



The Domestic Violence Law; Keeping every man, woman and child in Uganda safe at home!”

Promoting Access to justice for Gender Based Violence survivors in Uganda (August 2015).

Introduction

Gender Based Violence (GBV) remains a severe challenge in Uganda despite the availability of laws to protect women against the vice. The 2010 DV Act defines domestic violence as any act which **“harms, injures or endangers the health, safety, limb or well-being, whether mental or physical, of the victim or tends to do so and includes causing physical abuse, sexual abuse, emotional, verbal and psychological abuse and economic abuse; harasses, harms, injures or endangers the victim with a view to coercing him or her or any other person related to him or her to meet any unlawful demand for any property or valuable security; has the effect of threatening the victims or any person related to the victim by; or otherwise injures or causes harm, whether physical or mental, to the victim”.**

For instance, the annual crimes report by the Uganda Police Force shows that cases of defilement increased by 20% between 2009 and 2013.¹ On the other hand, despite the increase in reported cases of GBV, nearly half of the perpetrators/offenders go unpunished. For instance, according to the statistics from the Directorate of Public Prosecution, out of 804 new rape and 8,469 defilement cases reported in 2013, only 51% were sanctioned (DPP, 2014).² Furthermore, about one in every four files for rape or defilement cases registered at the DPP office are closed due to lack of evidence. The Domestic Violence Act (2010) identifies the Directorate of Public Prosecution (DPP) and judiciary as some of the key duty bearers responsible for addressing GBV cases.

The 2012 National Gender Based Violence (NGBV) policy outlines the functions of the DPP to include: (i) provision of timely court processes to ensure that perpetrators are apprehended and survivors access justice; (ii) provision of legal assistance and support to GBV survivors/victims; (iii) planning and adequate allocation of budget for GBV case management; and (iv) recording and managing the statistics of prosecuted GBV cases. On the other hand, the mandate of the judiciary under the policy includes: (i) building capacity of judiciary staff in handling of GBV cases; (ii) establishing mechanisms and strengthening special courts for GBV cases; and (iii) plan and budget resources for prosecuting perpetrators of GBV.

This brief highlights the gaps in implementation of the National Action Plan on GBV by Justice Law and Order Sector (JLOS) institutions in Uganda. It is based on the analysis of the 2014/15 JLOS Ministerial Policy Statement.

Gaps in JLOS implementation of the National Action Plan on GBV

- 1) Recognition by JLOS institutions of the requirement to implement the Domestic Violence Act (DVA) provisions is not matched with corresponding budget allocations. For example, the 2014/15 JLOS ministerial statement mentions Fast-tracking investigation, prosecution and adjudication of SGBV cases yet there is no direct budget provisions.

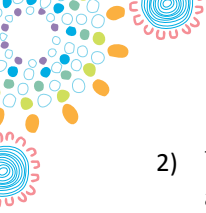
Mission: To advocate for the Implementation of the Domestic Violence Act 2010.



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- 2) The DPP has created a department of gender based violence to address bias and discrimination in access to justice by the GBV survivors. However, like other government departments which have set up gender desks and appointed GBV focal officers, the appointed focal officers do not have enough powers to push through issues regarding budget allocation.
- 3) The judiciary is yet to establish and maintain special courts for GBV cases. Without specialized courts, GBV cases can be registered in criminal registers and criminal cases take a very long duration before resolution—at least one year. Related, there are no temporary shelters for survivors of GBV at court premises.
- 4) A number of judicial official are not aware of the provision under the DVA and also do not have copies of the law for reference. There is a tendency is to regard cases of GBV as domestic disputes that would be better settled without the courts' intervention. In most cases, mediation, reconciliation and forgiveness is encouraged with an intention of preserving the marriage institution and means of reducing the case backlog. Although, counselling and reconciliation are provided for under the DVA, it should not be considered a convenient way of resolving cases, regardless of the nature and gravity of the violence. Light treatment of GBV cases can result in the victims losing trust and confidence in the law because they perceive it as a mechanism that offers them no protection.
- 5) Another shortcoming affecting JLOS institutions GBV response relates to data collection and management. Interventions targeting GBV are in some instances lumped together with regular interventions targeting gender mainstreaming. At present, it is mainly SGBV cases that appear to be appropriately captured by law enforcement agencies. Furthermore, institutions such as the DPP reports only on rape and defilement cases investigated/prosecuted and not any other form of GBV cases. Indeed, the DPP case management statistics only capture information on SGBV i.e. rape and defilement; other cases of GBV appear lumped in the other criminal case categories.

Analysis of GBV activities in the 2014/2015 budget proposals for Justice Law and Order Sector

List of intervention: Source 2014/2015 budget estimates	Issues addressed in GBV policy	Budget Allocation 2014/15 (UGX millions)	Analysis	Proposed activities	Estimated Cost (UGX millions)
1. Develop Prosecutors Standard Manual for handling children and SGBV cases	Mainstream GBV issues in legislations, programmes and plans.			Print and disseminate the prosecutor manual for handling of SGBV cases	60
2. Train staff in SGBV and gender laws		30,000,000		Build capacity of DPP staff on GBV issues; Conduct in-house training of JLOS staff in handling of GBV cases	210
3. Undertake a gender audit					
4. Develop guidelines for handling SGBV cases					

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List of intervention: Source 2014/2015 budget estimates	Issues addressed in GBV policy	Budget Allocation 2014/15 (UGX millions)	Analysis	Proposed activities	Estimated Cost (UGX millions)
5. Translate DVA in local languages	Strengthening coordination among public institutions				
6. Train judicial officers in gender	Enhancing access to essential services for survivors	60,000,000			
7. Establish and maintain special courts for GBV cases				Establish one court with safe room (construction furnishings)	250
8. Simplify the 2012 FGM Act and disseminate copies of NGO guidelines					
9. Provide legal assistance and support to GBV survivors/ victims			Plan and adequately budget for GBV case management	Provide transport refund for witnesses	800
11. Provisions for police surgeon costs for PF3A	Enhancing access to essential services for survivors			Support health workers who complete the PF3A; UGX 50 million per quarter	200
Total		90,000,000			1,520

Recommendations:

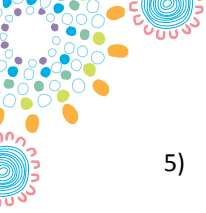
- 1) Appoint senior officers to the Gender desks within the JLOS institutions and train prosecutors in the handling of GBV and SGBV cases.
- 2) There is need to make specific appropriation in the JLOS institutions budget for responding to GBV. Only recognizing the challenge without matching it with the necessary budget allocations will not lead to reduction of GBV.
- 3) There is need to develop internal protocols for handling SGBV cases within the DPP as well as court processes. Failure to collect and publish SGBV data highlights a lost opportunity to engage on GBV issues using evidence and may be a recipe for neglecting SGBV cases.
- 4) Capacity building for judicial officers on the importance of using the DVA to handle cases of GBV and offer protection and safety for survivors rather than promoting mediation.

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- 5) Strengthen the existing structures like chain linked committees to provide avenues in which all institutions can collectively devise means of improving access to justice for survivors through collaboration and handling each sector accountable to effective handling of GBV cases through the formal justice system .
- 6) Curriculum review to include and prioritize training on GBV issues and laws to incoming and serving judicial officers.
- 7) Establish a monitoring agency for the DVA implementation given that the DVA is a new approach to address not only domestic violence but also the protection of women’s rights. Such an agency would help the JLOS in identifying grey areas regarding implementation of the law. Other countries such as Zimbabwe, have established a domestic violence council that oversees implementation of the Act.
- 8) Fast track hearing of cases involving domestic homicide (murder and manslaughter) which are tragic consequences of domestic violence that should not be processed in the same manner as other murders (which can take about three or four years to come to trial). The Judiciary needs to prioritize the hearing of cases involving domestic homicides in order to ensure that witnesses, who are in most cases members of the family of the deceased victim and the perpetrator, do not lose hope or get frustrated. In this regard Registrars and Judges should be sensitized to appreciate the gravity of domestic homicides, which will help in the cause-listing of homicide cases and promising them for criminal sessions.

Endnotes

- 1 Uganda Police Force (2014) Annual Crime and Traffic/Road Safety Report 2013 (Kampala: Uganda Police Force)
- 2 Directorate of Public Prosecutions (2014) DPP Case Statistics for Calendar year 2013 (Kampala: DPP)

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