



Gender Transformation & Empowerment



A SIMPLIFIED GUIDE TO KEY ACCESS TO JUSTICE LEGAL PROVISIONS FOR INFORMAL JUSTICE ACTORS

2023

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ACKNOWLEDGMENT

The Uganda Women's Network (UWONET) acknowledges with gratitude, contributions made by different individuals and institutions towards the production of this Simplified Guide to Key Access to Justice Legal Provisions for Informal Justice Actors. Special thanks go to the Embassy of the Kingdom of Netherlands in Uganda for the financial support towards the production of this Guide. We equally acknowledge the invaluable technical input of the "From Access to Equality" (FATE) Project partners; Avocats Sans Frontières (ASF) (lead partner), Barefoot Law and Penal Reform International in reviewing and validating this Guide.

Our sincere gratitude goes to Ms. Sydey Letuu Etima an Independent Access to Justice Specialist/Consultant for conceptualizing and working tirelessly in developing this Guide.

We believe that this Guide will be a great resource to individuals, institutions and communities particularly informal justice actors in enhancing access to justice aimed at increasing the respect, promotion and realization of women and girl's rights.

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ACRONYMS

CEDAW	Convention on the Elimination of Discrimination Against Women
CLV	Community Legal Volunteer
EAW	Elimination of Violence Against Women
FATE	From Access to Equality Project
GBV	Gender Based Violence
GEWE	Gender Equality and Women's Empowerment
GoU	Government of Uganda
IEC	Information Education and Communication
ILO	International Labor Organization
JLOS	Justice Law and Order Services
LC	Local Council
LCC	Local Council Court
MDA	Ministries Departments and Agencies
SDG	Sustainable Development Goals
ToR	Terms of Reference
UWONET	Uganda Women's Network
VAWG	Violence Against Women and Girls'

PREFACE

Uganda Women's Network (UWONET) is an advocacy organization that exists to coordinate collective action among women's rights and gender equality stakeholders for the attainment of gender equality and equity in Uganda established in 1993. The Network envisions a Ugandan society free from gender discrimination. UWONET's membership is comprised of 24 national Women's organizations and nine individuals.

The FATE project is aimed at empowering women and girls to pursue justice in an environment that serves their needs. UWONET is part of a consortium of four FATE partner organisations that include; Avocats Sans Frontières (Lead Partner), Barefoot Law and Penal Reform International. The Project's objectives are: a) to ensure that women are in a position to demand justice; and b) to ensure that decision makers can be mobilized to make women and girls' rights effective. Implemented in three priority areas where Gender Based Violence (GBV) is deeply embedded within local traditional customs, the FATE Project's final beneficiaries are Ugandan women and girls seeking justice, particularly the most vulnerable ones.

This Simplified Guide therefore seeks to enhance the capacity of informal justice leaders on access to justice, especially for women and girls. It targets religious and cultural leaders but may also be used by Community Legal Volunteers (CLVs)/paralegals and other informal groups and networks that bring together women around common interests such as; saving and survivors groups. The Guide has the potential to contribute to the Access to Justice Sub-Programme of the Governance and Security Programme's strategic objectives of; 1) strengthening justice for children; 2) promoting access to legal aid services through capacity building of Legal Aid Service Providers (specifically informal justice actors); 3) strengthening informal justice and transitional justice mechanisms; and 4) ensuring stakeholders empowerment, gender equality and equitable access to justice. It will be also be used to enhance access to justice cognizant of the unique justice needs of women and girls.

It is tailored to address statutory provisions at the national level, especially on Women's Rights, GBV/Violence Against Women and Girls (VAWGs). It was developed in a consultative manner that involved the review, adaptation and acknowledgement of existing legal resources and reference materials. The Guide therefore builds on and attempts to harmonize existing efforts that have been made in this area.

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STRUCTURE OF THE SIMPLIFIED GUIDE

This Guide is divided into six Chapters on; 1) Human Rights and Access to Justice; 2) Criminal and Civil Cases; 3) Women and Children's Rights; 4) Marriage, Divorce and Separation, 5) Land and Property Rights; and 6) Testate and Intestate Succession. Under each Chapter the relevant national laws are outlined and legal provisions are included to explain the different concepts.

The Guide contains Annexes with templates for ease of reference and use by informal justice actors; a Will, Mediation Agreement, Formal Letter, Referral Letter, Police Form 3A for Medical Examination of a victim of Sexual Assault, Police Form 24A for Medical Examination of a Person Accused of Sexual Assault, and a list of international and regional human rights, women and children's rights laws.

This Chapter of the Simplified Guide provides the human rights legal framework. The basic definition of human rights and access to justice in Uganda is covered. Institutional arrangements as well as the hierarchy of courts in Uganda including formal and informal mechanisms are discussed. Chapter Three of this Simplified Guide covers women and children's rights in detail.

1.1 Human Rights Policy and Legal Framework

International and regional legal instruments on human rights and women's rights demand commitments made by Government to be respected, promoted and observed. These commitments are reproduced in our national laws and policies. (See annexes to this Guide for a list of key human rights, access to justice and women and children rights law).

National Legislation

Uganda has enacted several national laws aimed at promoting the respect and observance of human rights, women's rights and enhancing access to justice. Below is a list of national human rights laws and laws related to women and children's rights. Different provisions of the laws are highlighted under specific chapters of this Guide.

Human Rights Laws and Laws related to women and children's rights.

1. 1995 Constitution of the Republic of Uganda as amended, Chapter Four and Objective XIV – the supreme law of Uganda.
2. Domestic Violence Act (DVA) 2010 and its Regulations 2011.
3. Prohibition of Female Genital Mutilation Act 2010 and regulations.
4. Prevention of Trafficking in Persons Act 2009.
5. Penal Code Act, Cap 120.
6. Divorce Act Cap 249.
7. Children Act Cap 59 as amended.
8. International Criminal Court Act 2010 – aims at enhancing women and girls access to justice among others.
9. Succession Act Cap 227 as amended.
10. Local Council Courts (LCCs) Act 2006.
11. Mortgage Act 2009.
12. Magistrates Courts Act Cap 16.
13. Other Laws include; the Equal Opportunities Commission (EoC) Act, 2007; Land Act Cap 227 and its Regulations 2004; Employment Act, 2006 and its Regulations; Employment (Sexual Harassment) Regulations 2012; Employment of Children Regulations, 2012.

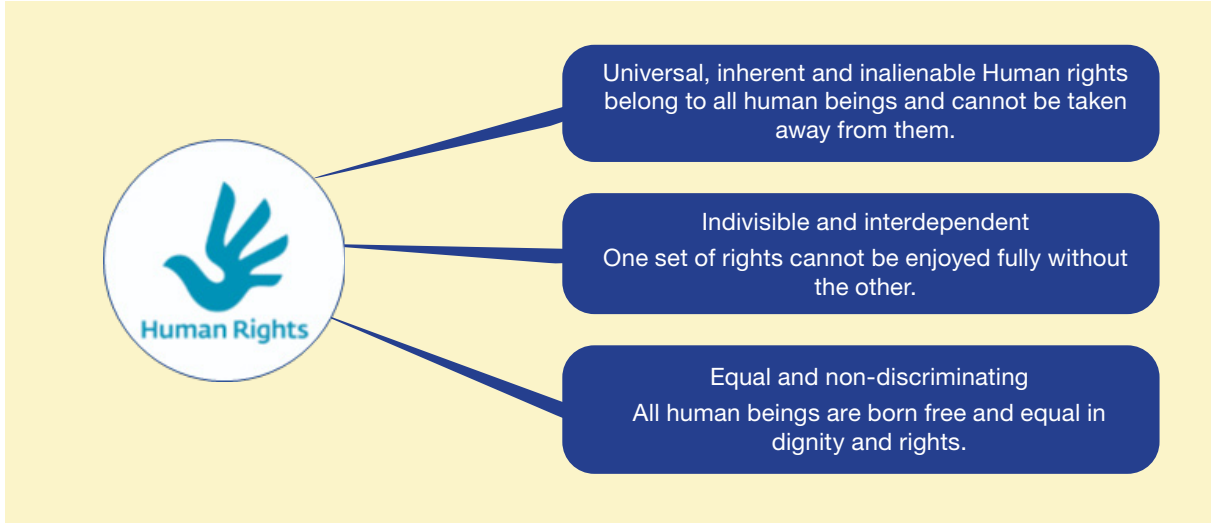
14. 14. National Action Plan III on Women, Peace and Security 2021-2025, MoGLSD, 2021.
15. 15. National Policy and Action Plan on Elimination of Gender Based Violence, MoGLSD revised edition, August 2016.
16. 16. Justice, Law and Order Sector (JLOS) Gender and Equity Mainstreaming Strategy, July 2019.

1.2 Definition of Human Rights

- Human rights are rights we have because we are human beings.
- Human rights are not granted by government, every person is born with human rights (*Article 20 (1) Constitution of Uganda*).
- Human rights apply to every human being and are important to us all, regardless of nationality, sex, national or ethnic origin, color, religion, language, or any other status. (*Article 21 (2) Constitution of Uganda*).
- Article 21 of Uganda's Constitution provides for **equality and freedom from discrimination**.
- Uganda's Constitution provides for a range of fundamental human rights such as; the right to life, liberty and security of person- (*Article. 22*), prohibition of torture, cruel, inhumane and degrading treatment- (*Article. 44(a)*) - to those that make life worth living, such as the rights to property (*Article 27*), work (*Article 40(a)*), food, health (*National Objective Principles of State Policy*), and education (*Article. 30*).
- 'Non-derogable human rights' refers to rights that are fixed and must not be taken away even in time of war or emergency such as; freedom from torture and cruel, inhuman or degrading treatment or punishment, freedom from slavery or servitude, the right to fair hearing, and the right to an order of *habeas corpus*. *Habeas Corpus* is a fundamental human right that requires an accused person to be presented before a Court of Law (*Article. 44 Constitution of Uganda*).
 - Human rights should not be taken away, except in specific situations and according to due process. For example, the right to liberty may be restricted if a person is found guilty of a crime by a competent court of law and is sent to a legally designated prison to serve a sentence. (*Article. 23 (1) (a), Constitution of Uganda*).
 - **Some rights apply to individuals**, such as the right to a fair trial (*Article. 28 Constitution of Uganda*): these are called individual rights. Others apply to groups of people, such as the right to a healthy environment (*Article 39. Constitution of Uganda*): these are called collective rights.

- **Human rights are based on the principles of;** universality, indivisibility, equality and non-discrimination as highlighted in figure 1 below; Human rights are based on the principles of; universality, indivisibility, equality and non-discrimination as highlighted in figure 1 below;

Figure 1: Human rights principles



1.2.1 Human Rights Responsibilities and Obligations

Uganda has signed all nine core human rights treaties and optional protocols. This therefore means that the *State has obligations and duties* under international law to respect, protect and fulfil human rights. These State obligations are explained further in figure 3 below.

Figure 2: Human rights obligations



- ➔ **Individuals also have responsibilities:** in enjoying their human rights, they must respect the rights of others. (Article 29 UDHR and Article 43(1) Constitution of Uganda).
- ➔ No government, group or individual person has the right to do anything that violates another's rights.

1.3 The Human Rights Based Approach (HRBA)

The HRBA is founded on international human rights standards and principles aimed at promoting human rights.

HRBA has two objectives:

- To empower rights-holders to claim and exercise their rights.
- To strengthen capacity of duty-bearers such as informal justice actors who have the obligation to respect, protect, promote, and fulfil human rights.
- **Rights-holders** are individuals or social groups that have particular entitlements in relation to duty-bearers.
- **Duty-bearers** are state or non-state actors, that have the obligation to respect, protect, promote, and fulfil human rights of rights-holders.

Principles

The HRBA is supported by five key human rights principles; Participation, Accountability, Non-discrimination and Equality, Empowerment and Legality also known as 'PANEL'.

- **Participation** – everyone is entitled to active participation in decision-making processes which affect the enjoyment of their rights.
- **Accountability** – duty-bearers are held accountable for failing to fulfil their obligations towards rights-holders. There should be effective remedies in place when human rights breaches occur.
- **Non-discrimination and equality** – all individuals are entitled to their rights without discrimination of any kind. All types of discrimination should be prohibited, prevented and eliminated.
- **Empowerment** – everyone is entitled to claim and exercise their rights. Individuals and communities need to understand their rights and participate in the development of policies which affect their lives.
- **Legality** – approaches should be in line with the legal rights set out in domestic and international laws.

1.4 Human Rights Actors in Uganda

- Uganda's laws provide for different institutions that are responsible for the promotion and observance of human rights and enhancing access to justice for all including survivors of VAWGs at all levels.
- The Uganda Human Rights Commission (UHRC) is established under *Article. 51 of Constitution of Uganda* to; investigate human rights cases, visit places of detention, human rights research, education, and monitoring government's compliance to international obligations.
- Other Government Ministries, Departments and Agencies (MDAs) have Human Rights Desks/Departments and/or Directorates.

Table 1: Human rights actors in Uganda

The Judiciary (<i>Article. 126 and 127</i>) – decides both criminal and civil cases. Judicial power is from the people according to laws, values and rules.	Uganda Police Force (UPF) (<i>Article. 212 and Section. 4 Police Act</i>) - protects the life, property and other rights of the individual; ensures public safety and order, maintains security, enforces laws, prevents and detects crime in the society; and performs services of a military force.
Parliament of Uganda (<i>Article 79</i>) – Parliament has power to make laws.	Office of the Director of Public Prosecutions (ODPP) with 16 regional offices is established under <i>Article 120</i> to direct police to investigate criminal cases. The ODPP opens, takes over, continues with or stops criminal cases.
Ministry of Gender Labor and Social Development - mobilizes and empowers communities while protecting the rights of vulnerable population groups.	Uganda Prisons Service (<i>Article 215 and Prisons Act</i>) – with 16 regions across Uganda protects, promotes and fulfills the rights of those in prison.
Ministry of Finance, Planning and Economic Development - coordination of development planning; mobilization of public resources; and ensuring effective accountability for the benefit of all Ugandans.	District Human Rights Desks
Ministry of Internal Affairs in charge of Uganda's internal security, ensures law and order, peace and stability, citizen identification, protection and preservation.	Institutions of Traditional or Cultural Leaders (<i>Article 246</i>) – exist according to the culture, customs, traditions and wishes of the people to whom it applies.
Ministry of Justice and Constitutional Affairs ensures Uganda upholds the rule of law, good governance and takes charge of the legal due process for all citizens and residents.	Civil Society Organizations (CSOs) including; Faith Based Organizations, Media and Community-based services play a critical role in developing, monitoring human rights situations, implementing strategies that promote peace and security, monitoring implementation of agreements, and providing recommendations and information to decision-makers or human rights and advocacy groups
Ministry of Public Service (<i>Article 166</i>) – appoints, promotes and exercises disciplinary action over public servants. Guides and coordinates district service commissions.	

Ministry of Local Government, Local Governments and Local Council – (Article. 176) provide efficient and sustainable services, improve the welfare of the people and eradicate poverty.	
UHRC (<i>Article 51</i>) – with nine regional offices investigates human rights cases, visits places of detention, conducts human rights research, education, and monitoring government’s compliance to international obligations	
Equal Opportunities Commission [EOC] (<i>Article. 32 and Section 23 EOC Act</i>) - receives, investigates and reconciles on allegations of discrimination.	Households and communities (<i>Article. 50 Constitution and Human Rights Enforcement Act, 2019</i>) - any person that claims that their human right has been violated or is threatened can apply for redress to a competent court of law.

1.5 Access to Justice in Uganda

- Access to justice is a basic principle of the rule of law.
- In the absence of access to justice, people are unable to have their voices heard, exercise their rights, challenge discrimination or hold decision-makers accountable.
- The **right of equal access to justice for all** means the provision of fair, transparent, effective, non-discriminatory and accountable services.
- The independence of the judicial system, together with its impartiality and integrity are required for upholding the rule of law and ensuring that there is no discrimination in the administration of justice.
- Strengthening justice includes:
 - a. Monitoring and evaluation;
 - b. Empowering the poor and marginalized to seek response and remedies for injustice;
 - c. Improving legal protection, legal awareness, and legal aid;
 - d. Civil society and parliamentary oversight;
 - e. Addressing challenges in the justice sector such as police brutality, inhumane prison conditions, lengthy pre-trial detention, and impunity for perpetrators of sexual and gender-based violence (SGBV) and other serious conflict-related crimes; and
 - f. Strengthening linkages between formal and informal structures.

1.5.1 Access to justice for survivors of GBV

- * Access to justice is an essential and empowering aspect of a survivor's healing process.
- * The justice sector therefore has a vital role to play in a coordinated response to ending VAWGs by enforcing laws and other rules of behavior that protect women and girls from violence and to punish perpetrators.
- * Access to justice especially for those who have experienced GBV, is upheld in several legal frameworks, statutory structures and institutions.
- * The legal frameworks promote access and utilization of services and protects women and girls from GBV and harmful practices.
- * Rights such as equality and freedom from discrimination (*Article 21*); protection of right to life (*Article. 22*); respect for human dignity and protection from inhuman treatment *Article. 24*); right to a fair hearing (*Article. 28*) are enshrined in Chapter Four of the Constitution of the Republic of Uganda, 1995.
- * At the central/national level the Administration of Justice Program, and Access to Justice Sub Program of the Governance and Security Program brings together 17 former JLOS institutions *responsible for administering justice, maintaining law and order and promoting the observance of human rights*.

One of the **major problems in accessing justice** is the cost of legal advice and representation. Legal aid programs therefore important in enhancing access to justice.

1.6 Formal and Informal Justice Mechanisms

Formal justice mechanisms in Uganda include; the judiciary/courts of judicature and LCCs while informal justice mechanisms covered in this Simplified Guide comprise of; traditional/ cultural and religious leaders, CLVs/paralegals, savings and social support groups.

1.6.1 Formal Mechanisms

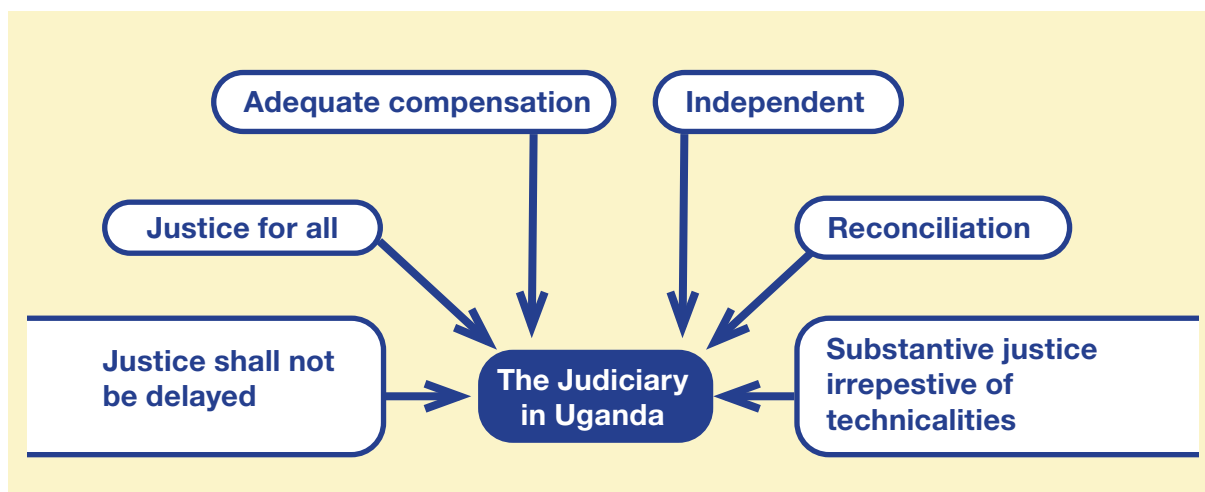
Judiciary/Courts of Judicature

- * The mandate of the Judiciary/Courts of Judicature is found in *Article. 126 (1) of the Constitution* of the Republic of Uganda: “*Judicial Power is derived from the people and shall be exercised by the Courts established under the Constitution in the name of the people and in conformity with the law and with the values, norms and aspirations of the people.*”
- * *Article. 126 (2)* outlines the principles that should be applied when hearing cases represented in figure 4 below.

The core functions of Uganda's Judiciary are to:

- a. Administer justice through **resolving disputes** between individuals, and between the State and individuals.
- b. **Interpret the Constitution** and the laws of Uganda.
- c. Promote the **rule of law** and contribute to the **maintenance of order** in society.
- d. Safeguard the Constitution and **uphold democratic principles**.
- e. **Protect human rights** of individuals.

Figure 3: Principles of Uganda's Judiciary

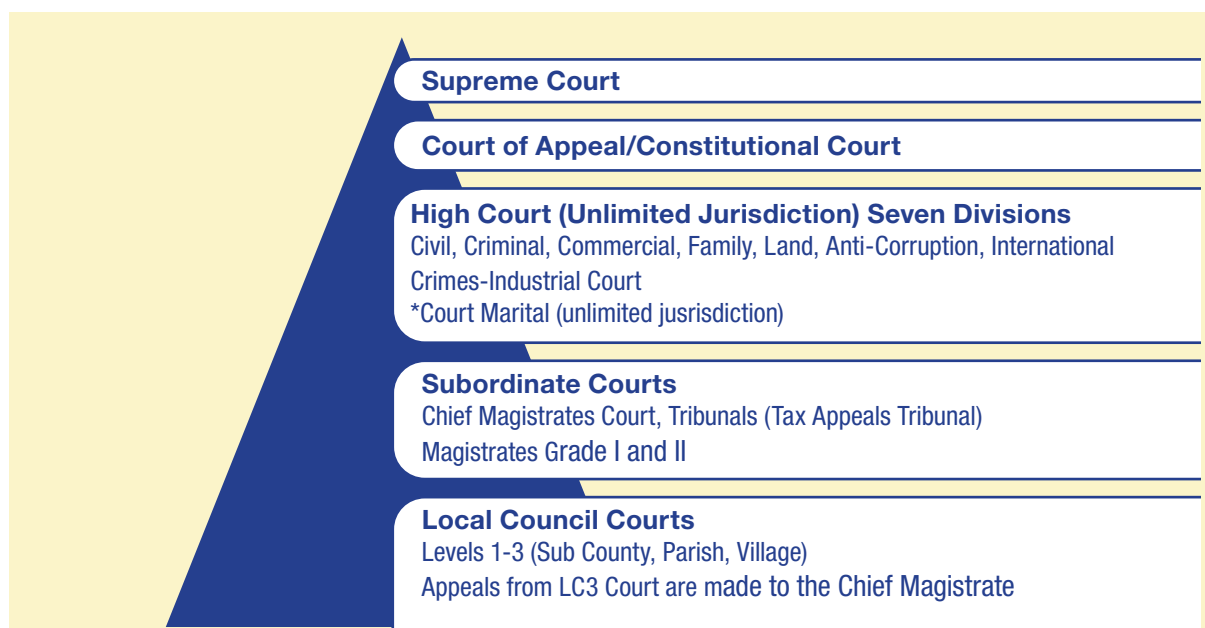


The Court System in Uganda:

- * The **Court of Judicature in Uganda** include; the Supreme Court, Court of Appeal which doubles as the Constitutional Court, the High Court (its seven Divisions – Commercial, Land, Family, Anti-Corruption, Criminal, Execution and Bailiffs, Civil and International Crimes, and 20 Circuits countrywide), and Magistrate Courts. There are different levels of courts in Uganda, each with different powers. See *figure 4* below on the hierarchy of courts. (*Article. 129 – 138 of the Constitution*).
- * **Specialized courts or tribunals** form part of the judicial structure e.g. Industrial Court, Tax Appeals Tribunal and Land Tribunals among others. The Industrial Court (High Court level) was established under the Labor Disputes (*Arbitration and Settlement*) Act, 2006 Cap 224, Laws of Uganda, and section 7. 2006).
- * **Tribunals and Commissions of inquiry** examine the conduct of any officer in the public service of Uganda, the conduct of any chief, the conduct or management of any department of the public service or of any public or local institution, or into any matter in which an inquiry would be for the public welfare. (*Section 1. Commission of Inquiry Act Cap 166*).
- * A parallel judicial system exists for the military (**Court Martial**) with a hierarchy of courts established under the *Uganda People's Defense Forces Act 7 of 2005 and Regulations Sections. 194 and 197*. The only link from the military system to the mainstream judicial system arises from an appeal from the Court Martial Appeal Court (the highest appeal court in the military system) to the Supreme Court where a death sentence or life imprisonment has been meted.
- * **Uganda's Judiciary is composed** of Courts of Judicature, which include: subordinate courts including *Qadhis* Courts for marriage, divorce, inheritance of property and guardianship, as prescribed by Parliament. The Uganda Judiciary also has supervisory or other powers over other judicial and quasi-judicial institutions, including:
 - The Local Council Courts (LCCs);
 - Family and Children Courts, and

- And other institutions from which appeals are lodged to the High Court.

Figure 4: Hierarchy of Courts in Uganda



- * **Jurisdiction of Courts** may be determined according to the value of the property, location of the property and the nature of the case for example the type of land tenure system and in some cases the nature of land tenure system (customary land).
- * Since 2019 the Judiciary of Uganda in collaboration with partners is implementing Special SGBV Court Sessions in selected High Court Circuits and Chief Magistrates Courts in response to the urgent need to counter the increasing numbers of GBV offences in Uganda. These sessions are also a fulfilment of Uganda's commitments to eradicate GBV under *the Maputo Declaration on gender mainstreaming and effective participation of women in the African Union, the Kampala Declaration on the fight against GBV in the Great Lakes Region, and the United Nations Sustainable Development Goal 5.*
- * High Court, Court of Appeal and Supreme Courts may also hear and determine cases of domestic violence/VAWG on appeal or depending on the gravity of the offence.

b. Powers of Magistrates Courts in handling cases of VAWG

- * Magistrates Courts have the jurisdiction to hear and determine domestic violence/VAWG cases (*Section 9, DVA*).
- * Magistrates Courts may issue a Protection Order. A protection order – prohibits violence, restricts a person from being harassed or threatened by another person or restraining a person from contacting or approaching another person (*Section. 2, DVA*).

Note: Procedures prescribed in the Family and Children Court Rules are applied in hearing cases of domestic violence/VAWG which include; holding the proceedings in camera or private and in an informal manner.



b. Local Council Courts

- * Local Council Courts (LCCs) are very important for access to justice in local communities. LCCs were established through the *LCC Act 13 of 2006*.
- * LCCs use simple procedures and do not require lawyers to represent clients before them.
- * LCCs are accessible both geographically and financially. (*Section 3. LCC Act*).
- * Local Councils (LCs) have both administrative and judicial powers provided for under the Local Government Act and LCC Act.
- * LCCs are found at village, parish, and sub-county level and are operational throughout Uganda and at least two members of the town, division or sub-county LCC shall be women. (*Section 4. LCC Act*).
- * The Vice-Chairperson shall be a woman if the Chairperson is a man and vice versa if the Chairperson is a woman. (*Section 6. LCC Act*).
- * Each LCC has an Executive Committee which is duly constituted into a Court when it is sitting with not less than five members for a village or Parish Court including the person presiding, two of whom shall be women; and in the case of a town, division or sub-county, three members including the person presiding, one of whom shall be a woman. (*Section. 8 LCC Act*).
- * LCCs are mandated to hear cases originating within their area of jurisdiction, including; family disputes, unregistered land cases and assaults. (*Section. 9 LCC Act*).

The types of cases handled by LCCs in accordance with the LCC Act include;

- * 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
- * Offences committed by children involving affray, common assault, theft, criminal trespass and malicious damage to property

Customary bailment refers to the delivery of goods by one person to another for some purpose upon an agreement that the goods shall be returned or disposed when the contract is completed.

Powers of LCCs include; reconciliation, declaration, compensation, restitution, costs, apology, attachment and sale. In case of a breach of a Bye-Law or Ordinance LCCs can impose a fine, community service or any other penalty authorized by that Bye-Law or Ordinance. (Section. 12 LCC).



Roles of Local Council Official(s) in addressing VAWG

- * Psycho-social support (counseling) the survivor.
- * As an LC leader find out what other support the survivor has around her/him (friends, relatives, neighbors, pastors etc).
- * An LC official informs the survivor of the various options she/he has available but allows her/him to decide for herself/himself.
- * Respect the survivors 'confidentiality. If available, give the survivor a list of referral sites available.
- * Accompany the survivor to the police station.
- * Ensure that the abuse is reported immediately at the police station and that the survivor has accessed medical help.
- * Participate in any meeting that could be called between both parties at the station.
- * Follow up with the investigating Police Officer to ensure that the matter is treated diligently.
- * Act as a witness in court most especially when the victim is a child.

Roles of LCCs in addressing VAWG

A complaint of VAWG may be made to an LCC where the survivor or perpetrator resides (*Section 6 DVA*). Upon receipt of the complaint the LCC shall;

- * Record the complaint including particulars of the survivor, her/his representative, the perpetrator.
- * Hear the matter and make the following orders (depending on the nature of the case); caution, and apology to the survivor, community service, and fine not exceeding twenty-five currency points, compensation, reconciliation, declaration, restitution, attachment or sale.
- * Make a referral to police and the Magistrate's Court when the perpetrator is; a second or repeat offender, likely to inflict further harm to the survivor and where the degree and nature of the VAWG warrants involvement of the police and court.
- * Inquire whether there are children involved in the domestic/family relationship. Domestic Relationship – Refers to a family relationship, a relationship similar to a family relationship or one in a domestic setting that exists or existed between the survivor and a perpetrator. This includes a relationship where the survivor and perpetrator are married, are family members, shared the same residence, employed by the perpetrator (*Section 3 DVA*).
- * Where there is a child involved the LCC writes an order to the Probation and Social Welfare Officer to make an inquiry and take necessary action regarding welfare of the child.
- * LCCs treat cases of VAWG as matters of urgency (including handling VAWG cases on days which are not ordinarily working days like weekends and public holidays), and shall hear the cases as soon as possible not later than 48 hours after filing the complaint.

Appeals

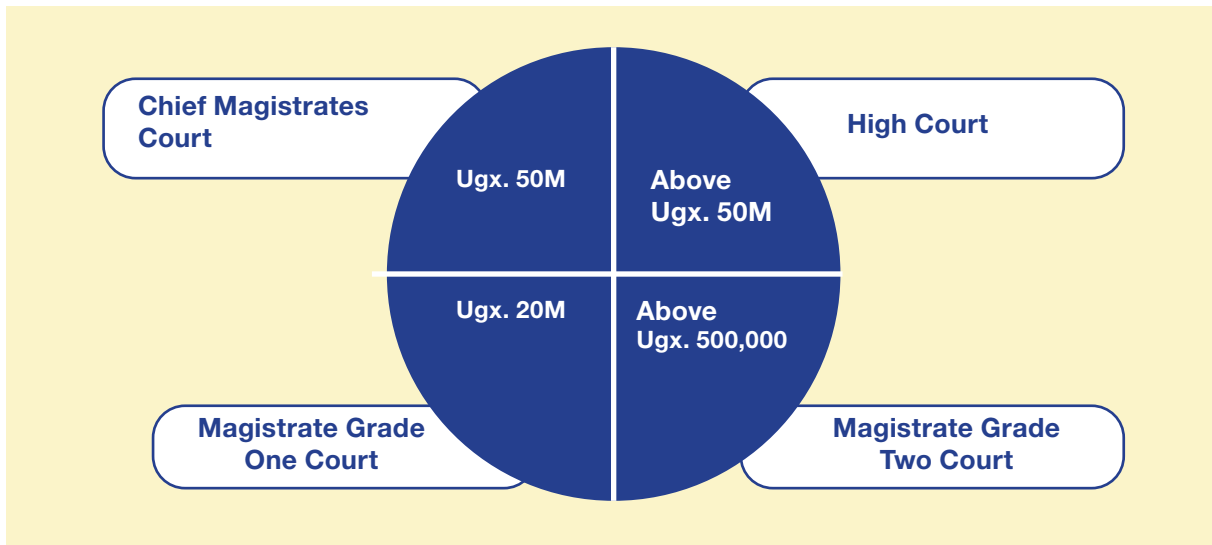
- * When a person is not unhappy with a decision of a Court he or she can take the case further up to be decided upon by a higher court whose decision will cancel or agree with or confirm that of the lower court.
- * This is done through a process called an "appeal."

- * A person who is unhappy with a decision of the LC3 Court (as sub county) can apply to the Chief Magistrate's Court.
- * From the Chief Magistrate, one can apply to the High Court for that decision to be re-considered.
- * A person who is not happy with the High Court's decision can apply to the Court of Appeal, and lastly to the Supreme Court.

Jurisdiction of Courts

- * Original jurisdiction is the power of a court to hear or try cases taken to it for the first time without previously having been heard in another court.
- * Appellate jurisdiction is the power of a court to hear appeals.
- * The High Court enjoys both original and appellate jurisdiction. This means the High Court can hear a case taken to it for the first time or cases referred to it on appeal.
- * Magistrates Courts jurisdiction is governed by provisions of Act 7 of 2007 which amended section 207 (1) of the Magistrates Courts Act.

Figure 5: Monetary jurisdiction of Courts in Uganda



In the case of *Ajuna and 2 Ors v Lake View Enterprises and Anor* (Miscellaneous Cause No. 2 of 2019) [2020] UGHCLD 29 (6 November 2020) the trial Judge ruled that the Magistrate Grade One of Court of Makindye did not have unlimited jurisdiction in civil suit but limited pecuniary jurisdiction of twenty million as provided for under Section. 207 (1) (b) of the Magistrates Court Act.

1.6.2 Informal Mechanisms

The role of informal justice systems and leaders in promoting access to justice is internationally recognized. Many conflicts are resolved through informal justice systems, because they;

- * Are easily accessible and affordable,
- * Quickly address important issues for individuals and communities such as; minor or petty crimes, land conflicts, family disputes, commercial disputes and access to public services among others.
- * Address gender related concerns in communities including VAWG.
- * Are often respected in the community and can therefore play a vital role in addressing VAWG.
- * Play an important role in maintaining social harmony in many communities.



The informal justice actors targeted in this Simplified Guide include;

- a. Religious Leaders
 - b. Cultural and Opinion leaders
 - c. CLVs/paralegals
 - d. Leaders of other informal groups and networks that bring together women around common interests such as; saving and survivors groups.
- * Uganda's Constitution allows for the development and incorporation in aspects of life cultural and customary values which are consistent with the rights and freedoms, human

dignity, democracy and with *the Constitution Cultural Objectives XXIV and Section 3 of the Institution of Traditional or Cultural leaders Act No 6 of 2011*.

- * The *Land Act* gives traditional or cultural institutions the authority to determine disputes over customary tenure acting as mediators between persons who are in dispute.

Traditional/Cultural Leaders

- * Traditional or cultural leader derive their allegiance from the fact of birth or descent in accordance with the customs, traditions, usage or consent of the people he/she leads (*Institution of Traditional or Cultural leaders Act No 6 of 2011*).
- * Some of the traditional/cultural institutions in Uganda include the following; *Ker Kwaro Acholi, Ker Alur, Obukama bwa Bunyoro, Buruuli Chieftdom, Obwakyabazinga bwa Busoga, Obwakamuswaga bwa Kooki, Lango Chieftdom, Obusinga bwa Rwenzururu, Obwakabaka bwa Buganda, Teso Chieftdom, Tieng Adhola Chieftdom, Obukama bwa Tooro and Inzu ya Masaaba*.

Role of Traditional/ Cultural leaders in addressing VAW/G

- * The roles of traditional leaders vary from one region of the country to another but they generally range from the 'cultural' (performing cultural rites, reinforcing or modifying cultural practices, upholding cultural values - e.g. integrity and accountability, being custodians of tradition, among others) to development-related and political roles (which involve community mobilization, resolving conflicts, and promoting government programs).
- * Traditional/cultural leaders play an important role in defining attitudes, making decisions, and in making responses to change in their communities. They uphold and promote cultural norms, and provide security, leadership and mediate over disputes including those VAWGs cases.
- * They are also the fountain of the clan's history and are responsible for its documentation (including the recording of its norms, rules and regulations); they protect clan assets and heritage sites of the community and support kinsmen.
- * **Traditional leaders may be a first point of contact by a survivor of VAWGs** and in such case, they can counsel a survivor and mediate between the parties depending on the nature of the case. In cases of VAWGs that are associated to resources for instance; land, since traditional leaders administer customary land they can help in settling land disputes that arise among occupants on the land under its control. Some of the disputes that may be mediated by traditional and cultural leaders include boundary disputes, succession wrangles between family members and attempted eviction of lawful and bonafide occupants.
- * Traditional and cultural leaders can also be called upon as witnesses in respect of VAWGs cases.

Religious Leaders and support groups

- * Religious and opinion leaders in our community play a vital role in addressing VAWG.
- * At the national level the Inter Religious Council of Uganda comprises of Catholic Church in Uganda, Uganda Muslim Supreme Council, Church of Uganda, Uganda Orthodox Church and Seventh Day Adventist Church Uganda Union. The Council implements programs on

HIV/AIDS, Care and treatment, Orphans and Vulnerable Children (OVC), HIV Prevention and Psychosocial support. Other religious leaders could include, pastors of Pentecostal churches.

- * Support groups may include; survivors' groups, Mother's Union, savings groups and female farmer led groups, CLVs/paralegal, para-social workers.



Role of Religious Leaders and support groups in addressing VAWG

Religious leaders and support groups can support survivors and communities in combating VAWG by;

- * Creating multi-religious and multi-sectoral support groups for survivors of VAWG.
- * Advocating for enactment and enforcement of laws to protect community members.
- * Creating multi-religious/support centers where people can receive help/legal assistance.
- * Training multi-religious, support groups and paralegals to give free advice to survivors.
- * Sensitizing communities on VAWG and related issues.
- * Conducting specifically targeting men from different religions, support groups including topics such as the effects and consequences of VAWG.
- * Providing shelter and counseling services to survivors of VAWG at existing religious structures.
- * Providing information VAWG based on religious scriptures and teachings.

Chapter Two of this Simplified Guide covers the difference between civil and criminal cases in Uganda and provides examples of the nature of criminal and civil cases. It also provides guidance on where to file such cases, the mandates of the responsible institutions under both criminal and civil cases. A section on Alternative Dispute Resolution (ADR) and the different methods is included.

2.1 Relevant laws

- * 1995 Constitution as amended.
- * Penal Code Act (Cap 120), 1950 as amended.
- * Criminal Procedure Act Cap 116 - provides the procedure by which suspects are brought to court, tried and if found guilty, punished. In Uganda, implementation of Criminal Procedure Code Act is done by various government agencies including the Office of the Directorate of Public Prosecutions (ODPP), the Judiciary, the Uganda Police Force, and the Uganda Prisons Service.
- * Civil Procedure Act Cap 71.
- * Other laws used in management and hearing criminal cases are; Evidence Act Cap.6, Judicature Act Cap 13, Trial on Indictment Act, Cap. 23, Magistrates Courts Act, Cap .16, and the Police Act Cap 303.
- * Local Council Act Cap 243, 1997 as amended.
- * Local Council Courts Act, 2006 and its Regulations
- * Institution of Traditional or Cultural Leaders, Act Cap 2011 Part VI section. 16 (1) Allow traditional and cultural leaders to handle conflicts or disputes in accordance with the traditions, customs and norms of dispute or conflict resolution pertaining to that community.
- * *Filing a civil case in LCCs* is governed by Part IV of the LCCs Act sections. 14 – 17.

Filing civil cases in an LCC (Section 14)

1. State to the Chairperson the claim and the remedy.
2. The case must be signed off or affix a thumb print by the person claiming.
3. If made orally, the Chairperson, Secretary or a person appointed by the LCC will write the claim, read it to the claimant and it shall be signed by the claimant and counter signed by the Chairperson.
4. The statement of claim shall be filed and a date for the hearing of the case will be fixed.
5. The court shall, be convened by the Chairperson for the purpose.

Notice of claim to be served on parties (Section. 15)

1. A notice of the claim shall be served upon the defendant.
2. The Chairperson shall have the summons served on the claimant and the defendant requiring them to attend the court at the time and place specified in the summons for the hearing of the case.
3. The summons can be served by word of mouth in the presence of a witness.
4. Where summons or a notice cannot be given in personal, with the Court's permission a duplicate can be; a) left with an adult family member or attached to a noticeable part of the house or homestead where the person summoned lives.

Representation by someone else in an LCC (Section. 16)

1. Where a person is unable to appear in court due to mental or physical incapacity, the LCC may allow that person to be represented in court.
2. An advocate cannot represent a person in a case before an LCC except if the case relates to violation of by-laws.

Appearance by a Company (Section. 17)

1. Company or any other person appointed in writing by the Company may appear before an LCC.

The Second Schedule (*Section. 2 of the LCC Act*) provides for cases and matters of a civil nature which may be triable by LCCs— debts, contracts, assault or assault and battery, conversion, damage to property and trespass.

The Third Schedule (*Section. 10 of the LCC Act*) provides for civil disputes governed by customary law that LCCs can handle include; disputes in respect of land held under customary tenure; disputes concerning marriage, marital status, separation, divorce or the parentage of children; disputes relating to the identity of a customary heir; and customary bailment.

2.2 Criminal Cases

- * Criminal law is a set of laws used to punish people whose conduct is considered to be a danger to society, property, life, morality, or safety.
- * The Government of Uganda or "State" takes responsibility for the trial of criminal offenses because the cases relate to society.
- * Criminal law seeks to protect communities against harm by individuals in punishing wrong doing, referred to as crime e.g. rape, defilement, murder, robbery, criminal trespass and arson among others.
- * Under criminal law, acts that offend the Penal Code or other laws, although they may be committed against one individual are considered a danger to the entire community or country and it is the Government's responsibility to protect its citizens from harm by preventing such violent acts from happening.

- * This is why the Government makes laws prohibiting such acts and tries offenders in court and punishes them, for instance through imprisonment and/or fines, in order to discourage other members of the community from practicing the same act.
- * Criminal law outlines offenses against the community at large, is also regulates how suspects are investigated, charged, and tried.
- * It establishes punishments that include caution, payment of a fine, community service (a non-custodial sentence) or imprisonment for convicted offenders.
- * In Uganda a criminal offence is reported to the Police who investigates the case and submits the file to the ODPP (State Attorney), when investigations are completed the file is sanctioned and the case is heard in court.



2.2.1 The purpose of criminal law

- * To *prevent conduct* that causes or threatens harm to the individual or public interests.
- * To create *public control on persons* whose conduct shows that they might commit crimes.
- * To *safeguard people from criminal conduct*.
- * To *give a fair warning* on conduct that is considered as an offence.
- * To *differentiate* between serious and minor offences.

2.2.2 The Role of the Police in Addressing VAWGs

- * *Article. 212 of the 1995 Constitution, the Uganda Police Force Act Chapter 303 Section. 4, and the DVA Section. 7* provides for the roles of police officers in addressing VAWG.
- * Every Police Station has a Child and Family Protection Unit/desk that handles VAWG related issues.

Police officers are generally mandated to (Section. 4 Police Act);

- a. Protect life, property and other rights of an individual
- b. Keep law and order
- c. Prevent and detect crime, and to
- d. Cooperate with the civil authority and other security organs established under the Constitution and with the population generally.

Police officers act on complaints of VAWG that are reported to them, and while investigating the complaint they (Section. 7 DVA);

- * ***Assist the survivor and advice*** on obtaining a shelter or safe place available in the community such as GBV shelters.
- * ***Ensure a survivor undergoes medical examination and receives medical treatment*** where signs of physical or sexual abuse are evident. (See Police Forms 3A and 24A for Examination of Victims and Accused Persons of Sexual Assault annexed to this Simplified Guide).
- * ***Advise the survivor of the available remedies*** including the right to apply for relief and to lodge a criminal complaint.
- * ***Offer guidance*** on procedure involved including the need to collect evidence of the violence in the form of pictures, medical reports, taken immediately the act occurs.
- * Provide any assistance necessary to ensure the well-being of the survivor, their representative and witnesses.
- * ***Record the statement by the survivor*** or her representative on the nature of domestic violence. The survivor or her representative can choose that the statement of the nature of VAW/G is taken by a police officer of the same sex.
- * ***Conduct investigations*** in relation to the complaint involving inviting the perpetrator or make an arrest, and detain the perpetrator.

NOTE: Investigations may take few hours, weeks, months or years depending on the gravity of the violence or attack and the consequences of such assault such as murder and whether the perpetrator is apprehended.

On concluding investigations, a case is filed in a court of law. Court proceedings usually take long and can be intimidating for a survivor therefore they need to be constantly informed and updated on the progress of their case. Share contacts of legal aid service providers in the community who can represent the survivor in court of law.

NOTE: Chapter Three of this Simplified Guide covers in detail the definition of VAWGs, the legal and policy framework for addressing VAWGs, forms/types of the most common cases of VAWGs including defilement and available response mechanisms.

2.3 Civil Law

- * In Uganda the *Civil Procedure Act Cap 71* regulates in civil courts (High Court and Magistrates Courts) – (*Section. 5 Civil Procedure Act*) any court shall have jurisdiction to try all suits of a civil nature except suits of which its cognizance is either expressly or impliedly barred.
- * Civil law on the other hand, deals with *private matters between individuals*. 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.
- * *Civil cases may also include; a company or even government* as parties where there is a wrong that causes loss or injury for which one can seek compensation. Sometimes an aggrieved person may seek compensation on behalf of the community or public where they have a common interest.
- * *Although land cases are civil in nature, criminal cases may also arise from land disputes*, for example; criminal trespass, which means entering another person's property without permission and with intent to commit an offence or to intimidate, insult or annoy any person. In cases of criminal trespass ownership of the land in question must be determined first. Land disputes may also give rise to the crime of malicious damage to property, arson, assault, battery, etc.

Civil cases may relate to;

- a. Breach of a contract/agreement.
- b. Recovery of immovable property.
- c. Partition of immovable property.
- d. Foreclosure, sale or redemption in the case of a mortgage of, or charge upon, immovable property.
- e. Determination of any other right to or interest in immovable property.
- f. Compensation for wrong to immovable property.
- g. Recovery of movable property.

2.4 Distinction between Criminal Law and Civil law

Criminal Law	Civil Law
Public law intended to serve societal or public interest.	Deals with private matters between individuals.
Criminal proceedings are brought in the name of the State e.g. Uganda Vs AB.	Civil suits are usually brought by the aggrieved party, e.g. X Vs Y.
The wrong is usually referred to as a "crime" or an "offence".	A misunderstanding or disagreement is considered to be civil wrong.
A person (state) who intends to sue usually states the offence or crime in a document referred to as a "charge sheet".	The claim is usually contained in a "declaration (plaint)".
A prosecutor or State Attorney pursues the case on behalf of the State/Government.	Civil actions or suits are usually brought by the plaintiff on his or her behalf.

Criminal Law	Civil Law
The standard of proof is “beyond reasonable doubt”.	The standard of proof is on the “balance of probabilities”.
A person can either be referred to as “accused” or “defendant” before court.	The other party is usually referred to as “defendant”.
When a person is found to be guilty, he or she can be sentenced, imprisoned or fined or both.	A person can only be found to be liable and court may usually order the liable person to pay damages and costs.

2.5 Remedies in Civil Cases

- * *Monetary awards/payment of money (damages) for breach (breaking) of a contract.* The calculation of damages is based on losses suffered.
- * *Specific performance* refers to asking that one receives what the other party promised to give the other under a contract, rather than receiving a replacement or money.
- * *Restitution* refers to ‘giving back’ or returning the affected party to the position where he or she would have been in before providing the goods/services in a contract.

2.6 Alternative Dispute Resolution (ADR)

- * Refers to other *ways of resolving disputes other than going to court.*
- * ADR therefore means the disagreeing parties resolve a dispute with or without the help of another person (third party).
- * ADR methods includes; negotiation, mediation, arbitration, conciliation and collaborative law. Each of these concepts is explained below.
- * *ADR is used to;* (i) resolve disputes outside the official judicial system, and (ii) through informal methods attached to official judicial mechanisms.

2.6.1 Negotiation

- * Negotiation involves two people agreeing to resolve a dispute.
- * There is no third party involved.
- * It is carried out without a lawyer however each party may request someone (a representative) to assist them.
- * It is a voluntary process
- * Negotiation is not binding
- * Negotiation focuses on solving a problem and trying to satisfy the interests of both parties without determining who is right or wrong.

2.6.2 Mediation

- * *Mediation is a voluntary process* whereby an independent third party ‘a mediator’ agreed to by both parties, listens to and assists the parties to negotiate and resolve a dispute informally.
- * The process is private and confidential.
- * The Mediator acts as a neutral third party and facilitates the process.
- * The Mediator does not determine the strength of either side’s case and does not impose an outcome/solution on the parties but can advise.

- * The parties are free to walk away from the process at any time.
- * Mediation should not be conducted in criminal cases such as; criminal trespass, grievous bodily harm, arson or where there is violence involved.
- * Mediation is not binding.

2.6.3 Arbitration

- * Arbitration *involves an independent person* (third party) who listens to both parties to a dispute and reaches a decision (resolution).
- * Participation in arbitration is voluntary.
- * This process is usually more controlled and official.
- * Arbitration often happens when parties to a contract agree on signing the contract that any future dispute concerning the agreement will be resolved by arbitration.
- * The *Arbitrator's decision is private and binding* on the parties.
- * Parties may appeal against the Arbitrator's decision in a court.

2.6.4 Conciliation

- * *Parties to the dispute use 'a Conciliator' who meets them separately* to resolve their differences.
- * *This process has no legal standing* and the Conciliator usually has no authority to seek evidence or call witnesses, writes no decision and makes no award.
- * *The main goal is to reconcile the parties through agreement* between them.
- * The Conciliator; interprets/understands the issues, provides technical assistance, explores potential solutions and brings about a negotiated settlement.
- * The main difference between mediation and conciliation is that at some point during conciliation, the Conciliator is asked by the parties to provide them with non-binding settlement proposals; a mediator by contrast will in most avoid from making such proposals.
- * Conciliation decisions are not binding.

2.6.5 Collaborative law

- * Each party has a lawyer who facilitates the resolution process within specific terms.
- * The parties reach an agreement with the support of lawyers trained in the process and jointly agreed experts.
- * It is a formal process that is part of the litigation and court system.

Women and Children's/Girl's rights are human rights, these include; the right to live free from violence and discrimination; to enjoy the highest attainable standard of physical and mental health; to be educated; to own property; to vote; and to earn an equal wage. However, across the globe many women and girls still face discrimination on the basis of sex and gender.

- * **Gender inequality** underpins many problems which disproportionately affect women and girls, such as domestic and sexual violence, lower pay, lack of access to education, and inadequate healthcare.
- * **GBV** occurs when violent acts are committed against women and girls on the basis of their gender identity, or sex characteristics.
- * **Women and girls in conflict** are especially at risk from violence, and throughout history sexual violence has been used as a weapon of war.
- * Globally, on average 30% of all women (Violence Against Women, World Health Organization(WHO))¹ who have been in a relationship have experienced physical and/or sexual violence committed against them by their partner.
- * **Violence against women and girls** including sexual violence and harassment, work place discrimination is a major human rights violation.

3.1 Women's Rights under the 1995 Constitution of the Republic of Uganda

The State shall recognize the significant role that women play in society. (*National Objectives and Directive Principles of State Policy, XV*);

- a. Women shall be accorded *full and equal dignity of the person with men*.
- b. The State shall provide the facilities and opportunities necessary to enhance the welfare of women to enable them to realize their full potential and advancement.
- c. The State shall protect women and their rights, considering their unique status and natural maternal functions in society.
- d. Women shall have the *right to equal treatment with men* and that right shall include equal opportunities in political, economic and social activities (*Article. 33 (1) of the Constitution*).
- e. Without prejudice to Article. 32 of the Constitution, women shall have the *right to affirmative action* for the purpose of redressing the imbalances created by history, tradition or custom. (*Article. 33 of the Constitution*).
- f. Women in Uganda enjoy their full *political rights* under *Articles. (11, 21, 70, and 71) of the Constitution* relating to non-discrimination in rights, equal access to all positions: governmental and leadership, representation of their governments: internationally and regionally, respectively, and affirmative action policies.

¹ WHO Factsheet: Violence Against Women available at: <https://www.who.int/news-room/fact-sheets/detail/violence-against-women>

- g. *The right to protection against GBV.* GBV takes different forms. It includes domestic violence, genital mutilation, physical and sexual violence, and is commonly motivated by cultural aspects, traditional practices, and poor legal structures, and restriction of the Labor Law to cases of sexual harassment without including physical and verbal abuse, and the failure to include the DVA Marital rape, and the criminalization of the Anti-Pornography Act 2014 for women in case they are subjected to pornographic revenge and electronically publish their nude photos.
- h. ***Right to legal capacity and nationality*** - women enjoy, on an equal basis with men, the right to retain, change and maintain nationality under *Article. 9 of the Constitution*, and the right to confer her nationality to her children under *Article. 10 of the Constitution*, and her foreign husband under *Article. 12 of the Constitution*. She also enjoys the legal capacity to enter into contracts in her name and commercial, real estate, and credit transactions under *Article. (26) of the Constitution*.

However, the eligibility of women remains lacking in terms of the requirements of passport systems and credit transaction systems. The issuance or transfer of a passport requires the husband's written consent; credit transaction systems also require a title deed to issue loans, so only a few can borrow from financial institutions. However, non-traditional financial institutions such as the Uganda Women's Finance and Trust Fund, the National Strategy for the Advancement of Rural Women may remove this requirement.

- i. *Right of ownership* - women in Uganda have the right to legal capacity to own property (*Article. 26 of the Constitution*); however, this right remains restricted by customary practices and traditions that prevent women from owning property, especially agricultural land. According to customary law, men are given the right to control and administer the land.
- j. The right to marry and form a family: women have the right to marry and form families after 18 years old (*Article. 31(1) of the Constitution*).
- k. The Ugandan constitution guarantees equality in the right to work, equal pay, union membership (*Article. 40*) of the Constitution, a retirement age of 60 years *Section. 12 (1) of the Pensions Act, Cap 286 – compulsory retirement*. It also guarantees women the right to maternity leave for 60 days (*Article. 40 (4) of the Constitution and Section 56(1) of the Employment Act*).
- l. *The right to health care: Article. (12) of the Constitution* guarantees women's right to health and curative care, under the preventive, curative, and health capabilities of Ugandan, and the modesty of its health budget.
- m. *The right to education (Article. 30 of the Constitution)* grants women equal rights to education. It has supported it since 1997, after launching the comprehensive primary education policy and the national strategy for girls' education and launching adult literacy and women's empowerment programs.

3.2 Rights of a child

- * ***Uganda ratified the Convention on the Rights of the Child (CRC).*** This means Uganda has an obligation to ensure that all children – without discrimination in any form – benefit from special protection measures and assistance; have access to services such as; education and health care, can develop their personalities, abilities and talents to the fullest

potential, and are informed about, and participate in, achieving their rights in an accessible and active manner.

- * The CRC sets out the rights that must be realized for children to develop to their full potential.
- * Uganda passed the Children Act, and the Children Act Amendment Bill was assented to by the President in the first half of 2016.
- * Despite the solid legal framework, the lack of robust implementation of the legislation, as well as other structural barriers to implementing the laws, have not served children well.
- * Millions continue to suffer widespread violations of their rights. According to UNICEF, more than a half of children under 5 and 38 percent of school-aged children live in poverty, deprived of many of their fundamental rights² – for example, proper nutrition and health care, quality education, safe drinking water and protection from violence and abuse – at the same time.
- * Many of the problems children face today can also be attributed to poor governance, which is characterized by corruption, lack of capacity or political will and insufficient budget allocations.
- * In Uganda a child is a person below 18 years. (Section. 2 Children Act as amended).
- * Children and young people have the same general human rights as adults and also specific rights that recognize their special needs.
- * Children are neither the property of their parents nor are they helpless objects of charity.
- * They are human beings and are the subject of their own rights.
- * The Convention recognizes the fundamental human dignity of all children and the urgency of ensuring their well-being and development. It makes clear the idea that a basic quality of life should be the right of all children, rather than a privilege enjoyed by a few.
- * **Non-discrimination** - All children have all these rights, no matter who they are, where they live, what language they speak, what their religion is, what they think, what they look like, if they are a boy or girl, if they have a disability, if they are rich or poor, and no matter who their parents or families are or what their parents or families believe or do. No child should be treated unfairly for any reason. (Section. 4 (j) Children Act as amended).
- * **Best interests of the child** - When adults make decisions, they should think about how their decisions will affect children. All adults should do what is best for children. Governments should make sure children are protected and looked after by their parents, or by other people when this is needed. Governments should make sure that people and places responsible for looking after children are doing a good job. (Section. 3 Children Act as amended).

² UNICEF, *Child rights governance*, available at: <https://www.unicef.org/uganda/what-we-do/child-rights-governance#:~:text=More%20than%20a%20half%20of,abuse%20%E2%80%93%20at%20the%20same%20time>



- * **Refugee children** - Children who move from their home country to another country as refugees should get help and protection and have the same rights as children born in that country. (Article 22. CRC and Section. 32 Refugee Act of 2006).
- * **Children with disabilities** - Every child with a disability should enjoy the best possible life in society. Governments should remove all obstacles for children with disabilities to become independent and to participate actively in the community. (Article. 23 CRC and Section. 2 and 9 Children Act as amended).
- * Every child who has been placed somewhere away from home – for their care, protection or health – should have their situation checked regularly to see if everything is going well and if this is still the best place for the child to be. (Article 25. CRC and Section 5 Children Act as amended).
- * **Other rights of children entail** – right to food, clothing, a safe home, access to education, minority culture, language and religion, rest, play, harmful customary or cultural practices, arts, protection from harmful work, drugs, exploitation, war and sexual abuse. Prevention from sale and trafficking (Section. 4, 7, 8, 8A Children Act as amended).
- * **Children in detention** - accused of breaking the law should not be killed, tortured, treated cruelly, put in prison forever, or put in prison with adults. Prison should always be the last choice and only for the shortest possible time. (Article. 38. CRC, Article. 34(6) Constitution of Uganda).
- * **Parental responsibility** - Every parent or guardian shall have parental responsibility for his or her child. (Section. 6 Children Act).
- * **Recovery and reintegration** - Children have the right to get help if they have been hurt, neglected, treated badly or affected by war, so they can get back their health and dignity. (Article 39. CRC).
- * **Children in contact with the law** - have the right to legal help and fair treatment. There should be lots of solutions to help these children become good members of their communities.
- * **Best law for children applies** - If the laws of a country protect children's rights better than this Convention, then those laws should be used. (Article 41. CRC and Article 34 Constitution of Uganda).

- * **Everyone must know children's rights** - Governments should actively tell children and adults about the CRC so that everyone knows about children's rights. (Article 42. CRC).

Support for children by local authorities

- a. Local councils (from village to district level – secretary of children's affairs) are required to safeguard children and promote reconciliation between parents and children. (Section. 10 Children Act as amended).
- b. Duty to report violation of a child's rights - any member of the community who has evidence that a child's rights are being violated or that a parent, a guardian or any person having custody of a child is able to but refuses or neglects to provide the child with adequate food, shelter, clothing, medical care or education shall report the matter to the local government council of the area. (Section. 11 Children Act as amended).
- c. There shall be a family and children court in every district (Magistrate Grade II Court) to decide on; criminal charges against a child; and applications relating to child care and protection.(Section. 13 Children Act as amended).



3.3 VAWGs

- * Sexual violence, GBV, VAWG and SGBV are terms that are often used interchangeably.
- * All terms relate to the violation of fundamental human rights that perpetuate sex-stereotyped roles which deny human dignity and the self-determination of an individual and hamper human development.
- * VAWG is defined as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”. [United Nations] -WHO.

- * VAWG is one of the most systematic and widespread human rights violations, rooted in gendered social structures rather than individual and random acts which cuts across age, socio-economic, educational and geographic boundaries. Its effects are far reaching on all societies; and is a major obstacle to ending gender inequality and discrimination globally.

The DVA defines **domestic violence** any act or omission of a perpetrator which;

- ➔ Harms, injuries or endangers the mental or physical health, safety, life, limb or well-being of the survivor including that which causes physical, sexual, emotional, verbal, psychological and economic abuse.
- ➔ Harasses, harms, injuries or endangers the survivor with a view of coercing him or her or any other relative to meet any unlawful demand for any property or valuable security.
- ➔ Has the effect of threatening the survivor or his/her relative.
- ➔ Injures or causes physical or mental harm to the survivor. (Section 2).

3.3.1 Legal and Policy Framework on Addressing VAWG

- * Uganda has signed and ratified a number of Conventions and Treaties at the international and regional levels that require her to take necessary measure to address and fight VAWG.
- * Many of these commitments have been translated in Uganda's **1995 Constitution under the Bill of Rights**.
- * Government of Uganda is therefore mandated to eradicate VAWG and to create effective legal mechanisms to protect women and girls who experience VAWG.
- * The laws speak to non-discrimination on the basis of sex and reinforce inclusion of both sexes in the enjoyment of rights and freedoms.

National Laws addressing VAWG

- * **1995 Constitution of the Republic of Uganda provisions on VAW/G include;**
 - * **Human dignity Article.** 24 provides that "everyone has inherent dignity and the right to have their dignity respected and protected. Women shall be accorded full and equal dignity of the person with men (Article. 33 (1)).
 - * **Prohibition of torture and degrading treatment** – Article. 24 stipulates that "no person shall be subject to torture or to inhumane or degrading treatment.
 - * **Right to Life** – Article. 22 "no person shall be deprived of life intentionally except in execution of a sentence passed in a fair trial by a court of competent jurisdiction in respect of a criminal offence under the laws of Uganda and the conviction and sentence have been confirmed by the highest appellate court".
 - * **Right to equal treatment and non-discrimination** – Article. 21 of the Constitution provides for the right to equal treatment for all men and women.
 - * **Repugnant customs** – Article. 2 (2) makes all cultures that are in contravention with the Constitution null and void.

- * **Penal Code Act, 1950 Chapter 120-** prescribes crimes and punishments in Uganda.
- * **DVA, 2010** - aims to provide protection and relief to victims of domestic violence and punishment for those who commit crimes of domestic violence.
- * **Prevention of Trafficking in Persons Act, 2009** - creates the offence of trafficking in persons and provides for the prosecution and punishment of offenders, prevention of the vice of trafficking in persons and protection of the victims of trafficking.
- * **Prohibition of Female Genital Mutilation Act, 2010** - provides for the prohibition of female genital mutilation (FGM), the offences, prosecution and punishment of offenders and the protection of victims as well as girls and women under threat of FGM and provides for other related matters.
- * **Police Act Chapter 303** stipulates the structure, organization and functions of the police.
- * **Children Act Chapter 59** provides for the care, protection and maintenance of children.
- * **Local Council Courts Act 2006** establishes LCC for the administration of justice at the local level and define the jurisdiction, powers and procedures of LCCs.
- * **Prevention and Prohibition of Torture Act, 2012** defines, prohibits and criminalizes torture (Sections. 2, 3, & 4).

3.3.2 Forms of VAWG

- * VAWG manifests in many forms that may be more common in specific settings and regions which include; physical, sexual, emotional and economic forms.
- * The **DVA section 2** provides forms of physical, sexual, emotional and economic VAWG to include the following;

Table 2: Forms and examples of VAWGs

Form of VAWGs	Examples of forms of VAWGs
Physical Abuse	<ul style="list-style-type: none"> • Hitting, slapping, shoving, grabbing, pinching, biting, hair pulling. • Denying a partner medical care or forcing alcohol and/or drug use upon him or her.
Sexual Abuse	<ul style="list-style-type: none"> • Coercing or attempting to coerce any sexual contact or behavior without consent. • Marital rape, attacks on sexual parts of the body, forcing sex after physical violence has occurred, or treating one in a sexually demeaning manner.
Emotional Abuse	<ul style="list-style-type: none"> • Undermining an individual's sense of self-worth and/or self-esteem is abusive. • Constant criticism, diminishing one's abilities, name-calling, or damaging one's relationship with his or her children.
Economic Abuse	<ul style="list-style-type: none"> • Making or attempting to make an individual financially dependent by maintaining total control over financial resources, withholding one's access to money, or forbidding one's attendance at school or engagement in employment.

Psychological Abuse	<ul style="list-style-type: none"> • Causing fear by intimidation; threatening physical harm to self, partner, children, or partner's family or friends. • Destruction of property; and forcing isolation from family, friends, or school and/or work.
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There are universally prevalent forms of VAWGs and those that often remain undocumented as provided below;

Table 3: Patterns and Prevalent Forms of GBV

Patterns of universally common forms of VAW/G	Prevalent forms of VAW/G	Less documented forms of VAW/G
<ul style="list-style-type: none"> • Domestic and intimate partner violence • Sexual violence (including rape and marital rape) • Sexual harassment • Emotional/psychological violence • Sexual violence as a tactic of warfare and in the aftermath of emergencies 	<ul style="list-style-type: none"> • Sexual exploitation • Sexual trafficking • Harmful practices, such as Female Genital Mutilation/Cutting (FGM/C), • Forced and child marriage. 	<ul style="list-style-type: none"> • Crimes committed in the name of "honor" • Femicide • Prenatal sex selection • Female infanticide • Economic abuse • Political violence • Elder abuse • Dowry-related violence • Acid-throwing

- * On profiling the nature of the most prevalent GBV cases in Uganda, the 2022 Uganda Police Force Annual Crime Report specifies domestic violence (DV), murder as a result of DV and sex-related crimes of defilement, rape and others (indecent assault, incest, unnatural offences) by region/district, division and relations to prevalence.
- * The National Survey on Violence in Uganda of 2021 indicates that almost all women (95%) had experienced physical or sexual violence, or both, by partners or non-partners, since the age of 15 years. The lifetime prevalence of physical or sexual violence, or both, by an intimate partner was 56% with physical violence at 45% and sexual violence at 36%. Electoral violence, stalking and cyber harassment were also profiled as forms of violence requiring targeted interventions.

3.3.3 Prevalent forms of VAWG defined

Some of the prevalent sexual crimes in Uganda are as provided below;

Table 4: Forms and definition of Sexual Crimes in Uganda

Form of Sexual Crime	Definition
Rape	<ul style="list-style-type: none"> Refers to sexual intercourse against a person's will The punishment of rape in Uganda is death for a person who commits rape is death. One who attempts to commit rape commits a felony faces life imprisonment for life.
Marital rape	An act of sexual intercourse with one's spouse without the spouse's consent.
Domestic violence	Refers to violence in a home and may include; physical, sexual, and psychological violence.
Indecent communication	Sending a sexual written communication intentionally, verbal communication to someone else without their consent.
Sexual exploitation	Refers to actual or attempted abuse of a position of vulnerability, power, or trust for sexual purposes.
Defilement	Refers to any sexual intercourse with a child under the age of 18 years old.
Aggravated defilement	Refers to having sexual intercourse with a child by an offender (an HIV/AIDS positive parent or guardian of a survivor).
Procuring defilement	Refers to the involvement of children in prostitution.

3.3.4 Who are most vulnerable to VAWG

- * Members of racial, ethnic and sexual minorities
- * HIV-positive women/girls
- * Migrants and undocumented workers
- * Physical and mentally impaired
- * Women and girl in detention facilities
- * Those affected by armed conflict or in emergency settings.

3.3.5 Perpetrators of VAWG

- * A perpetrator means a person who is alleged to commit an actual or threatened act of domestic violence/VAWG.
- * The perpetrators of violence may include;
 - ➔ State/government officials and their agents
 - ➔ Family members (including husbands)
 - ➔ Friends
 - ➔ Work colleagues and business partners

- Intimate partners
- Other familiar individuals
- Strangers

3.3.6 Where does VAWG occur

VAWG takes place in various public and private settings including;

- Home
- Within the community, such as in and around schools, on streets or other open spaces (e.g. markets, public transportation).
- At places of work (e.g. offices, farms and factories)
- State-run or custodial institutions, such as prison, police, health and social welfare facilities.
- Refugee and displaced persons camps and areas related to armed conflict, such as military compounds or bases, are also often sites of violence.

3.3.7 Causes of VAWG

- * **Gender inequality and discrimination** are root causes of VAWG influenced by the historical and structural power imbalances between women and men which exist in varying degrees across all communities in the world.
- * **Inequalities between men and women** - VAWG are related to the lack of power and control, as well as to the social norms that prescribe men and women's roles in society and condone abuse. Inequalities between men and women cut across public and private spheres of life, and across social, economic, cultural, and political rights; and are manifested in restrictions and limitations on women's freedoms, choices and opportunities.

VAWGs is not only a consequence of gender inequality, but reinforces women's low status in society and the multiple disparities between women and men.

3.3.8 Risk Factors of VAWG

There are a variety of factors at the individual, relationship, community and society (including the institutional/state) levels that intersect to increase the risk of violence for women and girls. These factors, represented in the ecological/environmental model, include:

- * ***Witnessing or experiencing abuse as a child*** (associated with future perpetration of violence for boys and experiencing violence for girls).
- * ***Substance (including alcohol) abuse*** (associated with increased incidences of violence).
- * ***Women's membership*** in marginalized or excluded groups.
- * ***Low levels of education*** (for boys associated with perpetrating violence in the future and for girls, experiencing violence).
- * ***Limited economic opportunities*** (an aggravating factor for unemployed or underemployed men associated with perpetrating violence; and as a risk factor for women and girls, including of domestic abuse, child and forced marriage, and sexual exploitation and trafficking).

- * The presence of economic, educational and employment disparities between men and women in an intimate relationship.
- * Conflict and tension within an intimate partner relationship or marriage.
- * Women's insecure access to and control over property and land rights.
- * **Male control** over decision-making and assets.
- * **Attitudes and practices** that reinforce female subordination and tolerate male violence (e.g. Dowry, bride price, child marriage).
- * **Lack of safe spaces for women and girls**, which can be physical or virtual meeting spaces that allow free expression and communication; a place to develop friendships and social networks, engage with mentors and seek advice from a supportive environment.
- * **Normalized use of violence** within the family or society to address conflict.
- * **A limited legislative and policy framework** for preventing and responding to violence.
- * **Lack of punishment** (impunity) for perpetrators of violence.
- * **Low levels of awareness among service providers**, law enforcement and judicial actors.

Protective Factors from VAWG

The protective factors that can reduce women and girls' risk of violence, include:

- * Completion of secondary education for girls (and boys)
- * Delaying age of marriage to 18 years
- * Women's economic autonomy and access to skills training, credit and employment
- * Social norms that promote gender equality
- * Quality response services (judicial, security/protection, social and medical) staffed with knowledgeable, skilled and trained personnel
- * Availability of safe spaces or shelters
- * Access to support groups
- * Enactment and implementation of legislation and policies to address VAWG

3.3.9 Consequences of VAWG

There are multiple consequences of violence, having immediate and short-term to inter-generational effects. The consequences of violence impacts at the individual level (for survivors, perpetrators and others affected by violence), as well as within the family, community and wider society, which translate into costs at the national level.

Individual and Community Consequences and Costs of VAWG

Consequence and costs due to VAW/G—beyond the intangible suffering and impacts on quality of life and well-being—include costs to the survivor and her family in terms of health (mental and physical), employment and finances, and the effects it has on children.

- * **Immediate injuries** such as fractures and hemorrhaging and long-term physical conditions (e.g. gastrointestinal, central nervous system disorders, chronic pain).
- * **Mental illnesses**, such as depression, anxiety, post-traumatic stress disorder, attempted suicide.
- * **Sexual and reproductive health problems**, such as sexually transmitted infections (including HIV), and other chronic conditions; sexual dysfunction; unintended/unwanted pregnancies and unsafe abortion; risks to maternal and fetal health (especially in cases of abuse during pregnancy).
- * **Substance abuse** (including alcohol).
- * **Poor social functioning skills** and social isolation and marginalization.
- * **Death** for both women and their children (from neglect, injury, pregnancy-related-risks, homicide, suicide and/or HIV and AIDS-related).
- * **Lost workdays**, lower productivity and lower income.
- * **Overall reduced or lost** educational, employment, social or political participation opportunities.
- * **Expenditures** (at the level of individual, family and public sector budgets) on medical, protection, judicial and social services.
- * Child witnesses of violence are more likely to have emotional and behavioral problems, perform poorly in school and be at risk of perpetrating or experiencing violence in the future.
- * Businesses and employers can **incur financial losses** on account of absences due to the health consequences inhibiting the survivor from working; incarceration of the perpetrator; and expenses related to additional security measures that might be needed in the workplace.

3.3.10 VAWG Duty Bearers

- * VAWG duty bearers are mandated to protect and respond to cases raised by Survivors of VAWG by;
 1. Investigating the survivor's complaints,
 2. Counseling them
 3. Summoning the perpetrator to court
 4. Ensuring medical treatment for the survivor
 5. Advising the survivors on the right to apply for relief and lodging criminal complaints in courts of law.
 6. The most critical responses to VAWG include providing psychosocial and medical help to survivors of VAWG.
- * Following which a survivor should be provided with relevant information of the available remedies to enable them decide what option they would like to take.

- * Free legal advice is equally important for GBV/VAWG survivors in order to ensure justice and protection of their human rights.



CHAPTER 4

MARRIAGE, DIVORCE AND SEPARATION

The Chapter covers the legal provisions on marriage, the different types of legally recognized marriages and legal requirements for marriage in Uganda, types of property in marriage (individual, matrimonial and joint ownership), maintenance and custody of children (legal provisions), rights to property in marriage, legal provisions on dissolution of marriage and distribution of property upon dissolution of marriage.

4.1 Marriage and Family Life in Uganda

- * The family is the natural and basic unit of society and is entitled to protection by society and the State. (*National Objectives and Directive Principles of State Policy, XIX*).
- * The exercise and enjoyment of rights and freedoms is inseparable from the performance of duties and obligations; and, accordingly, it shall be the duty of every citizen to promote responsible parenthood; (*National Objectives and Directive Principles of State Policy, XXIX*).
- * The State shall register every birth, marriage and death occurring in Uganda. (*Article. 18 of the Constitution*).
- * A man and a woman are entitled to marry only if they are each of the age of eighteen years. They can start a family; and are entitled to equal rights at and in marriage, during marriage and at its dissolution (*Article. 31 (1) of the Constitution*).
- * Marriage shall be entered into with the free consent of the man and woman intending to marry (*Article 31 (3) of the Constitution*).
- * It is the right and duty of parents to care for and bring up their children. (*Article 31 (4) of the Constitution*).
- * Children may not be separated from their families or the persons entitled to bring them up against the will of their families or of those persons, except in accordance with the law. (*Article. 31 (5) of the Constitution*).
- * The State shall protect women and their rights, considering their unique status and natural maternal functions in society. (*Article. 33 (3) of the Constitution*)
- * Subject to laws enacted in their best interests, children shall have the right to know and be cared for by their parents or those entitled by law to bring them up.

4.2 Legally recognized Marriages in Uganda

- * **Church Marriage** is monogamous (one man and one wife) contracted under the Marriage Act Cap 251, above 18 years of age, of sound mind and celebrated in a place of worship or other licensed place before a licensed officiating officer of the church.
- * **Civil Marriage** is monogamous (one man and one wife) contracted under the Marriage Act and celebrated in the office of the Registrar of Marriages. The Registrar General is gazetted as the Registrar of Marriages for Kampala whereas the Chief Administrative Officers are gazetted as the Registrars of Marriages for districts outside Kampala. Every person who

is single, widowed or divorced, aged 18 years and above and is not party to a subsisting marriage is eligible to contract a civil Marriage.

- * **Islamic Marriage** is polygamous in nature and celebrated in accordance with the rites and observances of the Islamic faith. (Marriage and Divorce of Mohammedans Act Chapter 252).
- * **Hindu Marriage** is polygamous in nature and is celebrated between Hindus in accordance with the rites and observances of the Hindu faith. Neither party is in an existing marriage, above 18 years of age, of sound mind, and not related by blood. (Section 2. Hindu Marriage and Divorce Act, Chapter 250).
- * **Customary Marriage** may be polygamous and is celebrated anywhere in Uganda in accordance with the local customs of a given community. Parties should be above 18 years of age, of sound mind, should have not have previously contracted a monogamous marriage which is still subsisting and consent of the parents is a must. (Section. 4 and 11 Customary Marriage Act Cap 248.)
- * **Mifumi (U) Ltd & Anor v Attorney General & Anor** (Constitutional Appeal No. 2 of 2014) [2015] UGSC 13 (6 August 2015) discusses customary practices as follows;

The Supreme Court declared that:

- a. The voluntary exchange of gifts at marriage or during marriage between the groom to be and his wife to be and/or her parents and relatives and vice versa is not unconstitutional.
- b. That the custom and practice of demand of bride price by a woman's parents or her relatives from her husband to be as a condition precedent to a valid customary marriage practiced by several tribes in Uganda is inconsistent with Articles 2, 21(1) & 2, 31(1)(b); 31(3), 32(2), 33(1), and 33(4) of the Constitution.
- c. The payment of bride price, as a condition precedent for the validity of a customary marriage is inconsistent with Articles 2, 21(1) & 2, 31(1)(b); 31(3), 32(2), 33(1), and 33(4) of the Constitution.
- d. That the custom and practice of demand for refund of bride price as a condition precedent to a valid dissolution of a customary marriage is inconsistent with Articles 2, 21(1) & 2, 31(1)(b); 31(3), 32(2), 33(1), and 33(4) of the Constitution.
- e. That the payment of bride price as a condition precedent to a valid customary marriage, and of its refund as a condition precedent to the dissolution of a customary marriage which has been demanded for by a woman's parents and/or relatives undermines the dignity & status of women and is therefore inconsistent with Article 32(2), 33(1) and (4), and 21(1) & (2) of the Constitution.

4.3 Divorce and Separation

- ➡ **Divorce and separation** is the ending of a marriage.
- ➡ **Divorce** is the permanent ending of a formal/legally recognized marriage.
- ➡ **Separation** refers to ending of family relationship that from the beginning was not official or because the court has ordered the separation 'judicial separation' of a legally recognized marriage.

- * According to the Constitution of the Republic of Uganda (1995) (Article. 31 (1), “Men and women of the age of eighteen years and above have the right to marry and to found a family and are entitled to equal rights in marriage, during marriage and at its dissolution (divorce).
- * Divorce in Uganda is regulated by the Divorce Act Cap 249. Any married Ugandan resident can apply for a divorce. If both parties to the marriage are African, divorce may be filed to Chief Magistrate’s court. If either of the parties is non-African, the petition has to be filed in the High Court.

4.3.1 The steps in a Divorce Case:

1. Filing a petition
2. Supporting documents to the petition
3. Summons
4. Answer to the petition
5. Mediation
6. Hearing
7. 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.
8. Decree Absolute - the final order which concludes the divorce process (this confirms that a marriage has officially ended).

4.3.2 The final effect of a divorce

- * Divorce ends the marriage and all rights and privileges that married people are entitled too.
- * The court may make orders relating to the division of property and payment of alimony or maintenance of the spouse.
- * Alimony – refers to payments ordered by a court to a spouse or former spouse within a separation or divorce agreement. The reason for alimony is to provide financial support to the spouse who makes a lower income, or in some cases, no income at all.
- * The court may also determine which of the spouse is to remain with the children and provide for the maintenance of the children.
- * Under Islamic law, the wife takes the property in her room and the children remain with the father.
- * Divorce means that the two parties become single again and have rights to re-marry any other person of their choice.
- * The divorced people do not benefit from the estate of either of them should one of them die. The relationship is completely terminated.

4.4 Marriage Offences and penalties

- a. **Bigamy** - a person commits bigamy (marries someone while legally married to another person) is liable to imprisonment for a period not exceeding five years. (Section. 41 Marriage Act).
- b. **Marriage with a person previously married** – When a person who is not married marries a person whom he or she knows is married to another person, commits an offence and

is liable on conviction to imprisonment for a period not exceeding five years. (Section. 42 Marriage Act).

- c. **Making false declarations, etc.** for marriage Any person who makes false declarations (certificate, licence, document or statement) commits an offence and is liable on conviction to imprisonment for a period not exceeding one year (Section. 43 Marriage Act).
- d. **False pretence of impediment to marriage** - Any person who endeavours to prevent a marriage by false pretence that his or her consent to it is required by law, commits an offence and is liable on conviction to imprisonment for a period not exceeding two years. Section. 44 Marriage Act.
- e. **Unlawfully performing marriage ceremony** - Any unqualified person who performs or witnesses as a marriage officer commits an offence and is liable on conviction to imprisonment for a period not exceeding five years. (Section. 45 Marriage Act).
- f. **Any person who willfully neglect to fill out or transmit the certificate of marriage** celebrated by him or her commits an offence and is liable on conviction to imprisonment for a period not exceeding two years. (Section. 46 Marriage Act).
- g. **Any person who pretends to be someone else in marriage, or marries under a false name or description**, with the plan to deceive the other party to the marriage, commits an offence and is liable on conviction to imprisonment for a period not exceeding five years. (Section. 47 Marriage Act).
- h. **Fictitious marriage** - Any person who goes through the ceremony of marriage knowing that the marriage is void on any ground, commits an offence and is liable on conviction to imprisonment for a period not exceeding five years. (Section. 48 Marriage Act).
- i. **Contracting marriage when already married by customary law** with someone else commits an offence and is liable on conviction to imprisonment for a period not exceeding five years. (Section. 49 Marriage Act).
- j. **Contracting marriage** by customary law when already married to someone else under the Marriage Act. (Section. 50 Marriage Act).

4.5 Grounds for Divorce in Uganda

In the case of *Uganda Association of Women Lawyers and Ors v Attorney General (Constitutional Petition No. 2 of 2003) [2004] UGCC 1 (10 March 2004)* the court decided that Sections 4 (1) and (2), 5, 21, 22, 23 and 26 of the Divorce Act (Cap 215) are discriminatory on the basis of sex and it breaks the Constitutional provisions for equality before the law (Article 21(1)), equal rights of a family and equal rights in a marriage and at its dissolution (Article 31 (1)), and the rights of women (Article 33 (1)). Therefore, the acceptable grounds for divorce apply to both men and women.

- A husband or wife may tell the court that the spouse is guilty of adultery.
- A wife or husband has changed religion and gone through a form of marriage with another woman or man.
- Cruelty on the part of either the husband or wife.

- The husband or wife was already married to someone else.
- The husband or wife deserted their spouse for two years without reason.
- Either party committed rape, sodomy or bestiality.

Cruelty – The Honourable Judge in the case of *Lucas Bally v Florence Kiconco (Divorce Cause No. 11 of 2008) [2010] UGHC 5 (28 January 2010)* upheld the decision in *Veronica Habyarimana v Habyarimana (1980) HCB 139*, that held that,

“...there is no definition of cruelty in the Divorce Act but case law has established that ... cruelty refers to conduct that has the effect of producing actual or apprehended injury to the petitioners’ physical and mental health. There must be danger to life, limb or health, bodily or mental or reasonable for it to constitute cruelty”.

4.6 Arrangements for Children in Divorce

- * The Divorce Act enables courts to make ‘such order as it sees fit’ regarding the custody, maintenance and education of minor children.
- * In practice couples rely heavily on mediation to agree matters regarding children, enabling them to avoid the costs and uncertainty of court proceedings.

Child Custody and Maintenance at Divorce

Child custody deals with who has the right to live with and make important decisions affecting a child.

- * The Children Act Cap 59 as amended Section. 73 provides for custody of children.
- * This is the person whom the Family and Children Court has assessed to be in the best position to offer love, care, protection and supervision of the child.
- * That person takes on full responsibility for the child’s needs such as; food, clothing, medical care, education among others.
- * At divorce, judicial separation or nullification (cancelation 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. (Section. 29 Divorce Act).
- * The 1995 Constitution of the Republic of Uganda (as amended) Article 34 provides that every child is entitled to live with his or her parents or guardians, unless it is not in the best interests of the child, in which case, the best additional care available is provided for the child.
- * In the case of *Rwabuhemba Tim Musinguzi v. Harriet Kamakume* Supreme Court, Civil Application No. 142 of 2009, it was stated that parents have a fundamental constitutional right to care for and bring up their children.
- * When a marriage has ended, the parents can no longer live together.
- * Therefore, both parents may want custody of the /children but since they can no longer live together court may grant; a) only one of them custody, b) both parents may obtain joint/shared custody.

4.6.1 What a court considers when granting custody to a child in divorce cases

1. **Age:** Children below the age of eighteen. Individuals above eighteen are presumed to be adults and in a position to make their own decisions with regard to where they shall live. Children of 'tender age' (below 7 years) are placed under the custody/care of the mother unless she is proved to be incapable of caring for the child.
2. **Welfare principle:** For persons below eighteen years, the decision to grant custody, whether to the mother or father is based on the welfare principle.
 - According to the Children's Act Cap 59 (as amended), Section. 3 the welfare principle is the guiding principle and the most important consideration in making decisions concerning custody of children and is all-inclusive.
 - In the case of *M & An infant & (Civil Appeal No. 22 of 1994) [1995] UGSC 16 (3 May 1995)*, the Supreme Court decided that in all matters relating to children, the welfare and best interests of a child shall be paramount.
 - It includes but is not limited to material welfare, both in the sense of enough resources to provide a pleasant home and a comfortable state of living and in the true sense of capability of care to ensure good health and personal dignity and pride of the child.
 - The Court examines which parent or relative is in a position to provide a pleasant home to ensure the child's welfare.
3. **Basic needs:** The ability to provide the essentials needs of a child such as shelter, food, clothing, education and medical care is not enough.
4. **Physical protection, moral, emotional support** are also very vital to the Courts in determining welfare.

4.7 How is Property Divided in Uganda?

- * Uganda's Constitution and Land Act gives men and women equal rights to own land and property. (*Article. 26 (1) and Article 237 (1) of the Constitution, Section. 2 Land Act Land is vested in citizens of Uganda*). Marriage in Uganda doesn't remove this right (*Article 31 (1) (b)*).
- * On divorce, courts can make various orders in relation to property, including that; the wife retains the matrimonial home and property division orders where property is sold and the proceeds divided between the spouses.
- * Matrimonial property is defined in a case of *Julius Rwabinumi v Hope Bahimbisomwe (Civil Appeal No. 30 of 2007) [2008] UGCA 19 (19 June 2008)* to mean "joint property between husband and wife and should be shared equally on divorce, irrespective of who paid for what and how much was paid... However, the application of the principle may vary depending on the nature of the marriage contract the spouses agreed to contract..."
- * The property to which each spouse at divorce is entitled to is that property *which the parties chose to call home and which they jointly contribute to*. This means that other types of property except property a person holds in trust for the clan may be considered matrimonial property".

In reaching any decision courts have regard to:

- a. Ensuring fair treatment of all parties
- b. Guaranteeing a just outcome for both sides irrespective of social or economic status
- c. Promoting reconciliation in the case of customary marriages
- d. In practice when it comes to division of property on divorce it's not unusual for women to forfeit property – even solely owned property. This is because of the ways certain customs and traditions in Uganda dictate that women cannot own property or can do so only to a limited extent. Where the marriage is a customary one, property rights are determined according to the customs of a specific tribe or community.

4.8 Case law related to marriage and its dissolution in Uganda

Division of property during divorce

- * **In the case of *Ambayo v Aserua* (Civil Appeal No. 100 of 2015) [2022] UGCA 272 (15 November 2022)**

Uganda's Court of Appeal handed down a decision stating that equality does not automatically mean equity, and that a claim for half of the property must be backed by facts if it is to succeed. In this case, they said, the facts did not warrant an equal split and the wife should get just 20% of the property.

Recognition of unpaid care work at divorce

- * In the same case *Ambayo v Aserua* (Civil Appeal 100 of 2015), the Court of Appeal recognized unpaid care work as that form of work that is not compensated by way of wages. It includes; caring for children, cooking, cleaning, doing laundry, fetching water, among others. These are considered as contribution of a spouse at the dissolution of a marriage.
- * Court reasoned that unpaid domestic care work ought to be computed at the market value of the of the services offered based on the knowledge, skills and character of a spouse, so as to determine the value of one's contribution to matrimonial property.

Chapter Five of the Simplified Guide covers land law, the different types of land tenure in Uganda, forms of land ownership and acquisition, proof of ownership, protecting one's interest in land, women and children's rights on land. Institutions for land administration and management including informal justice actors are also covered.

5.1 Relevant Laws

- * The 1995 Constitution of the Republic of Uganda – is the supreme law of the nation, which *protects the right of individuals or groups of individuals to own property/land either as individuals or in association with others* such as Savings and Credit Cooperative Society (SACCO) groups. Chapter 15 of the Constitution, lays out the land tenure systems and establishes key Land Administrative bodies.
- * The Land Act Cap 227 as amended *provides for the procedures of land management and administration in Uganda.*
- * Land Regulations No 100 of 2004 detail the *guidelines for land use in Uganda.*
- * Land Acquisition Act Cap 226 (under review) *guides the Government of Uganda on how it may acquire land from private citizens*, and in what circumstances and for what reasons it may do this. It also provides for the compensation of any citizen whose land the Government takes compulsorily.
- * Condominium Property Act 2001, *relates to property in a building or complex of buildings containing a number of individually owned apartments or houses.*
- * Mortgage Act 2009 is the *law relating to mortgages* in Uganda.
- * National Land Policy 2013 *provides for how land should be governed in Uganda.* It informs the making of different land laws to implement objectives in the policy as communicated by the government.
- * Petroleum, Exploration, Development and Production Act 2013
- * Physical Planning Act 2010 *regulates physical planning in Uganda*, including detailing how this is supposed to be executed. This also affects land management and administration in various ways.
- * Succession Act as amended provides for management of land/property inheritance at the family level in the event of a property owner's death.
- * Survey Act Cap 232 (under review)
- * Surveyors Registration Act
- * Administrator General's Act
- * The Landlord and Tenant Act, 2022 controls the relationship of Landlord and Tenant.
- * The Registration of Titles Act, 1924. Cap. 230 (under review) provides guidance for the legal and proper registration of titles in Uganda, including when to register, who can register, what land can be registered and the category of Certificate of Title to be given.

- * National Environment Management Authority Act Cap 153 *guides owners of land located near or around environmentally protected areas such as swamps, wetlands and other sensitive environments* on the do's and do nots of managing and exploiting such land without harming the environment.
- * Local Government Act Cap 243 *provides for land governance, and management, as well as putting in place administrative bodies such as the District Land Boards, Area Land Committees*, etc. at district level within the local government.

5.2 Land tenure systems in Uganda

- * The Constitution states that land in Uganda belongs to all citizens and is to be owned in various ways Article 237(1) and *Article 26(1) protects the right to own property either individually or in Association with others for instance groups of people who hold land communally.*
- * There are four categories of land tenure in Uganda: (Section. 2 Land Act as amended)
 1. Freehold Land
 2. Customary Land
 3. Mailo Land
 4. Leasehold Land

5.2.1 Freehold Land Tenure

- * Freehold is land which is registered and owned without time limits. (*Section. 3 (2) Land Act*).
- * Freehold tenure cannot be acquired or held by a non-Ugandan (*Section. 40 (4) Land Act*). A non-citizen can only acquire a lease on freehold land.

Acquiring Freehold Land and Proof of Ownership

- * Freehold grants are given to non-customary owners of land.
- * Through an application to the District Land Board (DLB) for a grant of land in freehold, by a non-customary owner of land who acquired the land by either purchase or otherwise. (*Section 10 Land Act*).
- * Through an application to the DLB for conversion of customary tenure to Freehold Tenure by a customary owner of land (*Section. 9 Land Act*).
- * Through an application to the DLB to convert a lease acquired out of former public land into freehold. A number of conditions set in the Land Act have to be met by the lessee before the lease can be converted (*Section 28 Land Act*).
- * Thereafter, a person can acquire freehold land through sale, gift and succession.
- * A Freehold Certificate of Title is proof of ownership (*Section 59 Registration of Titles Act*).

5.2.2 Leasehold Land Tenure

- * Leasehold Land is one under which the landlord/land owner grants another person called a tenant/lessor private ownership of land for a specific period of time in return for rent subject to terms and conditions as agreed upon. (*Section 3 (5) Land Act as amended*).
- * A person can get a lease from an individual, a local authority, an organization/Company, an institution like *Buganda* Kingdom or from Uganda government.

- * The minimum period for a lease to be registered for Ugandans is three (3) years, and five (5) years for non-citizens for maximum period of 99 years. (*section 40 (3) Land Act as amended*).
- * When that time expires, the lease also comes to an end and the land lord gets back the right to control his or her land. However, the tenant/lessee is free to re-apply for extension of the lease that he or she has been holding to landlord/landowner/lessor.
- * The person granted a lease for an agreed period of time is entitled to a Certificate of Title.
- * A person who owns land under leasehold can only use it based on the conditions that are stated in his or her lease agreement.
- * He or she can sell the lease, give it as security to a bank, construct a family or business building, or give it away in a Will.
- * Any beneficiary of this lease will still only own it for the number of years stated in the lease agreement.

The difference between Freehold and Leasehold Land Tenure System in that whereas Freehold is held forever leasehold is held for a specific period of time and on conditions agreed to in the lease agreement.

Acquiring Leasehold Land and Proof of Ownership

- * Private lease - a person or institution can obtain a lease from an owner of freehold, customary or mailo land.
- * Public lease - a person can also acquire a lease on public land from the DLB or ULC on former public land or Government land respectively. Such leases are usually granted for duration of 5, 49 or 99 years.
- * Government institutions (schools, hospitals, installations) are given automatic full terms of 49 or 99 years.
- * Any lease that was granted to a Uganda citizen out of former public land may be converted into freehold (Section. 28 Land Act as amended).
- * Mining leases - these are granted for mining purposes by the Geological Department to holders of mining licenses.
- * Ranching leases - these are granted to owners of gazetted ranches under the Ranches Restructuring Scheme.
- * A certificate of title is proof of ownership of leasehold land.
- * Unregistered leases can be proved by a lease agreement between the Lessor and the lessee.

5.2.3 Customary Land Tenure

Customary Land is held or owned communally or jointly by particular groups of people in a given area regulated by customary rules of a particular community.

- * It is most common land tenure system in the north, south and eastern parts of Uganda.
- * People own land and have rights to it, but majority do not have land titles.
- * Some owners on such land allocate specific areas to themselves with known and defined boundaries usually marked by ridges, trenches, trees and provisional mark stones.

- * Land under this system is owned forever and used according to the customs and practices of a community. Customary rules must not conflict with the Constitution of Uganda.
- * Land owned customarily is passed on through the clan, relatives or the family when a land owner dies.

Acquiring Customary Land and Proof of Ownership

- * By inheritance following traditions, customs, rules and practices of a given community.
- * Through sale, transfers, gift, or lease.
- * A Certificate of Customary Ownership is proof of ownership (Section. 4 and 6 Land Act as amended). Note: Not having a Certificate of Customary ownership does not take away ownership rights of a customary land owner.
- * Customary land can also be proved by witnesses, word of mouth supported by demarcations, receipts and sketches maps.

5.2.4 Mailo land tenure system

- * Mailo land is registered land which is owned without any time limits.
- * This is a system that is common in Buganda and certain areas in Eastern Uganda. This system was created by the 1900 Buganda Agreement which gave freehold title to the chiefs of Buganda in exchange for political co-operation.
- * The Mailo tenure system recognizes occupancy by tenants (locally known as Kibanja holders) these are people who settled on the land with the consent of the Mailo landowner.
- * Mailo land, like freehold is registered under the Registration of Titles Act. Under this tenure, the holder of a Mailo land title has absolute ownership of that land. Although the land originally belonged to chiefs, with time ordinary citizens started buying parts of this land from the chiefs and were issued with titles for it. An owner of land under the Mailo system has the same rights to his or her land as an owner of freehold land. This means they own the land forever and can conduct any lawful dealings with it.

Acquiring Mailo Land and Proof of Ownership

- * Some mailo owners acquired mailo land as a result of the 1900 Buganda Agreement, the repealed Busuulu and Envujjo Law of 1928; Toro Landlord and Tenant Law of 1937; and Ankole Landlord and Tenant Law of 1937 where land was given to prominent members of the kingdom.
- * Subsequent rights under Mailo tenure can be gained through sale, gift, inheritance, and subdivision.
- * A Mailo owner possess a Certificate of Title.
- * Proof of ownership for 'lawful' and 'bonafide occupants' is a Certificate of Occupancy, social occupancy by oral evidence and receipt of payment of ground rent. (Section 29. (1) and (2) Land Act as amended).

Table 5: Definition of ‘Lawful and Bonafide Occupants’

Lawful occupant	Bonafide occupants
One who pays <i>Busuulu</i> , (ground rent to the landlord) and <i>Envujjo</i> , (money/rent paid to the landlord as a result of using or settling on land).	A person, who prior to the coming into force of the 1995 Constitution occupied, utilized or developed a piece of <i>mailo land</i> unchallenged by the registered owner or agent of the registered owner for 12 years or more.
One who entered land with the consent of the registered <i>owner/mailo</i> owner.	One who was settled by government or its agents on land before coming into force of the 1995 Constitution.
One who before coming into force of the Constitution occupied land as a customary tenant but whose tenancy was not disclosed or compensated for by the registered owner at the time of acquiring the Leasehold Certificate.	

What are the rights of a Mailo owner of land?

A *mailo Land* owner can do anything with his/her land that is acceptable by the law subject to rights of the *Kibanja* holder(s).

Public Land and Land held in trust by Government

This is a form of land ownership in which the government owns land and has the right to lease it to any company, organization or individuals on specific terms and conditions.

Land held in trust by Government

Government or Local government shall hold in trust for the people, natural lakes, rivers, wetlands, forest reserves, game reserves, national parks and any land to be reserved for ecological (environmental) and tourists’ purposes for the common good of all citizens.

5.3. Protecting one’s interests in land

- Lodging a Caveat:** A caveat is an instrument that operates as security to protect the unregistered interests/claims to land. This is done through an application to the Registrar of Titles and before any registration on the title can be made, notice must be given. (Section. 139).
- Application to a Court:** Where one’s interest in land is under threat, she/he may apply to a court of law for an order by seeking remedies to protect this interest through a number of ways as follows;
 - An injunction to stop an act from being done on the land
 - An eviction in case of trespass on land
 - Compensation in case of deprivation

2. Registering Interest: One may apply for a Certificate of Title on which their names will be registered for proof of ownership. For the case of a lawful or bonafide occupant one may apply for a Certificate of Occupancy.

5.4 Institutions for land administration and management and their roles

The Constitution of Uganda and the Land Act establish institutions, which are mandated to oversee the regulation of land use and administration in Uganda. These include;

At National Level

- a. **Ministry of Lands, Housing and Urban Development (MLHUD)** - Provides policy direction, national standards and coordination of all matters concerning lands, housing and urban development. Passes policies and initiates laws that ensure sustainable land management. MLHUD promotes sustainable housing for all and encourages orderly urban development in the country.
- b. **Uganda Land Commission** - Holds and manages land owned and acquired by Government inside and outside the country. ULC is independent of any person or authority in the performance of its duties.

At District Level

- a. **District Land Boards (DLB)** - Holds and allocates land in the district which is not owned by any person or authority.
 - DLBs help people register and transfer of interests in land.
 - They cause surveys, plans, maps, drawings and estimates made by or through its officers.
 - They compile and maintain lists of rates of compensation payable in respect of crops and buildings of a non-permanent nature this is reviewed every year.

At Division or sub county level

- a. **Area Land Committees** - determines, verifies and marks boundaries of customary land within their parishes and advises DLBs in matters relating to land, including ascertaining land rights.

Other institutions

There are a number of other institutions dealing with land matters as a result of presidential directives and other administrative procedure and practice.

- a. **The Resident City/ District Commissioners (RCC/RDC)** - represents the President under the Kampala City Council Authority (KCCA) as provided under the KCCA Act 2010.
 - Under Article. 203 of the Constitution gives the President power to appoint RDCs/RCCs.
 - The RDC/RCC has a mandate to monitor Government funded projects, policies, and to implement local administration.
 - They may also carry out other functions as may be prescribed by the President or Parliament.
 - They chair security committees at city or district level-including land.

- RDC/RCC should not interfere in on-going court cases.
- RDC/RCC does not determine land ownership

b. Police Land Protection Unit - The Unit was formed to handle fraudulent or false land transactions.

- It has the Investigation Group - it probes and prosecutes offenders who have committed land fraud and related crimes.
- The Land Protection Group - acts to stop illegal evictions, it sensitizes the community on land issues and handles enforcement of court orders.
- The Unit works with; MLHUD, Administrator General's Office, Presidential Land Task Force CBOs and NGOs.
- Each police station is required to have a land desk.

c. State House Directorate on Land Matters

- The State House under the Office of the President formed a Directorate on Land.
- Although this office is not provided for under the law, the Directorate hears and determines disputes through mediation amongst parties in disagreement.

d. Informal Justice Actors

- * Ensure that land transactions are conducted within the customary principles and practices of the area which are not against the national norms, principles and practices.
- * Traditional/cultural leaders assist in verification of the applicants.
- * Determination of the boundaries.
- * Guiding parties to ensure the land has no disputes.
- * Acting as witnesses to the transaction.
- * Mediating land disputes and ensuring that individuals in a land dispute are given a fair hearing.
- * Representing interests of the customary landowners in their particular areas for example, can clan heads represent their respective people on matters concerning customary land.
- * Traditional/cultural leaders can guide the parties on ownership rights, clarify any customary rights of the community on that land like; access to water or right of way.

CHAPTER 6

TESTATE AND INTESTATE SUCCESSION

This law relates to managing a person's property when they die. It is also known as "*the law of succession, or inheritance*". There are two major types of succession/inheritance namely: testate and intestate succession.

6.1 Inheritance Laws of Uganda

- * The 1995 Constitution of the Republic of Uganda as amended
- * The Succession Act (SA) Cap 162 as amended
- * Administrator General's Act Cap 157
- * Public Trustee Act Cap 161
- * Administration of Estates (Small Estates) Special Provisions Act (Cap 156) as amended
- * Trustee Act (Cap 164)
- * The Estates of Missing Persons (Management) Act Cap 159
- * Administration of Estates of Persons of Unsound Mind Act Cap 155.
- * Registration of Titles Act Cap 230
- * Marriage Act Cap 251
- * Among others, the laws applicable under succession also depends on the parties.

Note: The Succession Act has undergone many amendments aimed at advancing gender equality. Some important characteristics of the Succession Amendment Act, 2022 relate to;

- a. Protecting the rights of those occupying 'principal' and other 'residential holdings',
- b. Increasing the share of the surviving spouse in the estate,
- c. Providing for the welfare of minor and dependent adult children,
- d. Removing offensive terms such as "lunatic, and illegitimate children", and
- e. Aligning the law with the Constitution, Constitutional decisions and other Laws of Uganda.

6.2 Frequently used terms in Succession or Inheritance

Administrator	A person granted Letters of Administration by a Court to manage an estate where a deceased person did not leave a Will; or where the deceased person left a Will but did not appoint an Executor/Executrix; or where the Executor/Executrix appointed under a deceased's Will dies, refuses to act or has been removed by a Court. (<i>Section.2 SA as amended</i>).
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Child/ren	Refers to both biological and legally adopted child/ren (child/ren adopted in a manner that is recognized in the Laws of Uganda and the Laws of other countries recognized in Uganda as valid adoptions).
Codicil	A document written by the deceased that supplements, modifies, explains or alters a Will or any part of a Will. It is considered as being part of the Will.
Customary heir/ heiress	A person recognized under the rites and customs of a particular tribe or community of a deceased person as being the customary successor of that person. A ‘customary heir/ress’ is different from an Administrator or Executor/Executrix of deceased estate. (<i>Section 2 (e) SA as amended</i>).
Dependent Relative	A relative who was at the time of the deceased’s death wholly dependent for the provision of the ordinary necessities of life suitable to a person of his/her station. It includes; a parent, sibling, niece, nephew, grandparent or grandchild. (<i>Section 2 (g) SA as amended</i>).
Estate	Property both movable and immovable of a deceased.
Executor/ Executrix	A person or institution appointed under a Will and empowered to implement it. The appointment of an Executor/Executrix must be confirmed by a Court.
Guardian	Refers to a person having legal and parental responsibility for a child such as a legal guardian (appointed by a Court of Law), testamentary guardian (appointed under a Will), and customary guardian (appointed according to customs, cultures and traditions to which the child, his or her parents subscribes to).
Intestate	A person who dies without making a Will. (<i>Section. 24 SA as amended</i>).
Intestate Succession	When a person dies without leaving a valid Will and their estate is managed according to the Succession Act.
Letters of Administration	A document of authority issued by Court to a person to manage an estate where a deceased person did not leave a Will; or where a deceased left a Will but did not appoint an Executor/Executrix; or where the Executor/Executrix appointed under a deceased’s Will dies, refuses to act or has been removed by a Court.
Lineal descendants	A person who has originated in a direct line from the deceased and includes a child, a grandchild of a deceased and any one related to the deceased in a direct descending line up to six degrees downwards. (<i>Section 2 (ma) SA as amended</i>).
Probate	A document of authority issued by a Court of Law to a person(s) indicated in the Will as the one(s) who should implement the wishes of the deceased in a Will.

Spouse	A husband or wife/ves legally married in accordance with the Laws of Uganda or laws of another country recognized in Uganda as a valid marriage. Upon the death of one's spouse, the survivor becomes a widower or widow(s). Civil, Hindu, Mohammedan/Muslim, Customary and Church marriages are the five legally recognized marriages in Uganda. (Section 2 (va) SA as amended).
Testate	A person who dies leaving a valid Will and their estate is distributed according to the Will.
Testator	A person who writes their Will.
Will	Expression of what a living person's wishes to happen to his or her estate upon his or her death.

Adapted from the UWONET Factsheet on the Succession Amendment Act, 2022

6.3 Testate Succession

This type of succession relates to managing an estate where a Will is left behind by the deceased. It shows the deceased's wish of how they want their property to be managed and/or distributed upon death.

Why it is important to write a Will;

1. A Will allows you to decide who will inherit/take over your property when you die, whether it's family members, friends, or charitable organizations.
2. A Will provides a clear plan for distributing your assets and reduces possible conflicts among family members.
3. It ensures that your wishes are respected and followed.

In Uganda, *the legal requirements for making a Will* are governed by various legislations, including:

- a. The Constitution of Uganda 1995 as amended:** This sets out fundamental principles and rights related to property ownership and inheritance (Article. 26 and 31(2) of the Constitution).
- b. The Succession Act Cap 162 as amended:** This is the principal legislation governing Wills in Uganda. It outlines the rules and procedures for making a Will, requirements for making a Will, rights of spouses and children, and estate administration and distribution.
- c. The Administrator General's Act:** This legislation provides for the appointment of an Administrator to handle the estate of a deceased person who died without a valid Will or whose Will is deemed invalid.
- d. Islamic Law and Customary Law:** These laws may apply to individuals who adhere to Islamic or customary practices and have specific rules regarding Wills and inheritance.

Note: One can write their own Will without the assistance of a lawyer. However, it is recommended to seek legal advice to ensure that you meet all legal requirements.

6.3.1 Content of a Valid Will

- * May be written in any language.
- * Must be signed by the person who wrote it.
- * Identify yourself as the person who wrote the Will (provide your full name, address, and date of birth).
- * Clearly state that the document is your last Will and testament. Add a sentence cancelling any previous Wills and/or amendments to your Will.
- * Must be signed by two other persons as witnesses, who should not be beneficiaries to the Will.
- * Each page of the Will should be dated and signed in the presence of at least two witnesses.
- * The name, addresses, and places of origin of the person writing it must be indicated.
- * Must include the names and addresses of the people to whom property has been given.
- * Must the list of property and how it is to be distributed.
- * Name of the guardian for one's children below 18 years if age if applicable.
- * Name the Executor/Executrix, who is the person supposed to carry out all the wishes in the Will.

Beneficiaries may be; a person, business, group of people (such as child/ren, legal spouse or grandchildren) or charitable organization.

6.3.2. Who can make a valid Will?

- * Must have been made voluntarily, and while the person who made it was of sound mind and above eighteen years (Section 36 SA as amended).

6.3.3. Storage and accessibility of a Will

- * After writing a Will, it is important to store it in a safe and accessible place.
- * You can inform your executor/executrix, trusted family member, or lawyer about the location of your will.

Consider the following options for storing your Will:

1. Home safe or locked away - fireproof and protected from theft or damage.
2. Bank safety deposit box: Contact your bank to inquire about their procedures and fees for storing important documents.
3. Lawyer's office: If you sought legal assistance, your lawyer may offer to store your will securely.
4. Other respectable people within the community such as local and religious leaders can keep your Will.

6.4 Administering a Testate Estate (where there is a Will)

Obtaining Letter of Probate (Part XXIX SA as amended).

1. The person applying to court for grant of probate by a petition that is filed in court should be the Executor/Executrix named in the Will.
2. 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 – see the monetary jurisdiction of the Courts of Law provided under Chapter One of this Simplified Guide.
3. Obtain a Death Certificate (from National Identification and Registration Authority [NIRA]) and post-mortem report.
4. 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.
5. Estimate the value of the estate.
6. Indicate the relationship between the applicant and the deceased and their attach ID.
7. Include letter from the LCI Officials of the place where the deceased was buried.
8. Obtain an introduction Letter from applicant's LCI.
9. Passport photos of the Applicant.
10. A person to whom Probate or Letters of Administration is granted shall carryout their duties and functions for a period not exceeding two years. (Section. 258 and 259 SA as amended).

LCCs have no powers to distribute property under a Will, but to protect the property of the deceased on behalf of his or her children! A sample copy of a Will is included the Annexes to this Simplified Guide.

6.5 The Office of the Administrator General

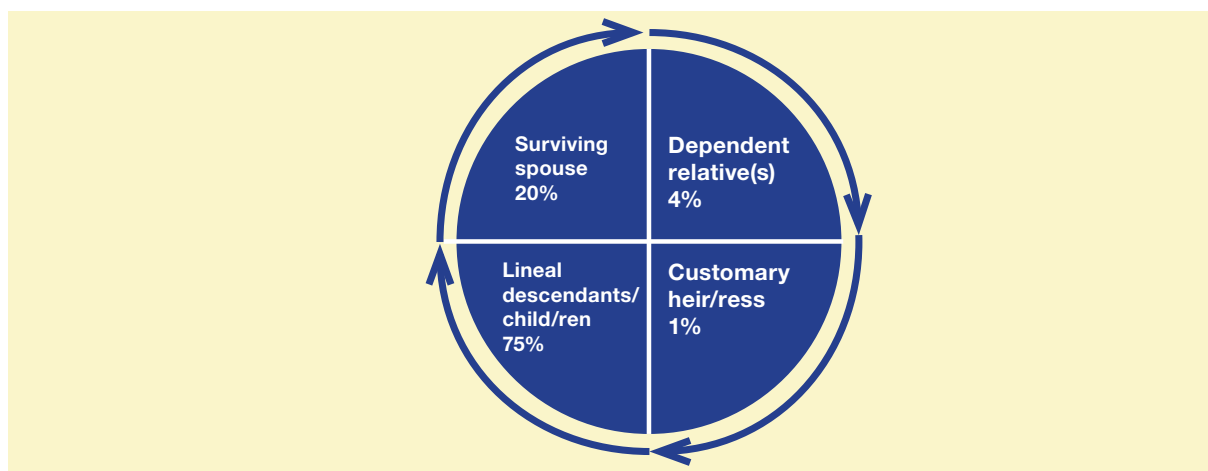
- * The Office of Administrator General is created under Section 2 of the Administrator General's Act Cap 157.
- * The Administrator General is given the mandate to; a) administer estates, b) issue Certificates of No Objections, c) and to verify beneficiaries among other matters.
- * The Administrator General is also the 'Public Trustee'.
- * At the District, Chief Administrative Officers (CAO), the Gombolola (Sub County) chiefs, and in Kampala - Division mayors act on behalf of the Administrator General.
- * The Administrator General regional offices are located in; Mbarara, Arua, Mbale, Gulu, Moroto, Fort portal and Soroti.
- * The Office of the Administrator General manages estates of deceased persons, who die without leaving a Will, or where a Will has been left but disputes arise in the management or distribution of the deceased person's property.

6.6 Intestate Succession

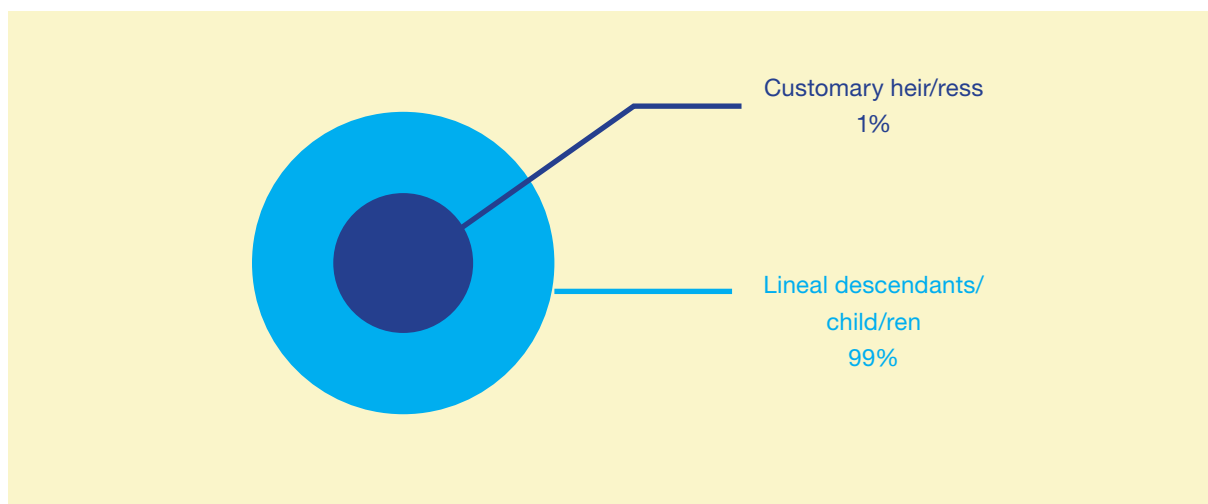
- * The Succession Act (SA) as amended defines intestate succession as the type of succession where a person dies without having made a Will.
- * The same law provides for categories of people who are entitled to benefit from the deceased's estate under these circumstances and in what percentages. These include wives or husband, children, customary heir, and dependents.
- * The Office of Administrator General is created by the law under Section 2 of the Administrator General's Act Cap 157. Under the Act, the Administrator General is given the mandate to; a) administer estates, b) issue Certificates of No Objections, and c) to verify beneficiaries among other matters.

6.6.1 Distribution of the property of an intestate (one who dies without making a Will)

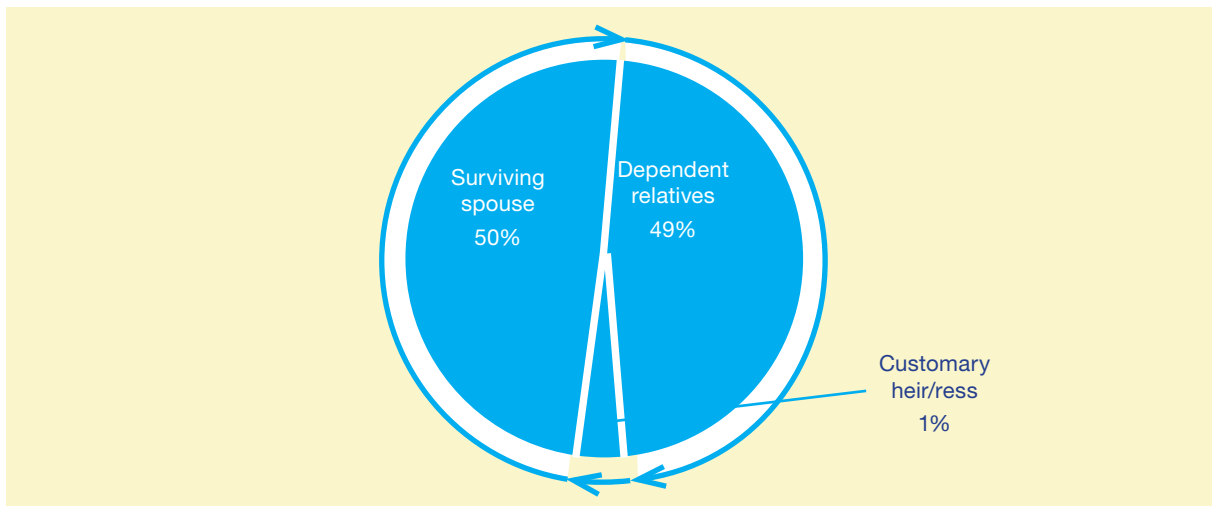
1. Where the deceased does not leave a Will and is survived by; a spouse, child/ren, a dependent relative, and a 'customary heir/ress' (Section. 27 (1) (a) of the SA as amended).



2. Where there is no surviving spouse or dependent relative but there are child/ren and 'customary heir/ress' (Section. 27 (1) (b) of the SA as amended).



3. Where the intestate is survived by a spouse, a dependent relative and a 'customary heir/ress' but no lineal descendant/child/ren (Section. 27 (1) (c) of the SA as amended).



4. Where a deceased person is survived by 'customary heir/ress', spouse or dependent relative (Section. 27 (1) (d) of the SA as amended).

Where a deceased is survived by only a 'customary heir/ress' and there is no surviving spouse, child/ren or dependent relative, the property will be divided equally amongst the person's nearest relatives. (Section. 27 (1) (e) of the SA as amended).

Note:

- A spouse who remarries before the estate of the deceased is distributed shall be entitled to his or her share as detailed above (Section. 27 (7) of the SA as amended).
- Where the customary heir/ress is at the same time a lineal descendant of the intestate, the customary heir/ress shall in addition to his or her share be entitled to share as a "lineal descendant." (Section. 27 (8) of the SA as amended).
- The Administrator(s) must set aside 25% of the estate for the education, maintenance, and welfare of the following categories of lineal descendants until they cease to qualify as such;
 - A minor child of the intestate and where he or she attains eighteen years of age,
 - A lineal descendant of the deceased who is above eighteen years of age but below twenty-five years of age if, at the time of the death of the intestate, was undertaking studies and was not married;
 - A lineal descendant of the intestate, who has a disability at the time of the death of the intestate was not married and was wholly dependent on the intestate for his or her livelihood.
- 25% of the gross estate shall be deducted for minors, lineal descendants still at school as well as those with disability before the distribution.
- Where an estate produces an income by way of periodical payments, the 20% is expected to come from that income.

- Where there are no minors, school-going lineal descendants or disabled, the twenty percent will form part of the distribution schedule. (Section 27 (3), (4), (5), and (6) SA as amended).

6.6.2 How to obtain Letters of Administration; (where a person died without leaving a will)

1. 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.
2. A person presents a Petition to court requesting for a Grant of Letters of Administration.
3. Attach to the Petition the following; summary of evidence, list of documents, witnesses and authorities (cases or laws).
4. 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.
5. The notice of the petition is advertised in the newspapers for a period of 14 days.
6. 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.
7. If no caveat is lodged, then the petitioner will be granted Letters of Administration by court.

Who can petition for Letters of Administration?

- * Any person, 21 years old or above;
- * Of sound mind; and
- * Is related to the deceased either by blood or by marriage that is: children (or grandchildren if children have died); parents; siblings (or nieces and nephews over 18 years old if siblings have died); half-siblings (or nieces and nephews over 18 years old if half-siblings have died); grandparents; and/or aunts or uncles.

Where should a petition for Letters of Administration be filed?

- * The petition should be filed in the court with jurisdiction (authority) where the property of the deceased is located.
- * If the property of the deceased exceeds fifty (50) million shillings then the petition must be filed in the High Court.
- * If the property of the deceased does not exceed fifty (50) million shillings then the petition may be filed in the Chief Magistrates Court.

Roles of Administrator(s)

In the cases of *Anecho Haruna Musa (Legal Representative of Adam Kelili) Vs. Twalib Noah, Adam Juma and Maliyamungu Majid Civil Suit No. 009 of 2008* the court made the following observations;

- a. An administrator of a deceased person is his or her legal representative.
- b. The administrator is responsible for the deceased's estate on behalf of the beneficiaries.

- c. The administrator's role is merely distribution.
- d. An administrator must keep the estate assets totally separate and apart from his or her own.
- e. An administrator should not mix the estate assets with his or her personal assets, or use them for his or her purpose.
- f. The duties of an administrator are a short-lived process.
- g. An Administrator is required to file a report within a year of being granted Letters of Administration.
- * Residential holding refers 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. (The Mortgage Act, 2009 Section. 2).
- * Under intestate succession, this property should not be distributed. 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. In the case of the children, upon the attainment of eighteen years for boys and twenty-one years for girls.

6.8 Offences

- * An executor or executrix who, before the grant of probate or letters of administration, misapplies the estate of the deceased person or subjects it to loss or damage, is guilty of an offence and is, on conviction, liable to imprisonment for a term of two years or to a fine not exceeding forty-eight currency points, or both.
- * The convicted person shall be liable to make good, to the estate and the beneficiaries of the estate, the loss or damage caused. (Section 189 (2) and 192 SA as amended).
- * It is an offence for any person to evict or attempt to evict from the residential holding (main residence); any spouse, minor child/ren, lineal descendant above 18 years studying or has a mental or physical disability of an intestate. (Schedule. 2 SA as amended). This offence is punishable with imprisonment not exceeding three years or a fine not exceeding seventy-two currency points or both. A currency point is equivalent to twenty thousand shillings." (Schedule. 2 SA as amended).
- * A person who interferes with the estate of a deceased person commits an offence and is liable, on conviction to a fine not exceeding one thousand currency points or imprisonment not exceeding ten years, or both. (Section. 268 SA as amended).
- * An executor, executrix, administrator or administratrix who misapplies, misappropriates or fails to account for the proceeds, causes loss or damage from the deceased's estate commits an offence and is liable, on conviction, to imprisonment for a term of three years or to a fine not exceeding one thousand currency points, or both. (Section. 332 SA as amended).

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Annex 1: Last Will and Testament

LAST WILL AND TESTAMENT of

(Full Names)

(Village, District, Address)

1. Declaration

I hereby declare that this is my last Will and Testament and that I hereby revoke, cancel and annul all Wills and Codicils previously made by me. I declare that I am of legal age to make this will and of sound mind and that this last Will and testament expresses my wishes and I make it freely without any threat, force, or compulsion.

2. Family Details

I have the following adult children:

Name: _____ Date of Birth _____

Name: _____ Date of Birth _____

I am married to _____ hereinafter referred to as my spouse.

I have the following minor children:

Name: _____ Date of Birth _____

Name: _____ Date of Birth _____

3. Appointment of Executors

3.1. I hereby nominate, constitute and appoint _____ as Executor or if this Executor is unable or unwilling to serve then I appoint _____ as alternate Executor.

3.2. I hereby give and grant the Executor all powers and authority as are required or allowed in law.



3.3. Pending the distribution of my estate my Executors shall have authority to carry on any business in which I may have any interest at the time of my death.

3.5. My Executors shall have full and absolute power in his/her discretion to sell all or any assets of my estate, and shall be entitled to let any property in my estate on such terms and conditions as may be acceptable to my beneficiaries.

4. Guardian

4.1. Failing the survival of my spouse as natural guardian I appoint _____ or failing him / her I appoint _____ to be the legal Guardian of my minor children named: _____ and _____ until such time as they attain the age of _____ years.

5. Bequests to my Adult Children

5.1. I bequeath to my adult child named _____, if he or she survives me by 30 (thirty) days, the following:

_____ I bequeath to my adult child named _____, if he or she survives me by 30 (thirty) days, the following:

5.2. Should any of my adult children named above not survive me by 30 (thirty) days, I direct that the bequest(s) made to him or her shall go to his/her natural, adopted or step children in equal shares.

6. Remaining Property

Save for the bequests listed in 5.1. and 5.2. above I bequeath the remainder of my estate, property and effects, whether movable or immovable, to my spouse _____ in the knowledge that he / she shall provide for our minor children named _____ and _____.

7. Alternate Beneficiaries

7.1. Should my spouse not survive me by thirty (30) days I direct that the remainder of my estate as referenced in paragraph 6 above be divided amongst my minor children named _____ and _____ in equal shares.

7.2. Should my said spouse and I and my minor children all die simultaneously or within 30 (thirty) days of each other as a result of the same accident or calamity, then and in that event, I direct that the remainder of my estate as referenced in paragraph 6 above be divided amongst my adult children named _____ and _____ in equal shares and thereafter his/her natural, adopted or step children in equal shares where an adult child does not survive to benefit from this provision.

8. Special Requests

I direct that on my death I shall be buried at my family home in _____.

9. General

Should any provision of this Will be judged by an appropriate court of law as invalid it shall not affect any of the remaining provisions whatsoever.

Signed on this _____ day of _____ 20____ at this location _____
 _____ in the presence of the undersigned witnesses.

SIGNED: _____

WITNESSES

As witnesses we declare that we are of sound mind and of legal age to witness a Will and that to the best of our knowledge _____, the author of this Will, is of legal age to make a Will, appears to be of sound mind and signed this Will willingly and free of undue influence or duress. We declare that he / she signed this Will in our presence as we then signed as witnesses in his/her presence and in the presence of each other witness, all being present at the same time.

Under penalty of perjury we declare these statements to be true and correct on this

_____ day of _____ 20 ____

at this location _____.

Witness 1.

Name: _____

Address: _____

Signature: _____

Witness 2.

Name: _____

Address: _____

Signature: _____

Annex 2: Sample Mediation Agreement**MEDIATION AGREEMENT**

This is an Agreement between _____ and _____ and _____, hereinafter referred to as “mediator,” to enter into mediation with the intent of resolving the following issues: _____

_____.

The parties and the mediator understand and agree as follows:

1. Nature of Mediation

The parties hereby agree to _____ acting as their mediator. The parties understand that mediation is an agreement-reaching process in which the mediator assists parties to reach agreement. It is understood that the mediator has no power to decide issues for the parties. The parties understand that the mediator has an obligation to work on behalf of all parties and that the mediator cannot offer individual legal advice to any party.

2. Scope of Mediation

The parties understand that it is for the parties, with the mediator’s help, to determine issues to be settled and this will be done early in the mediation process.

3. Mediation is Voluntary

All parties here state their good faith intention to complete their mediation by an Agreement. It is, however, understood that any party may withdraw from or suspend the mediation process at any time, for any reason.

The parties also understand that the mediator may suspend or end the mediation if he/she feels that the mediation will lead to an unjust or unreasonable result; if the mediator feels that the parties have completely failed to agree; or if the mediator determines that he can no longer effectively perform his/her facilitative role.

4. Confidentiality

It is understood between the parties and the mediator that the mediation will be strictly confidential. Mediation discussions, any draft resolutions and any unsigned mediated agreements shall not be admissible in any court or other contested proceeding. Only a mediated agreement signed by any parties will be so admissible. The only other exceptions to this confidentiality are if all parties waive confidentiality in writing or in an action brought by any party against the mediator. The parties agree not to call the mediator to testify concerning the mediation or to provide any materials from the mediation in any court proceeding between the parties. The mediation is considered by the parties and the mediator as settlement negotiations. All parties also understand and agree that the mediator may have private meetings and discussions with

any individual party, in which case all such meetings and discussions shall be confidential between the mediator and the party.

5. Full Disclosure

Each party agrees to fully and honestly disclose all relevant information and writings as requested by the mediator and all information requested by any other party, if the mediator determines that the disclosure is relevant to the mediation discussions. In family mediation cases, each party agrees to fully and accurately disclose all income, assets and debts.

6. Mediator Impartiality

The parties understand that the mediator must remain impartial throughout and after the mediation process. Thus, the mediator shall not advance the interests of any party over another in the mediation nor in any court or other proceeding.

DATED this ____ day of _____, 20__.

Signed by:

PARTY

1) _____

PARTY

2) _____

MEDIATOR

1) _____



Annex 3: Template of a Formal Letter

ABC Women's Support Organization
X Sub-County, Parish, Village
Y District.

Date: (Day, Month, Year)

Our reference:

The District Police Commander,
Y District.

Dear Sir/Madam,

RE: Madam Z

I am writing about the case of Madam Z who reported to our office on (Day, Month, Year) at X Local Council I Village a case of assault and battery against Mr. U her husband. I understand the accused was arrested on (Date, Month, Year) and detained at (XX Police Station). Mr. U recently returned to the village and he continues to be aggressive to Madam Z.

The purpose of this letter is to kindly request that you look into Madam Z's case to ensure that due process of the law is followed.

I would appreciate your assistance and I look forward to hearing from you on this important matter. Thank you for your continued support and cooperation.

Yours sincerely,

MA (Mrs.)

**COMMUNITY LEGAL VOLUNTEER
ABC WOMEN'S SUPPORT ORGANIZATION.**

Template of a Referral Letter

LETTERHEAD

Or address of the addresser.

Our reference:

Date (Day, Month, Year):

To: _____

Dear Sir/Madam,

RE: NAME OF PERSON: _____

NATURE OF PROBLEM: _____

With reference to the above we would be grateful if you could assist Mr./Mrs./Ms. in this matter.

We have investigated Mr./Mrs./Ms.'s situation related to: _____ (state brief facts of the complaint) and are satisfied that your honorable office would be the most appropriate to handle his/her case.

We have requested Mr./Mrs./Ms. to bring the following documents with him/her:

We thank you in advance for your kind cooperation in this matter. If you have any queries please do not hesitate to contact us.

Yours Sincerely,

[Signature]

Name and designation

C.c. Client



Police Form 3A for Medical Examination of a Victim of Sexual Assault



UGANDA POLICE

POLICE FORM 3A

MEDICAL EXAMINATION OF A VICTIM OF SEXUAL ASSAULT

PART (a)

REQUEST FOR MEDICAL EXAMINATION OF A VICTIM OF SEXUAL ASSAULT

(To be filled by a Police Officer in duplicate)

TO: MEDICAL/HEALTH PRACTITIONER*

.....

Police Unit:

Police Case No:

Please examine

Who is a victim in a case and has been sent to you on
the day of 20.....

Please report your findings in part (b) below. The duplicate should be kept at the health unit.

Name of the Police Officer: Force No: Rank:

Signature: Telephone contact:

PART (b)

MEDICAL EXAMINATION OF A VICTIM OF SEXUAL ASSAULT

(To be filled by a Medical/Health Practitioner in duplicate)

1) Place of Medical Examination:

.....

.....
Signature and Stamp of Examining Practitioner Date of Examination

**Medical Health Practitioner means a clinical officer, registered midwife or a medical doctor*

2) Particulars of the victim

Name:.....

Sex:..... Occupation:..... Marital Status:.....

Place of Residence:.....

3) State the apparent age based on your medical examination and briefly explain how the age was estimated.

.....

.....

.....

4) History and Circumstances of the incident(s) as narrated to the practitioner.....

.....

.....

.....

Name of Narrator: Relationship to victim:.....

5) General examination (Note the physical condition of the victim and the state of clothing where applicable).

.....

.....

.....

6) Mental Status (include behaviour and emotional state).

.....

.....

.....

7) Examination of the regions of the body. (Carefully document the nature, number, position, age and dimensions of all injuries and show them on the pictogram on page 4).

(a) Head and Neck (including the mouth):.....

.....

.....

.....

(b) Chest and Breast:.....

.....

.....

.....

(c) Abdomen and Back:.....

.....

.....

.....

.....
Signature and Stamp of Examining Practitioner.....
Date of Examination

(d) Upper and lower Limbs:.....
.....

(e) Genitals:.....
.....

(f) Buttocks and anus (where applicable):.....
.....
.....

8) What is/are the probable cause(s) of the above injuries?.....
.....
.....

9) Materials/samples for purposes of analysis/evidence (indicate materials/samples taken for purposes of analysis/evidence).....
.....
.....

10) Other investigations e.g Ultra-sound scan and X-rays.....
.....
.....

NB: Report and attach the results of the investigations in (9) and (10) above if available.

11) State whether there is need for referral or review and the reasons thereof.....
.....

12) State any other relevant observations.....
.....
.....

Name of Examining Medical/Health Practitioner:.....

Title..... Qualifications:.....

Telephone contact and physical address:.....

.....
Signature and Stamp of Examining Practitioner

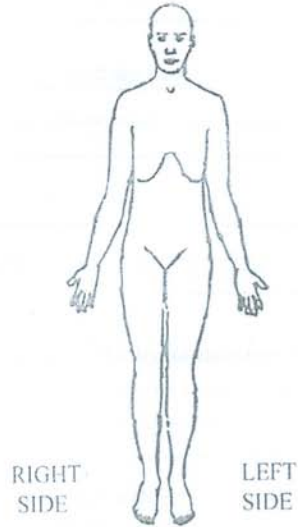
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Date of Examination

MEDICAL EXAMINATION OF A VICTIM OF SEXUAL ASSAULT

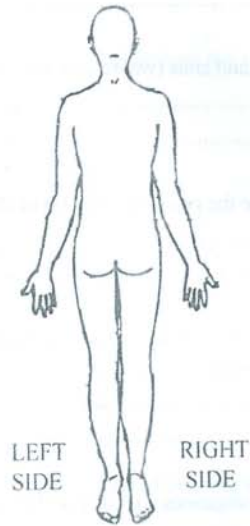
3

PICTOGRAM FOR EXAMINATION OF A VICTIM OF SEXUAL ASSAULT

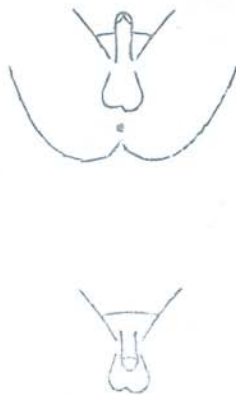
FRONT OF A PERSON



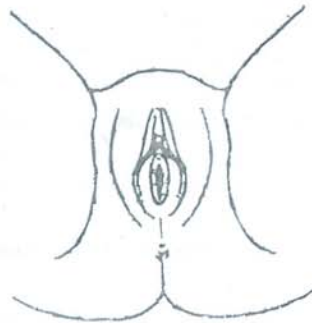
BACK OF A PERSON



MALE ORGAN OF A PERSON



FEMALE ORGAN OF A PERSON



.....
Signature and Stamp of Examining Practitioner

.....
Date of Examination

MEDICAL EXAMINATION OF AN INJURED PERSON

4



Police Form 24A for Medical Examination of a Person Accused of Sexual Assault



THE REPUBLIC OF UGANDA

Police Form 24 A

UGANDA POLICE

MEDICAL EXAMINATION OF A PERSON ACCUSED OF SEXUAL ASSAULT

PART (a)

REQUEST FOR MEDICAL EXAMINATION OF A PERSON ACCUSED OF SEXUAL ASSAULT

(To be filled by a Police Officer in duplicate)

TO: MEDICAL/HEALTH PRACTITIONER*

.....

Police Unit:

Police Case No:

Please examine.....

Who is a suspect/accused in a.....case and has been sent to you on the.....day of.....20.....

Please report your findings in Part (b) below. The duplicate should be kept at the health unit.

Name of Police officer: Force No..... Rank.....

Signature:Telephone contact:

PART (b)

MEDICAL EXAMINATION OF A PERSON ACCUSED OF SEXUAL ASSAULT

(To be filled by a Medical/Health practitioner in duplicate)

1) Place of Medical Examination-----

SIGNATURE AND STAMP OF EXAMINING PRACTITIONER

DATE OF EXAMINATION

* Medical/ Health practitioner means a clinical officer or a medical doctor

2) Particulars of the suspect/accused

Name-----
 Sex ----- Occupation-----
 Place of Residence -----
 Place of Work -----

3) State the apparent age based on your medical examination and briefly explain how the age was estimated -----

4) HIV test results -----**5) General examination (Note physique and any relevant disabilities)-----**

6) Mental status (State whether normal or abnormal and if abnormal, give reasons)

7) Examination of the regions of the body. (Carefully document the nature, number, position, age and dimensions of all injuries and show them on the pictogram on page 4)

(a) Head and Neck (including the mouth) -----

(b) Chest and Breast -----

(c) Abdomen and Back-----

(d) Upper and lower limbs-----

(e) Ano-Genital Examination -----

 SIGNATURE AND STAMP OF EXAMINING PRACTITIONER

 DATE OF EXAMINATION

MEDICAL EXAMINATION OF A PERSON ACCUSED OF SEXUAL ASSAULT

2

8) What is/are the probable cause(s) of the above injuries? -----

9) Material /samples for purposes of evidence (Indicate materials/samples taken for purposes of analysis/evidence)-----

10) Other investigations e.g Ultra-sound scan and X-rays-----

NB: Report and attach the results of the investigations in 9) and 10) above if available.

11) State any other relevant observations-----

Name of Examining Medical/Health practitioner -----

Title----- Qualifications -----

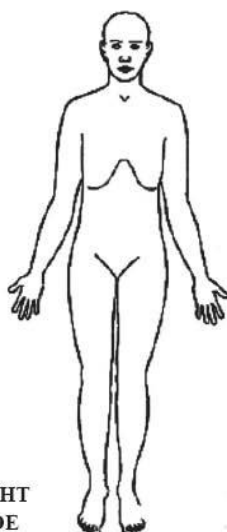
Telephone contact and physical address -----

SIGNATURE AND STAMP OF EXAMINING PRACTITIONER

DATE OF EXAMINATION

PICTOGRAM FOR EXAMINATION OF A PERSON ACCUSED OF SEXUAL ASSAULT

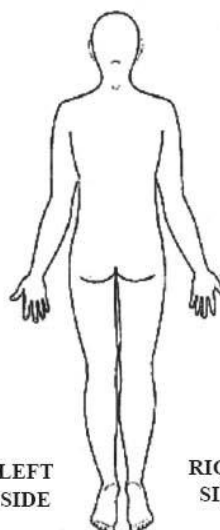
FRONT OF A PERSON



RIGHT
SIDE

LEFT
SIDE

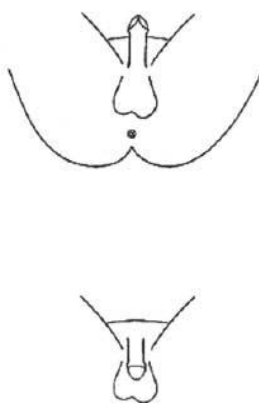
BACK OF A PERSON



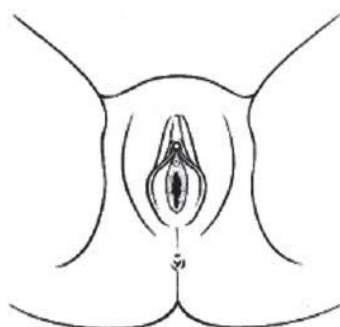
LEFT
SIDE

RIGHT
SIDE

MALE ORGAN OF A PERSON



FEMALE ORGAN OF A PERSON



SIGNATURE AND STAMP OF EXAMINING PRACTITIONER

DATE OF EXAMINATION

International Laws on Human Rights and Women's Rights

1. The Universal Declaration of Human Rights (UHDR), 1948, is the first document also referred to as the foundation of human rights laws. It sets out the fundamental human rights to be protected world over. The UDHR, together with the two covenants³ make up the International Bill of Rights.
2. International Covenant for Civil and Political Rights (ICCPR), 1966 and its two optional protocols.⁴ ***Optional Protocols are legal instruments related to an existing treaty that addresses issues that the main treaty does not cover adequately.*
3. International Covenant for Economic, Social and Cultural Rights (ICESCR), 1966
4. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979
5. Convention on the Rights of the Child (CRC), 1990
6. Declaration on Elimination of Violence against Women (DEVAM)
7. International Conference on Population and Development (ICPD) 1994
8. Beijing Platform for Action (BPfA) 1995
9. United Nations Security Council Resolutions on Women, Peace and Security (UNSCRs 1325, 1820, 1888, 1889, 1860, 2106 and 2122
10. ILO Gender Equality Conventions
11. Sustainable Development Goals (SDGs) *SDG 5 on Gender Equality and SDG 16 on peaceful, effective, accountable and inclusive justice institutions, SDG targets and indicators

Regional Level Instruments

1. African Charter on Human and People's Rights ("Banjul Charter"), 1981
2. Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol), 2003
3. Solemn Declaration on Gender Equality in Africa, 2013
4. Maputo Declaration on Gender Mainstreaming (2003)
5. International Conference of the Great Lakes Region (ICGLR) Protocol (2006) on Prevention and Suppression of Sexual Violence against Women and Children
6. African Charter on the Rights and Welfare of the Child

³ ICCPR, and the ICESCR).

⁴ The First Optional Protocol allows victims of human rights violations (state parties, general comments on thematic matters and Individual complaints) to be heard while the second optional protocol aims to abolish the death penalty.

With Support from:



Kingdom of Netherlands



Uganda Women's Network (UWONET),
Plot 710, Block 216, Mirembe Close,
Buuye Kigowa, Ntinda–Kampala, Uganda



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