



ACCESS TO JUSTICE NEEDS FOR YOUTH IN UGANDA:

Vulnerability, Poverty and Corruption Hindrance



Access to Justice Needs for Youth in Uganda: Vulnerability, Poverty and Corruption Hindrances

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Disclaimer

The contents of this report were validated at a Stakeholder's meeting held on 8th November 2018 and therefore are the sole responsibility of the author.

List of Acronyms

ADR	Alternative Dispute Resolution
CBA	Canadian Bar Association
CSOs	Civil Society Organizations
DGF	Democratic Governance Facility
DV	Domestic Violence
HiIL	Hague Institute for the Internationalisation of Law
HRBA	Human Rights Based Approach
ICCPR	International Covenant on Civil and Political Rights
JLOS	Justice, Law and Order Sector
LASPNET	Legal Aid Service Provider's Network
LASPs	Legal Aid Service Providers
LC	Local Councils
LRA	Lord's Resistance Army
NAADs	National Agricultural Advisory Services
NDP	National Development Plan
SGBV	Sexual Gender Based Violence
TISCO	Tilburg Institute for Interdisciplinary Studies for Civil Law and Conflict
UBOS	Uganda Bureau of Statistics
UDHR	Universal Declaration of Human Rights
UNFPA	United Nations Population Fund
USAID	United States Agency for International Development
UYDEL	Uganda Youth Development Link

Executive Summary

I. Purpose and methodology of the Study

Uganda's population demographic indicators are unique in some respects. The most visible aspect of this uniqueness is the fact that the biggest proportion of the country's population, up to 77%, is made up of people below the age of 30 years old. In a positive light, this puts Uganda on the global map as one of the countries with a very young population. This portends benefits for the future of the economy, arising from the potentially huge supply of labour as well as a large market for goods and services. The reality though is that this demographics structure also comes with a number of challenges. These arise mainly from the quality of the youth population. Many are unemployed and find challenges accessing social and public goods and services. It is within this context that this Study was conducted.

The Study was designed to profile and analyse the justice needs of this section of the population and the barriers they face in accessing justice. This was done with a view of making recommendations on how the justice system can address the justice needs of the youths. In specific terms, the Study was guided by the following objectives: (i) To profile and provide baseline information of youths in the justice system; (ii) To document the justice needs of the youths going through the justice system and assess their socio-economic vulnerability; (iii) To identify the barriers affecting the youth from accessing justice and assess their consequential impact to their productivity and livelihood; and (iv) To make recommendations for improved justice delivery mechanisms that are more responsive and inclusive to the youth.

Geographically, the Study was conducted in 13 districts, including Amuru, Oyam, Kole, Mubende, Gulu, Mityana, Kaliro, Iganga, Pakwach, Jinja, Mbarara, Mitooma and Kampala. These districts were selected with an aim of ensuring that the views of youths and other stakeholders from different regions of the country are obtained. The districts reached represent the Central, Eastern, Northern, West Nile and Western regions of the country. Methodologically, the Study was conducted through guided interviews with various stakeholders, including youths drawn from all walks of life (rural and urban youths, students, educated and uneducated youths). This is in addition to Focus Group Discussions, Desk review and interviews with Key Informants, including informants in the Justice, Law and Order Sector. In total, 190 individuals were interviewed. The desk review was also conducted.

II. Parameters of Study

The Study was guided by the legal definition a youth in Uganda as any person between the age of 18 and 30 years. Nonetheless, it is illustrated that perceptions of who a youth is in some contexts is determined by the social context in which one finds him/herself, rather than the age number. In measuring the extent to which youths access justice, the Study looked at both rights and processes that guarantee access to remedies in both civil and criminal contexts that youths find themselves in. Based on this, it is determined that access to remedies and justice related rights is determined by three factors: the costs of procedures of accessing justice; the quality of the procedure itself; and the quality of the outcome. It is these that were evaluated to determine the extent to which youths in Uganda access justice. These parameters were assessed against the context of vulnerability, characterised with social and economic factors which expose youth to both poverty and youth delinquency.

III. Findings

The Study findings show that the justice needs of youths rotate around incidents of crime, land disputes, family matters and labour disputes. Moreover, these were closely connected to the vulnerabilities of this section of our population. From the perspective of crime, many youths find themselves on the wrong side of the law, charged with such offences as being a rogue and vagabond, theft, as well as prostitution, the latter affecting mainly female youths. Sexual and Gender Based Violence was also rampant and mainly affected female youths.

As a matter of fact, the overwhelming majority of youths in conflict with the law, those who are victims of crime, as well as those facing or pursuing civil claims, have limited access to legal services. This is because of the paucity of the services as well as lack of resources on the part of youths to access these rather expensive services. In this respect, the biggest barrier youths face in accessing justice was the cost of the procedure, which was aggravated by corruption.

Procedurally, the justice processes are terrifying, complex and characterised with stereotypes against youths. The language of the law and legal procedures is complicated for some youths. This makes it hard for youths to enjoy their access to justice rights such as the right to a fair trial and to remedies, the conditions in places of detention where some youths find themselves do not guarantee the right to human dignity.

It is a result of the above, among others, that most youth prefer the informal to formal justice system. The former is found to be cheap, accessible and friendly. Most preferred were the Local Council Courts.

IV. Recommendations

To enhance access to justice for youths, the following recommendations are made:

- **Create youth friendly justice services.** This could be achieved if the following are done:
 - i. Use language which youth understand and relate to; Provide information in forms that are attractive to youths using modes they prefer such as music and film;
 - ii. Create youth ownership of justice services by having youths serve youths in some respects. Recruit youth in JLOS;
 - iii. Create special service points for youths in same way as has been done in reproductive and sexual health sector;
 - iv. Judicial officers should consider applying non-custodial sentences to youth in conflict with the Law; and
 - v. Train JLOS actors on justice needs of youths and develop a youth justice friendly guide for these actors to use.

- **Provide specialised youth legal services.** To realise this, the following need to be done:
 - i. Adapt legal aid services to address needs of youths;
 - ii. Advocate for diversion of youths in conflict with the law;
 - iii. Integrate youths in conflict with the law in their communities and families; and
 - iv. Mainstream legal needs of youths in services offered by Legal Aid Service Providers.

- **Promote youth legal empowerment.** To achieve this, the following have to be done:
 - i. Remove bottlenecks that constrain youths' access to justice and rule of law such as costs of justice, language of courts and stereotypes against youths;
 - ii. Sensitise youths on their rights, legal procedures and emerging crimes associated with technological advancement; and

iii. Give youths a voice in the justice system by involving them in justice matters affecting them.

□ **Address underlying causes of vulnerability.** For this, the following have to be done:

- i. Deal with causes of youth poverty and find meaningful solutions. Effectiveness of current measures should be reviewed;
- ii. Deal with underlying causes of youth delinquency and promote rehabilitation;
- iii. Deal with causes and drivers of drug abuse;
- iv. Deal with challenges that prevent some youths from accessing education; and
- v. Deal with challenges affecting youths in the family and other social contexts.



INTRODUCTION

For the last 30 years, Uganda's population demographics landscape has been changing in a number of respects. In 1980, the population stood at 12,549,540.¹ The 2014 National Population and Housing Census put the population at 34,600,000.² With a fertility rate of 5.8 children per woman, it is no surprise that the population now stands at an estimated 44,490,000.³ The population with a growth rate of 3.3% per year is expected to explode to 130,000,000 by 2050. One visible feature of Uganda's demographics is the high proportion of young

¹ See Worldometers "Uganda Population at <<http://www.worldometers.info>> (accessed on 3rd September 2018)

² Uganda National Bureau of Statistics National Population and Housing Census, 2014, Main Report, available at <<https://www.ubos.org/onlinefiles/uploads/ubos/NPHC/NPHC%202014%20FINAL%20RESULTS%20REPORT.pdf>> (accessed on 4th September 2018).

³ Worldometers (note 1 above).

people in comparison to other categories of people. By 2014, Uganda stood out as the country with the youngest population in the world, with 78% of the total population being persons below the age of 30 and those younger than 18 years old were at 55%.⁴ The Uganda Bureau of Statistics 2017 *Statistical Abstract Report* put those below 18 years at 54% and those below 30 years at 23%.

Another visible demographic related feature is with respect to the population distribution, with more and more people moving into urban and semi-urban centres every year.⁵ The resultant effect of this has been that the population has imposed so much stress on resources and available socio-economic goods and services in these areas. This has seen immense pressures exerted on infrastructure as evidenced by the congestion of spaces in towns and cities and increasing slum settlements. According to the United Nations Population Fund (UNPFA), a good proportion of youths in Uganda, especially those below the age of 24, live in urban centres.⁶ The effect of this is that a big proportion of youths are hit by the challenges urban population are facing, including unemployment. It has in this respect been demonstrated that the rate of youth unemployment is higher in urban than in the rural areas. The rates stand at 12 percent and 3 percent respectively.⁷ It is also true that youths generally find it hard to access employment on account of their lack of experience, which is a pre-requisite for many jobs.

The demand for social amenities such as education, water, housing and education is higher than the supply for the same. Similarly, justice services have not been spared in this regard. According to the 2016 Report published by the Hague Institute for the Internationalisation of Law (HiIL),⁸ nearly 9 out of 10 Ugandans required access of some kind to the justice system, but their needs were not met. Of the 9 people that needed help, 3 of them gave up and their problems were not resolved. This was due to lack of knowledge, power or money, or some combination of the three. Nonetheless, although the HiIL Report shows the various justice needs of people, it does not specifically focus on the justice needs of the youth.

As a matter of fact, consistent with the demographic distribution, young people are disproportionately affected by limited access to justice services. Moreover, as indicated in this Report, the youths stand out as one of the vulnerable groups of people with a high demand for justice related services. It has been

⁴ Centre for Justice Studies and Innovation Justice for All: Youth Too? (2014), at 1.

⁵ See *Owning Our Urban Future: Enabling Healthy Cities in Eastern Africa* A Collaborative Consensus Study Report by the National Science Academies of Ethiopia, Kenya, Tanzania, Uganda, the Young Academies of Ethiopia and Uganda, and the African Centre for Global Health and Social Transformation (2018)

⁶ UNFP Uganda *Uganda's Youthful Population: Quick Facts*, available at <https://uganda.unfpa.org/sites/default/files/pub-pdf/YoungPeople_FactSheet%20%2811%29_0.pdf> (accessed on 9th October 2018).

⁷ Gemma Ahaibwe and Swaibu Mbowe *Youth Unemployment Challenge in Uganda and the Role of Employment Policies in Jobs Creation* (2014) African in Focus, available at <<https://www.brookings.edu/blog/africa-in-focus/2014/08/26/youth-unemployment-challenge-in-uganda-and-the-role-of-employment-policies-in-jobs-creation/>>.

⁸ HiIL Report: Justice Needs in Uganda 2016

demonstrated that the role of the youths in socio-economic and political transformation in Uganda has been changing. Markedly, between 1996 and 2006, the role of the youths diminished, with visibility of this category emerging after 2006. The diminution arose from deliberate exclusion of youths from public affairs, as well as absence of fora for youths to interface, exchange information and act collectively. This is seen among others through agitation for political reforms, representation and participation in governance.⁹ Many social and economic changes in Uganda have occurred over the past decade. This has been brought about among others by the Lord Resistance Army (LRA) war that reigned over Northern Uganda for almost two decades, the changing nature of the family (which has seen disintegration of this unit in some aspects) and health problems (including HIV/AIDS). These changes have had a marked impact on the lives of children and youths. Additionally, there is growing youth unemployment, changes in family patterns, increasing income disparities between wealthy the and the poor, and increasing number of refugees, which now stands at over 1,000,000 people. This is in addition to the virtual exclusion of sections of populations living in inner cities or poor rural areas from the relatively increased prosperity experienced by others. The above has had an impact on youths. For instance, lack of education has exposed some youths to risky behaviour such as crime, sex work, substance use/abuse, child marriage, and drug trafficking in search of money.¹⁰

Accessing justice is a significant challenge for young people in Uganda. Despite important progress in recent years, in many cases prevention, protection, rehabilitation and reintegration are not fully realised for youths who come into contact with the law. The processes of interacting with the justice system can be immensely frightening and damaging for youth victims and witnesses, as well as those accused of crimes and offences.

According to O'Higgins,¹¹ the leading cause of youth engaged in crime is unemployment. The consequences of youth unemployment such as social exclusion can lead to drug abuse whereas crime and social unrest can damage society as a whole. According to the Uganda Bureau of Statistics (UBOS) 2017 Statistical Abstract, in 2015, the national youth unemployment rate was at 6.2%. It is indicated that the youth unemployment rate in Kampala was thrice (15%) the national rate.¹² As is illustrated below, failure to obtain employment affects the livelihood of youths and puts them in a poverty trap which compromises their ability to access justice. This is aggravated by the commercialised nature of justice, fuelled by the high costs of getting legal representation, court fees and charges arising from corruption tendencies in the Justice, Law and Order Sector (JLOS) institutions.

⁹ Ministry of Finance, Planning and Economic Development *State of Uganda Population Report*, 2014, at 5.

¹⁰ Centre for Justice Studies and Innovations, *Justice for All: Youth Too?* (2014).

¹¹ Niall O'Higgins (2000), Youth unemployment and employment policy

¹² Uganda Bureau of Statistics 2015 Statistical Abstract

This Study demonstrates that the biggest hindrance for access to justice by youths is associated with the resources required for this purpose. Justice is to a certain extent monetized, seen through the various legal fees and charges required to access services in the justice sector. Most disturbing though are the costs driven by corruption in the justice system. The majority of youths prefer to use Local Council Courts to navigate away from the complexities of the formal courts. These courts though are not immune from corrupt tendencies which dominate the other courts. In addition, stereotypes such as those that perceive youths as inherently criminal and untruthful affect youths in the local courts as well. The Health Sector has to some extent addressed the health needs of youths by among others putting in place “youth friendly” services, especially in the area of sexual and reproductive health. While necessary as a matter of urgency, there are no comparable services in JLOS, otherwise dubbed “youth friendly justice services”.

1.1. Objectives of the study

This Study was designed to profile and analyse the justice needs of youths and to identify the barriers they face in accessing justice. This is with a view of providing recommendations on how the justice system can address the justice needs of the youth.

The specific objectives of the Study included the following:

- i. To profile and provide baseline information of youths in the justice system;
- ii. To document the justice needs of the youths going through the justice system and assess their socio-economic vulnerability;
- iii. To identify the barriers affecting the youth from accessing justice and assess their consequential impact to their productivity and livelihood; and
- iv. To make recommendations for improved justice delivery mechanisms that are more responsive and inclusive to the youth.

1.2. Scope of the study

Geographically, the Study was conducted in 13 districts, including Amuru, Oyam, Kole, Mubende, Gulu, Mityana, Kaliro, Iganga, Pakwach, Jinja, Mbarara, Mitooma and Kampala. These districts were selected with an aim of ensuring that the views of youths and other stakeholders from different regions of the country are obtained. The districts reached represent the Central, Eastern, Northern, West Nile and Western regions of the country. While the selection was done randomly, it was intended among others to establish whether or not youths from different parts of the country had the same justice needs and were facing the same challenges. As is indicated below, the results show homogeneity in

justice needs and challenges of youths.

Thematically, the study sought to establish the justice needs of the youths, looking at their economic and social vulnerability, the barriers they face in accessing justice and providing recommendations for improved justice delivery systems. In specific terms, the study set out to identify and profile the justice needs of youths, both in criminal and civil areas of the law. To achieve this, the Study used the Hague model of measuring access to justice as propounded by the Hague Institute of Internationalisation of Law (HiIL).¹³ The Hague Model uses three dimensions to measure access to justice: (i) costs of the procedure of accessing justice; (b) quality of the procedure; and (c) quality of the outcome. The indicators of each of these dimensions are elaborated below. Using this model, it was among others established that one of the major reasons youths were finding it difficult to access justice was because justice had become expensive, arising mainly from corruption and unofficial costs in the system.

1.3. Methodology

The Study adopted a participatory and consultative approach. In this, a reality check approach involving interactions with youth, reached bilaterally through guided interviews and multi-laterally through Focus Group Discussions. This approach was adopted because it is consistent with the Human Rights Based Approach (HRBA), to the extent that it enables citizens to present their issues and make suggestions on how best problems around these issues could be tackled. It has been demonstrated that participation of this nature improves the quality of decisions made by policy makers and is also necessary to render the decision-making process more democratic.¹⁴

The consultations involved guided interviews with various stakeholders, including youths drawn from all walks of life (rural and urban youths, students, educated and uneducated youths). In determining the sample size, participants with similar characteristics were consulted through Focus Group Discussions, in addition to individual interviews done randomly with persons that were identified as part of the groups. In total, 190 individuals were interviewed. Of these, 74 (39%) were female and 114 (61%) male. The tables below illustrate the characteristics of the respondents, including age, marital status, religious affiliations and levels of education.

¹³ See Hague Institute for the Internationalisation of Law *Measuring Access to Justice in a Globalising World: The Hague Model of Access to Justice* (April 2000) available at <http://hiil.org/data/sitemanagement/media/HiiL_final_report_Measuring_260410_DEF.pdf> (accessed on 10th September 2018).

¹⁴ See r. Nikki Slocum *Participatory Methods Toolkit: A practitioner's manual* (2003) King Baudouin Foundation and the Flemish Institute for Science and Technology Assessment available at <http://archive.unu.edu/hq/library/Collection/PDF_files/CRIS/PMT.pdf> (accessed on 11th September 2018)

Table 1: Religious affiliation of respondents

Religious affiliation	Number of respondents	Percentage
Christian	157	84%
Muslim	27	14%
None	1	1%
Other (Specify)	3	2%
Grand Total	188	100%

Table 2: Education Level of Respondents

Education level of respondents	Percentage
None	1%
Primary	29%
O-Level	23%
A-Level	18%
Diploma Certificate	14%
University Degree	15%
Postgraduate (Masters, PhD, etc.)	1%
Grand Total	100%

In addition, interviews were held with key informants, drawn from civil society, religious institutions and government. Government participants included local leaders and actors in JLOS.

With respect to the nature of data, the Study adopted a mixed method approach involving collection of both qualitative and quantitative data from both primary and secondary data sources. The data was collected using a number of methods. This included a literature review which was used to obtain information from secondary sources. Focus Group Discussions with youth groups were also held. These were with youths in business, in municipalities, in rural areas, in market places, as well as key informant interviews with JLOS actors, State Prosecutor, Local Councils I and III, Youth Councillors, Area Councillors, Youth MPs, Youths in Prisons and with Civil Society Organisations (CSOs).

A Draft Report was presented at a Validation Meeting of members of LASPNET, JLOS actors and youths on 8th November 2018. Comments received at that

Meeting informed revisions to this Report.

1.4 Limitations of the study

This study was affected by some limitations. Time is always an obstacle for developing this type of study. Due to the time constraint, it was not possible to include the opinions from a large number of youths from all sectors of society. Only sampled youths and in selected districts were reached. The Survey was able to describe the prevalence of justice needs of the youth but was limited in assessing the complexity of the legal problems. For a future study, emerging methodologies such as legal help checklists and legal process or journey mapping should be used to build on this knowledge base with a potential to identify and address legal needs on a proactive basis. This is in addition to providing feedback for further reform in the delivery of legal and justice services for youth.

1.5. Outline of Report

This Report is divided into 5 parts.





CONCEPTUAL ISSUES ON “YOUTH” AND “JUSTICE”

2.1. The term “youth”

To understand the justice needs of youths requires one to understand two terms “youth” and “justice”. Understanding the term youth goes beyond identifying this category of our population by age. Indeed, going by age, the term “youth” has been defined variably to suit different contexts. For example, the United Nations (UN) defines youths as persons between 15-24 years.¹⁵ Indeed, the UN itself admits that “as a category, youth is more fluid than other fixed age-

¹⁵ See United Nations Youth “Definition of Youth”, available at <<https://www.un.org/esa/socdev/documents/youth/fact-sheets/youth-definition.pdf>> (accessed on 4th September 2018).

groups”¹⁶ For this reason, the UN while adopting the 15-24 age-based definition, admits that the definition of the youth category is determined by social, cultural and economic dynamics. Based on this, the term is defined “as a period of transition from the dependence of childhood to adulthood’s independence and awareness of our interdependence as members of a community”¹⁷ The UN goes on to state that youth is often indicated as a person between the age where he/she may leave compulsory education, and the age at which he/she finds his/her first employment. The limitation with this approach though is that it excludes youths who may be outside the formal education system, including those who dropped out and those who have never interfaced with this form of education. Using the UN approach, it is indicated that with increasing unemployment and the increasing cost of setting up independent living, the age limit for one to be a youth has been changing upwards.¹⁸

Based on the above, it is important to understand youths not by an arbitrary age cap but rather by the social processes which affect different categories of people identified by age. It is only by this that one would be in position to fully appreciate the vulnerabilities which certain age categories face, how these have been caused and how they can be overcome. Yet, age offers the only practical way of assessing people’s experiences as they transition through their life of growing up. What remains important though is that while age is used as a parameter, the dynamics presented by different contexts need to be taken note of. According to Wyn and White:¹⁹

A categorical [age] approach ... ignores the significant role of institutions and of changing economic and political circumstances and their impact on youth. The result is the tendency to present the attitudes, behaviours and styles of particular groups as normative and to underestimate diversity amongst young people. Furthermore, this approach takes little or no account of the relations between young people and adults (for example, in communities where there is high unemployment, in rural communities during recession, within elite families or in urban Aboriginal communities). It also tends to ignore the relations between groups of young people. Schooling, for example, structures competition between groups of young people in classrooms, as young people learn their ‘place’ in the hierarchy of performance.²⁰

.....
¹⁶ As above.

¹⁷ See UNESCO “What do we mean by youth?” <<http://www.unesco.org/new/en/social-and-human-sciences/themes/youth/youth-definition/>> (accessed on 4th September 2018).

¹⁸ As above.

¹⁹ Johanna Wyn and Rob White Rethinking Youth (1997) SAGE Publications Limited.

²⁰ At p 13.

For purposes of this Study, while using the age brackets definition, one is mindful of the dynamics posed by context and social setting and how these impact on access to justice. It is imperative to note that there are differences in justice needs between rural and urban youths and between educated and uneducated youths. Moreover, going by the demands of independent living as indicated by the UN above, rural youths tend to be more independent than their urban counter-parts. Rural youths generally take on responsibilities in life much earlier than urban youths. Yet, this in itself could be a cause of vulnerability. In Uganda, the National Youth Council Act defines the term “youth” to mean “a person between the age of eighteen and thirty years.”²¹ In spite of this legal definition, the fluidity of the term “youth” in Uganda still stands. Most people in Uganda for instance believe that “youth-hood” goes on up to the age of 35, or before one shows signs of grey hair. In this Study, while guided by the legal definition, the fluidity of the term was taken into considerations in soliciting views from “youths”. While the Study uses the definition of youths being those aged between 18 and 30 years, it should be noted that gaps in birth registration in the country, especially in the rural areas, makes it hard to pinpoint people’s ages. For this reason, some of the respondents for this Study could have been either below or above the legal age definition.

2.2. The term “justice”

The generic meaning of the term justice and its technical meaning both appear to convey the same meaning. The term “justice” is defined by the English dictionary in a generic manner simply as “just treatment or behaviour”. More definitions of the term are however extrapolated out of this. One such definition goes thus: “The quality of being fair and reasonable”; and “the administration of the law or authority in maintaining this”²² In this, justice has been understood as “the proper administration of the law; the fair and equitable treatment of all individuals under the law”.²³ The Black’s Law Dictionary (6th Edition) is more elaborate and gives the different forms of justice: “commutative justice”, “distributive justice” and “social justice”. “Commutative justice” is defined as justice that concerns obligations between persons and requires proportionate equality in dealings of person to person. On its part, “distributive justice” is defined to concern with obligations of the community to an individual and to require fair disbursement of community advantages and sharing of common burdens. On the other hand, “social justice” is defined as one which concerns obligations of the individual to the community and its end is the common good.

From a human rights perspective, “justice” is looked to at as a right, expressed in the form of the right of access to justice. In the international human rights

²¹ Section 1 of the National Youth Council Act, Chapter 319.

²² See English Oxford Living Dictionaries at <<https://en.oxforddictionaries.com/definition/justice>>.

²³ See Legal Dictionary, at <<https://legal-dictionary.thefreedictionary.com/justice>>.

law framework, access to justice is reflected through a range of rights and guarantees intended to ensure fairness and provide relief to those whose rights have been violated or abused. This is in addition to those appearing before adjudicatory mechanisms. Just to sample a few instruments: In the Universal Declaration of Human Rights (UDHR), the right is guaranteed to everyone “to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law”.²⁴ On its part, the International Covenant on Civil and Political Rights (ICCPR) obligates states parties to ensure that: any person whose rights or freedoms are violated shall have an effective remedy. This is notwithstanding that the violation has been committed by persons acting in an official capacity. That any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; and that the competent authorities shall enforce such remedies when granted.²⁵

In a very specific manner, international human rights law guarantees fair trial rights in contexts where persons are in conflict with criminal law. For instance, the ICCPR guarantees those being arrested or under detention a number of rights. These include: the right to be informed, at the time of arrest, of the reasons for his arrest and to promptly be informed of any charges; to be brought promptly before a judge or other officer authorized by law to exercise judicial power and to trial within a reasonable time or to release; and to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. In addition, anyone who has been the victim of unlawful arrest or detention has an enforceable right to compensation.²⁶ Also, the ICCPR provides that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.²⁷ In addition, accused persons, save in exceptional circumstances, have to be segregated from convicted persons and subjected to separate treatment appropriate to their status as unconvicted persons.²⁸ Moreover, accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.²⁹ The penitentiary system is required to comprise treatment of prisoners as its essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders are to be segregated from adults and be accorded treatment appropriate to their age and legal status.³⁰

The rights described above are protected in a similar manner in various other

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24 Article 8.

25 Article 2.

26 Article 9.

27 Article 10(1).

28 Article 10(2).

29 Article 10(3).

30 Article 10(4).

international and national legal instruments. A 2015 Study by LASPNET on access to justice for vulnerable and marginalised groups in Uganda extensively displays the access to justice provisions in all the major international and human rights instruments and treaties,³¹ as well as the African human rights instruments. This includes the African Charter on Human and Peoples Rights,³² which protects a number of rights relevant to access to justice in the same way as ICCPR. More specific to youth is the African Youth Charter,³³ which guarantees youths a number of rights. This includes right to non-discrimination, arising from the obligation on states to take appropriate measures to ensure that youths are protected against all forms of discrimination on the basis of status, activities, expressed opinions or beliefs.³⁴

At the national level in Uganda, the rights are protected as part of the fundamental rights and freedoms in Chapter Four of the Constitution. In this Chapter, Articles 23, 24, 28 stand out. The provisions of Article 23 guarantee various rights to persons deprived of their liberty. Article 24 guarantees the right to respect for human dignity and protection from inhuman treatment. It provides that no person shall be subjected to any form of torture or cruel, inhuman or degrading treatment or punishment.

On its part, Article 28 guarantees the right to a fair hearing. The Article provides that in the determination of civil rights and obligations or any criminal charge, a person shall be entitled to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law. The provision also enumerates several guarantees in relation to criminal trials. It is for instance, provided that every person who is charged with a criminal offence shall— (a) be presumed to be innocent until proved guilty or until that person has pleaded guilty; (b) be informed immediately, in a language that the person understands, of the nature of the offence; (c) be given adequate time and facilities for the preparation of his or her defence; (d) be permitted to appear before the court in person or, at that person's own expense, by a lawyer of his or her choice; (e) in the case of any offence which carries a sentence of death or imprisonment for life, be entitled to legal representation at the expense of the State; (f) be afforded, without payment by that person, the assistance of an interpreter if that person cannot understand the language used at the trial; (g) be afforded facilities to examine witnesses and to obtain the attendance of other witnesses before the court.

It is also provided by the above provision that except with his or her consent, the trial of any person shall not take place in the absence of that person unless

31 See Legal Aid Service Providers Network *Access to Justice for the Poor, Marginalised and Vulnerable People of Uganda* (2015), available at <<https://namati.org/wp-content/uploads/2015/12/Access-to-Justice-for-the-Poor-Marginalised-and-Vulnerable-People-of-Uganda.pdf>>.

32 Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986.

33 Adopted during the Seventh Ordinary Session of the Conference of Heads of States and Government held on July 02 th 2006 in Banjul, THE GAMBIA.

34 Article 2(2).

the person so conducts himself or herself as to render the continuance of the proceedings in the presence of that person impracticable and the court makes an order for the person to be removed and the trial to proceed in the absence of that person. Other rights in criminal trial circumstances include: access to the judgment; not to be charged retrospectively; to penalty not more severe than when the offence was committed; not to be tried twice for the same offence; not to be compelled to testify against a spouse; and not to be convicted of a criminal offence unless the offence is defined and the penalty for it prescribed by law.

In addition to the above instruments and rights, access to justice for youths should be understood as one of the pre-requisites for realising Goal 16 of the Sustainable Development Goals (SDGs). SDG 16 requires states to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”. Inclusiveness here entails ensuring that all sectors of society, including youths, access justice, in line with the SDG theme of *Leaving No One Behind*.

Based on the above, this Study was among others guided by the extent to which the justice related rights of youths in Uganda have been realised. This is both in the context of criminal and civil adjudicatory processes. It should be noted that limited access to justice for youths is mainly a result of their vulnerability. Indeed, access to justice from the HRBA perspective has been defined in terms of processes that enable poor and marginalised groups and individuals to get redress. It has been indicated that access to justice exists when people, especially the poor and vulnerable, affected by injustices, are able to have their grievances addressed by state or non-state institutions. This should lead to redress of those injustices on the basis of rules or principles of state law, religious law or customary law.³⁵ Indeed, in some respects, access to justice bottlenecks are related to such vulnerabilities as poverty. Moreover, lack of access to justice is part of the cycle of poverty. It is argued that without access to justice, persons living in poverty are unable to claim their rights, or challenge crimes, abuses or violations committed against them, trapping them in a cycle of impunity, deprivation and exclusion.³⁶ According to LASPNET (2015) Report on Access to Justice for the Poor, Marginalised and Vulnerable People of Uganda:

[I]t is clear that access to justice is a critical human right and process in ensuring that those locked in chronic poverty have the means to assert their rights and change their status quo through just, fair and equitable laws and from justice delivery institutions. It could also be the case in many instances that the best solution for vulnerable and marginalised

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35 Legal Aid Services Network (2015), at p 33.

36 Attributed to Magdalena Sepúlveda, United Nations Special Rapporteur on Extreme Poverty and Human Rights, at the ASF conference organised in Brussels on 22 May 2013, see < <https://www.asf.be/blog/2013/05/29/access-to-justice-can-help-reduce-poverty/> > (accessed on 17th September 2018).

groups escaping chronic poverty, exploitation and abuse lays in legal solutions. Left to their own devices, poor, vulnerable and marginalised people may opt out of pursuing legal means to promote their welfare or protect themselves, due to the complexities, costs and distances involved. The provision of relevant and responsive services at all levels as well as the removal of barriers to justice; both de jure and de facto, are critical to the wellbeing and rights of the poor, vulnerable and marginalised.³⁷

The question which arises at this point is one of how then do you measure access to justice. Is it just a matter of establishing the rights? Are there access to justice measurement parameters? These questions are answered in the next section, which will provide guidance on the parameters which were used in this study.

2.2.1 Measuring access justice for youths: The parameters

There is no known standard measurement for justice. One approach though through the HRBA could be to determine the extent to which the justice related rights described above have been protected or realised. In doing this, indicators which define the normative content of the rights could be used. For youths, one would therefore have to determine whether when this group interfaced with the justice mechanism, such rights as the right fair trial and other due process rights are respected. It should be noted however that using human rights and their indicators may have its limitations. For instance, it has been argued that measuring human rights can be dehumanising arising from the use of statistical dimensions to measure rights violations. Moreover, “it is often difficult to judge the relative weight of one type of violation over another, thereby committing some form of moral relativism”.³⁸

This could explain why some entities have resorted to other measurements of access to justice other than human rights indicators. The Canadian Bar Association (CBA) has identified access to justice goals, and which could be used to measure access to justice. These include the following: ensuring substantive and procedural fairness; satisfying disputants with the dispute resolution process itself; reducing risks related to disputes; reducing harm to disputants and others, including society generally; providing greater choice in dispute resolution processes for disputants and ADR professionals; increasing disputants’ capabilities to handle other disputes’ promoting productive relationships between disputants; satisfying disputants with the services of dispute resolution professionals; improving the culture of disputing for disputants, professionals, and society; and promoting compliance with social policies expressed in the law, such as non-discrimination.

37 LASPNET (2015), Pg 45.

38 Todd Landman “Measuring Human Rights: Principle, Practice, and Policy (2004) 4 *Human Rights Quarterly* 906, at 25 - 26

In Kenya, access to justice has been given a judicial definition. *In the case of Okenyo Omwansa & Anor vs AG & Ors*,³⁹ the term access to justice was defined 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. It is on the basis of this that the Legal Aid Service Providers Network concludes that:

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. The concept of access to justice therefore confers an array of interlocking factors which must be considered together to get the complete picture.⁴⁰

The Tilburg Institute for Interdisciplinary Studies for Civil Law and Conflict Resolution Systems (TISCO) has developed a methodology for measuring access to justice which focuses on three dimensions that look at the procedures of accessing justice: (a) costs of the procedure; (b) quality of the procedure; and (c) quality of the outcome.⁴¹ Using these 3 dimensions in relation to Uganda, HiiL has developed indicators which it used when measuring the justice needs of Ugandans under each of the 3 dimensions. These indicators define what HiiL refers to as the "fairness of the justice journey" also "path to justice".⁴² The indicators of each of the parameters are indicated in the table below:

39 *Okenyo George Omwansa & Anor vs Ag & Ors* [2012] eKLR.

40 Legal Aid Service Providers Network *State of Access to Justice: 2017 Annual Trends Analysis* (2017), at p 12

41 Hague Institute for the Internationalisation of Law *Measuring Access to Justice in a Globalising World: The Hague Model of Access to Justice* (April 2000) available at <http://hiil.org/data/sitemanagement/media/HiiL_final_report_Measuring_260410_DEF.pdf> (accessed on 10th September 2018).

42 HiiL (as above.), at 28.

Table 3: Indicators for measuring access to justice

	INDICATORS
Cost of the Procedure	Money spent (out-of-pocket costs for legal fees, travel, advisors)
	Time spent (time spent to search for information, attend hearings, travel)
	Stress and negative emotions.
Quality of the Procedure	Voice & neutrality (process control, decision control, neutrality, consistent application of rules)
	Respect (respect, politeness, proper communication)
	Procedural clarity (timely explanation of procedures and rights)
Quality of outcome	Fair distribution (distribution is fair according to needs, equity and equality criteria)
	Damage restoration (fair compensation for monetary damage, emotional harm and damage to relationships)
	Problem resolution (extent to which the problem is solved and the result has been enforced)
	Outcome explanation (the extent to which the people receive access to outcome information)

Using the above indicators, HiiL constructed a web in which it used a scale of 1 - 5 to measure each of the above indicators, 1 being bad and 5 good. At the centre of the web is “1” and all indicators point to this, which results into the conclusion that Uganda is doing badly on all the access to justice indicators.

The HiiL Study measured the justice needs of all Ugandans. The outcome which shows that Uganda is doing badly applies to youths as much as it applies to all other persons. Nonetheless, the HiiL study does not look into the particularities affecting youths. It therefore still remains necessary to look at the youth dimensions of access to justice. This will be achieved by using the 10 indicators developed by HiiL to measure the cost of the justice procedure; quality of the procedure; and cost of outcome of the procedure. Indeed, youth vulnerability poses its own challenges that could be unique to youths. These need to be understood as they were critical in undertaking this study.



YOUTH VULNERABILITY AND JUSTICE NEEDS

3.1. Youth poverty and vulnerability

As already indicated, Uganda has the world's youngest population with over 78% of the population below the age of 30. It is indicated by the National Development Plan II (NDP 22015/16-2020/21) that the youthful population means that the country is blessed with the potential for an abundant and cheap labour force that can drive growth and transformation. Yet, according to

the NDP, the country continues to experience deficits in the supply of skilled human resources.⁴³ Indeed, millions of Ugandan youths live in poverty, seen in inadequate education and skills and limited employment opportunities, among others.⁴⁴ Although no elaboration is given, JLOS has also acknowledged that while the youthful population can be viewed as a future asset, the current combination of youth and unemployment is an immediate threat.⁴⁵

Government has adopted various programmes and strategies that could be used to address youth poverty and which have been implemented within the overarching framework of Uganda Vision 2040. This Vision is to transform the Society from a predominantly peasant and low income to a competitive, upper middle- income status with a per capita income of USD 9,500 within 30 years. The poverty reduction strategies include the National Agricultural Advisory Services (NAADS) Programme, a programme designed to increase the efficiency and effectiveness of agricultural extension services. NAADS is however not youth specific. Currently, there are two youth specific programmes, i.e the National Strategy for Youth Employment in Agriculture,⁴⁶ whose objective is to attract, as well as, support and retain youth employed at all levels of the agriculture value chain. On the other hand, the Youth Livelihood Programme adopted in 2013 as a response to the high unemployment rate and poverty levels among the youth to harness their socio-economic potential and increase self-employment opportunities and income levels. In spite of these and other programmes, youth unemployment and poverty persist.

It has been demonstrated that the failure to obtain means of livelihood in the youth not only increases dependency but can also trap them into chronic poverty and absolute poverty. This in effect increases their resort to alcohol and crime to sustain themselves.⁴⁷ Due to poverty, youths lack the means to afford legal representation in civil or criminal justice cases when their rights are violated or at stake.⁴⁸ It is therefore no surprise that 63% of in-mates are youths who are characterized as street youth, sex workers, drug addicts, orphans and disadvantaged youth fend for themselves and younger siblings.⁴⁹ A study conducted by the United States Agency for International Development (USAID) in 2011 revealed that male youths are often engaged in criminal activities such as gambling, stealing and robbery whereas their female counterparts resort mainly to prostitution. It was further revealed that the youths believed that they are vulnerable to those who want to create problems within the political dispensation including being enticed to be part of rebel groups and opposition politicians.⁵⁰

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43 National Development Plan, 2010/11 - 2014/2015, para 99.

44 National Youth Policy 2001

45 See Justice, Law and Order Sector *Fourth Strategic Development Plan, 2017 - 2020*.

46 Ministry of Agriculture, Animal Industry and Fisheries (2007).

47 LASPNET (2015), Pg 62.

48 Ibid

49 Ibid

50 Ibid

It should be noted that besides the vulnerability which arises from their status as youths, some youths have other special vulnerabilities. Among this is disability. The vulnerability of youths with disabilities has optly been summarised by Moses Olweny:

Although the concerns of youth have been raised generally, the diverse issues of youth with disabilities have not been specifically handled. Through personal and peer experiences mostly in the rural and urban areas of Uganda, youth with disabilities have experienced untold violations of rights, they have been subjected to marginalization, stereotyping, and negative attitudes by communities and the very families from which they were born and raised. This has led to lack of education or poor-quality education to Youth with Disabilities, the resultant unemployment and permanent life frustrations leading to poverty situations, risky behaviour leading to HIV/AIDS, substance abuse and street begging among others.⁵¹

The above vulnerabilities expose youths with disabilities to challenges in trying to access justice services. One area in which this has recently been highlighted is with respect to physical accessibility to JLOS institutions. In the case of *Candia vs Attorney*,⁵² the Applicant, a wheelchair user lawyer, is challenging as violation of his right to practice his profession due to the failure by Government to ensure that the physical environment at courts of law is accessible to lawyers and other users with disabilities. The case is yet to be heard.

3.2. Youth delinquency

Alcohol and drug abuse contribute immensely to the disposition to crime within the youth population. Uganda is listed as having a high alcohol abuse rate, which is cited as a cause of low productivity and vulnerability to crime. This is aggravated by drug abuse among the youths, with figures showing that approximately 57% of youths abuse drugs.⁵³ In this Study, over 60% of the respondents indicated that drug abuse was a big problem for youths in the community and contributed among others to youth delinquency. No person would however admit that they themselves were users.

Research shows that cannabis (also known as marijuana) is one of the most common drugs grown throughout Uganda and is used mainly by youths. Moreover, the policing of this drug is ineffective, which has allowed the drug to flourish in remote areas where most people take it as a cash crop. Some

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51 Aggrey Moses Olweny *The Situation of Youth with Disabilities in Uganda* [undated], available at < <http://enil.eu/wp-content/uploads/2012/07/The-situation-of-youth-with-disabilities-in-Uganda-Text-version.doc>> (accessed on 21st November 2018)

52 Miscellaneous Application No. 158 of 2018 [High Court of Uganda].

53 Youth Policy Press and Society for International Development *Youth and Public Policy in Uganda* Youth Policy Briefs (2015), at p 35.

have even gone to the extent of renting out their land to grow it.⁵⁴ Yet, very few people have been arrested and jailed for consumption of this drug in comparison to those who deal in it.⁵⁵ It is also argued that because of such circumstances that surround them when growing up, some young people tend to choose youth gangs as second or substitutes to families in order to satisfy their economic and social needs as a result of poverty and unemployment.⁵⁶

Despite the existing legal and policy frameworks on access to justice, there are barriers faced by the youths as they interface with the justice system as either suspects or complainants. The justice needs of the youths' manifest in failure to engage lawyers because about 64% of youths below 24 years are unemployed, poor and therefore cannot afford legal costs. Many that interface with the justice system are street vendors who lack fixed places of abode. Therefore, the youths who are charged with commission of offences, experience difficulties in getting substantive sureties and eventually bond, leading to overstay on remand and losing productive time. Further still, most youths perceive the formal justice system as a slow and unrealistic way to solve their problems and as a result resort to participating in "mob justice."⁵⁷ In addition, most youths are ignorant about processes in the justice system as well as the available channels to access legal aid services. It is also true that there has not been a deliberate disaggregation of data related to youths by JLOS institutions to enable the responsible institutions understand and address the justice needs of this group. Indeed, even the recently launched Police Annual Crime Report does not engage in age-based disaggregation.⁵⁸

Failure to meet the justice needs of youths has serious ramifications. Generally, it leaves youths on the margins of society, arising from exclusion from the justice system. Access to justice is key to access socio-economic goods and services, engage in productive employment, address labour related problems, ensuring access to resources such as land and other natural resources, and ensuring that the dignity and bodily integrity of youths is protected. There is no doubt that failure to address the justice needs of youths plunges them into poverty.

It is on the basis of the above that the justice needs of youth should be discussed as elaborated below, based on the findings of this study.

54 Penninah Mbabazi "Youth and Crime: Victims or Perpetrators?" in Youth Policy Press and Society for International Development *Youth and Public Policy in Uganda* Youth Policy Briefs (2015) 167, at 182

55 As above.

56 Penninah Mbabazi (above), at p 179.

57 <http://www.uganda.ohchr.org/Content/publications/AccessstoJustice.pdf> (accessed 12 June 2018)

58 Uganda Police, *Annual Crime Report, 2017*, available at < <https://www.upf.go.ug/wp-content/uploads/2018/07/ANNUAL-CRIME-REPORT-2017.pdf> >



FINDINGS OF THE STUDY

4.1. Nature of justice needs of youths

The Study established that generally, the circumstances resulting into youths being in need of justice services rotate around the following: incidents of crime, land disputes, family matters and labour issues. The most prominent of these are incidents of crime, which find youths on either side of the divide, both as perpetrators and victims. In Mubende, it was indicated that **“the youths commit majority of the offences in the area which calls for rehabilitation and**

deterrence mechanisms”.⁵⁹ As accused persons, youths have mainly faced cases of being a rogue and vagabond (contrary to section 168 of the Penal Code Act) and sexual offences. In Amuru, it was indicated that most of the cases handled by Police involving youths as suspects were mainly on rape, defilement, theft and assault.⁶⁰ There is some evidence to confirm that a big proportion of the prison population is composed of youths. In this Study, of the 17 prisoners randomly interviewed in both Kaweeri and Muainaina prisons in Mubende District, only 3 were above the age of 30. Moreover, the 3 were not older than 32 years.

Table 4: Prisoners Interviewed in Mubende District

Age Range	No. of Prisoners Interviewed
18 - 20	2
21 - 23	3
24 - 26	2
27 - 29	6
30 - 32	3
33-35	1
Above 35	0
Total	17

The circumstances that lead to youths being accused of the offence of being rogues relate to their economic vulnerability, which increases their resort to bars and gambling places. Nonetheless, there also appear to be cases of police using this offence for extortion purposes, where youths are arrested even when going about their business. They are then asked to pay bribes to be released from custody.⁶¹ Sexual offences are mainly from incidents of defilement, especially in cases when the victim becomes pregnant. In Mitooma, youths indicated that in cases of pregnancy, they are usually arrested even when the female involved is above the age of 18. That the parents use this for extorting

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59 Interview with prosecutor Mr. Ouma Charles, State Prosecutor based in Mubende, on 15th August 2018.

60 Interview with Testy Nabirye, CID Officer Amuru Police station on 16th August 2018.

61 Focus Group discussion with Church youth group in Mbarara Town on 19th August 2018.

money from the “perpetrator” or to force them into marrying the female.⁶² In this regard, one youth who considered himself a victim of this remarked:

The parents falsified the age of the girl to below 18, even when it was clear she was older than that. I was asked to pay money or marry the girl. Marriage was not an option since I do not have the means to sustain a home. I paid UGX 300,000 to settle the matter. It is also common for parents to say that the girl was in school, even when they are dropouts.

On their part, female youths are caught mainly in cases of prostitution, especially in the urban centres. This too could be linked to poverty among female youths.⁶³ In its 2017 Study on Adolescent Girls and Young Women engaging in Transactional Sex, Uganda Youth Development Link (UYDEL) found that factors that pushed girls to engage in sex of this nature include the need to be financially self-reliant, to address home economic hardships and to supplement their income. This was the case with 75% of the respondents who were engaged in this.⁶⁴ Although, technically speaking, “transactional sex” may not be prostitution, this gives pointers to the factors that push female youths into prostitution. If the online newspaper, *Campus Bee* is anything to go by, some university students are resorting to online prostitution as a way of topping on the meagre upkeep their parents give them at the beginning of every semester.⁶⁵ In Kampala and other urban centres, it is common for sex workers to be arrested and arraigned before court and are subjected a number of abuses and violations in the process.⁶⁶ Amnesty International quotes a sex worker as saying that the police arrests them, they rape them and then later, if they want to get out of prison, have to pay a bribe.⁶⁷

Circumstances such as the above put youths in situations where they need legal representation. Yet, the paucity of lawyers across the country, especially upcountry, means that many youths in those situations will go unrepresented. Data from the Ministry of Justice and Constitutional Affairs shows that Uganda

62 Focus Group discussion in at Rubare Trading Centre, Katenga Sub-county, Mitooma District on 18th August 2018.

63 Focus Group discussion with Youth in Trading Centre in Kamdini Town Council, Oyam District on 15th August 2018

64 Rogers Kasirye and Joanitah Lunkuse *Building resilience among adolescent girls and young women engaging in transactional sex in rural Uganda: Hearing from the Adolescent Girls and Young Women (AGYW)* (2017) Uganda Youth Development Link, available at < <http://www.uydel.org/details.php?news=2>> (accessed on 13th September 2018)

65 *Campus Bee University Girls Resort to Online Prostitution* <https://campusbee.ug/news/university-girls-resort-online-prostitution/> (accessed on 14th September 2018). See also Blizz Uganda *Top 5 Uganda campuses where to get cheap girls for a nightstand!* at <<http://ugbliz.com/top-5-uganda-campuses-cheap-girls-nightstand/>> (accessed on 14th September 2018).

66 Amnesty International “*We are not criminals; We are people*” *A Ugandan sex worker tells her story*, available at < <https://www.amnesty.org/en/latest/news/2016/05/bad-black-sex-worker-testimony-uganda/>> (accessed on 10th September 2018).

67 As above.

has 774 approved law firms. Of these, 636 are based in Kampala,⁶⁸ leaving the rest of the country to share 138 firms. Yet, even those based upcountry are stationed in such urban centres as Jinja, Mbale, Mbarara, Masaka, Lira, Gulu, and Iganga, among others. This though does not make it automatic for youths in Kampala and other urban centres when in need of access to legal representation. Although there are a number of Legal Aid Service Providers in urban centres, these are overwhelmed and without Government support and therefore are not in position to meet all the justice needs of indigent sections of the population. As is indicated, poverty means that youths cannot afford the services. Moreover, many times when in trouble, youths are abandoned. According to one local leader, **“most youths commit crimes and their families abandon them, there’s no one to stand for them, therefore there’s need for legal aid”**.⁶⁹

As victims, youths, and mainly female youths, are victims of crimes related to Sexual and Gender Based Violence (SGBV). There are a number of studies which show that those most affected by SGBV are young women (those 24 and below).⁷⁰ This explains the high prevalence of HIV/AIDS in young women. The SGBV incidents they face include domestic violence (DV) and such sexual offences as rape and indecent assault. Another incident that has positioned female youths as victims of crime, and also seeking justice, was in relation to seeking for maintenance for their children from their fathers, who in most cases are also youths. A female Member of Parliament representing the youth indicated that she is involved in resolving many cases of this nature.⁷¹

In addition to exposing them to crime, youth vulnerability also exposes youths to civil wrongs, either as perpetrators or victims. The Black’s Law Dictionary defines a “civil action” as “action brought to enforce, redress or protect private rights” and includes “all types of actions other than criminal proceedings”.⁷² Examples of civil wrongs include breach of contract, encroachment or trespass on property, trespass on the person (such as assault), negligence resulting into damages, and defamation, among others. The HiiL Report identified a number of justice needs Ugandans face that could qualify as civil claims. This includes claims arising in the family, employment and in relation to land. Moreover, the Report further lists up to fourteen broad justice related problems, many of which have a civil justice dimension. These include: Land; housing; neighbours; employment; family; children; social welfare; public services; crime;

68 See Ministry of Justice and Constitutional Affairs List of Approved Law Firms as at 20th September 2018, available at <<http://www.justice.go.ug/sites/default/files/APPROVED%20AND%20NOT%20APPROVED%20LAW%20FIRMS%202017.pdf>>.

69 Interview with Simon Kidega, LC III official for Kilak South, Amuru District, on 16th August 2018.

70 See for instance Kasirye and Lunkuse (note 54); Richard Hasunira *Integrating Legal Empowerment And Social Accountability For Quality Hiv Services For Adolescent Girls And Young Women: Results from a community assessment and mapping conducted in Gomba and Mukono districts in central Uganda* (June 2017) Centre for Health, Human Rights and Development.

71 Interview with Hon Anna Ebaju, Member of Parliament representing female youths 3rd August 2018.

72 Blacks Law Dictionary, 6th Edition.

consumption; accidents; money; obtaining ID; and business.⁷³

In the current Study, it was found that outside the criminal justice arena, the justice needs of youths arose from such other incidents as land and family matters. In the latter context, maintenance as indicated above was such an incident.⁷⁴ It emerged in all places that land justice was a need youth face. Some youths are victims of land grabbing. However, the majority were caught in circumstances where they were struggling to access land, especially from parents and relatives. With respect to parents, the predominant cultural practice is for parents to give their children land. This is indeed interpreted as an obligation and many youths believe that this is the case. Youths were therefore caught in wrangles with their parents, when parents declined to give them land. Not being a legal obligation, youths felt that they never received justice whenever they tried to pursue this claim.⁷⁵ The reality is also that parents owning land felt that it was not safe in the hands of youths, they would rather give it to them after they “matured”.⁷⁶ In some cases, having paid fees, parents did not feel obliged to provide land for their educated children. This, educated youths felt this was a disadvantage and unfair.⁷⁷

In addition to the above, youths were victims of abuses in the commercial sector. Employment related abuses are one example of the challenges youths faced in this sector. It was indicated that most of the abuses in employment related to payments for work done. That youth **“work a lot and paid less so they are cheated. Investors pay less and late”** that yet **“those in gold mining areas get health problems”**.⁷⁸ In addition, some youths were becoming defendants and, in some cases, civil debtors as a result of defaulting on loans obtained from micro-finance institutions and money lenders. Some who defaulted would be processed through the civil justice system and committed to civil prison, where some stayed for up to six months.⁷⁹

It is in the above contexts that the justice needs of youths arise. The needs relate mainly to access to information, resources to pursue claims and legal representation. The question which remains to be answered then is whether these needs are met, thereby ensuring access to justice for youths. This is the subject of discussions in the next sub-section.

.....
73 HiiL (note 35 above), at p 39.

74 Interview with Tusiime Catherine, Psychosocial officer at Action Aid Mubende, on 16th August 2018

75 Focus Group discussion in at Rubare Trading Centre, Katenga Sub-county, Mitooma District on 18th August 2018.

76 As above.

77 Interview with Atwine Ambrose and Christine Kingabirawo at Katenga Trading Centre, Mitooma District, 18th August 2018.

78 Interview with Jackson Kadume Gonzaga District, Communications Officer, Mubende District Local Government on 16th August 2018

79 Interview with Atwine Ambrose and Christine Kingabirawo at Katenga Trading Centre, Mitooma District, 18th August 2018.

4.2. Measuring justice for youths

As indicated above, the extent to which youths are accessing justice is measured using 3 parameters: cost of the procedure; quality of the procedure; and quality of the outcome. It is on the basis of these that the outcomes of the Study are analyzed, which also provide the basis for understanding the challenges which youths face.



4.2.1. Cost of procedure

The cost of the procedures of justice present itself in the form of money spent in legal fees, travel when pursuing or defending cases and out of pocket expenses associated with a case or cause. This is in addition to the time spent to among others searching for information, attend hearings, and travel on journeys related to cause or case; and other costs could be associated with stress and negative emotions. This is in addition to costs associated with long stays in pre-trial detention and the resultant loss arising from absence from work, which in some cases extends to relatives of the detainee, including spouse and siblings. In some situations, a lot of time is wasted by relatives and friends trying to access a detainee, which is aggravated in situations where the distance between home and prison is long.

The findings of this Study show that the cost of the procedure stood out as the biggest obstacle youths faced in pursuing justice. Almost all respondents alluded to this, indicating among others that they could not afford legal fees. It was highlighted that the ease with which youths succeeded in their cases over other persons was dependent on financial muscle. Although this is the case with the rest of the population, perhaps as discussed above, youths were affected more. This is due to the financial challenges youth face over and above the older age groups due to their station in life defined by economic vulnerability. Corruption in the system poses the biggest threat. This usually manifests itself in the form of bribes to authorities in the system. The police were most complained of.

Corruption in the justice sector is not a new phenomenon in Uganda. In a study conducted by the Institute for International Security in 2016, it is indicated that when asked why corruption was rampant in police and at the courts, majority of the respondents simply said that “this is Uganda”.⁸⁰ This means that the vice was so entrenched and had become a fact of life. Both external and internal reviews, including those by Government, show that JLOS is the

80 Cheyanne Scharbatke-Church and Diana Chigas Facilitation in the Criminal Justice System: A Systems Analysis of Corruption in the Police and Courts in Northern Uganda Institute for International Security Occasional Paper (2016), at p 8.

most corrupt sector in Uganda. Outstanding in this sector are two institutions, Police and Judiciary. The two keep swapping positions as “the most corrupt”. In this respect, corruption in JLOS has been described as the most frequent form of abuse of power for personal gain.⁸¹ In the Report by the Institute for International Security, corruption is described to take the shape of bribery in the form of exchange of cash to influence outcomes of processes. That while in many cases, citizens are asked to pay for things that should (under the law) be free. Corruption is also used in a more predatory way—to induce officials to act illegally. In this regard, it is indicated that for instance, a judicial officer might be bribed to make a particular decision and a police officer may arrest someone on fabricated charges.⁸² Another form of corruption is favouritism, which for instance entails promotions based on one’s connections rather than competence. This is in addition to absenteeism, such as when Magistrates paid as full-time civil servants attend to their stations on a part-time basis; and political interference, which takes the form of those with political power influencing outcomes of cases. Absenteeism of Magistrates is not unique to this section of civil servants. It is a general problem in the civil service.⁸³

The perception was that justice had become a commodity available to the highest bidder as opposed to a right. Respondents alluded to corruption at all levels in the justice sector, including the Local Council Court levels. One youth respondent in Iganga told his story:

When we had a land wrangle, we first tried to solve it outside police which failed so we had to proceed to political leaders. These members since it was a land issue wanted to be allocated some plot which the family denied. Later, the case was forwarded to police, which led us to court but up to now, judgment is not given and currently there is corruption.

The paradox though is that in spite of the above, many youths still felt that they needed the services of the institutions, and especially the Local Councils and the Police. One respondent remarked:

They are like parents to us. Even when a father wrongs you, they remain your parent and you cannot throw them away. In any case, where else can we go.⁸⁴

Indeed, as is indicated below, only 1% of the respondents saw uncouth methods as the best way to settle cases, including using gangs. The rest still believed in the justice institutions, the majority preferring to approach LC courts. Nonetheless, the majority still felt that they were not getting fairness from these institutions.

81 As above, at 11.

82 As above.

83 See, Uganda Bureau of Statistics *Uganda National Governance Baseline Survey (UNGBS) 2014 Report*, available at <https://www.ubos.org/wp-content/uploads/publications/03_2018Governance-Survey-Report_2014.pdf> (accessed on 10th October 2018).

84 Participant in Focus Group discussion in at Rubare Trading Centre, Katenga Sub-county, Mitooma District on 18th August 2018

The interface with some judicial officers however shows that they believe that as much as there could be acts of corruption, opinions on the widespread nature of this is also based on perceptions. A Grade I Magistrate from Buganda Road Court for instance believes that sometimes youths do not get the services and rights they deserve simply because they believe that it requires money for the same. The case in point alluded to by the Magistrate is when youths keep quiet when produced in court and do not apply for bail simply because they do not have money and think that in all cases bail has to be paid for. According to Magistrate:

The perceived issue of corruption is a problem in the judiciary, when we ask youth in court why they cannot ask for bail they say they did not prepare for money for bail. Many youths are silent and do not ask for bail because of they assume they will be asked for money.⁸⁵

Nonetheless, corrupt tendencies in the Judiciary, as illustrated above, have been proved by a number of researches and public surveys. This vice needs to be dealt with.

4.2.2. Quality of the procedure

The indicators of the quality of the procedure, include voice and neutrality, which looks at process control, decision control, neutrality, consistent application of rules; respect, which looks at respect, politeness, proper communication by service providers to those seeking the services; and procedural clarity, which looks at timely explanation of procedures and rights. The quality of justice has serious implications on person's perceptions of the effectiveness of the justice system and the willingness of persons to seek services from it. In 2017, the theme of the year for the Judiciary was stated as *Building Public confidence in the Judiciary*.⁸⁶ Indeed, the Judiciary itself is alive to the fact that the public does not have confidence in the Judicial System. This could explain why youths use local council courts more than the mainstream courts. In this Study, it was established that only 17% of respondents who had had disputes used the courts of judicature. The rest used informal methods, including traditional mechanisms, religious leaders, family structures and local council courts, the latter being the most utilised. This is illustrated in the table below:

85 Interview with H/W Rose Nsenge, Grade I Magistrate, Law Development Centre Court, on 10th October 2018.

86 See Key Note by Principal Judge, High Court of Uganda Hon. Justice Dr. Yorokamu Bamwine At Mbarara Circuit Court Open Day June 22, 2017, available at <<http://judiciary.go.ug/files/downloads/Remarks%20by%20PJ%20at%20Mbarara%20High%20Court%20Circuit%20Open%20Day%20-%20June%2022%202017.pdf>> (accessed on 14th September 2018).

Table 5: Preferred Forum for Resolving Disputes

Forum	Percentage
LC	45%
Court	17%
Religious Leaders	12%
Police	11%
Traditional Leaders	8%
Political head	4%
Family elders	2%
Youth gangs	1%
Total	100%

The findings illustrated above in some respects correspond with the finding of HiiL on the same subject. The HiiL Survey found that 46% preferred LC courts, while only 8% preferred courts. There are however divergences with respect to religious leaders, which in the HiiL Survey stands at 3% and traditional leaders, at 5%.⁸⁷ Preference for the local council courts was explained by a number of factors, including lack of confidence in the formal court system.

A number of respondents felt that it was common for courts to wrongly convict youths for crimes they have not committed. This was explained to among others arise from the stereotype that youths are not truthful persons, and this was the case at all levels.⁸⁸ For this reason, there was a perception that the views of youths are not considered in the system, which denied them “voice”. In addition, there is also mistrust and stereotypes of suspicion of youth involvement in crime. From a political perspective, youths are profiled as working to overthrow Government. This took away the element of “respect” in the system since the youths also detest the formal system. They find it unfriendly. Youths are often the first suspects of wrong doing, simply on the basis of being young in some cases to the extent of “being presumed guilty until they prove their innocence”. As a result, they are maliciously prosecuted and in some unfortunate cases are wrongly convicted. Some innocent youths go to prison as a result of this and come out as hardened criminals.

It was established that youths were also reluctant to use the formal courts because of their costly nature and corruption. This is in addition to the fact

87 HiiL Report (note 10 above)

88 Focus Group discussion in at Rubare Trading Centre, Katenga Sub-county, Mitooma District on 18th August 2018.

that this process is slow. Indeed, many respondents shared their frustration with the courts, arising from these factors. According to a respondent from Jinja:

Court people are so annoying. They want a bribe for everything and are reluctant to help the poor or to help you understand what's going on.

Another respondent from Pakwach explained:

There is a lot of bribery in the formal justice system in most cases. If you want to win the case, you have to pay a bribe, which is costly.

The sluggish nature of the courts is a problem not unique to youths, it is a general problem. It is explained among others by the huge case backlog. This takes away the element of timeliness as an element of quality. In 2016, the Judiciary published a court case census report, which took stock of the cases pending before the courts.⁸⁹ The Report showed that 114,809 cases were pending before the courts. Of these, the biggest portion were criminal matters, at 52,221 cases.

Table 6: Case backlog in the Judiciary

COURT	CRIMINAL CASES	CIVIL CASES	TOTAL
Supreme Court	36	60	96
Court of Appeal	3,328	3,328	5,836
High Court	8,518	27,795	36,313
Chief Magistrates	22,661	23,285	45,946
Magistrates Grade I	10,017	5,724	15,741
Magistrates Grade II	7,661	3,216	10,877
TOTAL	52,221	62,588	114,809

Source: The Report of the Judiciary National Court Case Census (2016).

This state of affairs was attributed to a number of factors, including poor case management system; absence of specific numbers attached to the court with the view of each court having a unique identifier; inadequate staffing in some courts; existence of non-operational courts; general lack of skill in use of ICTs; lack of computers for data management; lack of idealism and commitment to the institution among staff to a point where every effort from their side

⁸⁹ The Judiciary of Uganda *The Report of the Judiciary National Court Case Census* (2016).

has to be remunerated in monetary terms; absence of a numbering system of courts; court proceedings are typed in private secretarial bureaus due to power shortages in some courts; inadequate ICT hardware and software; inadequate maintenance of ICT equipment and systems; limited/shortage of space, like courtrooms and chambers; sharing of sub-county buildings with the courts; poor maintenance of court infrastructure; delayed committal of accused persons to High Court for trial; absence of service delivery standards to guide uniform approach in handling cases; current magisterial areas and circuits too large to render, causing difficulty in supervision by the Circuit Judges and Chief Magistrates; absence of timelines within which the cases should be removed.

The procedure of the formal courts also explains the sluggish nature of this system, which runs on various technical rules and procedures. In this Study, some respondent expressed disappointment with these procedures, which they said they actually never understand. The youths also found the system unfriendly to them and that the courts do not take them seriously. In this, the youths felt that they were not respected by the system. A respondent from Kampala stated thus:

I got scared while I was inside the dock, since I was a youth. I could not manage having eye to eye contact with my parents while in court.

Another respondent in Kampala stated:

I was completely confused about the terms used and wasn't impressed by the way the system treats the common man as compared to those that are privileged.

A prisoner respondent from Mubende found the courts unfriendly, arising from having been tried by what he termed as “a rude Magistrate”, who listened to neither him nor his counsel. The unfriendly nature of the court system was also explained by the technical language used. Moreover, besides the legal language used, some youths, especially from upcountry, attributed the unfriendly nature of the system to the use of English language as a mode of communication. This is in addition to the decorum of court, which youths find hard to adhere to. The language challenge was not restricted to the courts. Some respondents raised similar complaints about the Police. According to one respondent from Oyam:

When my brother's motorcycle was stolen ... we went to police and they were speaking in English which we could not understand well. We then decided to go to the LC 1 who invited the thief to his office and advised that we settle the matter out of court since the motorcycle had been recovered. I was compensated with 200,000 Shs. I was happy and gave the LC 1 chairperson 50,000 Shs out of excitement.

The preference based on the friendliness of the Local Council Courts was in addition to the above explained by the fact that parties before these courts were more willing to mediate and amicably resolve the issues. This was

unlike parties who appeared before the formal courts. The formal courts are adversarial and parties will do “anything” to win a case. The perception is that parties before the local council courts are more prepared to tell the truth, compared to those appearing before formal courts. This also explains the perception people have of actors in the formal system, including lawyers, whom the public believes are professionals at telling lies to win cases. This could however to some extent be attributed to ignorance of the public on the law, legal procedures and outcomes.

4.2.3. Quality of outcome

Measuring the quality of an outcome in access to justice terms is guided by a number of indicators. These, as elaborated above, include fair distribution, which looks into the question of whether the distribution of burdens is fair according to needs, equity and equality criteria; damage restoration, which asks the question of whether or not there has been fair compensation for monetary damage, emotional harm and damage to relationships; problem resolution, which looks into the extent to which the problem is solved and the result has been enforced; and outcome explanation, which examines the extent to which the people receive access to outcome information.

On the question of fair distribution, this can only be achieved if there is equity in the justice system and disputes are resolved in ways which make all actors feel that their voices have been heard. From a human rights perspective, it brings in aspects of the right to equality before the law. It has been illustrated that determining equal access to justice requires one to first identify the primary justice needs of various groups, including women, girls and boys,⁹⁰ in our case it would be youths. The justice needs of youths are already identified above. From this Study, it is indicated that the justice needs of youths are not being met. As already indicated youths and other stakeholders strongly felt that the outcome of justice processes was dictated by corruption. This is in addition to the stereotypes indicated above, which result into youths being “presumed guilty” and sometimes getting wrong convictions. The same factors affected damage restoration. In any case, due to poverty and ignorance of the law and procedures, few youths are able to access the courts to get damages for harms suffered. The language of courts is also a problem, which as indicated above, is English and is used in a technical manner by JLOS actors. This makes it hard for uneducated youths to follow. As demonstrated above, out of the youths interviewed for this Study, up to 30% had not had education beyond the primary level. Language challenges also affected the outcome explanation since this portion of youths would not be able to read and understand the judgment. Moreover, the court environment and demands of decorum are intimidating for youths. One youth from Oyam remarked: **“I was not free while in police and court as a witness. I feared court”**.

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90 Henrik Alffram *Equal Access to Justice: A Mapping of Experiences* (2011) SIDA, at 35.



CONCLUSION AND RECOMMENDATIONS

5.1. Conclusions

It has been illustrated that the biggest proportion of Uganda's population is comprised of youths, forming up to 78% of the population. As a matter of fact, this population group has been exposed to a number of vulnerabilities, arising mainly from the socio-economic conditions they live in. Most visible is poverty, arising among others from youth unemployment. Like the rest of the population, youths have been affected by changing family partners (loss of family support), increasing income disparities and the impact of HIV/AIDS, among others. The challenge is that by the nature of their vulnerability,

youths lack the capacity to fight back. They not only lack the resources but are also affected by stereotypes that marginalise and limit their capacity to address their needs. This has among others limited their access to justice, yet, by virtue of their vulnerability, youths have a number of justice needs. One visible area is in criminal law. Many youths are as a result of drug abuse and unemployment always caught on the wrong side of the law. In this, they would require legal services such as legal representation to enable them navigate the justice system.

In addition to needs in the criminal justice system, youths also face challenges of a civil nature. This includes challenges arising from matters of a family nature, land, and employment. It is these that give rise to the need for youths to access justice. As illustrated above, justice entails fairness, equity and being able to access relief for violations and abuses. Whether this has been achieved is impacted on by a number of factors, including cost of procedures through which to pursue justice, the easiness, quality of the procedure itself and the quality of the outcome.

This Study has demonstrated that the most outstanding of the parameters of access to justice is in relation to cost. Due to their vulnerability, which impacts on their livelihood, youths lack the means to access justice. They cannot afford the costs of legal representation, incidental costs of pursuing a case and above all paying bribes, a practice which is now entrenched in JLOS institutions. It is for this reason that majority of youth resort to cheap local council courts. Additionally, the quality of the procedures is generally not good for youths. The formal court processes are not only **slow but technical and intimidating for youths**. Yet, stereotypes about youths make it hard for them to access to justice. In addition, the language used, English, is not accessible to uneducated, mainly rural youths. **Indeed, while the country has youth friendly programmes in such sectors as health, agriculture and development, there are no comparative services or approaches in the justice sector.**

5.2. Recommendations

In order to overcome the challenges that constrain access to justice for youths a number of things need to be done. These could be perused under three headings: **Youth friendly justice services; youth legal empowerment; and addressing the underlying causes of youth vulnerability.**

5.2.1. Youth Friendly justice services

As indicated, the justice services, especially in the formal sector, are not youth friendly. This arises from the costs of the procedures, the technical nature and language used in processes and the way youths are stereotyped when they interface with JLOS. In an interview, one judicial officer confirmed that there

are no special services or treatment accorded to youths when they appear in courts. This is because, once they turn 18, youths are treated like any adults. In some cases, they are even given stiffer sentences to deter them since they are expected to be productive.⁹¹

To address this, there is need to put in place youth friendly services within JLOS institutions. In the Health Sector, the approach of youth-friendly services has performed miracles in some places in Uganda. The successes have been most visible with respect to access to sexual and reproductive health care services, which have seen greater numbers of youths access these services in an environment that is conducive and addresses their needs. There are some things which can be learnt from the approach in the health sector. Key of these was ensuring that youths who interface with the system are treated with dignity and ensuring that services are offered in a language which youths understand. In addition, the services are offered in a physical environment which is youth friendly, in terms of space and structure. Furthermore, the service providers ensure that the voices of youths are heard and their views considered in choosing and providing services to them. Even information campaigns are designed with greater youth input. A writer describes the environment at Kiswa Health Centre IV in Kampala:

The ambience in the waiting room is upbeat. There is a huge, loud TV screening a drama on sexual and reproductive issues. Young people watch attentively, eyes glued to the screen. Others are chatting and laughing loudly. ... The walls are covered with colourful posters of teenagers. The text is mostly in dialogue, the people in the posters are dressed casually and use 'cool' words commonly heard in school. There are also leaflets, condoms and a suggestion box.⁹²

Of course, the above is not to suggest that this is the case with all health care centres accessed by youths. This is just a description of the services at those centres where the approach is being implemented.

The above could be replicated and adapted by JLOS institutions such as Police and the Judiciary. One appreciates the efforts invested in juvenile justice approaches, as well in family and children's courts. These are however restricted to children below the age of 18. Creating youth friendly services for those above 18 and below 30 should be undertaken as a comprehensive process and not as a casual exercise. Some countries run youth friendly justice services, although in most countries these deal mainly with juvenile offenders. New Zealand has an elaborate youth justice system, which aims to keep children and young people out of the formal criminal justice system. This is done with the view of holding them accountable and encouraging them to

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91 Interview with Her Worship Sarah Langa, Deputy Registrar, High Court Civil Division, on 10th October 2018.

92 Esther Nakkazi "Youth-friendly corners boost uptake of sexual and reproductive health services" (2016) 2 *The Health Digest*, at 7.

take responsibility for what they have done.⁹³ One of the benefits youths in this system have (persons between 16 and 25) is legal advice and representation in criminal matters. The system also promotes integration by involving families and victims of crime in dealing with cases involving young people.

Uganda could be the first country to have a robust youth justice system, which is outside the juvenile justice system as established. In the first place, all actors in JLOS need to be brought on board for coordinated responses characterised with strong ownership. The system, while creating youth friendly services, should be mindful of the fact that youths also have pockets of persons with special needs, including youths with disabilities. The following should be considered in creating a youth friendly environment:

- a) **Information:** The language used in the information materials which is necessary for youths to access justice should be one which youths understand, are comfortable with and relate to. The methods which are used to spread such information should also be youth friendly, done for instance through music, technology, film and other youth-friendly visual illustrations;
- b) **Ownership:** Steps should be taken to ensure that youths feel the ownership of the various JLOS institutions and processes. Youths should be educated on the procedures of these institutions and be encouraged to get involved in the provision of the services to other youth;
- c) **Special service points:** Like has been done in the area of sexual and reproductive health in the Health Sector, JLOS should establish special service points for youths in all JLOS institutions. At police stations, this is easy to achieve by expanding the mandate or creating something akin to the family matters desk and appointing specially trained officers for this. The same could be done with respect to courts of law by establishing something akin to family and children's court, which is deliberately empowered to deal with young persons. Moreover, these places should be made accessible to all calibre of youths, including those with disabilities;
- d) **Training of JLOS actors:** There is need for special trainings for JLOS actors, including judicial officers and police officers on the vulnerability of youths, their justice needs and the challenges they face. This is in addition to equipping judicial officers with skills to deal with the youth. In this, emphasis should among others be put on promoting rehabilitation rather than retribution when dealing with youth offenders. In this respect, the diversion approaches adopted in juvenile justice could be replicated and adapted. This could especially be the case with respect to youths between the ages of 18 and 21. This category is just recently emerging from childhood and could still have traits of being children in need of

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⁹³ Government of New Zealand *How the Youth Justice System Works* <<https://www.govt.nz/browse/law-crime-and-justice/courts/how-the-youth-justice-system-works/>> (accessed on 18th September 2018).

special care and protection. In the context of Uganda’s legal system, the community service programme implemented under the Community Service Act⁹⁴ should be emphasised when dealing with youths.

- e) **Legal services:** A lot has been invested in addressing the justice needs of such persons as women, children, urban poor, and rural communities, among others. Legal aid service providers specialised in these groups have equipped themselves and built their capacity for this purpose. There is need for a similar approach to be adopted for youths, with some LASPs specialising and equipping themselves for this group. Some CSOs are already doing this and could offer some lessons for those not yet doing it. The example here is the Uganda Youth Development (UYDEL). UYDEL has a prevention model to prevent youths from getting in conflict with the law by equipping them with vocational, life and entrepreneurship skills. In addition, UYDEL engages in lobbying and advocating for the rights of the youths among others for purposes of promoting diversion services of youths imprisoned due to risky behaviours. This has included promoting reintegration of youths in conflict with the law in the community and families. Furthermore, UYDEL engages in sensitisation and training of law enforcement officers on how to handle youths in conflict with the law and has built a referral network for victim assistance, as well as providing psychosocial support and rehabilitation of youths.⁹⁵ Additionally, Legal Aid Service Providers like Youth Legal Relief are specializing in providing legal empowerment and assistance of the youth.

Guidelines for delivering youth friendly services: There is need to develop some guidelines and service protocols that could be used by service provides, in the justice sector. The Guidelines would, among others, address issues of how to make services and the environment friendly to youths, how best to integrate them in the community and ensuring their views are respected and rights protected.

It is also necessary to mainstream youth needs and services in the different range of services offered by LASPs, including in family matters, land, employment and business. Indeed, youth friendly services should also be offered at legal aid camps.

5.2.2. Youth legal empowerment

This Study found that youths in Uganda lacked legal empowerment. This arises from ignorance of the law, their rights and legal procedures. This is aggravated by the marginalisation they suffer, due to the stereotypes they face when interfacing with the justice system. Lack of resources also makes it hard for youths to access legal services, which would empower them legally.

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⁹⁴ Chapter 115 of Laws of Uganda.

⁹⁵ Email interview with Birungi Kulsum Social Worker with UYDEL on 10th October 2018.

“Legal empowerment” has been defined variously, including in relation to poor persons. In this regard, it has been defined as a process through which the poor become protected and are enabled to use the law to advance their rights and their interests in relation to the state and the market.⁹⁶ That it is a country and context-specific approach that takes place at both the national and local levels and among others aims to incorporate the best practices of informal systems into the formal legal system. This is in addition to reforming existing formal institutions to make them open, accessible and legitimate. It is based on this that the four pillars of legal empowerment have been defined: access to justice and the rule of law; property rights, labour rights; and business rights. These pillars are intended ensure that poor measures are taken to ensure that poor people get access to justice and have the rights mentioned protected in order to enable to break the cycle of poverty.

The four pillars above could be adapted for purposes of ensuring legal empowerment for youths. Access to justice and rule of law would among others concentrate in removing the bottlenecks which constrain access to justice and rule of law for youths. Many of these are identified in the report. These include the costs of assessing justice, the language of the JLOS institutions and stereotypes against youths. It would also go with ensuring that youths are sensitised on their rights and legal procedures and enabled to pursue justice based on proper information and knowledge. Property rights and business rights are key in lifting youths out of poverty and would be an element of addressing the economic vulnerability of youths as elaborated below. The following could be done to promote legal empowerment:

- a) **Create legal awareness:** Youths should be sensitised and their awareness of legal rights and procedures enhanced. This could be done through trainings which are adapted and executed in a youth friendly manner. The awareness sessions should focus on a range of rights and procedures, including constitutional law, civil law and criminal law perspectives. Peer to peer awareness creation would be the most effective. In this regard, one could borrow from USAID Determined, Resilient, Empowered, AIDS-free, Mentored and Safe project (also known as DREAMS Project). This is a Project intended to reduce the incidents of HIV/AIDS among adolescent girls and young women (AGYW). The Project approaches are informed by the fact that social isolation, poverty, discriminatory cultural norms, orphanhood, gender-based violence and inadequate schooling all contribute to girls' vulnerability to HIV and a life.⁹⁷ As one of the responses to SGBV, which has been determined as major cause of HIV infections,

96 UN Commission on the Legal Empowerment of the Poor, 2008, 'The Four Pillars of Legal Empowerment', in Making the Law Work for Everyone Volume I, Commission on Legal Empowerment of the Poor and United Nations Development Programme, New York, pp. 25-42, available at <<http://gsdrc.org/document-library/the-four-pillars-of-legal-empowerment/>> (accessed on 15th September 2018).

97 See USAID *Dreams: Partnership to Reduce HIV/AIDS in Adolescent Girls and Young Women* available at <<https://www.usaid.gov/what-we-do/global-health/hiv-and-aids/technical-areas/dreams>> (accessed on 14th September 2018).

DREAMS has adopted a legal empowerment and social accountability approach. This is intended to ensure accountability for service providers of HIV/AIDS services and redress of SGBV related matters affecting AGYW. The methods being used under this include the following: Empower AGYW peer leaders in legal and human rights awareness in order for them become peer educators; empower other AGYW to seek and demand justice, navigate justice access procedures; compile and preserve evidence, document GBV cases; link with relatives and friends; refer to legal aid and attorney services; hold justice institutions accountable to international standards; and engage with the district probation office, schools and other relevant institutions.⁹⁸ Similar approaches could be used for youth justice generally.

- b) Giving youths “voice” in the justice system:** As response to both real and perceived marginalisation in the justice system, there is need to give youths voice in the system. This in effect requires the involvement of youths in all matters affecting them in the justice system and at all levels. This has been done in some places in the context of child justice. It has been argued in the context of child justice that if young people are given a voice and provided with the opportunity to influence how a service is implemented it is more probable that the child will be “rehabilitated”.⁹⁹ With respect to youths, participation in the system should take the form of providing youths with information, consulting them in justice legal decision-making, including in making laws and policies, have the input of youths obtained on how their cases should be handled, and having them employed within JLOS.

5.2.3. Addressing the underlying causes of vulnerability

There is need to comprehensively investigate and address the underlying factors that nurture youth vulnerability. This is a complex exercise that has to look at vulnerability from several dimensions, including social, political and economic. Areas that could be tackled include the following: Causes and solutions to youth poverty; youth delinquency and rehabilitation; drivers and causes of drug abuse; challenges in accessing education; and family and other social contexts and their impact

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⁹⁸ Centre for Health, Human Rights and Development *Integrating Legal Empowerment and Social Accountability for Quality HIV Services for Adolescent Girls and Young Women: Results from a community assessment and mapping conducted in Gomba and Mukono districts in central Uganda*, June 2017 (On file with author).

⁹⁹ Sean Creaney the benefits of participation for young offenders (2014) 13 *Safer Communities*, 126-132, available at <<https://doi.org/10.1108/SC-02-2014-0003>> (accessed on 10th September 2018).

Table 7: Summary of Recommendations

Statement of Recommendation	Actions required	Responsible person/ agency
<p>Create youth friendly justice services</p>	<p>i. Use language which youth understand and relate to</p>	<p>JLOS actors</p>
	<p>ii. Provide information in form attractive to youths using modes they prefer such as music, technology, and film</p>	<ul style="list-style-type: none"> • JLOS actors • CSOs • LASPs
	<p>iii. Create youth ownership of justice services by having youths serve youths in some respects. Recruit youth in JLOS</p>	<p>JLOS actors</p>
	<p>iv. Create special service points for youths in same way as has been done in reproductive and sexual health sector</p>	<p>JLOS actors</p>
	<p>v. Train JLOS actors on justice needs of youths</p>	<ul style="list-style-type: none"> • JLOS institutions, including Judicial Training Institute • Academic institutions, including universities and Law Development Centre • CSOs working on access to justice, including LASPs
	<p>vi. Craft Guidelines for youth friendly justice services</p>	<ul style="list-style-type: none"> • JLOS institutions • LASPs

Provide specialised youth legal services	i. Adapt legal aid services to address needs of youths	JLOS LASPs
	ii. Advocate for diversion of youths in conflict with the law	<ul style="list-style-type: none"> • LASPs • Police, • Courts of Law
	iii. Integrate youths in conflict with the law in their community and families	<ul style="list-style-type: none"> • LASPs • Ministry of Gender Labour and Social Development • Probation officers
	iv. Mainstream legal needs of youths in services offered by legal aid service providers	LASPs
Promote youth legal empowerment	i. Remove bottlenecks that constrain youth access to justice and rule of law such costs of justice, language of courts and stereotypes against youths	<ul style="list-style-type: none"> • JLOS actors • CSOs • LASPs
	ii. Sensitise youths on their rights and legal procedures	<ul style="list-style-type: none"> • JLOS actors • CSOs • LASPs
	iii. Give youths a voice in justice system by involving them in justice matters affecting them	<ul style="list-style-type: none"> • JLOS actors • CSOs

Address underlying causes of vulnerability	i. Deal with causes of youth poverty and find meaningful solutions. Effectiveness of current measures should be reviewed	<ul style="list-style-type: none"> • Ministry of Gender, Labour & Social Development • Ministry of Finance and Economic Planning • National Planning Authority • Local Governments • Academic research institutions • CSOs
	ii. Deal with underlying causes of youth delinquency and promote rehabilitation	<ul style="list-style-type: none"> • MGLSD • CSOs • JLOS actors
	iii. Deal with causes and drivers of drug abuse	<ul style="list-style-type: none"> • Ministry of Gender • CSOs
	iv. Deal with challenges that prevent some youths from accessing education	<ul style="list-style-type: none"> • Ministry of Gender • Ministry of Education • CSOs
	v. Deal with challenges affecting youths in the family and other social contexts	<ul style="list-style-type: none"> • Ministry of Gender, Labour & Social Development

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