of the former categories. *See diagram below.*

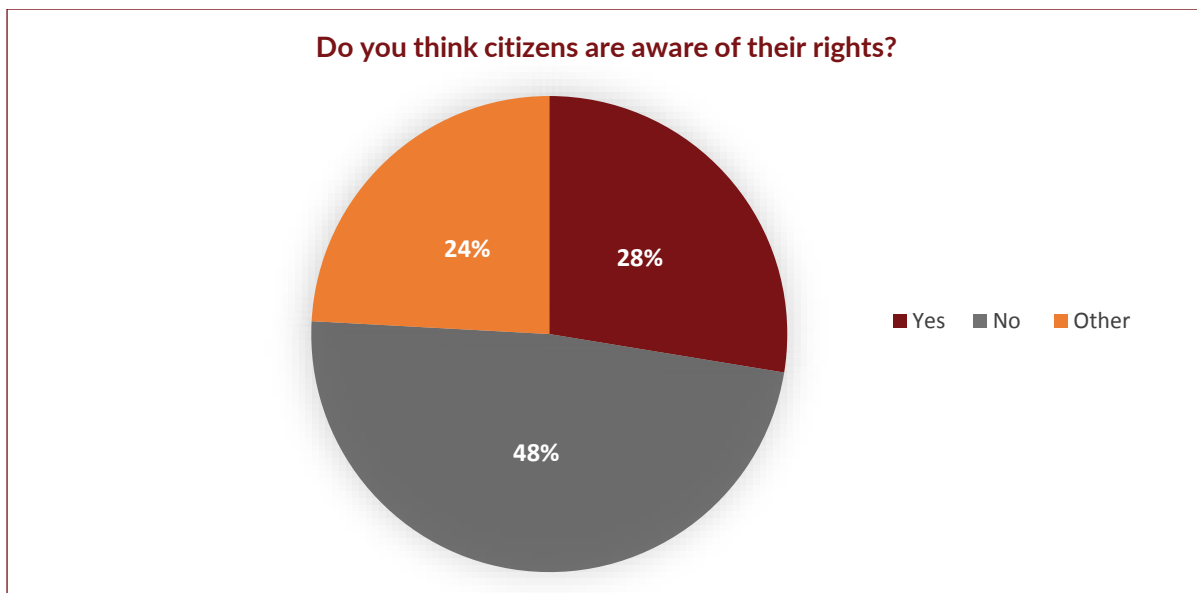
Knowledge of recourse mechanisms.



Views of the users of justice services.



Views of the duty bearers.



Challenge:

There is still a challenge of access to information concerning rights. Well as the institutions for dispensing justice services are well known, this is not matched with the knowledge of users about their enforceable rights. For those who thought information was not easily accessible explained that they did not know where to find the information. Further, failure to access information was related to high levels of illiteracy and unwillingness of people to get to know information. There was also a view that access to information is expensive. Thus, even with knowledge of the presence of justice services, access to justice may be affected by lack of information on laws and rights.

There is the lack of synthesized government and Civil Society Organizations plan for legal awareness in terms of agreeing on the message, packaging and dissemination plan tailored to the needs. Therefore, legal awareness creation remains ad hoc without a national targeted approach and may not be responsive to the needs.

Recommendations: An effective partnership between Government and Civil Society organizations is recommended to agree on what information to send out, the packaging and further a dissemination strategy. A baseline should precede the exercise to identify the needs of the people.

Legal awareness can further be accomplished through the simplification of laws and translation into local language for ease of access by the population. For example, the constitution should be simplified and translated in local languages or animated to make every citizen of Uganda aware of its content and benefit as the supreme law of the land.

There is also need for intensified consultations amongst the public in relation to upcoming laws but also in relation to old laws that need amendments. The enactment of laws should be people led rather than executive led, the need should come from grassroots, this is the only way to enact responsive and relevant laws alive to the needs of the users.

4.1.3 LEGAL ASSISTANCE

The claim and enforcement of rights requires technical assistance of a lawyer. The ability of the people to afford legal services must be carefully assessed and accordingly mechanisms developed to assist those who cannot afford. Legal issues need technical assistance of a lawyer and the latter could be needed not only for advice, negotiations and mediations but could also be required for court representation. Legal aid clinics should therefore be prevalent to offer legal services.

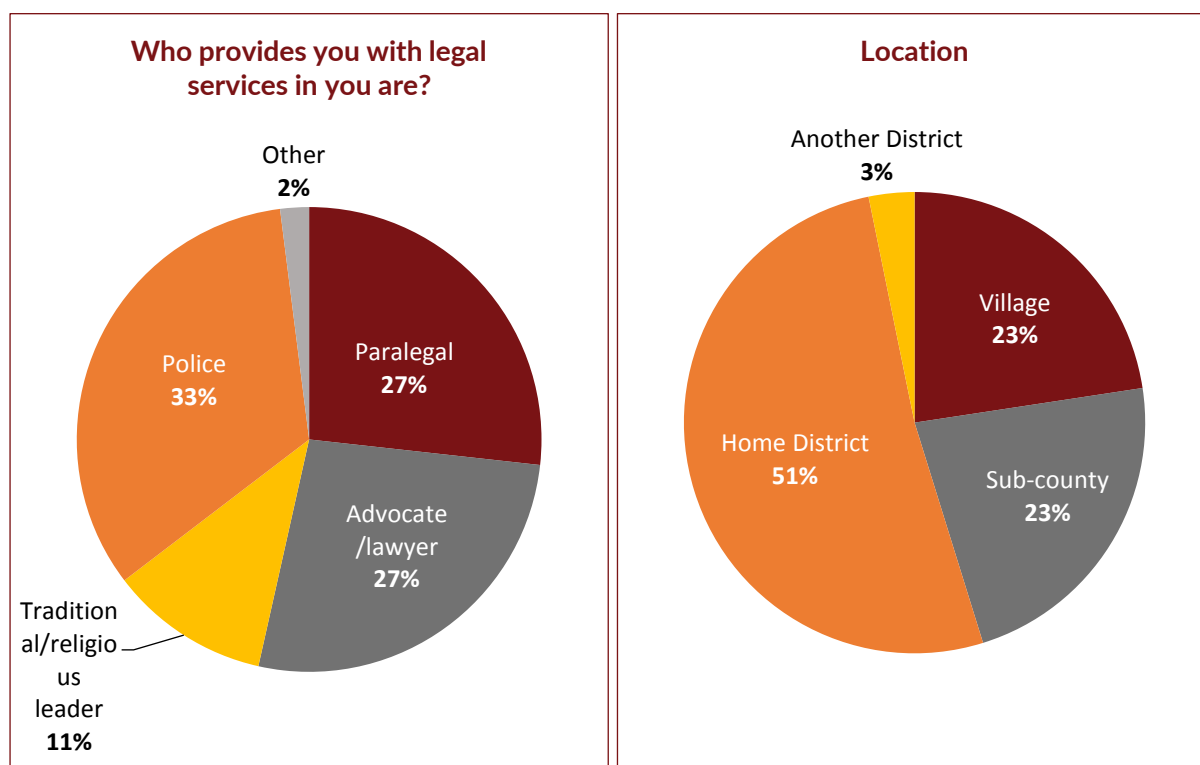
Currently there are fifty two (52) LASPs operating in seventy (70) districts in Uganda. The Uganda Law Society has up to 2600 lawyers. A previous survey revealed that to a large extend justice users have access legal aid service providers and paralegals whereas lawyers are not available to offer them legal representation at a free cost. Additionally, most legal aid service providers tend to concentrate more in

urban areas rather than rural areas.⁷⁶ The Hiil Justice Needs report 2016⁷⁷ indicated that only 1% of lawyers are considered to be helpful in providing information and advice to the marginalized groups of people.

The current survey conducted by LASPNET illustrated that there is fairly a good mention of prevalence legal and paralegal services. However, the survey was limited to LASPs and the people who use them. Therefore as noted above, the survey was limited in coverage to urban areas and does not give a holistic picture of national coverage of LASPs beyond the district administrative level. Indeed in terms of location of LASPs, half of the respondents placed them at the district level. Availability of legal services of lawyers were rated at 26.7%, paralegal at 26.7%, quasi legal services offered through traditional/religious leader ranked at 11.1%; while the police scored highly in terms of providing legal services to the claimants of justice with a score of 33.3%. Other kinds of legal services, that were not specified were scored at 2%. The police being the highest is indicative of many presumptuous issues that may need further investigations, that is the police being the first point of contact and therefore the need to pitch legal services at that level. This is more so speaking to the fact that the police is the most justice institution closest to the community. This could play the role of pointing the claimant of rights into the right direction which saves money and time.

The use of cultural and traditional leaders also point at the fact that the justice system needs to extend a hand of partnership to this category of stakeholder to build their capacity and equip them with the necessary tools of work to respond to justice needs. An important area for capacity development for both the police and cultural leaders is education on human rights based approach and the basic essentials of the law. In terms of location, the above category of people who offer legal services were rated to be fairly present within the local government structures that is 22.6% at the Village level, 22.6% at the Sub-county and 51.6% at the District. The above illustration is a pointer that actual legal aid services are urban based.

See diagram below.



⁷⁶ Report on Poverty, Vulnerability, Marginalization and Access to Justice in Uganda

⁷⁷ <http://www.hiil.org/data/sitemanagement/media/Uganda%20JNST%20Data%20Report%202016.pdf>

95.2 % of the respondents stated having lawyers in their region while 4.8% stated they lacked lawyers in their regions. In the same vein, 73% of the respondents felt the lawyers were approachable while 27% felt there was no accessibility.

Challenge: Major challenges exist in relation to legal representation under the State Brief Scheme for capital cases. One issue is the lack of clear criteria for allocating case files, which compromises the quality of representation. One lawyer argued that “the registrar does not take into account the lawyer’s competence.”⁷⁸

There is no prior interview to ensure a person defended by a lawyer under the State Brief Scheme is accorded adequate representation.” Perhaps an even greater challenge is the woefully inadequate compensation under the State Brief Scheme. A State-funded lawyer might get a mere UGX 500,000 to take on forty files, where a file could have more than one person while private lawyers easily charge from 10 to 20 million UGX per case. Christine Birabwa-Nsubuga argued that “no right-thinking lawyer” would spend a sufficient amount of time on these files.

There is not deliberate effort to balance the distribution of the legal services across the country. Therefore, some areas are swamped with lawyers while other are in lack. Community based paralegals provide the earliest legal aid yet they are not present in many communities.

Note is made of the on-going effort to develop to a policy framework to regulate the operation of the paralegals. However, this framework does not include the regulation of community legal volunteers despite the feedback made by LASPNET to Law Council. The Community Legal Volunteers are a model that is fast spreading across the country and is recognized for its early assistance to the community.

There is an emerging challenge relating to the safety of Human Rights Defenders during the course of duty. Advocacy for observance of human rights and calling on government on account has become an uphill task witnessed by state harassment of those who raise issues. Human Rights Defenders have been deeply constrained by the shrinking operating environment through arrests, harassment and intimidation. Freedoms of expression and speech has increasingly been violated for example, on 7th April 2017, Dr. Stella Nyanzi, an academia at Makerere University who braved and reminded President’s Museveni of his campaign promises to offer sanitary pads to the girl child was arrested and charged over two counts of cyber harassment contrary to Section 24 of the Computer Misuse Act of 2011 and Offensive Communication Section 25 of the same law. On 8th April 2017, NTV journalist Getrude Uwitware was allegedly abducted and taken to unknown destinations. It was later established that her abduction was as a result of the missive that she posted on social media defending the unlawful arrest of Dr. Stella Nyanzi.⁷⁹

⁷⁸ FHRI, 2017.

⁷⁹ <http://mobile.monitor.co.ug/News/NTV-s-Getrude-Uwitware-kidnapped-blindfolded-police/2466686-3884146-format-xhtml-7295ef/index.html>



Activist Stella Nyanzi appears in court in Kampala, Uganda, on April 10, facing charges of cyber harassment and offensive communication. Photo Credit: Gael Grilhot/AFP/Getty Images.

The recent raids by Police on Action Aid Uganda (AUU), Solidarity Uganda, UHURU institute and the Great Lakes Institute of Strategic Studies (GLISS) further demonstrate the harsh environment in which NGOs operate.⁸⁰ The staff at Action Aid were put under siege from 3:00pm to 1:00am as Police searched their premises over allegations that both NGOs fund subversive activities. Such operations have been concretized by the laws as stated above, namely the NGO Act that has been used to monitor the activities of NGOs.

The ramification of a constraining operating environment is that it creates fears, intimidation and tension to the work of NGOs and Human Rights Defenders in delivery of services to the poor, vulnerable and marginalized including providing legal services in matters that challenge state authority.

Important to note is the rampant break into offences of NGOs and Human Rights Defenders in the past two (2) years with no culprits brought to book through the police investigations. HRAPF, LASPNET, Refugee Law Project, GHRI are some of the victims of such break in. The break ins have been quite disruptive of services of NGOs leading to major setbacks and sometime loss of lives of security guards. This situation continues without adequate Police protection and or a detailed investigation reports on why these break ins or who is responsible and measures to curb this.

Recommendations: There is need for a policy initiated by Law Council with the support of LASPNET on overall distribution of LASPs. The Policy should target fair geographical distribution of LASPs aimed at expanding services to hard to reach areas but also tailored to the marginalized and vulnerable.

Uganda Law Society and Law Council should develop strategies particularly through partnerships with the Local Government, award of Continuing Legal Education Points and recognition of lawyers who work in difficult places to ensure there is a fairly distribution of lawyers in all parts of the country.

⁸⁰ <https://ugandaradionetwork.com/story/police-search-at-action-aid-ends-continues-at-gliss>

CSOs including LASPNET should intensify demand for government accountability in relation to observance of the rule of law. This could include scholarly writing on issues of rule of law and access to issue to increase awareness by the government but also awaken observation.

CSOs should engage government to follow the laid down procedure of inspecting and monitoring NGOs operations which is through the National NGO Bureau. The unilateral operations of the Police within the premises of NGOs should be condemned and brought to a halt.

Advocacy should be intensified for the passing of the Paralegal Regulations. Important to note is to need to develop a framework to regulate the Community Legal Volunteers.

4.1.4 DISPUTE RESOLUTION AND REDRESS

The presence of dispute resolution mechanisms; formal and informal is an important aspect in the assessment of prevalence of Access to Justice. The mechanisms must be fair enough to attract the confidence of people to use them as an avenue to obtain a remedy. Furthermore, initiatives relating to mediation, arbitration and conciliation processes should be supported since they are more affordable, simpler, less time consuming and effective in the settlement of disputes.

All key JLOS institutions namely: Police, Directorate of Public Prosecution, Judiciary, Prison, Probation services, Uganda Law Society, Uganda Law Council, Administrator General's office and Remand Homes are established at the national and sub national level as noted above. JLOS has functional presence in 82% of the districts across the country.⁸¹

Justice Innovations

There have been several activities initiated by the Judiciary to ensure inclusive justice especially for the poor, vulnerable and marginalized. These include Court Open Days, operationalization of Regional and District Co-ordination Committees. Such activities have promoted awareness of court processes to the court users and increased accountability.⁸²

LASPNET with partners such as Barefoot Law, JLOS, HiiL and with support from the DGF organised the inaugural Legal Aid Innovations Conference to show case best practices and innovations in legal aid that will be shared across the field to foster linkages within and among institutions, NGOs and individuals with a creative approach towards access to justice as a necessary catalyst for improved legal aid service provision. This platform will aid in fostering an ecosystem of progressive legal aid / access to justice actors who can work on collaborative projects beyond the innovations conference. The purpose is to showcase existing innovations with the potential for replication as well as create awareness of their existence to the general public.

⁸¹ Key note address of the Honorable the Chief Justice of the Republic of Uganda at the JLOS Annual Review Conference October 2016.

⁸² Key note address of the Honorable the Chief Justice of the Republic of Uganda at the New Law Year 2017.



Tororo residents participate in the Court Open Day. Photo credit: Judiciary Uganda.

The Judiciary has introduced application mechanisms such as plea bargaining, small claims procedure, effective use of sentencing guidelines, quick win sessions, setting of performance targets for judicial officers, among others, which have led to reduction in time spent on remand by prisoners.⁸³

The establishment of the Case backlog Reduction Committee by the Hon Chief Justice is also a good practice in access to justice. The Committee commenced work in November 2016 and gathered views that informed the Case Backlog Reduction Committee Report. It is also argued that if implemented, the proposals will augment the Judiciary Transformation Plan that aims at having an efficient, effective and accountable institution capable of delivering timely and expeditious justice for all Ugandans.⁸⁴

The development of a robust ICT strategy in the Judiciary which is intended to accelerate e-justice provides a ray of hope for automation of the Judiciary and is envisaged to simplify access to justice for juveniles and those in the diaspora.

The introduction of the JLOS Recognition Awards which seek to enhance standards of excellence in the administration of justice and rule of law by honoring and recognizing efforts and achievements of individuals and institutions. The awards have therefore motivated different individuals and institutions during dispensation of justice.⁸⁵

The Children's Amendment Act was passed into law and it particularly provides for effective legal aid services to children in all civil, criminal and administrative proceedings.⁸⁶ Other strategic interventions such as the Diversion guidelines aimed at increasing the handling of juvenile offenders outside the justice system and the National Child Justice Strategy aimed at improving planning for children in the justice system are in the offing.

The Judiciary with support from the Austrian Development Cooperation has been implementing an Alternative Dispute Resolutions Project. This entails engagement of court annexed mediators as a first

⁸³ Speech of the Honorable the Chief Justice of the Republic of Uganda at the Legal Aid Innovations Conference.

⁸⁴ Extracted from the Case Backlog Reduction Committee Report, 2017.

⁸⁵ LASPNET achieved a recognition award for its contribution under the 'Partnership and Networking category' by the Justice, Law and Order Sector

⁸⁶ Section 4 (1) (k) of the Children Amendment Act.

step to resolution of disputes. This is in line with the 2013 Directive that introduced mandatory mediation. The purpose is to reduce costs, include case disposal and make justice more accessible.

Challenge: The biggest challenge to the above innovations is the issue of sustainability coupled with lack of an adequate monitoring and accountability system that make the innovations ineffective and of less value to the duty bearers and users of the justice services. The other challenge is that the innovations remain within the institutions with less efforts to popularize and replicate them.

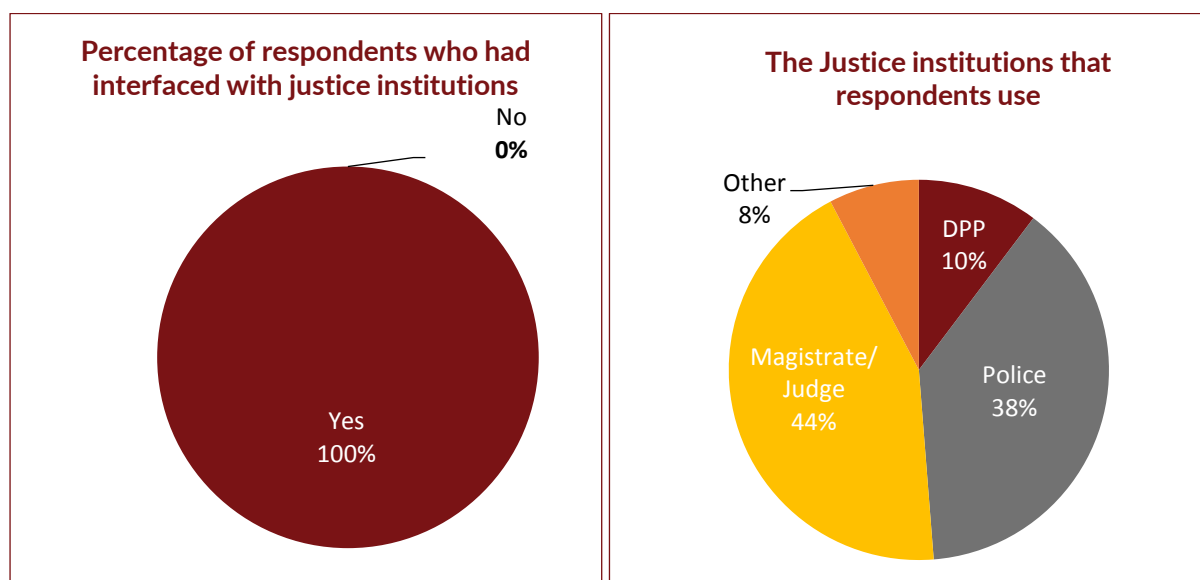
The efficacy of some of the innovations is questionable. For instance, the Plea Bargaining Rules are yet to be amended to provide the necessary safeguards for juvenile offenders. Court annexed mediation has suffered setbacks namely: there are inadequate numbers of mediators, the amount paid to mediators is inadequate to ensure retention and mediation, there are no premises to conduct the mediation, enforcement of the outcomes of the mediation is difficult, some advocates have not embraced it.

Recommendation: The respective institutions that have introduced the above innovations with the support of JLOS should establish adequate monitoring and accountability systems within the institutional framework to constantly evaluate performance and strategize.

The institutions should evaluate the innovations and if found viable, they should be institutionalized and become part of the planning and implementation frameworks. Popularize and ensure the innovations are known to the users.

Nature of institutions

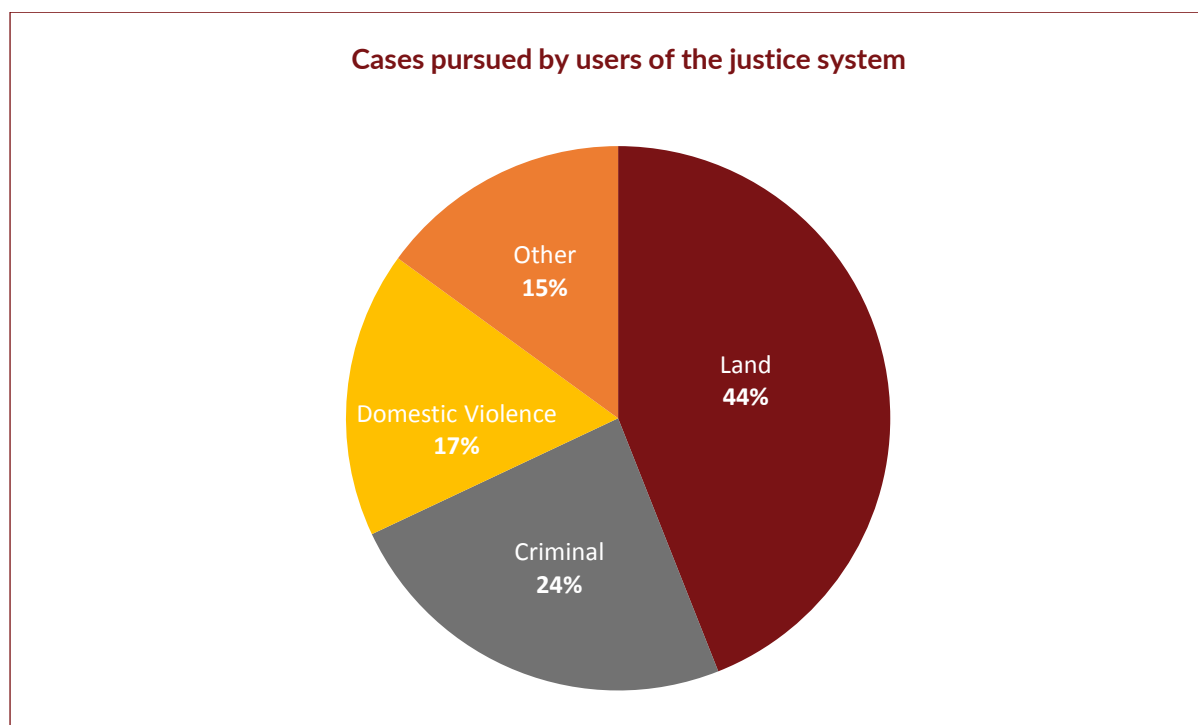
All the respondents to the survey acknowledged having interfaced with a JLOS institution. 10.3% had engaged with the Directorate of Public Prosecution, 38% had interacted with the Police, 43.6% with the Judiciary while only 7.7% had interfaced with the Local Council Court. The low levels of interaction with the Local Council Courts and the Police in the current survey calls for further inquiry into reasons for the limited use of the adjudication platforms. The Afro Barometer Survey 2016 highlighted the police as the most accessible justice institution. To the contrary we witness a high level of interaction with courts which should ideally be used in more complex matters or at the appeal level. Preliminary conclusions relate to the target respondents who included clients of LASPs. However, the underutilization of Local Council Courts would be attributed to fact that they have been in limbo for a while pending elections but may also indicate the growing complex nature of the issues people have to deal with. There is need for investigation into the choice of institutions by the justice user.



Nature of services

In terms of rating of the legal issues that were in need of resolution, the respondents rated land matters highest at 44%, matters of a criminal nature were rated at 24%. Domestic violence was singled out and ranked at 17% while other matters formed 13%. The surveys thus rank land as the biggest justice need. Cognizance is made of the recent establishment of the Commission of Inquiry into Land Matters in May 2017. The JLOS has interfaced with the Commission and will share a memorandum on land related issues

within the justice system. The Judiciary has introduced ADR in the adjudication process that calls for mediation of land matters before recourse to judicial proceedings. There has been allocation of resources to support mediation and visiting locus. It is also important to note that there is the Land User Committee of the Judiciary that provides oversight over the functioning of the court and acts as a feedback mechanism. All the above interventions are aimed at improving access to justice in the thematic area of land.



Challenge:

Mediation of land matters has experienced several challenges; first, the advocates have not embraced mediation and often bias the client to reject it, secondly, mediation of land matters is affected by the fact that some cases involve fraud in obtaining registration and thus warrant judicial proceedings. There are several challenges relating to the administration of the mediation process including; lack of adequate funds to pay mediators, limited number of mediators and enforcement of outcomes of the mediation process.

There is confusion between acquiring land for private investment and public interest as provided under the Land Acquisition Act.

The Judiciary still lacks enough personnel to listen to land matters. The judiciary is still under resourced financially but also in terms of staffing. The recent strikes by judicial officers are a clear illustration of the poor working conditions within the Judiciary. Currently, there are 40 judges instead of 80, magisterial areas are expanded without resourcing. Further, there has been a delay in the enactment of the Administration of the Justice Bill whose aim is to empower the Judiciary to manage its affairs and reduce on corruption.

Recommendations:

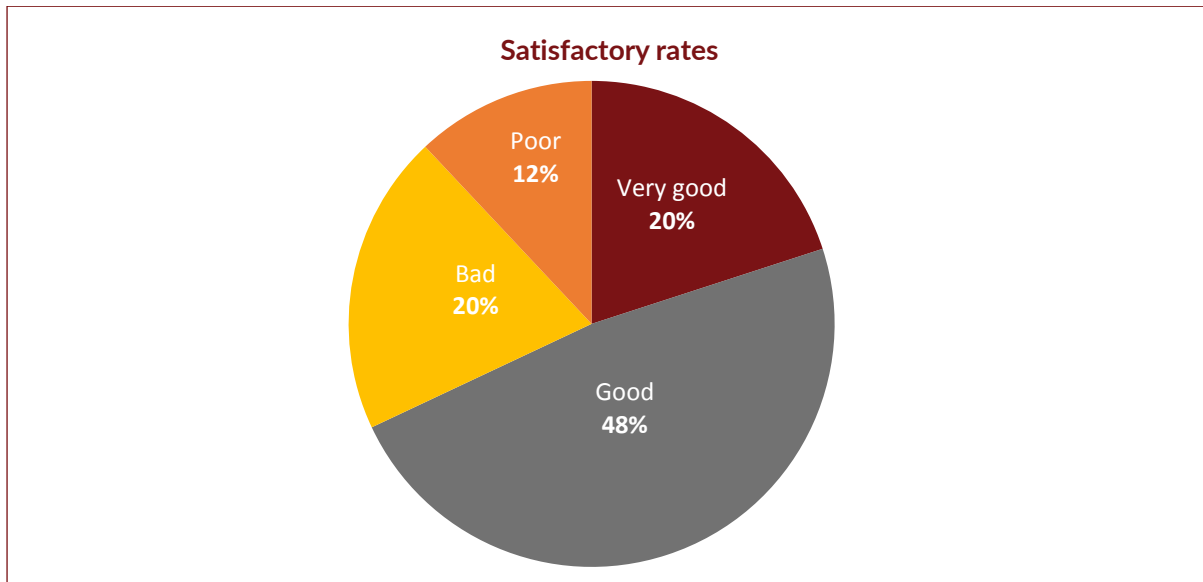
Advocacy is recommended with the government and Judiciary to recruit more judicial officers to listen to land disputes and other matters.

Improve linkages between land sector and justice sector to improve handling of land matters. Intensify advocacy for the enactment of the administration of the justice Bill and the aim of increasing funding for the Judiciary and thus recruitment of judicial officers.

LASPs in conjunction with JLOS should intensify sensitization on land rights.

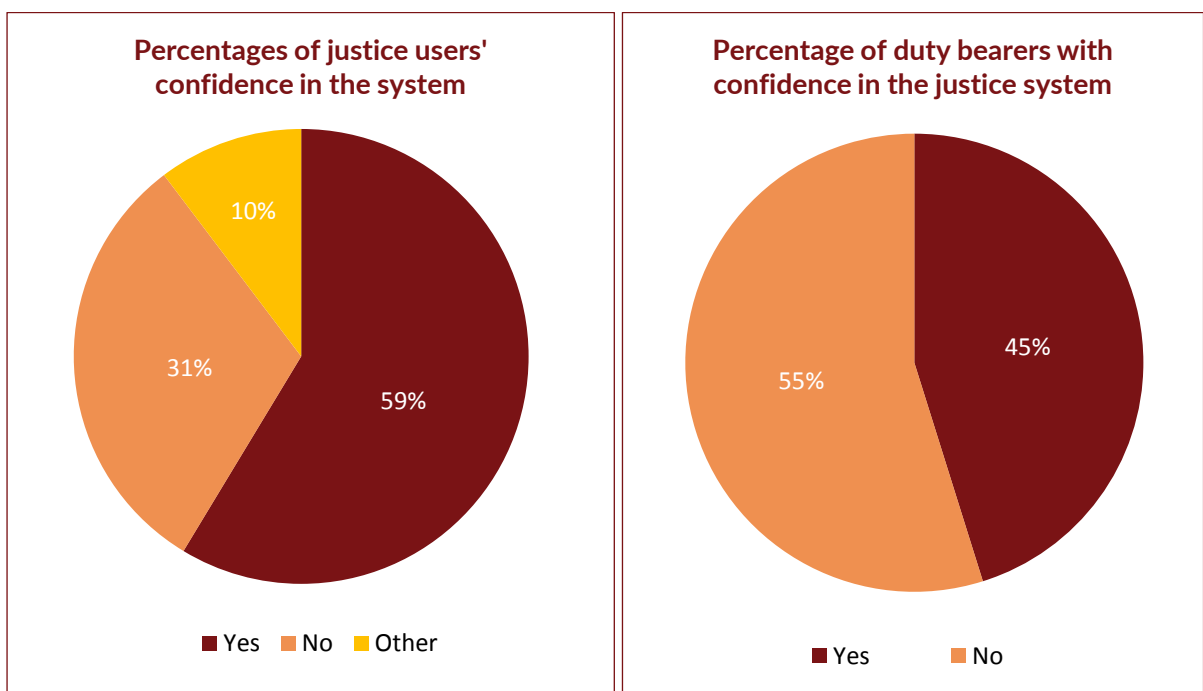
Satisfactory rates

48% of the respondents were satisfied with the service they received from the justice system. 20% of the respondents were extremely satisfied, 20% were fairly dissatisfied while 12% rated the services as unsatisfactory. Several reasons have been given for the lack of satisfaction in the services of the justice system including corruption, lack of transparency and limited number of judicial officers. This is a pointer to the need to seal the loopholes by increasing accountability mechanisms and ensuring the Judiciary is adequately staffed to deliver timely justice. It is recommended that the issues of satisfaction and dissatisfaction be further investigated and strategies developed to improve service delivery and the satisfaction rates.



Confidence in the Justice system

Important to note is that the categories of respondents to the survey had a divergent view on the justice system's capability to protect human rights. 59% of the respondents from the category of court users were of the view that the justice system adequately protects human rights as opposed to 31% who were of a divergent view and 10% responded with a different answer. The number of duty bearers comprising of staff of justice institutions and LASPs who had confidence in the system delivering justice was lower than that of users. 45% of the duty bearers had confidence in the justice system as opposed to 55% who had no confidence.



Challenge:

The users of justice services who had no confidence in the system related their opinion to the prevalence of corruption, understaffing in the judiciary and lack of transparency. Factors responsible for the duty bearers' lack of confidence included the poor enforcement mechanisms for the court decisions which is lacking, lack of an accountability system particularly at the police and the inadequate implementation of the law.

Recommendation:

There is need to have more LASPs at the lowest level of the parish or village to provide legal service to the vulnerable. In the alternative, LASPNET working with development partners and JLOS should initiate a plan to strengthen Community Based Organizations or groups on the ground to be able to deliver legal aid and ensure early access and availability of first responders.

There should be mass sensitization of the people on their rights and the need to fight against corruption within the justice system.

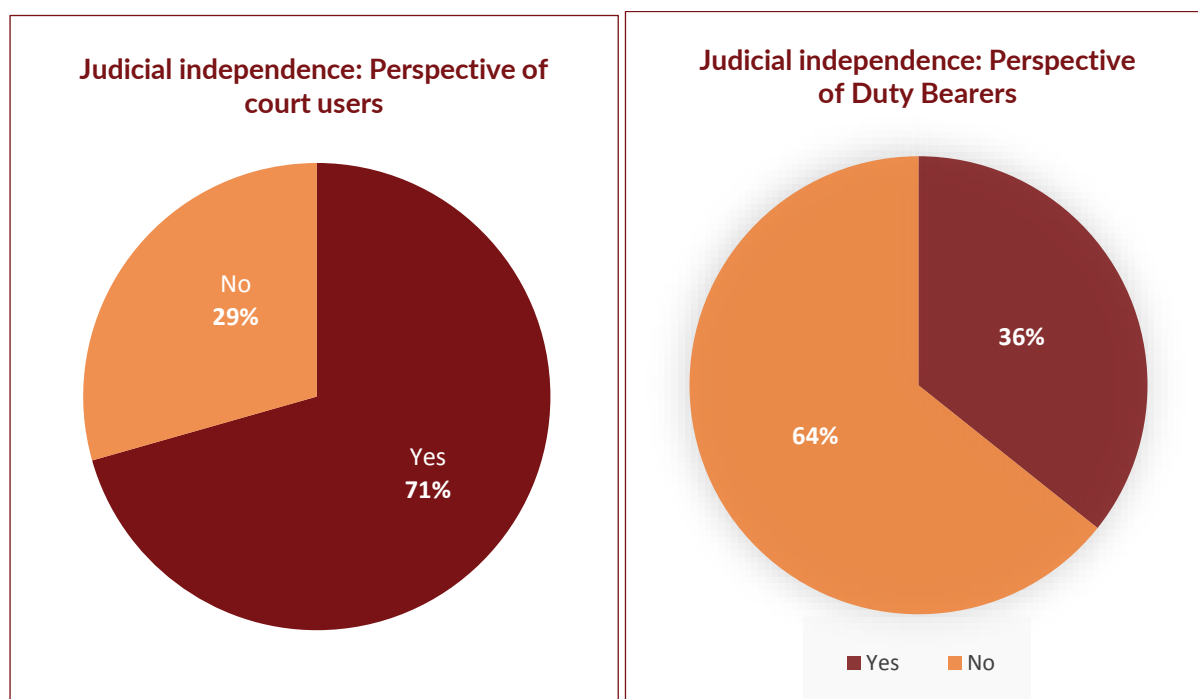
The justice process should be expedited to ensure faster delivery of justice. This calls for a strong monitoring and accountability system.

Rating of the specific justice institutions

Judiciary

Two aspects of the judiciary were measured during the survey namely the independence and the ability to deliver justice.

Majority of the respondents from the category of court users that is 71% were of the view that the Judiciary is independent as opposed to 29% who objected. The reasoning of the majority was attributed to the influential and powerful judicial officers. On the other hand, the duty bearers who responded to the survey cast a rather different rating of the Judiciary's independence. 36% felt that the Judiciary is independent as opposed to 64% who disputed the independence. The 34% upheld the independence of the Judiciary upon the constitutional mandate that it is an arm of government and shall act autonomously without interference from other forces in decision making. The majority who contested judicial independence cited constant overt and covert intrusion by the executive of government, corruption and bribery. The threat of the fusion of powers between the two arms of government is real than imaginary which makes the principle of separation of powers theoretical. See diagram below.



In relation to service delivery, 64% of the court users believed they could get justice from the courts of law as opposed to 36% who differed and were of the view that courts cannot be trusted to dispense fair justice. The figures resonate well with the perception of the independence of the Judiciary. The 64% were positive that there is a high probability that culprits will be punished given the considerable degree of independence and impartiality that exists. On the other hand, 36% were of the view that evils such as corruption, the lengthy court processes and disrespect of the poor by Judicial officers defeats the purpose of justice. 54% of the duty bearers thought that court can deliver effective justice while 46% differed. The pro court respondents felt court deliver good and rich justice. The 46% underrated court based on the fact that judicial officers are corrupt and have made justice for sell. Further, they spoke to the inadequate capacity of the judiciary to reduce case backlog and offer adequate services at courts. It is important to note that corruption is still prevalent in the Judiciary as indicated by the National Service Delivery Survey of 2015 which rated the institution as the fourth most corrupt.

Challenge: Corruption coupled with case backlog, political interference and poor service delivery standards continue to undermine the Judiciary as a temple of just. It affects the confidence of the people in court to deliver justice and therefore undermines access to justice.

Recommendations: Advocacy for the implementation of the Anti- corruption strategy to curb corruption in the judiciary.

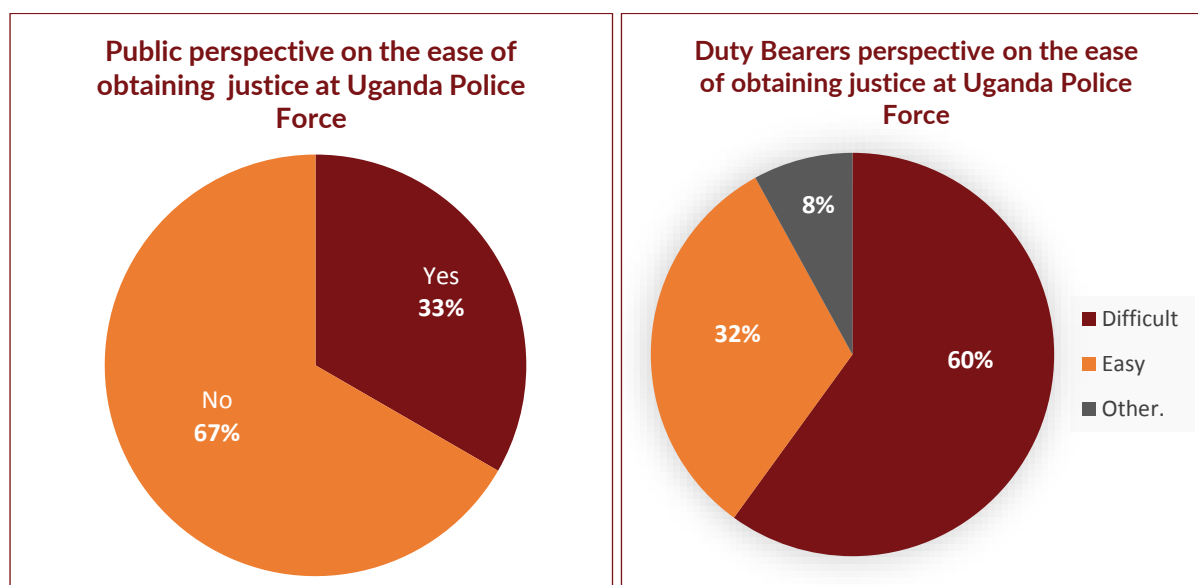
Judiciary should increase outreach to members of the public through open days and build the confidence of members of the public in the courts.

The Judiciary should intensify activism and continuously assert its independence from the Executive in the dispensation of justice. The maxim that justice should not only be done but be seen to be done should form the core value of all Judicial officers.

Uganda Police Force

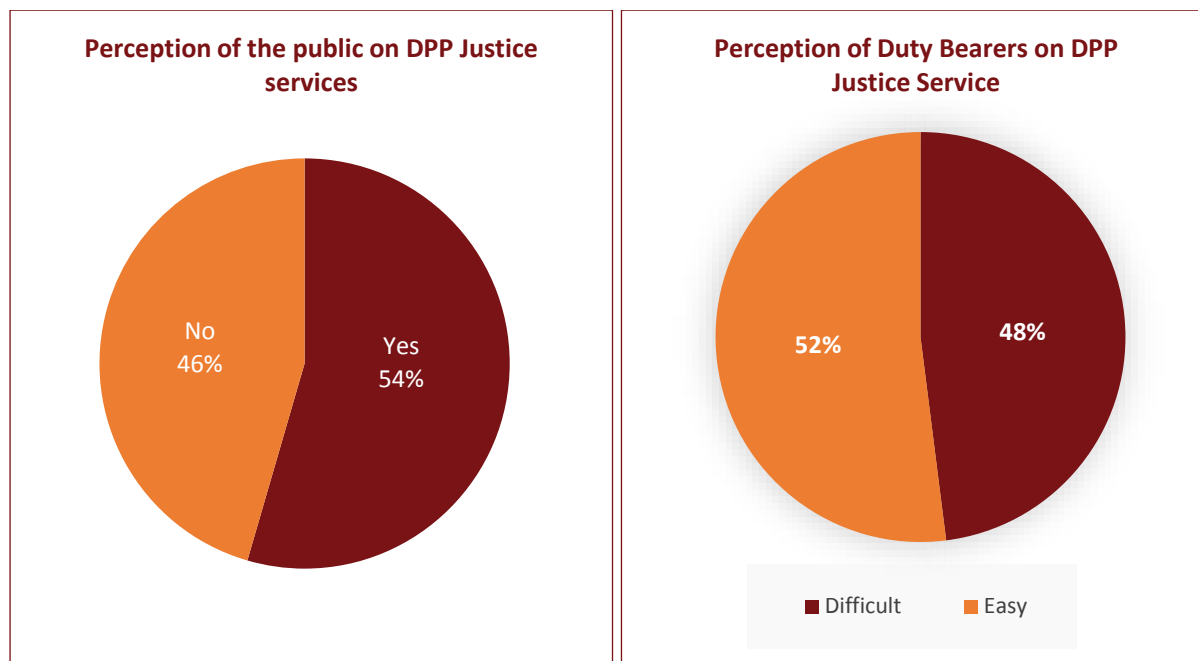
The survey results from both court users and the duty bearers illustrated low levels of confidence in the police force as conduits to the administration of justice. 67 % of court users and 60% of duty bearers noted the difficulty of obtaining assistance of the police during the justice process. The dissatisfaction was attached to the unfriendly approach by the police, the fact that they ask for money from people some of who are indigents, asking for transport moneys, poor services and intolerance to the indigents, untrustworthy and taking sides. This amounts to corruption and erodes the trust of the people in the justice institutions.

The 33% of court users who applauded the police attached their satisfaction in the services of the police to the fact that they investigated their complaints, made arrests of the suspects, did not charge money during the course of the service and displayed competence in handling cases. The 32% of duty bearers who commended the police simply related it to police's ability to deliver a fair service.



Directorate of Public Prosecution (DPP)

A sizeable number of court users and duty bearers rated 54% and 52% as opposed to 46% and 48% respectively were of the view that the DPP is capable of delivering justice.



The merits of the DPP in the dispensation of justice were attached to display of competence in the production of witnesses in court, approachability and adequate application of the law and equity. On the other hand, the percentage of agitated respondents queried the DPP for corruption, failure to follow up cases, failure to direct investigation and delays of handling cases.

Challenges: Corruption is a big problem in most institutions in the justice system including the DPP.

Delay in handling cases leading to case backlog has been a long standing problem within the justice institution hence the saying justice delayed is justice denied. The increase of courts across the country is not commensurate with the expansion of the Directorate of Public Prosecution.

Recommendation: Investigate push factors for case backlog and devise strategies to increase case disposal.

Implementation of the Anti-corruption strategy. In particular, the DPP should customize the JLOS Anti-corruption strategy. To this end, the Anti-corruption strategy particularly the complaint system should be publicized.

Justice Processes and the cost involved

A large number rated at 62% were ignorant about the procedures required to seek a remedy. Further, respondents did not have information on the cost of justice services.

50% of the respondents had information on the services that are free and those that carry a charge. They mentioned the services paid for as filing fees; court bail, court fees, instruction fees; while services not paid for include consultation fees; fees for court judgment; police forms, drafting. An equal number of respondents were ignorant of services that require fees. Costs can be a hindrance to access any service and may actually discourage members of the public from seeking services. The consequences in this case point at delay in attainment of a remedy but also make justice costly.

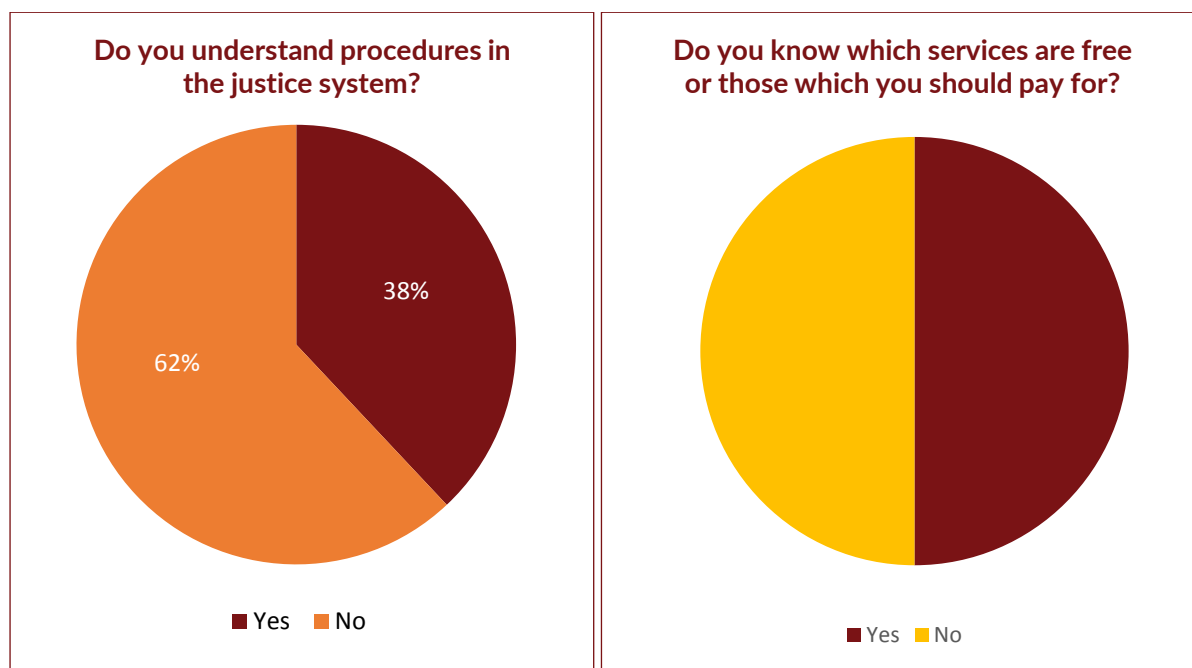
Challenge: This is an indication that there is a cost to be paid to access justice services. The ability of the court user to pay any government levies on justice services has not been analysed to assess the ability of users to pay for them.

There is no information on which services are free and those that attract a payment.

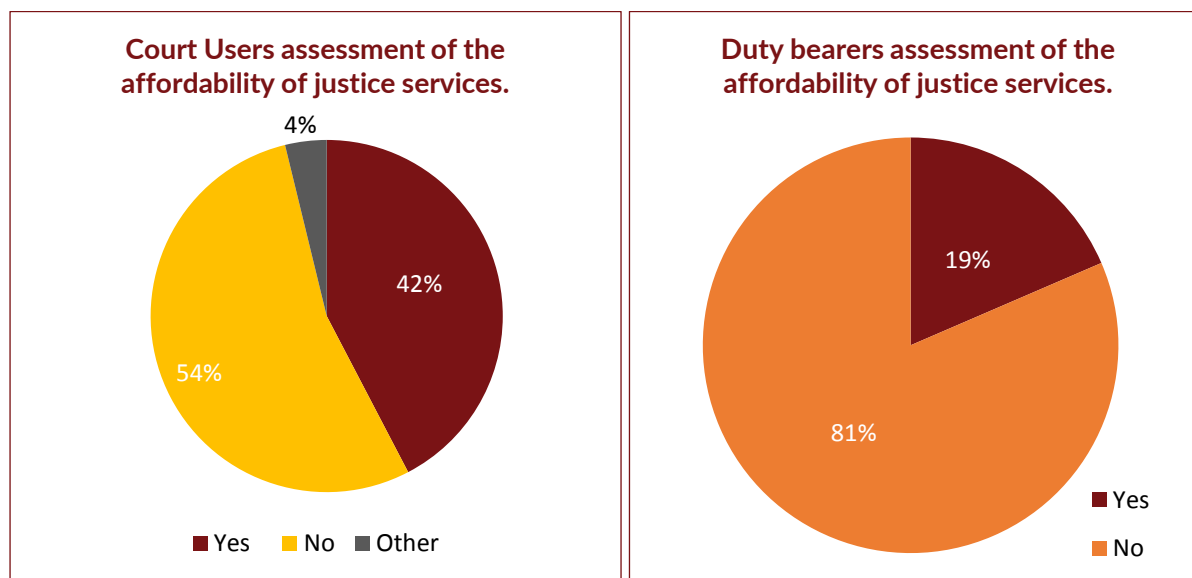
Recommendations: The impact of the cost on the ability to access justice must be analysed and action taken to ease the cost involved if found to be an impediment.

Government should be engaged to analyse the current levies on justice services. With the involvement of stakeholders, there is need to agree on which fees get scrapped or highly subsidized to allow the users of justice services access justice. This is more so because the users have quite a journey to access justice services which are limited mainly at the district level with no structures at the lower administrative units of local government for instance at the sub-county and parishes.

Secondly, the government levies on justice services must be printed out and pinned within the institutional premises in languages understandable to the users.



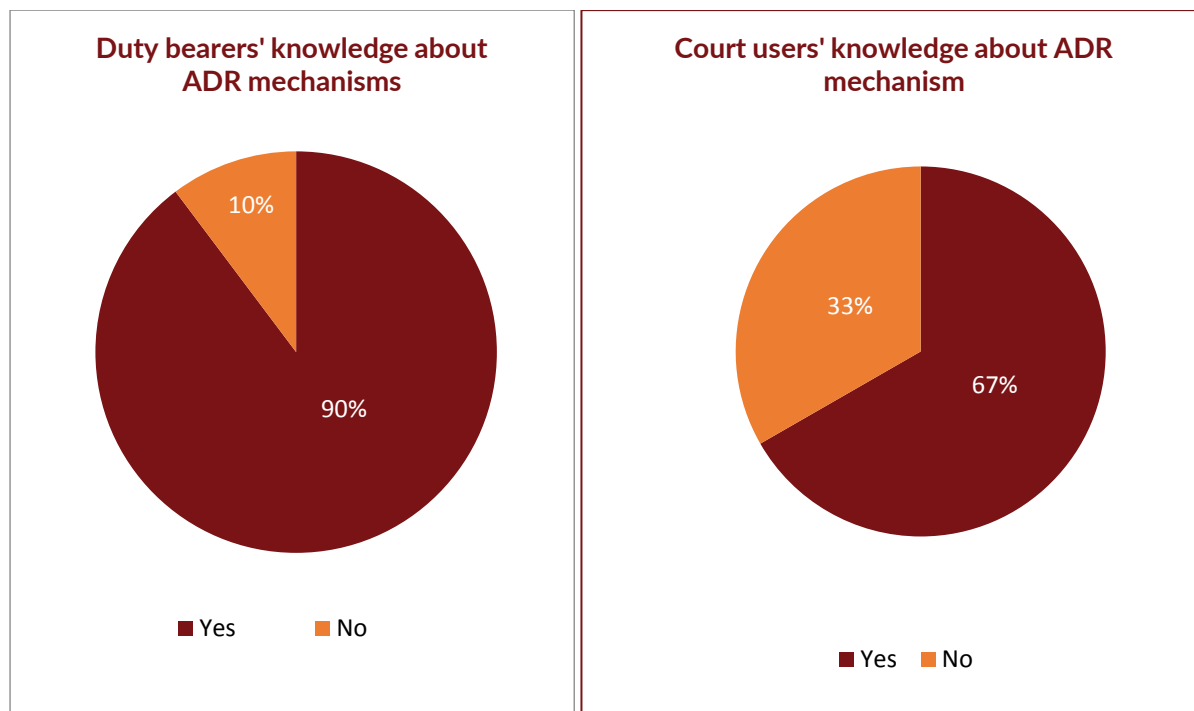
A high number of respondents from the category of the users of the justice system and the duty bearers were of the view that the cost of access to justice is expensive and thus unaffordable.



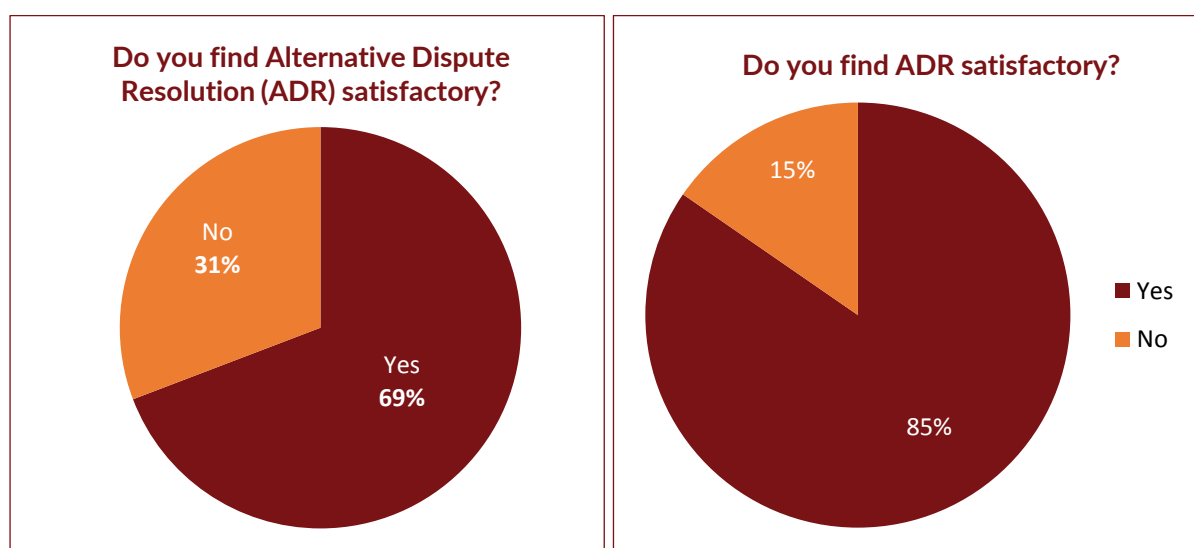
ADR mechanism

There is an indication that ADR mechanisms are prevalent within the justice system. Both court users and duty bearers noted the prevalence of ADR at varying levels. Court users rated at 66.7% acknowledged

the presence of alternative dispute resolutions while 33.3% were ignorant about these mechanisms. An even larger number of duty bearers rated at 90% acknowledged the existence of ADR mechanisms with only 10% expressing ignorance. Majority of the duty bearers also confirmed the application of ADR approach within their institutions.



Use of ADR is recommended in the resolution of justice issues premised on the fact that it could save on litigation costs but also offer solutions within a limited period of time. Two issues arise in the use of ADR namely: whether it satisfies the needs of the justice seeker and whether it is time and cost saving in the delivery of justice. The two issues were sampled during the survey and it was established that 69% of justice seekers were satisfied with ADR as opposed to 31% who were not. On the other hand, the number of duty bearers who find ADR satisfactory was high at 85% as opposed to 15% who felt it wasn't. The survey also revealed that on average, it would take about three weeks to conclude a case using ADR at the cost of about Uganda Shillings One Hundred and Eighty Seven Thousand, One hundred and Forty Two (187,142) as opposed to court proceedings that could take three years with a case implication of over three million (3,000,000). While it is not disputed that ADR is prevalent, there is need for assessment of justice institutions' capacity to offer ADR. It is also of utmost importance that ADR mechanisms are embedded within informal justice structures and capacity of the same is built to serve people within their communities.



Challenge: Although ADR is well conceived and intended to ease access to justice, it is difficult to convince all parties to a case to seek recourse to it. Parties to a case including advocates are reluctant to use it and often opt for adversary means of resolving disputes.

There is no guarantee that ADR will offer tangible solutions to a case in real time. Sometimes ADR processes are prolonged.

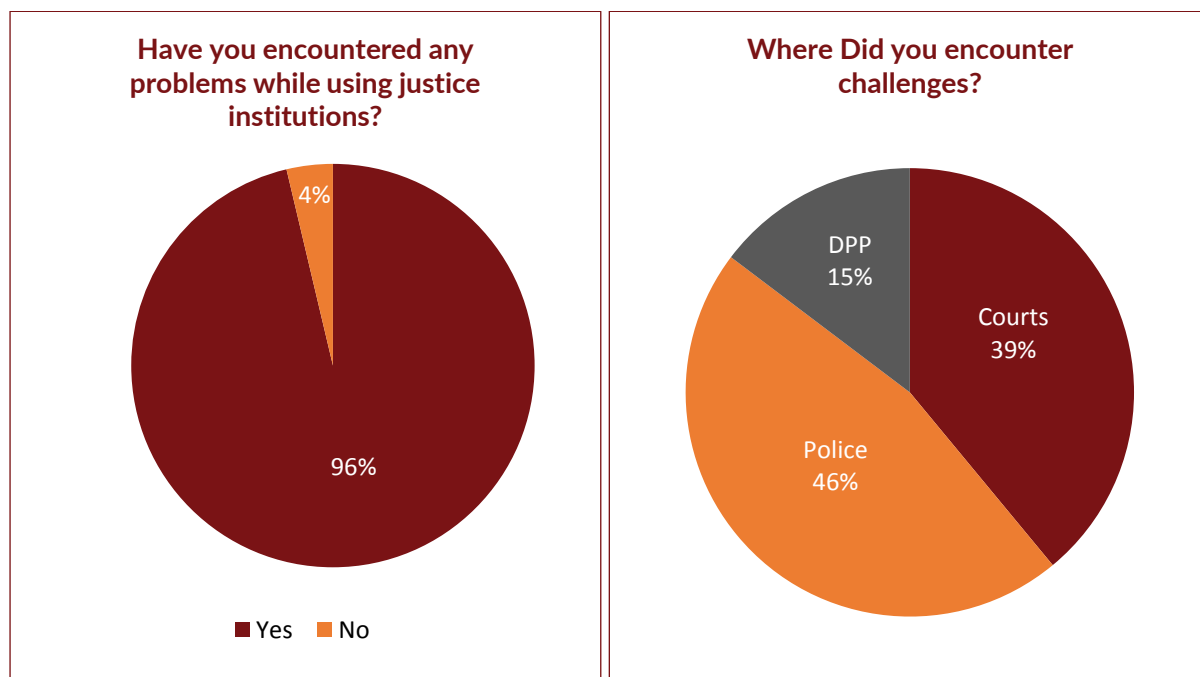
ADR is not the best solution in criminal matters since it will not cure a wrong especially in cases of capital and felony, it is prohibited.

Recommendations: Uganda Law Society and LASPNET should undertake training of their advocates on ADR and courage them to embrace it than shun it.

ADR should be supported and deepened within the formal and informal justice systems. The introduction of ADR mechanisms should be matched with efforts to bring all actors on board via training particularly lawyers. JLOS should work with the Uganda Law Society to reach out to lawyers to embrace ADR. Further, JLOS should develop a plan for capacity development of Local Council Courts and Cultural Institutions to undertake ADR in the informal sector.

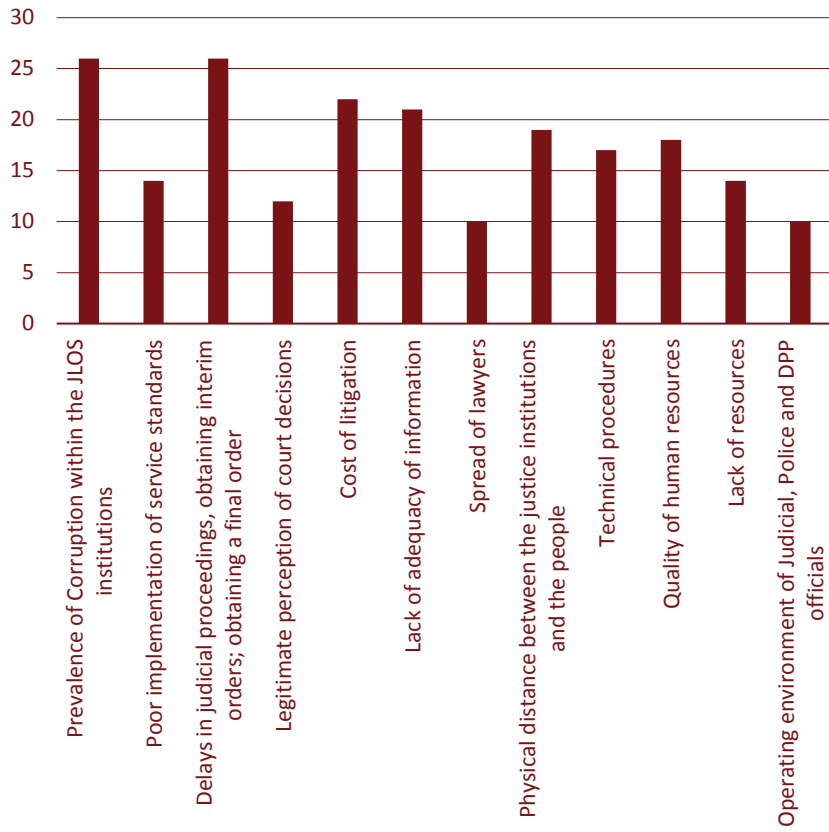
Barriers to access to justice

96 % of the respondents reached stated that they had encountered a problem while using justice institutions. Most of the challenges were encountered at the police, the courts and the DPP respectively. See diagram below.

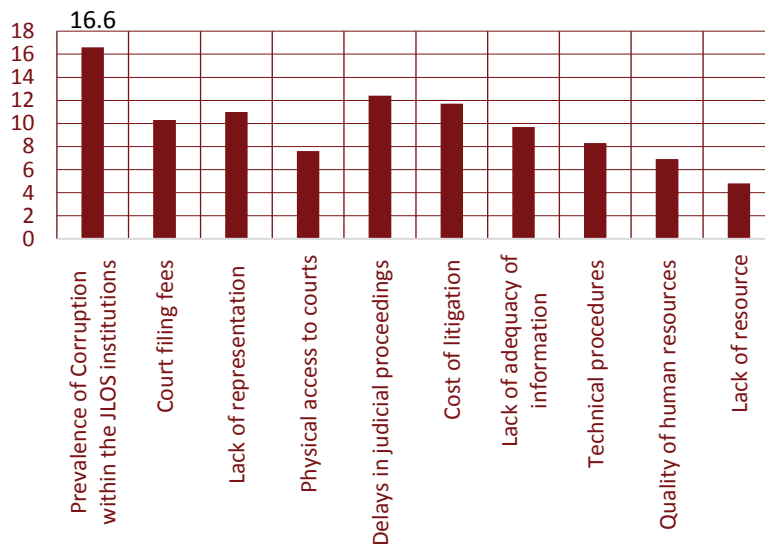


There are several and similar reasons advanced by respondents of all categories as impeding access to justice. These included corruption, poor implementation of laws, cost of litigation, prevalence of lawyers, technical procedures, human resource capacity. See diagram below.

What prevents people from accessing the justice system? The perspective of duty bearers.



What do you think is the biggest barrier to accessing Justice? The perspective of the Court Users.



Respondents rated the prevalence of corruption within the JLOS institutions as the biggest barrier to access to justice, followed by the cost of litigation, delay in judicial proceedings including obtaining interim

orders, cost of litigation, lack of representation, court filing fees, lack of adequate information, technical procedures, physical access to courts, quality of human resource and lack of resources in that order.

Corruption

Corruption is a fundamental obstacle in access to justice with dire consequences that hamper the realization of critical human rights such as the right to fair trial among others.⁸⁷ It undermines the entire justice system and breeds discrimination against those unable to facilitate 'incentivized' justice. The Afro-barometer perception Survey 2016⁸⁸ revealed that Police and Judiciary rank at 63% and 45% respectively among the most corrupt institutions in terms of perception. The findings from the survey conducted recently by LASPNET revealed that corruption is mainly higher in Police and Judiciary. Systematic corruption in the justice system leads to improper delivery of services and compromised legal protection for citizens. The Judiciary's being in the media over allegations of corruption in the recent time is unprecedented.

"When we talk about corruption in the judicial system, the default image is that of a judge taking a bribe⁸⁹ and yet it also includes all forms of inappropriate influence that further damage the impartiality of justice and the image of the judiciary." - Principal Judge, Yorokamu Bamwine.

According to the Inspectorate of Courts, most of the complaints against judicial officers are related to corruption, bias, improper conduct of court proceedings, loss of judicial records and delays to dispose of cases, which are indicative of underhand methods in the administration of justice and corruption.⁹⁰ The BTI 2016 report,⁹¹ added that bribery and political influence in the judiciary is mainly prevalent in the lower courts; the administration of justice is hampered by inadequate funding and staffing there.

Case examples of alleged corruption among judicial officers include among others; a grade two magistrate attached to the Nakawa magisterial area Agnes Napio who was caught in the act on 9th April 2017 soliciting a bribe of two million shillings having negotiated to overturn judgment in a child custody case she handled; and Justice Joseph Murangira, the Deputy head of the Kampala High Court's Criminal Division who was accused by one of the people he sentenced to death 8 years ago, of soliciting a bribe from him.⁹²

"A Judiciary whose reputation is undermined or whose judges, magistrates and other judicial officials are corrupt cannot be recognized as the bastion of the rule of law or democracy in any given state," retired Supreme Court judge, Justice Prof. G.W Kanyeihamba.

The office of the Inspectorate of Government charged with the mandate of fighting corruption in public and private institutions notes the need to extend the notch higher to senior from lower staff.⁹³ While appearing on Radio One FM on 19th April 2017 the IGG further reiterated her proposition, adding that administrative procedures are available to punish the small fish.

⁸⁷ LASPNET Whistleblowers manual

⁸⁸ Afro-barometer perception Survey 2016. See www.afrobarometer.org

⁸⁹ On average the bribery index indicates that each corrupt judicial officer receives a bribe of Sh294082 on average.

⁹⁰ Highlighted in the Hon Chief Justice's Speech for the New Law Year 2017

⁹¹ <https://www.bti-project.org/en/home/>

⁹² <http://www.theugandatoday.com/news/headline/2017/01/chief-justice-orders-probe-of-high-court-judge-over-bribe-disappeared-case-file/>

⁹³ The Daily Monitor Newspaper on April 13, 2017 with a cover story titled, Corruption in Judiciary, "I want big fish, not small fish."



However, the IGG’s position not to prosecute small fish is likely to encourage corruption among magistrates in the lower courts consequently affecting justice for the poor, vulnerable and marginalized. This was also re-echoed by the Chief Justice Bart Katureebe’s response to the IGG over the same matter.⁹⁴

Recommendation: The conversation earlier held by the IGG with the Judiciary should be pursued, that is the use of administrative sanctions at the institutional level, for instance implement disciplinary actions such as interdiction.



High Court Judge, Justice Joseph Murangira, who is accused of corruption. Photo By Rachel Mabala.

Poor funding for JLOS institutions

The Judiciary is an arm of government, equal with the Executive and Legislature. The Constitution provides that the Judiciary shall be a self-accounting entity just like Parliament through its Parliamentary Commission under Article 128 clause 3, 5, 6, 7 of the Constitution.⁹⁵ However, the current average

⁹⁴<http://www.monitor.co.ug/News/National/Katureebe-blasts-IGG-over-corrupt-magistrates/688334-3875124-pq76x6z/index.html>

⁹⁵ All organs and agencies of the State shall accord the courts such assistance as may be required to ensure effectiveness of the courts; The administrative expenses of the Judiciary including salaries, allowances, gratuities, and pensions payable to or in respect of persons serving in the Judiciary shall be charged to a Consolidated Fund; The Judiciary shall be a self-accounting and may deal directly with the Ministry responsible for Finance in relation to its finances and the salary, allowances, privileges and retirement

funding represents less than 50% of what the Judiciary requires to be meaningfully functional and operational. This constrains the infrastructural development of the judiciary to have well facilitated courts and improved welfare of judicial officers.

For example, the Chief Justice in his speech at the New Year law 2017 highlighted that the High Court had planned to hold 104 criminal sessions but due to limited funds, they held 60 sessions. The Court of Appeal which had planned to hold four sessions upcountry to decongest prisons could only hold two sessions. Chief Magistrates, could barely hold criminal sessions for life imprisonment cases, with 1,000,000/= per month to pay witnesses, service of court processes and state brief. Land cases suffered severely, because Magistrates could not visit locus in quo. Judicial officers receive low salaries and their welfare is still poor which often compromises them to solicit bribes from litigants. The ramification of this is that it obstructs dispensation of justice and affects mainly the poor who cannot afford paying bribes to access justice.

Further, the current salary structure under the current judicial salary structure, a Grade Two Magistrate earns Uganda Shillings 737, 837 a month, while a Senior Grade Two Magistrate earns Uganda Shillings 860, 810, a Principal Magistrate Grade Two Uganda Shillings 1.2 million, a Magistrate Grade One Uganda Shilling 1.5 million and the Principal Magistrate Grade One Uganda Shillings 2.1 million. Senior Principal Magistrate Grade One earns Uganda Shillings 2.2 million, while the Chief Magistrate earns Uganda Shillings 2.4 million, the Assistant Registrar earns Uganda Shillings 3.1 million and the Chief Registrar earns Uganda Shillings 4.8 million.⁹⁶

According to the current salary structure of prosecutors under the Office of the Director of Public Prosecutions, the lowest ranking state prosecutor earns a gross salary of Uganda Shillings 644, 963 a month with the highest paid prosecutor at the rank of Senior Principal State Attorney taking a gross monthly pay of Uganda Shillings 2.1 million. The Deputy DPP is paid Uganda Shillings 2.9 million while Assistant DPP earns Uganda Shillings 2.4 million.⁹⁷ State attorneys and magistrates cited disparities in salaries with their counterparts at the same seniority in other government agencies and institutions under the Justice, Law and Order Sector (JLOS). For example, they stated that earnings of a driver in the Inspector of Government's (IG) office earns slightly over Uganda Shillings 1 million a month and an office attendant in the same office receives salary of Uganda Shillings 1 million. They added that a senior IGG officer earns Uganda Shillings 6.2 million and Deputy IG gets Uganda Shillings 15 million while the IGG receives Uganda Shilling 17.8 million.⁹⁸

"It's terrible! people are being milked; very poor people are not able to access to justice. We owe the population access justice as justice institutions"

- *Commissioner General of Prisons on the impact of the judicial strike*

Given their frustration, over 400 State attorneys under their umbrella body, Uganda Association of Prosecutors went on a sit-down strike.⁹⁹ Judicial officers also laid down their tools, demanding government to increase their salaries. Both strikes impacted on access to justice by denying suspects their legal right to be heard within a reasonable period.

benefits and other conditions of service of a judicial officer or another person exercising judicial power, shall not be varied to his or her disadvantage.

⁹⁶ Statement by the Coalition In Support of Judicial Independence on judicial sit down strike.

⁹⁷ www.monitor.co.ug/News/National/State-prosecutors---low-pay-Head-of-Civil-Service/688334-3978444-ep59dc/index.html

⁹⁸ Ibid

⁹⁹ <http://www.theugandatoday.com/news/2017/07/government-lawyers-on-strike/>



Effects of DPP and Judicial industrial action

During the judicial officers' strike, a total of 9875 inmates missed going to court. 9835 inmates missed going to lower courts and 40 to high court.¹⁰⁰ This is an infringement on the right to be heard and within a reasonable period of time.

"About 21,000 cases that had been case listed were not heard. This increased the cost of maintaining suspects in prison who would have been released on bail or acquitted, and increased costs of feeding suspects who are in police cells because they cannot have their day in court." His Worship Paul Gadenya, Chief Registrar¹⁰¹

Poor Record Management

The Judiciary has an online system to support cases management¹⁰² and keeping of records. This system was designed to provide real time information on status of cases and track judicial performance. However, the system has not performed to expectations because it is based on manual registers manned by clerks who have no qualification on record management; similarly, management of records in the courts such as Court of Appeal record poor infrastructure e. g. courts in Kyenjojo and Kagadi.

"Prisons have about 55,000 people with 51% remandees with an average about 1500 prisoners going to court daily.

During the judicial officers strike 9835 inmates missed going to court (lower courts) and 40 missed going to high court; that is a total of 9875 missed an opportunity to have their matters heard" Commissioner General of Prisons.

¹⁰⁰ Interview with Dr. Johnson Byabashaija, Commissioner General of Prisons on 13th September 2017, Kampala.

¹⁰¹ Daily Monitor Monday, September 4, 2017

¹⁰² 2017 'A report of the Case Backlog Reduction Committee' Judiciary



Litigants and suspects outside Kagadi court premises Photo credit: LASPNET Secretariat.

Case Backlog

Different levels of access to justice are impacted differently but ultimately the bearer of the effect is the user of the justice service; that is the right holder. As at December 2016, Uganda had a prison population of 51,882 with an official capacity of 16,612, therefore operating at 312% capacity.¹⁰³ The average length of stay in pre-trial detention in Uganda is 10.4 months for capital offences and 2.6 months for non-capital offences.¹⁰⁴ It is not unusual that suspects are charged, brought before court and remanded with little or no evidence on their file. As at September 2016, approximately 28% of suspects of petty offences (3,614 prisoners) were detained beyond the constitutional time limit of 60 days (figure 4).⁸⁸ Similarly, 20% of suspects of capital offences (628 prisoners) are unlawfully kept in pre-trial detention beyond the constitutional time limit of 180 days before being committed to High Court.

The length of pre-trial detention at police also remains a concern. Violations of the 48-hour rule are among the highest reported human rights violations countrywide. In 2015, it was the second-highest complaint recorded by the Uganda Human Rights Commission (UHRC) with 247 complaints.¹⁰⁵

As of March 16, 2017, the Court of Appeal case backlog was at 1981 cases including 232 civil applications, 260 civil appeals, 1038 criminal appeals, 17 criminal applications, 111 electoral applications and 533 election appeals. Most of the backlog is between two and five years. Further, there were 97 cases pending judgments before the court for more than 60 days (16 Criminal appeals, 48 Civil appeals, 26 Election Petition Appeals, and 7 Constitutional Petitions).¹⁰⁶

The Case backlog report further reveals that most of the cases under case backlog include land and civil matters. It also argues that Case backlog is as a result of absence of judicial officers¹⁰⁷, corruption,

¹⁰³ FHRI 2017 'Justice delayed is justice denied: the plight of pre-trial detainees in Uganda P 17.

¹⁰⁴ JLOS Annual Performance Report, 2015/16 at. 55.

¹⁰⁵ FHRI 2017 Denied: The plight of pre-trial detainees in Uganda.

¹⁰⁶ Case Backlog Reduction Committee – Report 2017

¹⁰⁷ The delay by Parliament to pass a resolution increasing High Court Judges from 51 to 82.

unnecessary adjournments, and limited supervision of judicial officers among others, hence leading to delayed dispensation of justice.¹⁰⁸

In July 2012, a woman in Lira Town, Ms. Dorcus Akwot stripped naked at court in protest over long stay of her relatives on remand. Prior to that, defence lawyers for suspects in the Kasese violence pressured the Magistrates court in Jinja to commit them to the High Court for trial. The suspects had spent more than six months on remand without being committed for trial. The New Vision of Thursday 20 July, 2017 reported that the worst affected suspects are those without defence lawyers.¹⁰⁹

"In a bid to reduce the case backlog arising from the High Court, the Court of Appeal introduced a quick mediation approach of resolving cases. It is a pilot alternative dispute mechanism which will see 61 cases settled within one day. The buildup to this pioneer project started last year after a team from Strauss Institute of Dispute Resolution, in partnership with Pepperdine University, trained Court of Appeal Justices on Appellate Mediation." Mr. Vincent Emmy Mugabo, Judiciary Deputy Registrar.

Late submission of records from the lower courts to the Court of Appeal coupled with unsystematic ways of signing off sessions by judges has often led to delay of appeal cases setting off.

Recommendations:

Give a new face to the handling of proceedings aimed at 1) improved documentation at lower courts through typing of records at the lower court. 2) Develop an archive for finished cases in a manner that eases retrieval of the record particularly for purposes of appeal, 3) avail court recording machines/equipment at the lower courts to improve quality of their records.

Improve Session Guidelines at the judiciary level to ensure that judges are responsible for ensuring that records are proper and correct before closing a session, plan for training of Record Assistants on how to organize the archives and train transcribers on issues of law.

Employ qualified and professional secretaries with some legal knowledge so that judgments are typed with minimal errors.

Impunity and disrespect of legitimate order

There is an emerging trend of disrespect and disobedience to legitimate court orders.¹¹⁰ This defeats execution of court awards in favour of those found to deserve a remedy and defeats the whole point of recourse to courts of law.

A case of two competing justice systems

Most LASPs acknowledged the prevalence of strong sentiments regarding to the traditional norms in particular sections of the Ugandan societies. Among the Acholi and Langi of Northern Uganda, a matter is not settled until cultural practices have been undertaken and accomplished. Even when an accused person is tried in courts of law and sentenced to serve a sentence, the community will be waiting for him or her upon return make an atonement for crimes committed according to culture.¹¹¹ This in a way exposes the offender to double jeopardy.

Recommendation:

JLOS should conduct research into the traditional justice systems in Uganda with the purpose of empowering cultural leaders to pick up on some of the components of dispensation of justice.

Other marginalized groups

Persons With Disabilities

The justice system is not particularly sensitive to persons with disabilities, persons with special needs and the elderly. There has not been a consistent effort to plan for their specific needs to enhance their

¹⁰⁸ Ibid.

¹⁰⁹ The New Vision of Thursday 20 July, 2017.

¹¹⁰ The experience of Andrew Mwayi the Program Manager at Justice Centres Uganda.

¹¹¹ Popular view of most of the LASPs at the validation meeting of the Annual Access to Justice Trends Report.

participation in the justice system to effectively claim their rights. This is evident right from the legal framework that still contains derogatory terminology.¹¹² There is no priority to cases of persons with disabilities, no specialized training of justice system stakeholders to handle persons with disabilities, lack of data on the persons with disabilities served by the justice system and access to the physical premises and services of the justice system remains a challenge. Particularly, there are neither signage interpreters nor braille for dumb and the blind respectively.¹¹³ This has hampered the realization and protection of their rights.

Women pursuing justice

Stigmatization and discrimination continue to mar women's journey of access to justice. Particularly for domestic violence, many women expressed fear of court due to backlash from relatives and this coupled with the changing of domestic violence that is now manifesting itself in many areas as economic violence. A clear example emerges from MIFUMI's experiences in Mbarara where women are often mocked with the statement of "go and court marries you." Incest is also on the increase which makes access to justice difficult. For instance in cases of rape, most communities and families will not give evidence in court against their own.¹¹⁴ Cases of maintenance filed by women are on the increase and with the prevalence of case backlogs, there are delays in addressing these concerns.¹¹⁵ Women in conflict with the law even have tougher challenges as they face the same penal law as men regardless of whether they have infant children or not. Thus the mother child bond particularly of breast feeding mothers is interrupted either through separation or weaning the baby prematurely due to diet constraints. Although the Body of Principles for Protection of All Persons under Any Form of Detention or Imprisonment¹¹⁶ is emphatic on the need to use incarceration of pregnant women, nursing mothers and women who are sole caregivers as a last resort, there are currently 2,154 women in detention around the country; 998 of who are convicts. This is amidst the fact that they lack adequate legal representation as a result of their economic status.¹¹⁷

Recommendation: Intense capacity building of judicial officers to embrace alternatives to imprisonment for the category of pregnant, nursing mothers and female care givers.

Supporting women to become economically empowered will provide women with the choice to walk away from violent relationship, pursue justice while continuing to support their families.

A gender policy is recommended at the sector level to mainstream gender issues in the planning and implementation framework of institutions and increase efficient handling of women during and after proceedings.

Refugees

There are over 1 million refugees from South Sudan living in Adjumani District. A considerable number of them live in Hoima and Kiryandongo. Refugees face a number of challenges while accessing justice. Language barrier is one of such challenges. Refugees from French speaking countries that is Democratic Republic of Congo find difficulty in communicating with people in the host countries. This therefore deprives them of their freedoms of access to information, fair representation in court and association. In order to bridge up the gap, Refugee Law Project through its programme, English for adults was established to teach basic English to refugees. There is also general ignorance about the law. Refugees often have limited grasp of the law which compromises them into wrongdoing. They have shared experiences of corruption in Police in form of extortion of money after which they are chased away without offering help. Court Representation to Refugees is challenging due to difficulty in accessing interpreters in court and therefore often cannot take plea. They also face a challenge of accessing sureties on grounds that they lack a fixed place of aboard. This is against the background of poverty amongst most refugee communities since they have no source of livelihoods which adversely affects their socio-economic wellbeing.

¹¹² In December 2011, the Center for health, human rights and Development (CEHURD) and Mr. Yiga Daniel in partnership with NUDIPU filed constitutional petition no. 64 to challenge the use of derogatory words against PWDs in statutes.

¹¹³ Memorandum on inclusion of persons with mental disabilities in access to justice, shared with the Honourable the Chief Justice of Uganda, 7th July 2017.

¹¹⁴ Experiences of MIFUMI in Isingiro.

¹¹⁵ Ibid.

¹¹⁶ United Nations, 1988.

¹¹⁷ PILAC, Access to Justice for Women incarcerated with Children in Uganda: Flaws and Opportunities for Reform, Working Paper No. of 2017.

Juvenile Justice

Several initiatives have been introduced within the justice system to alleviate the plight of juvenile offenders and generally improve the right of children to access justice. The Justice for Children Program introduced six years ago is still ongoing and is mainly aimed at generating data on children in the justice system and ensuring they are handled in a timely manner.

Although, the justice sector has undertaken major initiatives to improve access to justice for children, major challenges remain. For instance, the Diversion guidelines aimed at increasing the handling of juvenile offenders and the National Child Justice Strategy are still pending approval by key stakeholders. There is improper handling of juvenile offenders by duty bearers witnessed by failure to divert cases of minor offending.¹¹⁸ Gaps are still prevalent in planning for juvenile justice witnessed by lack of vehicles¹¹⁹ and fuel to transport juveniles to court. Children's cases are heard in open courts. Further, sentencing for juvenile offenders has been inconsistent and unlawful with juveniles getting orders of seven to nine years in the rehabilitation centre.¹²⁰ There is lack of comprehensive legal services for children although the Children's Amendment Act¹²¹ makes it mandatory to provide legal representation for all children in civil, administrative and criminal matters.

Recommendations: Investment in capacity development of justice stakeholders to dispense child justice in a friendly manner.

Increase advocacy for inclusive planning and budgeting for child related needs.

Operationalize the new provision of the Children Amendment Act 2016, adopt the Diversion Guidelines and the National Child Justice Strategy.

LASPNET and other CSOs should intensify advocacy with the state to offer protection to the establishment of CSOs. Further, LASPNET should engage with the Police to build the capacity of CSOs to manage security risks.

CSOs should engage government to establish an accountability commission to inquire into the Kasese killings and the incidences of torture that have resulted into grievous bodily harm to hold state operatives accountable for acts of torture.

4.1. 5 ENFORCEMENT

The mechanisms of enforcing the outcomes of any adjudication should be simple and inexpensive. The outcomes ought to be enforced without political interference, corruption and human rights abuses. Majority of court users who responded to the survey rated at 75% noted the difficulty of enforcing a court order. Only 6% thought it was easy while 19% had never interacted with the enforcement process. Enforcement of the outcome of courts has been described as lengthy, tiring, very difficult, expensive and impossible if one has no money.

The centralization of the execution process in Kampala has resulted in a huge number of cases pending execution. There are increasing cases where Advocates and Bailiffs have exhibited unprofessional behavior and un-ethical standards. In some instances, bailiffs have acted in excess of the powers granted to them by outrightly defying the directives from the issuing court and even in instances where court recalls the warrant issued to them, they have instead gone ahead to execute the warrant regardless.

Advocates are in a habit of applying legal gymnastics to delay executions especially where their clients are the judgment debtors, they will unnecessarily apply for stay of execution, appeal, resort to complaints and many more undesirable approaches to defeat justice. All these have invariably resulted in protracted litigation challenging the actions.

¹¹⁸ Experience of Uganda Christian Lawyers' Fraternity Advocates supporting juveniles.

¹¹⁹ Masindi Remand home still has no vehicle to transport juveniles to court.

¹²⁰ See Judge Mulangira's orders for juveniles in March 2017.

¹²¹ Act No. 9 of 2016.

Bailiffs are also debt collectors. Many times, bailiffs are driven by the desire to make as much money as possible out of the execution process. Further, some bailiffs have no clear offices and are housed by law firms.

Dishonesty in dealing with the proceeds of the execution by the bailiffs remains a challenge. Bailiffs, though officers of court and therefore expected to be persons of reputable and exemplary character, are, in many cases ruthless when carrying out execution. They engage in corruption to the extent of conniving and or colluding with judgment debtors not to execute warrants to the detriment of the judgment creditors; extort money from judgment debtors or both parties at times, misuse property attached during execution or deliberately misinterpret court orders to frustrate the process.

There are bailiffs who fail to submit returns in time after execution, or do not file any returns at all. This causes falsification of the records mainly by understating the number of cases that have been fully executed.

At times, consents are entered into by the parties and bailiffs as to how the decree should be satisfied but without involving the court in the process so as to close the file, hence resulting into false statistics of backlog of cases. It is also a breeding ground for abuse of the execution process especially when bailiffs shield judgment debtors and return warrants of arrest without executing them and keep applying for extensions hence increasing delays and backlog.

Bailiffs are also very reluctant to file bills of costs to claim their due payments preferring to pay themselves from the proceeds of the sales or from money demanded from both parties. Their misconduct goes unabated due to lack of adequate laws governing their actions. The bailiffs' actions are rarely checked by any authority and many times they go scot-free even after messing up the execution process.

Some of the judgment debtors escape from the court's area of jurisdiction or have no known property to their names. For example, some companies, which I will refer to as "sham", do not register any assets/properties used for running of the business in company names.

With the creation of the Execution Division of the High Court, movement of files from the Trial Court to the Division often delays. In cases where the judgment debtor files an application for stay of execution, the file keeps moving between the two courts making execution very hard to accomplish.

There is an unacceptable practice where it is left to litigants to facilitate movement of files from courts that issue the decree to the Execution and Bailiffs Division or the files are picked by the Bailiffs themselves. This has always been a recipe for corruption, misplacement of important documents in the files, and other forms of malpractices and abuse; thus leading to obstruction and inordinate delay of matters, resulting in endless litigation.

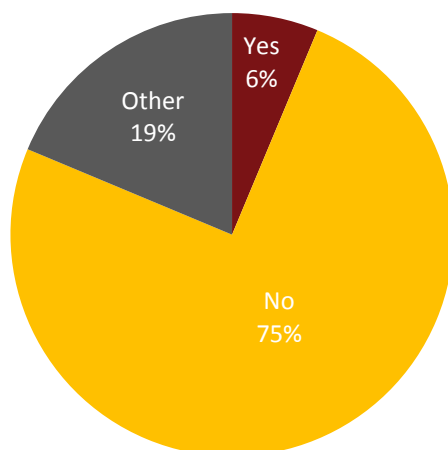
There is need for more funding to the division to facilitate the execution process. The Division has increasing costs related to transportation of files from trial courts to the Division Registry at the High Court as well as return of the files to the relevant courts. It is a back and forth process which needs to be provided for. Otherwise, as earlier mentioned the process breeds corruption and enhances manipulation of court users by court staff, bailiffs or advocates.

More resources are also needed to enable the Division support the office of the Chief Registrar in inspection of Court Bailiff's offices before licenses are issued, to reduce on fraudsters.

There is also need to install lockable cabinets for safe storage of files to ensure safe custody of documents.

The bailiffs face numerous challenges with the requirement to clear warrants with the police. The clearance of the warrant must come from the Commandant of Police Land Protection Unit, Regional Police Commander, Resident District Commissioner (RDC), District Internal Security Officer, District Police Commander and finally, Officer in Charge of Police Station of the area. Of late, the bailiffs have to clear the warrants through the State Minister for Lands. All these procedures that prolong execution are expensive and also facilitate corruption at various levels, to the detriment of litigants. The poor and vulnerable litigants are more exploited in this regard resulting into more destitution. However, the involvement of police is necessary for security purposes.

Is it difficult to enforce a decision of the court?



Challenge: Enforcement mechanisms are also marred with human rights abuses characterized by overcrowding in prisons, lack of adequate detention facilities for children who are sometimes detained in adult prisons and assault of prisons. The above occurrences amount to inhuman and degrading treatment contrary to the Constitution of the Republic of Uganda.

The Justice system in Uganda still practices solitary confinement of juvenile offenders in violation of international law. The principle against solitary confinement is embodied in the prohibition against inhumane treatment in the Convention on the Rights of the Child.¹²² Article 40 of the Convention on the Rights of the Child urges nations to ensure that measures used are proportionate and appropriate to the youth's circumstances and to the offense. Solitary confinement and other forms of isolation can cause serious psychological, physical, and developmental harm to children.

In partnership with the Uganda Court Bailiffs Association, LASPNET is currently supporting execution of court orders for the cases of the poor vulnerable and marginalised.

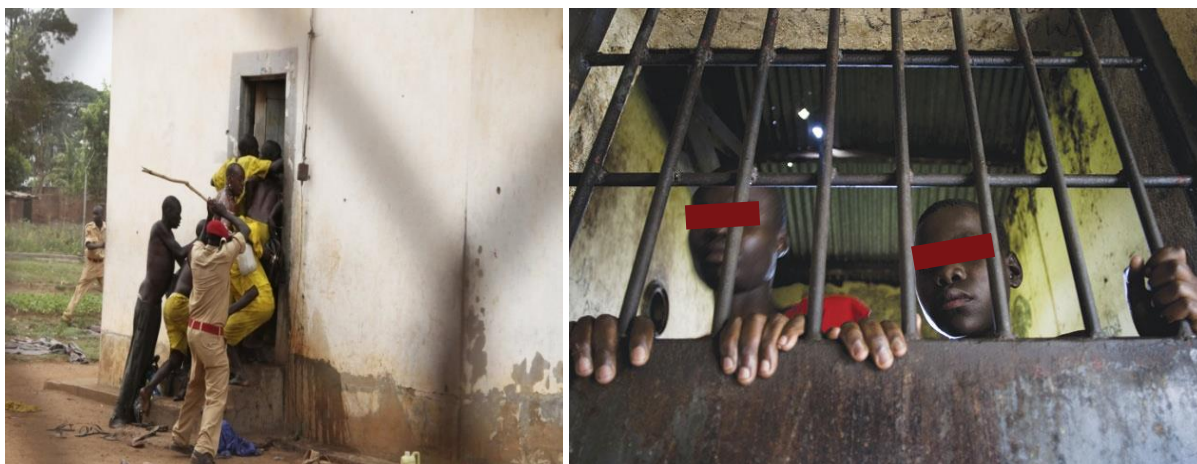
Recommendation: A legal framework encouraging court bailiffs to offer Pro-bono execution would offer some sustainable solution.

There is need to spread the execution process to other divisions and other parts of the country as this will support fast tracking and appreciation of issues emerging such as appeals, stay of execution.

There is need for rules governing the remuneration of bailiffs as debt collectors.

¹²² Article 37.

Right: Juveniles in Kampiringisa. Photo Credit: Quico Garcia.



Left: Prison warden beats inmates to force them back into their wards in Lira Prison. Photo Credit: Hudson Aponya/REUTERS.

Recommendations: JLOS should implement the Child Justice Strategy in conjunction with Ministry of Gender Labour and Social Development to ensure that there are adequate rehabilitation facilities for juveniles managed according to international standards of managing juveniles. There is need to develop rehabilitative programmes for juvenile offenders in Uganda. The preparatory and approved schools for juvenile offenders should be revived in Uganda.

JLOS in conjunction with Ministry of Internal Affairs and Uganda Prisons Service should work on implementing the Minimum Standards for Persons under Detention to ensure that prisoners live under dignified conditions and are not assaulted.

JLOS working with the Judiciary and the Uganda Court Bailiffs Association should review the execution of judgements and develop an execution process that is sensitive to the needs of the poor.

4.2 OPPORTUNITIES AND STRENGTH

JLOS SDP IV

There is strength and opportunity in the JLOS SDP IV starting 2017 which sets new targets favourable to access to justice. The targets of JLOS SDP IV on access to justice include, increase: public confidence in JLOS Services from 35% in 2014 to 50% in 2020; public satisfaction in JLOS Service delivery from 60% in 2012/13 to 75% in 2020; and case disposal rate from 42.7% in 2013/14 to 60% in 2020. This would be achieved through first, improving the legal, policy and regulatory environment that is conducive for doing business to create wealth and employment. Secondly, through enhancing access to JLOS services particularly for vulnerable persons. Third, through rights promotion in order to ensure accountability, inclusive growth and competitiveness in Uganda.

Last, by fighting corruption in order to strengthen Uganda's competitiveness for wealth creation and inclusive growth. Progress has been made on some of the targets. It is envisaged that the outstanding goals that have not been achieved will be carried forward into the JLOS SIP IV 2018-2022. The above targets will form a basis for analysis of justice trends particularly in light of service delivery and performance of institutions.

Specifically for the new implementation framework 2017- 2022, the Sector will focus on attaining the following major results: i) increasing public trust from 49% to 55% and public satisfaction with JLOS services from 72% to 78% as well as increasing the index of judicial independence from 3.41 to 3.8; ii) reducing case backlog from 24% to 9%; iii) increasing districts with one stop JLOs frontline service points from 59.3% to 80% and reducing crime rate; iv) improving the corruption perception index from 0.25 to 0.30, reducing pre-trial detainees from 52% to 45% and reducing human rights violations; v) improving the ease of doing business index from 57.7 to 63 and increasing the index of the efficiency of legal

framework in settling disputes from 3.8 to 4.1. Under the SDP IV, the Sector seeks to strengthen and extend the State Briefs scheme to support Chief Magistrates and ensure that fewer cases are dismissed for lack of representation. The Sector will specifically focus on building the capacity of Legal Aid Service Providers to serve the population and will also align the Pro Bono scheme and the State Brief Scheme, while at the same time ensuring availability of choice.

The focus will not only be on infrastructure but also addressing the critical barriers that limit access to services of the JLOS institutions including but not limited to cost, distance, procedures, knowledge, time, technicalities etc. JLOS will therefore focus on eliminating all cases that have stalled over the years in the judicial system by 2019; enhance efficiency and effectiveness of JLOS institutions; de-concentrate service delivery and ensure physical and functional presence of frontline JLOS services at county level by 2021; strengthen justice for children ;strengthening access to legal aid; strengthen measures to effectively and efficiently prevent and respond to crime; Ensure stakeholders empowerment and enhance access to legal information; Promote gender equality and equitable access to justice.

Some of the strategies to be employed will include: strengthening the case management systems, review, reform and automate business processes in all institutions; establish infrastructure and open new service points to complete the chain of justice country wide; promote child friendly services; fast track disposal of child related cases at all levels of the justice chain; strengthen the state brief scheme and pro-bono services; promote coordination and regulation of LASPs; fast track the enactment of legal aid promoting laws; expanding efforts to assist self-represented litigants; strengthen investigation of crimes and set and implement standards for investigation, prosecution, adjudication and correctional services; roll out initiatives such as mediation, small claims and land courts ; review rules and procedures that cause delays; build capacity of duty bearers in commercial and Land justice and labour dispute resolution and roll out the implementation of the JLOS anti-corruption strategy.

Draft National Legal Aid Policy 2012

The Draft National Legal Aid Policy and Bill has been tabled before cabinet and awaits passing. It is hoped that the policy will create new opportunities for all citizens of Uganda to access free legal services and hence access justice. It also creates sustainability for free legal aid services since it places funding of the services within government structures and framework. It will also strengthen the current private initiatives of LASPs.

Current discussions between the Executive and the Judiciary and the Office of the Director of Public Prosecutions

Following the call off of the judicial strike of the staff of the Judiciary and the Directorate of Public Prosecution, negotiations are on-going between the management of these institutions and the Executive. It is hoped that the talks will materialize into salary increments and better working conditions which should motivate the overall delivery of justice services.

National Oil Revenue

It is anticipated that with the discovery and production of oil in Uganda, government revenues will increase resulting into better allocation of resources for all government institutions including those in justice sector. It is hoped that some of the challenges experienced in the delivery of justice services due to lack of funds for instance understaffing will be resolved.

4.3 THREATS

There are also threats to improvement of access to justice.

Impunity

Impunity characterised by the non-observance of the rule of law is on the increase characterised by suppression of opposition voice, stifling of freedom of association, intimidation of CSOs, detention of people opposed to government; incommunicado is on the increase and it has largely undermined human freedoms and access to justice.

5.0 INSTITUTIONAL RECOMMENDATIONS

(i) LASPNET/ LASPs;

- Strengthen sensitization and awareness programmes to ensure mass sensitization of the citizens on the laws and rights.
- Continue advocating and lobbying for pro-poor laws and policies i.e. Witness Protection bill, Marriage bill, Administration of Justice bill, National Legal Aid Policy and Bill.
- Enhance safeguard of freedoms through Public Interest Litigation to reinstate the observance of rule of law.
- Develop protocols to standardise ADR mechanisms.

(ii) JUDICIARY;

- Strengthen through revival and replication of sustainable innovations in access to justice such as plea bargaining, mediation and state brief schemes.
- Provide supervisory role to Local Council Courts upon establishment.
- Ensure efficiency and effectiveness in the way cases are handled for example trials should be done upon committal to reduce on case backlog.
- Rethink complex court procedure to enhance efficiency.
- Facilitate more appointments of judicial officers and increase resources to the Judiciary to enhance its independence.
- Create and operationalize archive at high court for all finished cases of the High Court circuits so that it is easier to retrieve a record when there is an appeal.
- Provide Court recording machines/equipment to lower courts to improve quality of their records.
- Session judges should interest themselves in ensuring that the records are proper and correct before closing a session.

(iii) JLOS SECRETARIAT AND MINISTRY OF JUSTICE AND CONSTITUTIONAL AFFAIRS;

- Engage and Support Uganda Law Council to incorporate informal justice delivery mechanism issuance of practice direction.
- Facilitate the process to formally recognize informal justice systems by the sector.
- Lobby for increase of the budget of JLOS institutions to ensure effective operationalization and administration of justice in Uganda.
- Fast track the passing of the NLAP and Administration of Justice Bill to ensure the indigent access justice and guarantee independence of the Judiciary.
- Strengthen mechanisms to address justice giving emphasis to diversion, rehabilitation and legal representation.

(iv) UGANDA POLICE FORCE;

- Improve welfare of Police Officers to reduce on corruption incidences.
- Protect human rights by refraining from use of excessive force on civilians.
- Enhance community-driven approaches to policing.

(v) OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS;

- Fast track and adequately advice on timely investigations.
- Adopt and fast track the Anti-corruption strategy.

6.0 ACTION POINTS FOR STAKEHOLDERS

Thematic area	Action Points	Responsible Institutions	
1.	<i>Legal protection</i>	Engagements with Uganda Law Reform Commission and the Justice Law and Order Sector to develop a strategy for mass sensitization of the citizens on the law right from inception or on amendments to allow people get involved in the formulation and during implementation. This will improve the claim of rights and citizens empowerment to live within the law and safeguard the constitution.	LASPNET Uganda Law Reform Commission Justice Law and Order Sector (JLOS), LASPs
	Advocacy for laws that are pro-poor such as witness protection bill, marriage bill, administration of justice bill, National legal aid bill and discouragement of laws that entail freedoms and defeat access to justice.	LASPNET, LASPs	
	Enhance safeguard of freedoms through Public Interest Litigation to reinstate the observance of rule of law.	LASPNET, LASPs, ULS, Academia.	
2.	<i>Legal awareness</i>	Build effective partnerships between Government and Civil Society organizations to develop a comprehensive strategy on packaging and dissemination of civic education on access to justice.	LASPNET, Judicial Service Commission, Uganda Human Rights Commission, Justice Law and Order Sector, Academia, LASPs.
	Conduct a baseline to identify the needs of the people on access to justice information.	LASPNET, Justice Law and Order Sector	
	Embark on the simplification of laws and translation into local language for ease of access by the population.	LASPNET, Justice Law and Order Sector and Uganda Law Reform Commission.	

Thematic area		Action Points	Responsible Institutions
3.	<i>Legal Assistance</i>	Develop a strategy on overall distribution of LASPs. The strategy should target fair geographical distribution of LASPs aimed at expanding services to hard to reach areas but also tailored to the marginalized and vulnerable.	LASPNET, JLOS, Uganda Law Council.
		Develop strategies including partnerships with the Local Government to avail legal services, award of Continuing Legal Education Points and recognition of lawyers who work in difficult places to ensure there is a fair distribution of lawyers in all parts of the country. Adopt use of community paralegals, strengthen probation and community development offices	Uganda Law Council, Uganda Law Society, District Local Government.
4.	<i>Redress Mechanisms</i>	CSOs should intensify demand for government accountability in relation to observance of the rule of law. This could include scholarly writing on issues of rule of law and access to issue to increase awareness by the government but also awaken observation.	CSOs, NGOs and Academia.
		CSOs should intensify demand for government accountability in relation to observance of the rule of law. Intensify economic empower activities for clients especially for the survivors of domestic violence	CSOs, NGOs and Academia.
		Advocacy with the government and Judiciary to recruit and resource more judicial officers to listen to land disputes.	LASPNET, ULS, Judiciary and JLOS.
		Strengthen linkages between land sector and justice sector to improve handling of land matters.	JLOS and LASPNET.
		Strengthen the implementation, monitoring and accountability system.	JLOS and JLOS institutions.

Thematic area	Action Points	Responsible Institutions
<i>Redress Mechanisms</i>	Judiciary should increase outreach to the members of the public through open days and build the confidence of members of the public in the courts.	JLOS, Judiciary and LASPNET
	The Judiciary should intensify activism and continuously assert its independence from the Executive in the dispensation of justice.	JLOS and Judiciary
	Investigate push factors for case backlog and devise strategies to increase case disposal. Judiciary should create a central archive at high court for all finished cases of the High Court circuits so that it is easier to retrieve a record when there is an appeal.	JLOS and Judiciary
	Implementation of the JLOS Anti-corruption strategy.	JLOS and JLOS institutions.
	Conduct a study on the impact of the cost of justice on the ability to access justice and work out new charges.	JLOS and JLOS institutions.
	Print the government levies on justice services and pin within the institutional premises in language understandable to the users.	JLOS and JLOS institutions.
	Document Impact of ADR mechanism to access to justice Undertake training of advocates on ADR to popularize it. Deepen ADR interventions within the formal and informal justice systems.	Uganda Law Society, LASPNET, JLOS, Local Council Courts and Cultural institutions.
	Improve documentation, storage and archiving in court at all levels. Session judges should interest themselves in ensuring that the records are proper and correct before closing a session. Train records assistant on how to organize the archives and transcribers to how to transcribe (sieve information).	JLOS and Judiciary.

Thematic area		Action Points	Responsible Institutions
		Improve Session Guidelines at the judiciary level to ensure that judges are responsible for ensuring that records are proper and correct before closing a session, plan for training of record assistants on how to organize the archives and train transcribers and issues of law.	JLOS and Judiciary.
		Advocacy to implement the Anti-Torture legislation.	JLOS, Police, CSOs and Security Organs.
		Intensify advocacy with the state to offer protection to the establishment of CSOs. Further, engage with the Police to build the capacity of CSOs to manage security risk.	LASPNET and CSOs.
		Engage government to establish an accountability commission to inquire into the Kasese killing and the incidences of torture that have resulted into grievous bodily harm to hold state operatives accountable for acts of torture.	CSOs, LASPNET.
		Investment in capacity development of justice stakeholders to dispense child justice in a friendly manner.	JLOS, MoGLSD, CSOs.
		<i>Enforcements</i>	Implement the Child Justice Strategy especially to ensure that there are adequate detention facilities for juveniles managed according to international standards of managing juveniles.
5.	<i>Enforcements</i>	Implement the Child Justice Strategy especially to ensure that there are adequate detention facilities for juveniles managed according to international standards of managing juveniles.	JLOS, MoGLSD, CSOs.
		Implement the Minimum Standards for Persons under Detention to ensure that prisoners live under dignified conditions and are not assaulted.	JLOS, MoGLSD, CSOs, Uganda Prisons Service.
		Review the execution of judgements and develop an execution process that is sensitive to the needs of the poor.	JLOS, Ministry of Internal Affairs and Uganda Prisons Service
6.	<i>General recommendation</i>	Generate an annual score card for access to justice using the JLOS Result framework.	JLOS and JLOS institutions.

7.0 CONCLUSION AND WAY FORWARD

Conclusively, the access to justice process starts from the normative protection, to the legal awareness, legal assistance, redress and conflict resolution and enforcement. Uganda has made progressive steps by enacting laws that protect the right to access to justice. Further, the institutional structure to implement the legal framework is already in place. However, both the legal and institutional framework has been impacted by a number of factors as highlighted above including lack of capacity of stakeholders, ignorance of duty bearers, poor funding and poor accountability system which continue to undermine the right of citizens to access justice.

Therefore, the gains made must be harnessed and deepened through consistence in planning, implementation and monitoring of access to justice interventions.

ANNEX 1: LIST OF DOCUMENTS REVIEWED

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3. African Union, *African Youth Charter*, 2 July 2006, available at: <http://www.refworld.org/docid/493fe0b72.html> (accessed 17 September 2017)
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5. Children (Amendment) Act 2016
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25. JLOS (2016) 2015/16 JLOS Annual Performance Report
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27. Key note address of the Honorable the Chief Justice of the Republic of Uganda at the JLOS Annual Review Conference October 2016.
28. Kyiv Declaration on the Right to Legal Aid Conference on the Protection and Promotion of Human Rights through Provision of Legal Services 2007
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ANNEX 2: LIST OF JUSTICE STAKEHOLDERS INTERVIEWED

Dr. Johnson Byabashaijja, Commissioner General of Prisons.
Mr. Godfrey Bakulu, LASPNET IIMS Officer
Ms. Sylvia Namubiru Mukasa, LASPNET Executive Director
Ms. Sophie Racine, DGF Component Manager, Peace, Rights and Justice
Ms. Dorah Caroline Mafabi, DGF Programme Manager Access to Justice
Ms. Rachael Odoi Musoke, JLOS Senior Technical Advisor
Mr. Aaron Besigye, ULS Head Legal Aid Project
Ms. Christine Birabwa, Justice Centres Uganda National Coordinator
Mr. Francis Gimara, ULS President
Hon. Irene Ovonji-Odida, FIDA (U) Executive Director
Ms. Harriet Nabankema, FIDA (U) Senior Legal Officer
Justice David Batema, Judiciary Resident Judge, Mbale High Court Circuit.
Deputy Registrar Court of Appeal, His Worship Dismas
Regional Prisons Commander, Western Region

Staff from Kamuli; Kamuli Community Based Paralegal Association; In Mbale FIDA Kamuli; Jinja Legal Aid Project of the Uganda Law Society; Iganga National Union of Disabled Persons of Uganda, Platform for Labour Action in Iganga and Lira; In Soroti staff from Land Equity Movement of Uganda; In Moroto Legal Aid Project of the Uganda Law Society and MIFUMI in Mbarara and Masaka; In Gulu legal Aid Project of the Uganda Law Society in Fort Portal, Masindi, Kabale; Child Rights Empowerment and Development Organisation in Masindi ; In LIRA Facilitation for Peace and Development; Justice Centres Uganda Hoima; World Voices Uganda; Legal Aid Clinic in Kabarole and Kagadi, Association of Human Rights Organizations in Ruwenzori; Uganda Christian Lawyers Fraternity in Kasese Masaka; Uganda Network for Law, Ethics and HIV/AIDs;

ANNEX 3: SURVEY ON THE STATE OF ACCESS TO JUSTICE (COURT USERS)

Introduction:

LEGAL AID SERVICE PROVIDERS NETWORK (LASPNET) has developed this survey designed to help us evaluate the current state of access to justice in Uganda. Information provided will form part of a report on the state of access to justice that will be disseminated at the Annual State of Justice Conference later in the year. Help us share your views on the questions below

1) BACKGROUND INFORMATION

<p>1.1 Gender</p> <p><input type="checkbox"/> Female</p> <p><input type="checkbox"/> Male</p> <p>1.2. Education level</p> <p><input type="checkbox"/> University Level</p> <p><input type="checkbox"/> Secondary</p> <p><input type="checkbox"/> Primary</p> <p><input type="checkbox"/> None at all</p> <p><input type="checkbox"/> Other</p> <p>1.3. Which region are you based</p> <p><input type="checkbox"/> Central</p> <p><input type="checkbox"/> Northern</p> <p><input type="checkbox"/> Western</p> <p><input type="checkbox"/> Eastern</p> <p>Mention Village and District</p> <p>_____</p>	<p>1.4. Are there any justice structures where you are based?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Please specify _____</p> <p>1.5 Which JLOS institutions are missing where you are based?(Tick all that apply)</p> <p><input type="checkbox"/> Police</p> <p><input type="checkbox"/> Court</p> <p><input type="checkbox"/> DPP</p> <p><input type="checkbox"/> Legal Aid Service Provider</p> <p><input type="checkbox"/> Other Please name</p>
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2) EXISTENCE OF A REMEDY

<p>2.1. Have you had any engagement with a justice provider?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>2.2. Who was this justice provider</p> <p><input type="checkbox"/> DPP</p> <p><input type="checkbox"/> Police</p> <p><input type="checkbox"/> Magistrate/Judge</p> <p><input type="checkbox"/> Other</p> <p>2.3. What matter was the engagement on?</p> <p><input type="checkbox"/> Criminal</p> <p><input type="checkbox"/> Land</p> <p><input type="checkbox"/> Domestic violence</p> <p><input type="checkbox"/> Other</p> <p>2.4. Did you receive a satisfactory service</p> <p><input type="checkbox"/> Very good</p> <p><input type="checkbox"/> Good</p> <p><input type="checkbox"/> Bad</p> <p><input type="checkbox"/> Poor</p>	<p>2.5. Do you think the justice system is provides adequate protection of human rights.</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Other</p> <p>If not how do you think it can be improved?</p> <p>2.5. Do you think the judiciary is independent?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Please explain _____</p> <p>2.6. What was the nature your experience on the service you received??</p> <p><input type="checkbox"/> Very good</p> <p><input type="checkbox"/> Good</p> <p><input type="checkbox"/> Bad</p> <p><input type="checkbox"/> Poor</p>
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<p>Do you trust that you can get justice in the Police</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>If yes why</p> <p>.....</p> <p>If no why?</p> <p>.....</p>	<p>Do you trust that you can get justice in the DPP?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>If yes why</p> <p>.....</p> <p>If no why?</p> <p>.....</p>
<p>Do you trust that you can get justice in the Courts?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>If yes why</p> <p>.....</p> <p>If no why?</p> <p>.....</p>	
<p>3) CAPACITY TO SEEK REMEDY</p>	
<p>3.1. Do you know where to find justice services?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Mention some of those institutions</p> <p>.....</p> <p>3.2. Do you understand procedures in the justice system</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	<p>3.3. Do you think information on laws and rights is accessible?</p> <p><input type="checkbox"/> Very accessible</p> <p><input type="checkbox"/> Somewhat accessible</p> <p><input type="checkbox"/> Not accessible</p> <p>If not accessible, explain</p> <p>.....</p> <p>3.4. Do you know which services are free or those which you should pay for?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Mention the services paid for</p> <p>.....</p> <p>Mention the services not paid for</p>
<p>4) CAPACITY TO SEEK REMEDY THROUGH LEGAL COUNSEL/ LEGAL ASSISTANCE</p>	
<p>4.1. Who provides you with legal services in you are ?</p> <p><input type="checkbox"/> Paralegal</p> <p><input type="checkbox"/> Advocate/lawyer</p> <p><input type="checkbox"/> Traditional/religious leader</p> <p><input type="checkbox"/> Police</p> <p><input type="checkbox"/> Other</p> <p><input type="checkbox"/> If other please specific_____</p> <p>4.2. Where are they located?</p> <p><input type="checkbox"/> Village</p> <p><input type="checkbox"/> Sub-county</p> <p><input type="checkbox"/> Home District</p> <p><input type="checkbox"/> Another District</p> <p>4.3. How helpful are they?</p> <p><input type="checkbox"/> very helpful</p> <p><input type="checkbox"/> somewhat</p>	<p>4.6. If you are a client of Court or Police . Did you have a lawyer to support you ?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Other</p> <p>Please explain.</p> <p>4.7. Are Legal Aid Service Providers accessible where you live?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Other. Please explain</p> <p>4.8. Give examples of Legal Aid Service Providers in your location</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

<input type="checkbox"/> not helpful Explain if they are not helpful 4.4. Do you have Lawyers in your region? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other. Please specify 4.5. Are lawyers accessible? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other. Please specify	4.9. Have you or someone you know used them? <input type="checkbox"/> Yes <input type="checkbox"/> No 4.10.. If you have used a service or close friend or relative were they satisfied with the service you received <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other. Please explain.
5) REDRESS AND CONFLICT RESOLUTION MECHANISM	
5.1 What do you think is the biggest barrier to accessing Justice? Tick whichever is applicable <input type="checkbox"/> Prevalence of Corruption within the JLOS institutions <input type="checkbox"/> Court filing fees <input type="checkbox"/> Lack of representation <input type="checkbox"/> Physical access to courts <input type="checkbox"/> Delays in judicial proceedings e.g. obtaining interim orders; obtaining a final order; <input type="checkbox"/> Cost of litigation <input type="checkbox"/> Lack of adequacy of information <input type="checkbox"/> Technical procedures <input type="checkbox"/> Quality of human resources <input type="checkbox"/> Lack of resources <input type="checkbox"/> Other..... <input type="checkbox"/>	
5.2. Do you find the cost of access to justice affordable in terms of time and money? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other Please explain	5.5. Do you know about alternative forms of dispute resolution? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other Please explain.
5.3. Do you find it Alternative Dispute Resolution (ADR) e.g. mediation services accessible? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other Please explain.	5.6. Do you find Alternative Dispute Resolution (ADR) such as mediation services satisfactory? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other Please explain.
5.4. How long to it take to conclude your case? <input type="checkbox"/> Within three (3) Months <input type="checkbox"/> Within six (6) Months <input type="checkbox"/> Within one (1) Year <input type="checkbox"/> Over three (3) Year	5.7. Have you encountered any problems/challenges/difficulty while using justice institutions? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, Where <input type="checkbox"/> Courts <input type="checkbox"/> Police <input type="checkbox"/> DPP Please explain the nature of difficulty encountered
Did you find it easy or difficult to obtain assistance in the Police <input type="checkbox"/> Difficult	Did you find it easy or difficult to obtain assistance in the DPP <input type="checkbox"/> Difficult

<input type="checkbox"/> Easy <input type="checkbox"/> Other. Please explain.	<input type="checkbox"/> Easy <input type="checkbox"/> Other. Please explain
Did you find it easy or difficult to obtain assistance in the Court <input type="checkbox"/> Difficult <input type="checkbox"/> Easy <input type="checkbox"/> Other Please explain.	Which institution do you find the most corrupt? <input type="checkbox"/> DPP <input type="checkbox"/> Court <input type="checkbox"/> Police <input type="checkbox"/> Local Council Court <input type="checkbox"/> Other .Please specify
6) ENFORCEMENT OF ADR & COURT DECISIONS	
On average about how long and how much did it cost you to resolve a dispute? In court _____ Mediation _____	
Do you think the cost of resolving disputes is affordable? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other Please explain. _____	How easy /difficult is it to enforce a decision of the court <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other Please explain. _____
In your experience with the JLOS (Police, DPP, Court) is it easy to get information or help from JLOS actors? <input type="checkbox"/> Easy <input type="checkbox"/> Somewhat easy <input type="checkbox"/> Difficult <input type="checkbox"/> Somewhat difficult If not easy explain	Have you ever complained about a decision from the <input type="checkbox"/> Easy <input type="checkbox"/> Somewhat Easy <input type="checkbox"/> Difficult <input type="checkbox"/> Somewhat difficult Was it Easy or Difficult was it to get feedback the feedback process from the Police, DPP, and Court when you were unhappy with a decision? <input type="checkbox"/> Easy <input type="checkbox"/> Somewhat Easy <input type="checkbox"/> Difficult <input type="checkbox"/> Somewhat difficult
7) Recommendations	
Please give us one or two recommendations on how to improve the institutions that provide justice in Uganda 1. Judiciary _____ 2. Police _____ 3. Directorate of public prosecution _____ 4. Prisons _____ 5. Advocates _____ 6. Legal aid service providers _____ 7. Paralegals _____	

Thank you very much for your time in completing this questionnaire. Your responses are important to us!

THE END

ANNEX 4: SURVEY ON THE STATE OF ACCESS TO JUSTICE (DUTY BEARERS/LASPs)

Introduction:

LASPNET has developed this survey to help evaluate the current state of access to justice in Uganda. Information provided will form part of an access to justice report that will be disseminated at the Annual State of Justice in Uganda Conference later in the year.

1) BACKGROUND INFORMATION

<p>1.1. Gender</p> <p><input type="checkbox"/> Female</p> <p><input type="checkbox"/> Male</p> <p>1.2. Which Duty Bearer are you?</p> <p><input type="checkbox"/> DPP</p> <p><input type="checkbox"/> Police</p> <p><input type="checkbox"/> Magistrate/Judge</p> <p><input type="checkbox"/> Court Clerk</p> <p><input type="checkbox"/> Prison</p> <p><input type="checkbox"/> Legal Aid Service Provider Network</p> <p><input type="checkbox"/> Other</p>	<p>1.3. Which region are you based</p> <p><input type="checkbox"/> Central</p> <p><input type="checkbox"/> Northern</p> <p><input type="checkbox"/> Western</p> <p><input type="checkbox"/> Eastern</p> <p><input type="checkbox"/> Other</p> <p>Please specify Village, District</p> <p>_____</p>
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2) EXISTENCE OF A REMEDY

<p>Does the law guarantee human rights to citizens?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Other. Please specify _____</p>	<p>2.3. Do you think the justice system provides adequate protection of human rights?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>If not how do you think it can be improved?</p> <p>_____</p>
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<p>2.4. Do you think the judiciary is independent?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Please explain _____</p>	<p>What is your view of service delivery systems of police and DPP and prisons</p> <p><input type="checkbox"/> Police _____</p> <p><input type="checkbox"/> DPP _____</p> <p><input type="checkbox"/> Court _____</p> <p><input type="checkbox"/> Prisons _____</p>
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3) CAPACITY TO SEEK REMEDY THROUGH KNOWLEDGE OF THE LAWS AND PROCEDURES

<p>3.1. Do you think citizens are aware of their rights?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Other</p> <p>If not why?</p>	<p>3.2. How accessible/easily available is the information on laws and rights?</p> <p><input type="checkbox"/> Very accessible</p> <p><input type="checkbox"/> Somewhat accessible</p> <p><input type="checkbox"/> Not accessible</p> <p>What has your institution done to ensure the citizens know their rights and are able to access them</p> <p>_____</p>
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4) CAPACITY TO SEEK REMEDY THROUGH LEGAL COUNSEL/ LEGAL ASSISTANCE	
<p>4.1. Who provides you with legal services where you are based</p> <p><input type="checkbox"/> Paralegal</p> <p><input type="checkbox"/> Advocate/lawyer</p> <p><input type="checkbox"/> Legal aid advocate</p> <p><input type="checkbox"/> Traditional/religious leader</p> <p><input type="checkbox"/> Police</p> <p><input type="checkbox"/> Other</p> <p><input type="checkbox"/> If _____ other _____ please specific_____</p> <p>4.2. Where is the person who provided your institution with the legal services located?</p> <p><input type="checkbox"/> Village</p> <p><input type="checkbox"/> Sub-county</p> <p><input type="checkbox"/> Home District</p> <p><input type="checkbox"/> Another District</p> <p>4.3. How helpful do you think they are?</p> <p><input type="checkbox"/> very helpful</p> <p><input type="checkbox"/> somewhat</p> <p><input type="checkbox"/> not helpful</p> <p>If not helpful please explain</p> <p>.....</p>	<p>4.4. Do you have Lawyers in your region?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Other. Please specify</p> <p>.....</p> <p>4.5. Which type of lawyers?</p> <p><input type="checkbox"/> Private practitioners</p> <p><input type="checkbox"/> Legal aid lawyers</p> <p>4.6. Are lawyers accessible?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Other. Please specify</p> <p>.....</p>
5) REDRESS AND CONFLICT RESOLUTION MECHANISM	
<p>5.2 What prevents people from accessing the justice system? Chose all or any applicable</p> <p><input type="checkbox"/> Prevalence of Corruption within the JLOS institutions;</p> <p><input type="checkbox"/> Poor implementation of service standards;</p> <p><input type="checkbox"/> Delays in judicial proceedings, obtaining interim orders; obtaining a final order;</p> <p><input type="checkbox"/> Legitimate perception of court decisions</p> <p><input type="checkbox"/> Cost of litigation</p> <p><input type="checkbox"/> Lack of adequacy of information</p> <p><input type="checkbox"/> Spread of lawyers</p> <p><input type="checkbox"/> Physical distance between the justice institutions and the people;</p> <p><input type="checkbox"/> Technical procedures.</p> <p><input type="checkbox"/> Quality of human resources</p> <p><input type="checkbox"/> Lack of resources</p> <p><input type="checkbox"/> Operating environment of Judicial, Police and DPP officials</p>	
<p>5.2. Do you find the cost of access to justice affordable?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Please Explain your answer above</p>	<p>5.3. Do you know about alternative forms of dispute resolution?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Does you institution apply them</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<p>5.4. Do you find Alternative Dispute Resolution (ADR) services accessible?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Other. Please explain</p>	<p>5.5. Do you find Alternative Dispute Resolution (ADR) satisfactory?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Other. Please explain</p>

<p>5.6. How long does it take to conclude a case you handle?</p> <p><input type="checkbox"/> Within three (3) Months</p> <p><input type="checkbox"/> Within six (6) Months</p> <p><input type="checkbox"/> Within one (1) Year</p> <p><input type="checkbox"/> Over three(3) years and above</p>	<p>5.7. Have you encountered any problems/challenges/difficulty while using justice institutions or doing your work?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No If Yes Please explain. _____</p> <p>Explain the level of your workload, how many cases do you handle</p> <p><input type="checkbox"/> Daily</p> <p><input type="checkbox"/> Monthly</p> <p><input type="checkbox"/> Year</p>
<p>5.8. How difficult do you think is it to obtain assistance in the Police p</p> <p><input type="checkbox"/> Difficult</p> <p><input type="checkbox"/> Easy</p> <p><input type="checkbox"/> Other. Please explain.</p>	<p>5.8. How difficult is to obtain assistance in the DPP</p> <p><input type="checkbox"/> Difficult</p> <p><input type="checkbox"/> Easy</p> <p><input type="checkbox"/> Other. Please Explain.</p>
<p>5.9. How difficult is to obtain assistance in the courts</p> <p><input type="checkbox"/> Difficult</p> <p><input type="checkbox"/> Easy</p> <p><input type="checkbox"/> Other. Please Explain.</p>	<p>5.9. How easy or difficult it is to obtain assistance from LASPs</p> <p>Prisons</p> <p><input type="checkbox"/> Difficult</p> <p><input type="checkbox"/> Easy</p> <p><input type="checkbox"/> Other. Please Explain.</p> <p>Lawyers/Advocates</p> <p><input type="checkbox"/> Difficult</p> <p><input type="checkbox"/> Easy</p> <p><input type="checkbox"/> Other. Please Explain.</p> <p>Legal Aid service Providers</p> <p><input type="checkbox"/> Difficult</p> <p><input type="checkbox"/> Easy</p> <p><input type="checkbox"/> Other. Please Explain.</p>
<p>6) ENFORCEMENT</p>	
<p>6.1. On average how long and how much does it cost to resolve a dispute?</p> <p><input type="checkbox"/> Criminal</p> <p><input type="checkbox"/> Civil(land ,Labour)</p> <p><input type="checkbox"/> Family matters(custody, divorce& maintenance)</p> <p><input type="checkbox"/> Other</p> <p>_____</p>	
<p>6.2. Do you think the cost of resolving disputes is affordable?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Other. Please explain. _____</p> <p>6.3. Do you think government/JLOS actors are accountable?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Other Please explain. _____</p>	<p>6.4. Are there instances when Public Interest Litigation is used as a strategy to protect the public good?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Other. Please explain. _____</p> <p>6.5. Give examples of such cases filed in court in the course of last 2 years</p> <p>1.</p> <p>2.</p> <p>3.</p>

	Comments on the outcome , if any
7) RECOMMENDATIONS	
<p>How do you think the informal and the formal justice systems should work together?</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>How can the interaction be strengthened?</p> <p>-----</p> <p>-----</p> <p>-----</p>	
<p>What strengths and gaps exist in Uganda's legal system addresses the needs of the vulnerable and indigent?</p> <hr/> <p>How can the Ugandan justice system be improved?</p> <p>1. Police _____ 2. Judiciary ____</p> <p>-----</p> <p>3. DPP _____ 4. Prisons</p> <p>-----</p> <p>5 Lawyers in private practice _____</p> <p>6 Legal aid service providers _____</p>	

Thank you very much for your time in completing this questionnaire. Your responses are important to us!

THE END

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