



Frequently Asked Questions on Women and Girls' Access to Justice in Gender Based Violence Cases.

30th September 2024

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We strongly believe that this publication will be a great resource to individuals, justice and civil society actors, development partners and communities in helping them appreciate better women's Access to Justice (A2J) in Gender-Based Violence (GBV) cases.

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Preface

Avocats San Frontieres is an international non-governmental organization (NGO) specializing in the defense of human rights and support for justice with 30 years' experience in promoting A2J and human rights worldwide and 13 years' experience in Uganda. With support from The Embassy of the Kingdom of the Netherlands ASF is leading a four-year project (FATE Project) whose overall goal is "to contribute to the empowerment of women and girls to pursue justice in an environment that serves their needs." The Project is implemented under a consortium of four partners; ASF, BarefootLaw, Penal Reform International, and Uganda Women's Network. Its geographical scope is in three priority areas: Northern Uganda (Gulu, Lamwo); Eastern Uganda (Kamuli, Namutumba, Jinja, Mbale, Soroti), and Karamoja (Moroto, Napak); and Western Uganda (Hoima, Masindi).

This Frequently Asked Questions (FAQs) document, synthesizes the study findings on key procedural and substantive concerns for women and justice actors (judicial officers, police and prosecutors) in GBV cases. It complements existing efforts to enhance women's A2J in GBV cases and is intended to inform strategic advocacy at different levels. It is divided into two chapters; one on criminal justice and the other on civil justice in GBV related cases. The first chapter covers six parts addressing key concerns for community members, civil society, probation and social welfare, police, prosecution and the judiciary in enhancing access to and administration of justice in GBV cases. The second chapter of this FAQs document addresses civil cases related to women's A2J in marriage, divorce and succession.

This publication combines FAQs following findings of "a comprehensive study on court judgements related to A2J for women in Uganda, with a particular focus on GBV cases." The document has been further enriched following a desk review of literature and consultations with ASF community-based mediators, judicial officials, and partners supporting and working in the area of women's A2J in GBV cases. Responses are drawn from the legal and policy framework on women's A2J and GBV. It is written in simple language to the greatest extent possible for ease of use and builds on existing efforts that have been made to raise awareness on women's A2J in GBV cases.

Ms. Irene Winnie Anying
COUNTRY DIRECTOR

List of Abbreviations

| | |
|-------------|---|
| A2J | Access to Justice |
| CIS | Community Impact Statements for Victims |
| DV | Domestic Violence |
| FAQ | Frequently Asked Questions |
| FATE | From Access to Equality Project |
| FGM | Female Genital Mutilation |
| GBV | Gender Based Violence |
| JLOS | Justice Law and Order Services |
| LCC | Local Council Court |
| PSWO | Probation and Social Welfare Officer |
| SGBV | Sexual Gender Based Violence |
| SVAC | Sexual Violence Against Children |
| VIS | Victim Impact Assessment |

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Laws and Regulatory Framework on GBV

International Legal and Regulatory Framework

1. **The Universal Declaration of Human Rights, 1948** - It sets out, for the first time, fundamental human rights to be universally protected.
2. **International Covenant on Civil and Political Rights, 1966** – Recognizes freedom from discrimination, the inherent dignity and of the equal and inalienable rights.
3. **International Covenant on Economic, Social, and Cultural Rights, 1976** - Provides for the equality of men and women to the enjoyment of all economic, social and cultural rights.
4. **Convention on the Elimination of all Forms of Discrimination Against Women, 1979** - is often described as the international bill of rights for women and defines violence against women.
5. **The Convention on the Rights of the Child, 1989** - Incorporates the full range of human rights - civil, political, economic, social and cultural rights of children into one document.
6. **Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment, 1984** – Defines torture and obliges states to prevent and punish acts of cruel, inhuman degrading treatment.
7. **The Geneva Convention Relative to the Protection of Civilians in Times of War, the first, second and third conventions and additional protocols, 1950** – Provide for protection of civilian women during war and prohibits sexual violence.
8. **Statute of the International Criminal Court, 2002** - is the treaty that established the International Criminal Court (ICC).
9. **Convention Relating to the Status of Refugees, 1951 and 1967 Optional Protocol** – Defines a refugee and removed the Refugee Convention's temporal and geographical restrictions so that the Convention would apply universally.
10. **The Declaration on the Elimination of Violence against Women (DEVAW), 1993** – Defines VAW
11. **The Declaration on the Protection of Women, and Children in Emergency and Armed Conflict, 1974** - states that women and children suffer victimization during armed conflict due to "suppression, aggression, colonialism, racism, alien domination and foreign subjugation".
12. **United Nations Security Council Resolution (UNSCR) 1325, 2000** - reaffirms the important role of women in the prevention and resolution of conflicts, peace negotiations, peace-building, peacekeeping, humanitarian response and in post-conflict reconstruction and stresses the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security.
13. **United Nations General Assembly Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (2000)** - establishes the first common international definition of "trafficking in persons". It is intended to prevent and combat such crime and facilitate international cooperation against it. The Protocol also highlights the problems associated with trafficking in persons that often leads to inhuman, degrading and dangerous exploitation of trafficked persons.

14. **The United Nations Security Council Resolution (UNSCR), 1820, on Women, Peace and Security 2008** - Recognizes sexual violence as a weapon and tactic of war; Notes that rape and other forms of sexual violence can constitute a war crime.

Regional Legal and Regulatory Framework

1. **African Charter on Human and People's Rights, 1981**- Commonly known as the Banjul Charter provides for elimination of discrimination against women.
2. **African Charter on the Rights and Welfare of the Child, 1999** – Is a comprehensive instrument that sets out rights and defines universal principles and norms for the status of children.
3. **Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 2023 (The Maputo Protocol)** – Is the first international instrument to explicitly recognize sexual and reproduction health rights. It is the most controversial provision because it provides for medical abortion in cases of sexual assault, rape, incest and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the fetus. Many States, including Uganda have made reservations on this article.
4. **The Protocol on the Prevention and Suppression of Sexual Violence against Women and Girls' (The Protocol), 2006** – It is the first regional agreement to focus exclusively on criminalizing and punishing sexual violence against women and children.
5. **GOMA Declaration, 2008** – Provides for eradicating sexual violence and ending impunity in the Great Lakes Region.
6. **African Union Gender Policy, 2008** – Incorporates all existing decisions and declarations of the AU and other global commitments on gender and women's empowerment. It espouses the parity principle.
7. **The Kampala Declaration, 2010** – Directs member states to establish special courts and conduct special sessions and gender responsive procedures in order to fast track SGBV cases.
8. **The East African Community Treaty, 2000** – Provides for mainstreaming gender in all endeavors of the community and the fundamental principles of good governance.

National Legislation

1. **The 1995 Constitution of the Republic of Uganda (as amended)** – Is the supreme law of Uganda and provides the Bill of Human Rights among others.
2. **Penal Code Act, Cap.128 (as amended)** – An Act that establishes a code of criminal law in Uganda.
3. **Prevention of Trafficking in Persons Act, Cap.131** - An Act to provide for the prohibition of trafficking in persons, creation of offences, prosecution and punishment of offenders and protection of victims of trafficking in persons.
4. **The Prevention and Prohibition of Torture Act, Cap.130**– An Act prohibiting and preventing any form of torture or cruel, inhuman or degrading treatment or punishment and providing for the crime of torture.
5. **Divorce Act, Cap.144** – An Act relating to divorce.

6. **Domestic Violence Act, Cap.123**- An Act to provide for the protection and relief of victims of DV and punishment of perpetrators of DV.
7. **The Children Act, Cap. 62 (as amended)** - An Act to consolidate the law relating to children and to make provision for children charged with offences and for other connected purposes.
8. **The International Crimes Court Act, Cap.14** – The Act gives effect to the Rome Statute of the International Criminal Court, to provide for offences under the law of Uganda corresponding to offences within the jurisdiction of that court.
9. **The Prohibition of Female Genital Mutilation Act, Cap,133** - provide for the prohibition of FGM, the offences, prosecution and punishment of offenders and the protection of victims as well as girls and women under threat of FGM.

Policy Framework

1. **The National Policy on the Elimination of GBV in Uganda, 2016** – Developed to promote prevention, response and ending impunity of GBV in the country.
2. **The National Action Plan for the implementation of the United National Security Council Resolutions (UNSCR) 1325 and 1820, and the Goma Declaration** – provides for strengthening women’s participation and involvement in the promotion of peace and security within the context of conflict prevention and resolution, eradicating sexual violence and ending impunity in conflict prone situation.
3. **The National Health Policy, 2012** – Recognizes DV, rape, sexual abuse, child abuse, which are often related to excessive use of alcohol as some of the common ills that affect the health outcomes in Uganda.
4. **The Uganda National Culture Policy, 2006** – Seeks to promote community action on cultural practices that promote human dignity.
5. **The Uganda Gender Policy, 2007** – addresses issues of gender inequality in A2J, socio-cultural discrimination against women and girls, GBV and limited awareness about rights.
6. **The National Community Development Policy for Uganda, 2015** – recognizes gender sensitivity as one of its guiding principles and calls for male involvement in reproductive health to address GBV and other harmful cultural practices.

Definition of Key Terms

| | |
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| Access to justice: | The ability of any person, regardless of income or classification, to use the legal system to advocate for themselves and assert their rights. |
| Affirmative action: | A policy, program or measure that seeks to redress past discrimination through active measures to ensure equal opportunity and positive outcomes in all spheres of life. |
| Aggravated defilement: | Performing a sexual act on a person below fourteen eighteen years of age by a person in authority over the victim at the material time |

of the act, or where the offender is infected with HIV/AIDS, is a parent or guardian, or s/he is a serial offender or where the victim is a person with disability.

Defilement: Performing a sexual act with another person who is below the age of eighteen.

Discrimination: Any distinction, exclusion or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise of an individual's human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Domestic violence: Any act or omission which harms, injures or endangers the health, safety, life, limb or well-being of the victim, whether mental or physical including physical, sexual, economic, physiological, verbal, emotional abuse. It also includes acts or omissions that harasses, harms, injures or endangers the victim with a view to coercing him or her or any other person related to him or her to meet any unlawful demand for any property or valuable security; has the effect of threatening the victim or any person related to the victim by any conduct mentioned in this definition paragraph or otherwise injures or causes harm, whether physical or mental, to the victim.

Duty Bearers: A duty bearer is a local government official, police officers, courts, health officers and community development officers. The main role of a duty bearer is to protect and respond to the issues raised by the survivors of GBV.

Equality: The state of being equal in terms of enjoyment of rights, treatment, quantity or value, access to opportunities and outcomes, including resources.

Gender Based Violence: Acts perpetrated against women, men, girls and boys on the basis of their sex which cause or could cause them physical, sexual, emotional, verbal and psychological abuse or economic harm, including the threat to take such acts, or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed or other forms of conflict.

Gender blind: Inability to distinguish between the sexes or having the quality of ignoring gender.

Gender Equality: Gender equality is the equal valuing by society of the similarities and the differences of men and women, boys and girls, and the

roles they play from an economic, social, cultural and political development perspective.

Gender Equity:

Means “fairness of treatment for women and men, according to their respective needs, including the equal treatment or treatment considered equivalent in terms of rights, benefits, obligations and opportunities”.

Gender stereotypes:

Common beliefs about characteristics, traits, responsibilities, and activity domains that are deemed appropriate for women, men, girls and boys based on their conventional roles both in the private and public spheres.

Girl:

A female below the age of eighteen years.

Human rights:

Entitlements and freedoms that every human being has by virtue of being human. We are born with them; they may be limited in certain circumstances but they cannot be taken away.

Human trafficking:

The recruitment, transportation, harbouring or receipt of persons, by means of threat, abuse of power, position of vulnerability, force or other forms of coercion, abduction, fraud or deception to achieve the consent of a person having control over another person for the purpose of amongst other things, sexual and financial exploitation.

Rape:

Unlawful carnal knowledge of a woman, without her consent, or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind or by fear of bodily harm, or by means of false representations as to the nature of the act, or in the case of a married woman, by personating her husband, commits the felony termed rape.

Sexual act:

Penetration of the vagina, mouth or anus, however slight, of any person by a sexual organ or the unlawful use of any object or organ by a person on another person’s sexual organ.

Sexual organ:

A vagina or a penis.

Frequently Asked Questions on women's access to justice in GBV Cases

Chapter One: Criminal justice

Part I: Frequently Asked Questions for Community Members

1. Which courts handle GBV cases?

The courts that handle GBV cases depend on the nature and seriousness of the case.

- a) Handling of GBV cases can start from cultural institutions and Local Council Courts (LCCs).
- b) Magistrates Courts (Magistrate Grade One and Chief Magistrate Court).
- c) High Court (handles capital offences (offences whose maximum sentence is death or life imprisonment).
- d) Appellate Court (Court of Appeal and Supreme Court hear appeals from the High Court and Court of Appeal respectively).

2. Which people work in a court?

- a) Judicial officers these include; justices of the Supreme Court and Court of Appeal/Constitutional Court, Judges of the High Court, Registrar of Courts and Magistrates (Chief Magistrate, Magistrate Grade I). Judicial officers facilitate, arbitrate, preside over, and makes decisions related to the application of the law.
- b) The Office of the Director of Public Prosecutions (ODPP) is charged with the duty of instituting criminal proceedings in all Courts with competent jurisdiction except the court martial. The ODPP is represented by State Attorneys or State Prosecutors.
- c) Other staff who work in courts are; Secretaries, Court Clerk, Interpreter, Court Orderly and Bailiffs. Other court staff provides administrative support in ensuring administration of justice.

3. What is criminal justice?

- a) Criminal justice relates to the process by which courts determine if a person committed the crime that they have been charged with.
- b) It is a process by which survivors of GBV can access justice.
- c) When the court finds an accused person guilty of committing a crime, the court punishes him or her through imprisonment, fine, or both, community service. A court may caution an offender.

4. What is a criminal case?

- a) Criminal law seeks to protect communities against harm by punishing wrong doing, referred to as crime e.g. rape, defilement, murder, trafficking in persons, criminal trespass etc.
- b) Offences are charged under the Penal Code or other laws.
- c) Although the crime is committed against one individual, it is considered a danger to the entire community or country.
- d) That is why the parties in a criminal case are the State – Uganda against the accused individual e.g. *Uganda Versus ABC*.

- e) The Government is responsible for protecting its citizens from harm by preventing such violent acts from happening.
- f) This is why the Government makes laws prohibiting such acts and tries accused people in court and punishes them.
- g) Compensation may be awarded in criminal cases in order to discourage other members of the community from practicing the same act.
- h) A criminal case can be filed anytime in a court of law, provided that there is evidence to support the alleged offence.

5. What is community service?

Community Service is an alternative to imprisonment (a non-custodial sentence) intended to benefit the community that has been harmed by an offender's crime. An offender is placed to work in an institution free of charge for a specified duration.

6. What is the function of the criminal division of the High Court?

The criminal division of the High Court of Uganda is based in Kampala and is responsible for hearing all criminal offences referred to it by the Magistrates' Courts or criminal cases which are directly filed in the High Court. The GBV offences handled by the criminal division include; murder manslaughter, rape, aggravated defilement and other offences carrying death sentence or life imprisonment.

7. What happens when a person is arrested on suspicion of committing a GBV case?

- a) **Arrest:** One can be arrested by police where reasonable grounds exist that an offence has been committed or is about to be committed.
- b) **Interview and investigation:** At the police station, the suspect is interviewed to give the suspect an opportunity to answer the police version of events in a formal record 'statement' that will be placed before the court. Police can carry out further investigations in the case.
- c) **Police bond:** Any person arrested and taken to a police station for breaking the law may be released until the police completes its investigations. The guarantee that he or she will turn up whenever required to do so by the police is known as 'police bond.' Police bond is free! If a police officer asks for money to release one on bond, report that officer to higher police authorities (Professional Standards Unit).
- d) **Court:** When investigations are complete, the police must present a suspect to court not later than 48 hours (two days). At court, the suspect is charged with the offence. A charge is a formal notice of the offence to an accused who is alleged to have committed an offence. The charge is read out in court.
- e) **Bail:** This is the temporary release of the accused from prison, in exchange for security given for him/her to appear at a later hearing in Court. The right to apply for bail is a fundamental right guaranteed by Article 23 (6) (a) of the 1995 Constitution of the Republic of Uganda which provides that, "where a person is arrested in respect of a

criminal offence, the person is entitled to apply to a court to be released on bail.” It’s basis is found in Article 28 of the same Constitution which states that an accused person is to be presumed innocent until he/she is proved or he/she pleads guilty. (See question 8 on how to apply for bail).

- f) **Remand:** The accused is sent to prison (remand) by court and he/she keeps appearing in court to hear their case until it is concluded.
- g) **Adjournment:** is when a case in court is moved to another date to continue with the hearing. Cases can be adjourned to allow witness to testify or if the judicial officer, state attorney/prosecutor or advocate is unable to appear in court on the set date and time etc.
- h) **Plea:** is an answer or response given by an accused person to a charge read out to him/her in court. It may be an acceptance (guilty plea) or a denial (not guilty) to a charge. It may be a defence or an objection to the charge being brought against the accused. If an accused person pleads guilty (in the High Court or Magistrates Court) the prosecution will read out the facts and the Magistrate/Judge will convict the accused. If an accused pleads “Not Guilty”, the matter is postponed for trial.
- i) The court will ask the accused to present final remarks (presentation of the accused side of the case and accused may ask for mercy from the court).
- j) **Trial:** Should take place within a reasonable time. At the end of the trial, the court will either find the accused; Not Guilty of the offence(s) and will be acquitted (set free and the matter closed forever): or will be found Guilty and sentenced.
- k) **Sentencing:** Sentencing is the process whereby Court decides a punishment provided for under the law following the conviction of an accused. If an accused pleads Guilty or is convicted after a trial, the sentence of the court should be proportionate to the offence committed. The court will take into account the circumstances in which the offence was committed and the personal circumstances at the time. The convict will serve the period of sentence given by the court before release.
- l) **Appeal:** Appeal – is when a case is brought before a higher court for review of a lower court's decision for the purpose of convincing the higher court that the lower courts judgment was incorrect. Every convicted person has a right to appeal either against the sentence passed (it was too much) or against conviction (where a person maintains that they are innocent) or both within fourteen (14) days.

8. How/ Where can one apply for bail?

An accused person applies for bail in the court that is trying/hearing his or her case.

- a) The accused applies for bail orally in Chief Magistrates Court.
- b) In the High Court, the accused applies by presenting ‘a Notice of Motion’ in court.
- c) The Notice of Motion must be supported by ‘an affidavit’ stating clearly the grounds on which the application is based.
- d) The application will be served on the prosecutor who then files an affidavit in reply.
- e) The application will be heard and court will go ahead to either grant or deny the accused bail.
- f) Court may either ‘grant cash’ or ‘non-cash bail.’

- g) *Cash bail* requires that the accused deposits a specified sum of money in court before he or she can be released on bail.
- h) Under *Non-cash bail*, the accused will be required to pay the specified amount of money in the event that he/she does not appear in court on a date he/she is required in court.
- i) Courts have power to grant bail with or without sureties.
- j) In addition to sureties, the Court may ask the accused to deposit with it an important document such as a passport, a land title or any article it deems valuable or important enough to compel the owner to turn up for trial.

9. Within what period should one apply for bail?

One may apply for bail at any stage of the proceedings before judgment is passed.

Note: The accused should have sureties ready before he/she presents the application for bail.

10. Who is a Surety?

- a) A surety is a person who gives a guarantee to court that the accused will turn up for his or her trial if released on bail.
- b) He/she accepts the responsibility to pay a fixed sum of money to government if the accused does not appear.
- c) A surety must be an adult of sound mind and of good standing in society.

11. What are the requirements for one to be a surety?

- a) A letter of introduction to the court from the LC 1 chairperson of their home area signed and stamped.
- b) A valid national identification card.
- c) Sometimes the court may require that a certain amount of money be deposited in court.

12. What is the *forty-eight-hour* rule?

A police officer on arresting a suspect without a warrant shall produce the suspect before a court of law within forty-eight hours.

13. How can communities respond to GBV cases?

GBV survivors experience trauma, depression, and a wide range of health problems therefore they require legal, health, psychosocial services as well as safety and security.

Note: A person or service provider who responds first in a GBV case must keep in mind that a survivor's actions or reactions at the time of violation may be influenced by these physiological and psychological stressors.

- a) Keep in mind that a survivor's response is not necessarily a conscious choice; it may not seem logical or sensible to an outsider.

- b) Duty-bearers (as defined in the definition of terms above) should also keep in mind that trauma can greatly affect a GBV survivor's willingness and ability to seek help, talk about her experience, and engage the criminal justice system.
- c) Establish surveillance mechanisms to prevent and respond to GBV.
- d) Establish support structures such as Male Action Groups, GBV activists and survivor support groups.
- e) Encourage a zero-tolerance norm to GBV in families and communities.
- f) Promote a culture of all family members; parents and children working together for household wealth creation.

14. What are the common effects of GBV on a survivor?

- a) Trauma can impair memory, which may include general memory loss or the "dissociation" of specific traumatic memories into disjointed parts. This can greatly affect the assessment of a trauma survivor's credibility.
- b) Survivors may experience vivid and intrusive flashbacks but have difficulty articulating and expressing what they are feeling. This can affect a survivor's ability to provide useful or easily understood information.
- c) A survivor can be retraumatized by the judicial process itself. For example, he/she might be retraumatized by facing the perpetrator, being asked detailed questions about the event— often multiple times and publicly—or encountering skepticism from insensitive investigators, police, lawyers, and judges.
- d) Physical/bodily harm.

15. What services can a survivor of GBV access?

In accessing justice, Survivors of GBV may need;

- a) Medical attention,
- b) Psychological counselling,
- c) Safe shelter,
- d) Police assistance (complaint filing or protection services),
- e) Legal aid (lawyers who can provide advice or full representation), and/or
- f) Livelihood support.

16. What is the survivor's role in accessing justice in GBV cases?

GBV survivors may present themselves in several ways, for example, through the local councils, a civil society organisation, religious and cultural leaders, at a health facility, to court or a prosecutor, military authorities, or directly to the police.

- a) At the police a survivor or the survivor's representative will be required to record a statement on the nature of the offence and seek medical treatment.
- b) A Police Form 3A (PF 3A) is used in cases of sexual assault, and PF3 is used for an injured person. These forms are provided at no cost (free).

17. What is the role of a health or medical officer in addressing GBV against women?

- a) The Police Form is presented to a medical officer or mid-wife (in case of sexual assault) who examines and recommends treatment for the survivor.
- b) The medical personnel must document accurately the findings of the medical examination and the medication administered.
- c) The medical/health worker must inform the survivor of their right to relief and the available options in accessing justice. They must be available to testify in court.
- d) In cases of sexual violence, it is critical that the survivor seeks medical services within 72 hours, especially for Post-Exposure Prophylaxis (PEP) to prevent transmission of HIV, and Emergency Contraceptive Pills (ECP) to protect against possible pregnancy.
- e) It is also crucial that the survivor does not bathe or wash clothes before the medical examination.
- f) The PF3/PF3A must be returned to the police, if there were witnesses to the crime, their statements are also recorded.
- g) The survivor and witnesses are expected to appear in court when summoned (called before court) and follow up their case.
- h) A GBV survivor may choose to report initially to a prosecutor or at a court, which would then refer to other service providers. However, in most cases the court will be the last point on the pathway. Court may make orders referring the survivor to other support services

18. What is the role of Local Council, LCCs, cultural and religious leaders in addressing GBV?

Local Council Courts, cultural or religious leaders may mediate and determine matters of economic, emotional and psychological abuse or minor physical abuse. However, cases involving sexual abuse or physical abuse that amounts to actual bodily harm must be referred to the police.

- a) Promote and conserve positive cultural practices that promote human rights and women's empowerment.
- b) Mobilize communities to preserve cultural practices that promote peace, prevent GBV and discourage practices that enhance GBV.
- c) Ensure immediate safety of the survivor and preservation of evidence.
- d) LCCs can hear matters of DV but must refer all sexual assault, capital offences and DV cases involving repeat offenders or serious physical harm to medical care, shelter, probation and social welfare or police where relevant.
- e) Sensitize communities on issues relating to GBV.
- f) Timely response to GBV cases.
- g) Implement bye-laws for elimination of GBV.

19. What cases are handled by LCCs?

Debts, contracts, assault and battery, conversion, damage to property, trespass, disputes in respect of land held under customary law, disputes concerning marriage, marital status, separation, divorce or parentage of children, disputes relating to the identification of a customary heir, customary bailment, offenses committed by children involving affray, common assault, theft, criminal trespass and malicious damage to property.

20. Why is a suspect/accused person of GBV crimes released from police or prisons custody before a case in court is completed?

Police may release a suspect on police bond. A court of law may release an accused person who is in prison on bail.

21. Who is a witness?

A witness is a person who has information which may be useful in a case being heard in a Court.

22. What are the duties of a witness?

- a) A witness may be summoned to give evidence or to produce a document in court any time when a GBV case is filed in court.
- b) A witness has the duty to either give evidence or produce the document required.
- c) Before testifying, a witness will take an oath and the witness will be expected to testify honestly (*'tell the truth, noting but the truth'*), and reasonably.
- d) In some case, people may withdraw from testifying, for example, a wife is not a compellable witness and she may abstain from testifying in case involving her husband.
- e) A child may be called to testify in court.

23. Why do accused persons continue to appear before a court and yet their case is not being heard?

- a) For capital offences (cases whose punishment is death or life imprisonment), the accused must be sent formally to High Court for trial. This process is called 'committal'.
- b) It involves the State Attorney preparing a document called 'committal papers' that are read before the Magistrates Court, sending the accused person to High Court to have their case heard.

24. How long does it take for a GBV case to be heard in a court of law?

The courts are required to treat all cases of domestic violence as matters of urgency and shall hear the cases as soon as possible. The period for the average daily hearing of cases under the criminal division of the high court is 7 months, however there several cases that have been in court for years causing case backlog.

25. What happens during a court hearing of a GBV (criminal) case?

- a) On arrest a suspect records a statement which the police uses to prepare a '*Charge sheet*' and forward it to the Director of Public Prosecutions (DPP)/State Attorney.
- b) The DPP sanctions (approves) the charge and returns the '*charge sheet*' to police.
- c) The '*Charge Sheet*' and/or an '*Indictment*' is presented in the Chief Magistrates Court and/or High Court respectively.

- d) The person against whom criminal proceedings are instituted is referred to as the *accused* and the person who presents the charge sheet or indictment is referred to as the *prosecutor/State Attorney*.
- e) A '*Charge Sheet*' is a document indicating the offence which the accused is said to have committed and the details of the case. It is filed only in the Chief Magistrate Courts. An '*Indictment*' performs the same role as the Charge sheet except that it is filed in the High Court.
- f) At the start of the trial, whether in the Chief Magistrates Court or High Court, the offence will be read to the accused after which he/she will be expected to respond (Take Plea).
- g) The accused may '*plead guilty*', '*not guilty*' or that he/she has been *previously acquitted or pardoned for the offence he/she is being charged with*.
- h) If the accused pleads guilty, then the judicial officer (Magistrate or Judge) will record that plea and then proceed to sentence the accused in accordance with the law.
- i) If the accused pleads not guilty, then court will proceed to hear the evidence from the State Attorney who is referred to as the prosecutor.
- j) After hearing evidence from the prosecution, court will make a ruling as to whether the accused has a case to answer.
- k) If court finds that the accused has no case to answer, then he/she will be discharged.
- l) If court finds that the accused has a case to answer, then he/she will be required to give his/her defense by giving his/her testimony and/or calling witnesses to testify.
- m) Court will then go ahead to give judgment after hearing the evidence from both sides.
- n) If the accused is found not guilty, then he/she will be acquitted.
- o) If the accused is found guilty, then court will proceed to hear the accused in mitigation of his sentence where he/she explains to court why court should lessen his sentence. Court will then proceed to give its sentence in accordance with the law.

26. What is the procedure for lodging an appeal?

- a) The accused may appeal to a higher court if he/she is dissatisfied with the decision of the Judicial Officer (Magistrate or Judge).
- b) The appeal is lodged by presenting a '*Notice of Appeal*' to the appellate court.
- c) The Notice of appeal is accompanied by a '*Memorandum of Appeal*' which contains the grounds upon which a party seeks to challenge the lower court's decision.
- d) The notice of appeal is then served on the respondent who may respond to the memorandum of appeal.
- e) The appeal will then be heard on a specified date.
- f) After hearing the appeal, court will go ahead to pronounce its judgment.

27. Who can lodge an appeal?

Any party to the case where judgment was passed, may lodge an appeal.

28. Where should an appeal be lodged?

- a) An appeal from a decision passed by a Magistrate Grade I or Local Council III (sub county or division) may be made to a Chief Magistrates Court (the appellate court).

- b) An appeal from a decision passed by a Chief Magistrate is made to the High Court (the appellate court).
- c) To the Court of Appeal from the High Court, and from the Court of Appeal to the Supreme Court.

29. Within what period should an appeal be lodged?

- a) For '*criminal cases*', the appeal should be lodged within 14 days after the decision of court.
- b) For '*civil cases*', the appeal should be lodged within 30 days after the decision of court.

30. What is plea bargain?

Plea bargain is a negotiated agreement between the prosecution and an accused person who is represented by a Lawyer.

31. Who is involved in the plea bargain process?

- a) Court
- b) Prosecution
- c) Accused person/counsel (lawyer)
- d) Victims (survivor)
- e) Probation officers

32. What is the procedure for plea bargain?

- a) The agreement must be explained to the accused by their advocate (lawyer)– justice of peace or interpreter.
- b) Prosecution must take into account the victim's (survivor's) interests.
- c) Implications of the agreement must be explained to him/her and court must be sure that it is not obtained under force, coercion or misrepresentation of facts.

Part II: Civil Society response to GBV cases

33. How can civil society organizations respond to GBV cases?

- a) CSO can provide shelter and other support services.
- b) Help survivors overcome trauma and social stigma.
- c) Help survivors understand legal options and necessary steps to pursue justice.
- d) Accompany survivors to police, doctor or court.
- e) Create awareness among communities on elimination of GBV at all levels.
- f) Translate the Policy into organizational policies, programmes and activities.
- g) Advocate for Policy implementation and legislation.

34. What is the role of community-based mediators (community legal volunteers/paralegals) in handling GBV cases?

- a) Community Legal Volunteers [(CLVs)/paralegals] are men and women based in the community who can help with simple legal problems and assist women to access justice in GBV cases.

- b) CLVs/Community Based Mediators (CBMs) must be over 18 years and must receive the necessary basic legal training.
- c) CLVs/CBMs can provide free legal advice and counselling to survivors of GBV in order to ensure justice and protection of their human rights.
- d) CLVs/CBMs can also accompany survivors to police and court of law during the prosecution and hearing of GBV cases.
- e) CLVs/CBMs can stand surety or witness in GBV cases.

35. How can a CLV /CBM support a survivor of GBV who wants to file a case in court?

- a) In providing legal advice CLVs should inform survivors of the various legal options they have in protecting their rights and the implications of each option.
- b) Where an adult is involved, the final decision on what course of action to adopt is that of the survivor. It is important that survivors of GBV decide for themselves, so that they can take responsibility for their decisions.

36. What GBV cases can community legal volunteers/Community-based mediators paralegals handle?

- a) CLVs can help members of the community to solve simple legal problems that are not criminal in nature.
- b) CLVs can advise individuals and the community in accordance with their general or specific training.
- c) Write simple documents such as summons, referral letters, witness agreements for sale of land in accordance with their training.
- d) Facilitate Alternative Dispute Resolution (settling disputes out of court) where appropriate.
- e) Conduct advocacy, awareness, and community legal education.

Part III: The Role of Probation and Social Welfare Officers in GBV cases

37. What is the role of Probation and Social Welfare Officers (PSWOs) in GBV cases?

- a) Probation and social welfare officer is the legal representative of children in the criminal justice system, responsible for DV cases, children in conflict with the law and child abuse cases.
- b) Probation and social welfare officers are responsible for filing the Victim Impact Statements (VIS), and Community Impact Statements for Victims (CIS) of SGBV.
- c) Conduct family tracing and home/community visits to survivors/victims and their relatives to obtain VIS and CIS.
- d) Sensitize communities about the need for justice and report SGBV cases to the right authorities.
- e) Provide psychosocial support and counselling to survivors/victims of SGBV and their families as well as witnesses and their relatives.
- f) They protect the rights of survivors/victims of SGBV, witnesses, as well as children affected by SGBV actions through case management of SGBV and Sexual Violence

- Against Children (SVAC) and making appropriate referrals of survivors/victims and their families to the needed services such as medical care.
- g) Probation and social welfare officers document cases of SGBV and SVAC and ensure confidential storage of data.

Part IV: Uganda Police Force

38. Where can a survivor report a GBV case?

- a) The Police Toll Free number 0800 199 195 and two additional mobile numbers 0707 722 691 and 0776 478 803.
- b) A survivor can report a GBV case at a police station in their location to the child and family protection department, or directorate of criminal investigations (department of sexual and child related offences).

39. How are GBV cases referred to the Police?

- a) Where a complaint of DV is made to a LCC, police can become involved if the LCC makes a written referral to the police and the magistrates' court where the following occur:
- The perpetrator is a second or repeat offender,
 - In the opinion of the court, taking into account all of the circumstances of the case, the perpetrator is likely to inflict further harm on the survivor,
 - If, in the opinion of the court, the degree and nature of the violence warrants the involvement of the police.
- b) A GBV complaint can be made directly to the police.
- c) Police must ensure immediate safety of the survivor.
- d) A Police Officer can assist a GBV survivor by giving them assistance or advise.
- e) Investigate, collect and preserve evidence for prosecution.
- f) Refer to medical services for completion of Police Form 3A and for PEP and ECP within 72 hours.
- g) The suspect also undergoes medical examination and Police Form 24A is completed.
- h) Refer the survivor to a shelter or other psychosocial support.

40. How do police officers decide which case to charge an accused person with when handling GBV cases?

Police officers from hearing a survivor's/victim statement must refer to the ingredients of the different GBV offences provided for under the laws (Penal Code Act, DV Act, Prevention of Trafficking in Persons Act and The Prohibition of Female Genital Mutilation Act among others) to determine which offence to charge the suspect/perpetrator with.

41. What are the examples of sexual offences triable by courts of law?

- a) *Rape* -a person who has carnal knowledge of woman without her consent, by force, means of threat or intimidation, fear of bodily harm, false representations, or impersonation on conviction is liable to suffer death.
- b) *Martial rape* – non-consensual sex in which the perpetrator is the survivor's spouse.

- c) *Defilement* – a person who performs sexual act with a person below 18 years of age on conviction is liable to life imprisonment.
- d) *Attempted defilement* – a person who attempts to perform a sexual act with a person below 18 years of age on conviction is liable to imprisonment not exceeding 18 years.
- e) *Simple defilement* – a person performs a sexual act on a child 14 years and above but below 18 years of age.
- f) *Aggravated defilement* – a person who performs a sexual act on a child below 14 years, where the offender is HIV positive, is a parent, guardian or person in authority, where the survivors is a person with disability or where the offender is a serial offender.
- g) *Indecent assault* – any person who utters a word, make a sound or gesture, or exhibits any object or intrudes upon the privacy of such person.
- h) *Sexual slavery* – being unlawfully kept in a situation in which one is repeatedly forced to engage in sexual activity against his or her will.
- i) *Incest* – having sexual intercourse with another person knowing that they are related to a prohibited degree (blood relatives).
- j) *Sexual harassment* – unwelcome sexual advance, request for sexual favors or other conduct of a sexual nature by an employer or someone in authority at a work place, medical facility or institution of higher learning.
- k) *Forced prostitution* – a person who is coerced by another to engage in sexual activity.

42. Is trafficking in persons a GBV offence?

- a) Certain forms of trafficking involve gender specific forms, including forced abortion.
- b) Trafficking in persons – when an offender uses force, fraud or other types of recognized coercion to compel a survivors into forced labor or commercial sex. Cases of forced marriage, child marriage, forced labor, harmful child labor and human sacrifice fall under this category.

43. What are some of the harmful traditional practices in Uganda?

- a) Female genital mutilation (FGM) – includes several variations of traditional operations performed on women’s genitalia, often as part of fertility or coming-of-age rituals.
- b) Child marriage, forced marriages and abduction.
- c) Widow inheritance – when a widow is forced to marry a male family member of her deceased husband.
- d) Refund of bride price.

Part V: Office of the Director of Public prosecutions

44. What is the prosecutor’s role in a GBV case?

- a) Prefer charges
- b) Direct police to undertake/expedite investigations

- c) Guide the police on proper preservation of evidence
- d) Witness protection
- e) Prosecute matters in court and seek appropriate remedies.
- f) Provide effective mechanisms for timely court processes to ensure that perpetrators are apprehended and survivor's/victims access justice.
- g) Provide legal assistance and support to the GBV survivor's/victims.
- h) Plan and adequately budget for GBV case management.
- i) Record and manage the statistics of prosecuted GBV cases.
- j) Put mechanisms to support collection of evidence and protection of witnesses.

45. Which department in the ODPP handles GBV cases?

- a) The Department of Gender, Children, Sexual Offences (DGCSO) oversees the management of SGBV cases.
- b) The department has officers who are specialized in GBV.
- c) The specialized department of Witness Protection and Victim Empowerment works with the DGCSO to ensure that GBV cases are handled with a victim-centered approach.

46. What is a 'victim-centred approach' in handling GBV cases?

A *victim-centred approach* prioritizes safety, confidentiality, and respect for a victim's perspective and wishes. It addresses the need to provide support and psychosocial services that take into account a victim's privacy concerns and personal boundaries.

47. What is the 'trauma informed approach' in handling GBV cases?

The '*trauma-informed approach*' addresses suffering and the impact it may have on the victim emotionally, psychologically, and socially. Taking a trauma-informed approach in the context of GBV-related response means that practitioners must:

- a) Understand the nature and impact of trauma on victims, including the relationship between triggers and symptoms and the way trauma can affect the way victims speak about their experiences;
- b) Address any trauma-related needs before, during, and after interviewing victims;
- c) Train staff to understand trauma, detect signs of re-traumatization, and practice interview techniques that can mitigate the possibility of re-traumatization;
- d) Understand how trauma can affect witness memory and testimony itself.

48. What innovations have the ODPP instituted in handling SGBV cases?

- a) The ODPP uses anatomically detailed dolls in the prosecution of sexual offences in leading evidence of survivors of sexual violence. When testifying in court survivors are no longer constrained to mention private parts in court but rather demonstrate using the dolls to show how the sexual act was performed on them.
- b) Audio-visual links are used in some courts to enable survivors testify in court without having to face the accused person/perpetrator.
- c) Child-friendly spaces where survivors can get to rest, play and relax their minds before they appear in court to testify.

- d) Prosecutors and judicial officers dress down when handling these cases in court to create a conducive and relaxed environment for the child witness to testify freely.
- e) Provision of sexual reproductive health rights kits – pampers, sanitary wear and clothing.
- f) Facilitation of process servers to ensure that witnesses are reached and summons served to enable them appear in court to testify.
- g) Joint cause-listing of GBV cases with the judiciary.
- h) Using the media to raise awareness about the SGBV special court sessions to enable attendance of witnesses.

Part VI: Judiciary

49. What is the role of courts of law in adjudicating GBV cases?

- a) Courts must ensure that the case/evidence is properly recorded.
- b) Hear the matter in a timely manner and give appropriate sentence including protection orders and provision orders as relevant.

50. Trial of a GBV case before a High Court

- a) If investigations are complete, the suspect is committed to the High Court for trial.
- b) The High Court Registrar draws a cause list for the criminal cases to be heard.
- c) The Government provides Advocates to represent accused persons in capital offences on 'State Brief'.
- d) The charges are read and explained to the accused.
- e) During the trial the State Attorney leads evidence against the accused.
- f) If it is found that there is a case to answer "*prima facie case*" the accused is asked to defend themselves.
- g) The accused person or his/her defense lawyer may call up witness.
- h) The judge sums up the case to the assessors who in turn offer their opinion to the judge.
- i) The judge then sets a date for his/her judgement.
- j) The judge delivers their judgement. If the accused is found guilty, he or she is convicted and sentenced.
- k) The accused person may appeal against the sentence (there is an automatic right to appeal when a death sentence is imposed).

51. Who are assessors?

- a) An assessor in law is a person who is appointed to advise the judge.
- b) Assessors are lay people selected in the locality by the court in the area.
- c) They must be persons with a very good reputation in their areas.

52. Who qualifies to be an assessor?

- a) Must be a citizen of Uganda,

- b) Between the ages of 21 and 60 years, and
- c) Must understand the language of the court – English.

53. Who cannot serve as an assessor?

- a) Priests or ministers of respective religions,
- b) Medical practitioners, dentists and pharmacists in active practice,
- c) Legal practitioners in active practice,
- d) Members of the armed forces on full pay,
- e) Members of the police force or of the prison service,
- f) Diplomats, and
- g) Persons with mental or bodily disability.

54. What is the role of assessors in criminal cases?

- a) Assessors can give an opinion regarding whether or not they believe the accused is guilty given the evidence presented.
- b) The opinion of the Assessors does not bind the Judge in any way, and the Judge may depart from it, giving his or her reasons why.

55. What is the procedure when hearing cases of SGBV before courts of law?

- a) The trial magistrate or judge hears evidence of the survivor in camera (in his/her chambers) and not in open court.
- b) In some courts of law, a survivor can provide their evidence through audio-visual technology.
- c) The survivor does not have to provide evidence in the presence of the accused person for fear of secondary trauma.

56. What is the procedure during appeal?

- a) When a convicted individual files an Appeal to an Appellate court, the Appellate Court Registrar requests for and receives the record of proceedings from the lower courts and sets a hearing date for the appeal.
- b) During appeal the judge schedules a conference with the prosecutor, defense lawyer and the convict.
- c) At this point defense lawyers are assigned to the convict with the consent of the convict.
- d) The Appeal is heard and the judge delivers judgement.
- e) If the convict is not satisfied with the judgement, he/she may appeal to the higher appellate court (the Court of Appeal or the Supreme Court). The same procedure will apply.

57. What are the powers of an appellate court?

The appellate court may confirm, vary, reverse the conviction and sentence appealed against or confirm or reverse the acquittal of the accused person.

58. What is the appeal process in cases involving children?

Where the court of appeal acquits a child, there shall be no further appeal.

59. Can cases of GBV be mediated upon?

- a) Courts may refer cases of GBV particularly DV cases to the family, clan leaders or LCCs for mediation and reconciliation.
- b) This procedure is constitutional and effective but does not effectively eliminate GBV if it is handled by gender-insensitive mediators.
- c) Notably, many homes and families are in a patriarchal, gender insensitive setting hence fueling GBV.

60. What is a protection order?

A protection order is a court order prohibiting DV, restricting a person from harassing or threatening another person or restraining a person from contacting or approaching another person.

61. What is the procedure to apply for a protection order?

- a) A protection order can be applied for by a victim of DV or the representative of a victim through an application to a magistrates court.

Chapter Two: Civil Justice

62. What is civil justice?

- a) Civil justice is where an individual, a company or even government does something wrong that causes you loss or injury for which you as a citizen can seek compensation.
- b) Examples of civil cases include; disputes in contract or agreements.
- c) The civil justice system allows a person or entity (the plaintiff) to sue another person or entity (the defendant) over some form of harm or wrongdoing. If the court rules in favor of the plaintiff, they are typically awarded damages or a form of compensation from the defendant.
- d) The difference between civil justice and criminal justice is that civil justice deals with the disputes between individuals, organizations, or between the two, in which compensation is awarded to the victim. Criminal justice on the other hand deals with crime and the legal punishment of criminal offenses.

63. What is a civil case?

- a) It addresses how members of the community who may disagree on certain issues such as marriage and divorce, custody of children, property rights and, employment rights among others, can resolve their disagreements, either through mediation or by going to court.

Note: A civil case may have a crime arising from it, for example; a land case is civil in nature, however a criminal case may also arise from land disputes like; trespass, malicious damage to property, arson, assault or battery etc. In such a situation, the criminal case has to be determined first before the civil case.

64. Which courts handle civil disputes?

Court from the LC level, magistrates courts, high court, court of appeal to supreme court.

65. What is the work of the civil division of the High Court of Uganda

The civil division is under the High Court of Uganda and based in Kampala. Different circuits of the high court also hear civil cases.

66. What are the functions of the Civil Division of the High Court?

- a) Hearing appeal cases from the Magistrates' courts in connection with torts committed against the person,
- b) Defamation,
- c) Bankruptcy and company winding up matters,
- d) Partnership matters,
- e) Companies matters, and
- f) Real and personal property.

67. What civil cases are handled by LCCs?

- a) LCCs handles disputes in respect of land held under customary tenure;
- b) Customary disputes concerning marriage, marital status, separation, divorce or the parentage of children;
- c) Disputes relating to the identity of a customary heir;
- d) Customary bailment.

68. How can women's rights be protected in marriage and divorce?

- a) Women like men can freely enter into Marriage in Uganda.
- b) There are five forms of legally recognized marriages in Uganda; civil, church, customary, Hindu and Islamic.
- c) Both a wife and husband have the same grounds for divorce – both enjoy the right to equal rights at, and in marriage, during marriage, and at its dissolution.
- d) The custom and practice of demand for refund of bride price in customary marriage is unconstitutional and outlawed. Failure to register a customary marriage does not necessarily invalidate it.

69. What is matrimonial property?

- a) Matrimonial property is property that a couple chooses to call their home this also includes property from which a family gets its livelihood such as land for agriculture or rental property. Matrimonial property can be more than one property,
- b) Property acquired before the parties were formally married, and the property acquired individually does not qualify to be matrimonial property.

70. Can married people own property individually?

- a) A married spouse is free to own personal individual property alone or in association with others under Article 26 of the Constitution and that such property individually owned cannot be treated as matrimonial property during divorce.
- b) It is only matrimonial property that may be equally divided and shared to the extent possible and practicable at divorce.

71. What marriages are dissolved by courts of law?

Church and civil marriages are dissolved in court of law.

72. What is the procedure for filing for divorce in court?

- a) Filing a petition
- b) Supporting documents to the petition
- c) Summons
- d) Answer to the petition
- e) Mediation
- f) Hearing
- g) *Decree Nisi* - an order made by a court which states that a divorce must take place at a certain time in the future unless a good reason is produced to prevent it.
- h) *Decree Absolute* - the final order which concludes the divorce process (this confirms that a marriage has officially ended).

73. What is child custody?

Custody is the legal right to keep and look after a child granted by a court of law.

74. Who takes custody of child/ren during divorce?

- a) At divorce, judicial separation or nullification (cancellation of a marriage) the court may at any stage of the proceedings, or after issuing a decree absolute, make a custody order concerning maintenance and education of the minor children (below 18 years of age) of the marriage, or for placing them under the protection of the court.
- b) The best interest of the child is paramount.
- c) Both parents have an equal duty to provide care for their children.

75. What is unpaid care work/non-monetary contribution in marriage?

- a) Unpaid care work is that form of work that is not compensated by way of wages.
- b) It includes; caring for children, cooking, cleaning, doing laundry, fetching water, among others.
- c) These are considered as contribution of a spouse at the dissolution of a marriage.

76. What is family land?

Family Land is land on which the family ordinarily resides and derives sustenance.

77. Can I sell family land/property?

- a) There are restrictions on dealings or transactions concerning family land or property without the consent of a spouse (wife or husband under the law).

- b) It is provided that no person shall sell, exchange, transfer, pledge, mortgage, or lease any family land except with written consent of his or her spouse.
- c) The consent to be given by the spouse must be given freely in writing prior to the transaction.

78. What is a Residential holding?

- a) Residential holding is referred to as the main residence of the deceased under which category his or her matrimonial home falls. Matrimonial home refers to the place where the deceased and his/her family resided.
- b) Under intestate succession, this property should not be distributed.
- c) The surviving spouse and deceased's children are entitled to reside in it until, in the case of the spouse; he or she remarries or does not reside in it for a continuous period of six months.
- d) In the case of the children, upon the attainment of eighteen years for boys and twenty-one years for girls.

79. What are women's rights during inheritance?

- a) A wife can inherit the estate of her deceased husband for her benefit and their children.
- b) A customary heiress (female heir) can be appointed.

80. What is a Will?

A Will is a document stating all the property a person owns and how they want it distributed upon their death, and who should distribute it.

81. Who can write a Will?

A person above eighteen years of age and of sound mind.

82. What are the contents of a Will?

- a) A Will may be written in any language.
- b) A Will must be signed by the person who wrote it.
- c) The person writing the Will must identify themselves as the person who wrote the Will (provide your full name, address, and date of birth).
- d) Clearly state that the document is the last Will and testament. Add a sentence cancelling any previous Wills and/or amendments to the Will.
- e) Must be signed by two other persons as witnesses, who should not be beneficiaries to the Will.
- f) Each page of the Will should be dated and signed in the presence of at least two witnesses.
- g) The name, addresses, and places of origin of the person writing it must be indicated.

- h) Must include the names and addresses of the people to whom property has been given.
- i) Must list the property and how it is to be distributed.
- j) Name of the guardian for one's children below 18 years if applicable.
- k) Name the Executor/Executrix, who is the person supposed to carry out all the wishes in the Will.

83. How is property managed if a Will has been written?

- a) When a deceased person leaves a Will, the Executor of the Will applies to a court of law for the grant of what is called '*Probate*'.
- b) The person (Executor/Executrix named in the Will) files a petition in a court of law for the grant of probate.
- c) A copy of the deceased's Will is produced before a court. Note: The appropriate court is determined by the estimated value of the estate.
- d) Obtain a Death Certificate (from National Identification and Registration Authority [NIRA]) and post-mortem report.
- e) The application/petition should among other things; state the place/address of the deceased by the time of death, assets, list of children/beneficiaries of the estate of the deceased and their ages, and whether the Will attached was duly executed by the deceased.
- f) Estimate the value of the estate.
- g) Indicate the relationship between the applicant and the deceased and their attach ID.
- h) Include letter from the LCI Officials of the place where the deceased was buried.
- i) Obtain an introduction Letter from applicant's LCI.
- j) Passport photos of the Applicant.
- k) A person to whom Probate or Letters of Administration is granted shall carry out their duties and functions for a period not exceeding two years.

84. What are letters of administration?

Letters of administration are a legal document issued by a competent Court, which allows the administrator(s) [a person/persons appointed by the family] to manage and distribute the deceased's estate.

85. How is property managed when there is no Will?

- a) A family meeting is held at which an administrator/administrators are identified to administer the estate of the deceased. An administrator/administrators can be male or female.
- b) At the family meeting, a family resolution (minutes) are written and signed by all family members present.
- c) The surviving spouse(s) has priority over any other person (parent, sibling, child/ren, customary heir/ress or dependent relative) in the administration of the estate of their deceased spouse who did not write a Will.

- d) If the person applying is not the widow/er of the deceased, then that person must first obtain a Certificate of No Objection from the office of the Administrator General.
- e) A person presents a Petition to court requesting for a Grant of Letters of Administration with the minutes of the family resolution attached.
- f) Attach to the Petition the following; summary of evidence, list of documents, witnesses and authorities (cases or laws).
- g) The fees for filing a Petition in court is UGX 6,000 that is paid in the bank and evidence of payment is attached to the petition.
- h) The notice of the petition is advertised in the newspapers for a period of 14 days.
- i) A person who has a reason as to why the petitioner should not be granted the Letters of Administration may lodge a Caveat in court.
- j) If no caveat is lodged, then the petitioner will be granted Letters of Administration by court.

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