



# PARALEGAL HANDBOOK

FOR WOMEN  
STREET VENDORS  
IN UGANDA

Strategic Initiative  
for Women in the  
Horn of Africa



SIHA Network

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## **ABOUT SIHA**

The Strategic Initiative for Women of the Horn of Africa (SIHA) is a network of more than 75 civil society groups and a number of grassroots organizations working on the situation of women and girls in the Horn of Africa. SIHA Network was founded by a group of women activists and women human rights defenders and in 1995. SIHA Network seeks to bring about societal change and achieve gender equality in the Horn of Africa, working in particular to promote peaceful coexistence. Most SIHA Network programs focus on the elimination of all forms of violence against women and girls and the promotion of women's access to justice through the development of justice systems, their promotion in the Horn of Africa, support of women's economic rights in conflict zones and marginal areas and capacity building for women leaders and activists in the societies of the Horn of Africa.

## **SIHA'S VISION**

All women and girls in the horn of Africa have the right to live in a peaceful, just environment and that they are able to exercise their equal rights as human beings.



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## ACKNOWLEDGEMENT

SIHA Network acknowledges the contributions made by Pamela Akello Kamlega, Robert Odeke who worked very closely with the SIHA team led by Martha Tukahirwa and Laureen Karayi, and alongside Proscovia Abalo and Jackie Bless Pinyoloya, towards the production of this handbook. Special gratitude goes to the African Women Development Fund (AWDF) for the financial support towards the production of the handbook from whom SIHA received support to develop this Paralegal Handbook. The objective of this handbook is to assist women vendors know their rights, obligations and the laws governing their trade. This handbook will highlight the issues faced by women street vendors and how the women can empower themselves to handle their own issues in their given spaces and local structures.

For a large segment of the urban poor in Kampala, Uganda, vending in general has long served as a key livelihood strategy in the absence of formal employment opportunities and a public social safety net. Vendors were differentiated, although a big number of them were 'Survivalist entrepreneurs', majority are women, poor with limited capacity to save,



reduce family risks and invest to sustain their businesses. This is aggravated by repressive street vending regulatory laws that perpetuate vendor's working conditions through deprivation of opportunity and freedom to operate business, characterized by constant evictions and confiscation of goods.

At the present time, most of the impoverished societies in the Horn of Africa suffer from the lack of effective mechanisms for achieving justice and social peace among their populations, this handbook therefore will give more knowledge on general human rights that are enshrined in the different laws and how to enjoy it.

## ACRONYMS

<b>ADR:</b>	Alternative Dispute Resolution
<b>CEDAW:</b>	Convention on the elimination of all forms of discrimination against women
<b>CPCA:</b>	Criminal Procedure Code Act
<b>DPP:</b>	Directorate of Public Prosecutions
<b>ICESCR:</b>	International Covenant on Economic, Social and Cultural Rights
<b>ILO:</b>	International Labour Organization
<b>KACITA:</b>	Kampala City Traders Association
<b>KCCA:</b>	Kampala Capital City Authority
<b>LC:</b>	Local Council
<b>LCC:</b>	Local Council Court

<b>MCA:</b>	Magistrates Court Act
<b>MTIC:</b>	Ministry of Trade, Industry and Cooperatives
<b>PLAVU:</b>	Platform for Vendors Uganda
<b>SIHA:</b>	Strategic Initiative for Women in the Horn of Africa
<b>UHRC:</b>	Uganda Human Rights Commission



## **BACKGROUND**

For a large segment of the urban poor in Kampala, Uganda, street vending has long served as a key livelihood strategy in the absence of formal employment opportunities and a public social safety net. The majority of those engaged in street vending are women as this has been their source of livelihood. The state however, are often hostile to the practice, viewing it as a manifestation of urban disorder and an obstacle to development, and many actively seek to eradicate it. Such efforts make street vending a highly politicized activity, and force street vendors to adopt a variety of strategies to assert their right to engage in their economic activities.

Many issues surrounding the ability of women street vendors to assert their rights and strive for better livelihoods have met challenges from within the women but mostly from the KCCA Law Enforcement Officers. The women street vendors need to be trained on their fundamental human rights and as paralegals to help themselves address the various challenges they face in their occupation.

KCCA is the legal entity concerned with the operation of the entire city, working under the control of Uganda Government in relation to KCCA Act 2010. Prior, Kampala city was under the administration of Kampala City Council (KCC) that was deemed legally small to transform and deliver service to urban dwellers to change the structure and the outlook of the city, Uganda's parliament approved the KCCA Act in 2010 that became effective in 2011 with the aim of promoting a tidy and attractive city to both Ugandans and the investors.

The legal system and street vending in Kampala since the establishment of KCCA and the passing of the new law (Maintenance of Trade Order Act) in the 2011, small scale entrepreneurs including street vendors have been evicted by KCCA Law Enforcement Officers from the City. According to the Local Government, Kampala City Council Ordinance 2006: "A person shall not, display his or her trade on any pavement, arcade, foot-way, alienated public land, unoccupied land or land in possession of the Council unless he or she is in possession of a permit issued by the Council under the Local Governments (Kampala City) (Street Traders) Bye-laws". Accordingly, Kampala Capital City Act 2010, states that, "the Authority should prohibit,

restrict, regulate or license the sale or hawking of wares or the erection of stalls on any street, or the use of any part of the street or public place for the purpose of carrying on any trade, business or profession”.

However, it is required that KCCA officials give ample prior notice of evictions to the street vendors. This is because majority or all women street vendors are poor and lowly educated persons. Therefore, it's clear that if any communication is to be made in terms of notice to the vendors, it has to be appropriate, effective, clear and accessible to all class of vendors because of their social levels. The number of women street vendors has increased in the City to thousands in all the divisions Kampala. Majority of them want their trade to be formalized and recognized as part of the city traders such that they can be registered and organized to pay taxes to Government. The women from Kawempe, Wandegya and Naguru have formed cooperatives and are making their humble contribution to national development. They are desirous to be strategic partners for the smooth running and growth of the city.

# INTRODUCTION



Most women street vendors are from humble backgrounds and have low educational levels but are very committed to earn a decent living in the city. Their businesses range from selling fruits, vegetables, roasted or cooked groundnuts, processed sesame, roasted and cooked maize, ripe bananas and the like. At least each one of them have a story to tell about the wrath of KCCA Law Enforcement Officers. There is bad blood flowing between the two antagonists.

The paralegal handbook for women street vendors therefore comes in at a critical time to defuse the tension and empower the women street vendors with knowledge and skills on how to strengthen and promote their human rights and freedoms regarding their livelihoods.

Chapter one looks at the struggles of the women street vendors in securing their livelihoods and the specific challenges they face in the trade. Reference is made regarding the sexual harassment they face from the male KCCA Law Enforcement Officers. An outline of the different sexual and other offences are made and their penalties listed to open the eyes of the vendors and also caution the offenders to beware.



Chapter two looks at the empowering the women street vendors to be paralegals. It explains who paralegals are and their functions in society besides outlining the challenges that paralegals face in executing their duties.

Chapter three addresses human rights in details. What they are, sources and characteristics of human rights with the aim of equipping the women street vendors with this greatest virtue.

Chapter four handles the mandate and powers of the Police and Local Authorities in effecting arrest and its attendant procedures. It furthermore, addresses the rights of the suspects upon arrest, how they can secure police bond or court bail when under pre- trial detention.

Chapter five concludes with the ways in which the women street vendors can access justice in the prevailing circumstances. The handbook gives some contacts of legal aid service providers who may be helpful to the women street vendors.

# CHAPTER ONE

## THE STRUGGLES OF WOMEN STREET VENDORS IN KAMPALA



## Objectives

1. To highlight the various pains women go through to ache a living in the city.
2. To show the various challenges women street vendor face in the conduct of their business.
3. To demonstrate the different offences and their punishments.

Women are greatly affected by the realities that drive individuals in the informal sector. Women who are more likely to be poor, experience gaps in education, lower access to finance, land and assets, lack child care and face both legal and social discrimination that leave no option other than informal employment. It's estimated that women own 66% of all informal businesses in Kampala and make up a majority of informal workers as well. An increase in women- headed households coupled with rampant poverty has made it unsustainable for women to remain in their traditional domestic roles and as a corollary more women have been compelled to seek work outside the home.

## **Challenges faced by women street vendors in conducting their businesses in Uganda.**

Risky working environment caused by KCCA activities in form of; -

1. Ceaseless evictions of women street vendors from the streets and any free open space where the women could do business because of the ordinance prohibiting vending in the city;
2. Confiscation of merchandise of the vendors all the time and not returning to them or getting them back after a while, well aware that most of them are highly perishable fruits and cooked or roasted foods like fresh maize and groundnuts;
3. Psychological torture and upset of the minds of the vendors depriving them of concentration in sales and marketing of their products;
4. Pestering the women vendors' day in - day out to come out of their business and yet not offering them possible alternatives for livelihood;
5. Detention in KCCA cells is a common occurrence to the women street vendors even over matters that are simple in nature that can only attract a fine;

6. Tension among the women street vendors all the time hinders their conduct of smooth business and affect volume of trade;
7. Bribery, torture and harassment is commonplace vices the women street vendors experience in efforts to strive for livelihoods in the city;
8. Women Market vendor are assaulted in the process of confiscation of their goods and this has led to some law enforcement officers taken to courts of law for legal redress.
9. Overcrowding of the women street vendors in a safe zone where they can easily detect the Law Enforcement Officers from a distance and run with their merchandise for safety.

## **Violence and sexual harassment against women street vendors**

The definition of violence against women is set out in Article 1 of the Declaration on the Elimination of Violence Against Women as “... any act of gender based violence that results or is likely to result in physical, sexual or psychological suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in private or

public life.”(United Nations, General Assembly Resolution 48/104 of 20th December 1993). There is widespread violence against women street vendors in Uganda generally and perpetrators benefit from generalized impunity, in part due to widespread social attitudes condoning such violence. Many women streets vendors are sexually harassed or asked for sexual favors in the course of their work. The perpetrators being passers-by and KCCA officials who have always demanded for sex in order to avoid arrest or confiscation of their items.

Just like we normalize the daily harassment and violence meted out on women street vendors and hawkers in many parts of the world, states do not recognize public spaces as workplaces, yet they are the workplaces of millions of informal workers whose work is essentially criminalized.

All informal workers are subject to violence and harassment – they have low earnings, work in poor and dangerous conditions and have inadequate living situations.

Women informal workers are particularly vulnerable to gender-based violence as their gender and employment status intersect.

## Specific forms of violence informal workers face

Types of violence experienced by women street vendors	
State	<ul style="list-style-type: none"><li>• Harassment, verbal and physical abuse or beatings</li><li>• Evictions</li><li>• Violent arrest</li><li>• Immigration status investigations etc.</li></ul>
Public or users of services provided	<ul style="list-style-type: none"><li>• Harassment and verbal abuse</li><li>• Arguments over prices</li><li>• Unwanted sexual touches or words (touching the girl's buttocks, breasts and private)</li><li>• Use of bad or vulgar language</li><li>• Funny words and signs in relation to sex</li></ul>

Fellow workers	<ul style="list-style-type: none"><li>• Transactional sex for access to trading space, licenses, permits and goods</li><li>• Rape</li><li>• Disputes over vending spaces</li></ul>
Criminal elements and, or criminal practices	<ul style="list-style-type: none"><li>• Theft</li><li>• Evictions</li><li>• Violent assault</li><li>• Rape</li><li>• Murder</li><li>• defilement</li></ul>
Powerful vested interests, employers or owners of capital, contractors, intermediaries, moneylender and Landlords	<ul style="list-style-type: none"><li>• Evictions from valuable urban space</li><li>• Theft</li></ul>



S/n	Offence	Sentence
1.	Common Assault (s.235 PCA, Cap.120)	Maximum of 1 year imprisonment
2.	Assault occasioning actual bodily harm for example, loss of tooth ( s.236 PCA, Cap.120)	Maximum of 5 years imprisonment
3.	Indecent Assault for example, a person who indecently and unlawfully assaults any woman or girl. (s.128(1) PCA, Cap.120)  Any person who intending to insult the modesty of any woman or girl, utters any words, makes any sound or gesture or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen by such woman or girl, commits a misdemeanor. ( s.128(3) PCA, Cap.120)	Maximum of 14 years imprisonment  Maximum of 1 year imprisonment

4.	Acts intended to cause bodily harm e.g. with the intent to disfigure, wound or attempt to strike with a dangerous weapon such as a knife. (s.214 PCA, Cap.120)	Maximum of Life imprisonment
5.	Threatening Violence. This is act or actions with intent to intimidate or annoy, threatens to injure, assault, shoot or burn a person, or to kill, break or injure any property. (s.81 PCA, Cap.120)	Imprisonment for a period not exceeding 4 years
6.	Child neglect, failing to provide for the basic and essential needs for one's immediate dependent relatives such as children and wife in form of food, clothing, medical care, education and accommodation. (s.157 PCA, Cap.120)	Maximum of 2 years imprisonment

7.	Theft (s.261 PCA,Cap.120)	Imprisonment for a period not exceeding 10 years
8.	Rape (s.124 PCA,Cap.120)	Maximum sentence of Death
9.	Attempted rape ( s. 125 PCA, Cap.120)	Maximum of Life imprisonment

# CHAPTER TWO

## VOICES OF WOMEN STREET VENDORS - THE ROLE OF PARALEGALS



## Objectives

1. To create an understanding of a paralegal
2. To identify the various functions of a paralegal in the community
3. To create an understanding of who can be a paralegal
4. To show the relationship between a paralegal and a lawyer
5. To highlight some challenges paralegals face in their work

## Who is a paralegal?

The Advocates (Legal aid to indigent persons) Regulations, Statutory Instrument No. 12 of 2007 defines a paralegal as a person who holds a qualification in law, other than a degree in law, recognized by the law council. Such qualifications are yet to be stated.

In simple terms however, a paralegal can be referred to as a community based person who possesses the basic knowledge of law and its procedures and has the necessary motivation, attitude and skills to:

- Conduct educational programs which bring disadvantaged people to the awareness of their rights;
- Facilitate the creation of people's organization to enable them demand their rights;
- Give advice and help solve basic legal and social welfare problems;
- Assist in securing mediation and reconciliation in matters of dispute;
- Conduct preliminary investigation in cases which needs to referred to a lawyer;
- Assist the lawyer with written statements, evidence and other information relevant to a case.

A paralegal is not a lawyer and cannot practice law. Paralegals however, respond to problems that afflict disadvantaged groups in accessing legal services for problems such as family matters, child support, labour issues rent and various forms of exploitation. The concept of paralegals is borne out the fact that lawyers are not able to adequately provide legal services to the rural and urban poor because primarily their number is inadequate in relation to the population of the country.

## Who can be a paralegal?

Community leaders, social workers, women leaders, representatives of special interest groups, political activists, and the like, can be trained as paralegals. Where paralegals concentrate on community problems, qualities and skills are more important than educational levels.

## Functions of a Paralegal

### 1. Education

Paralegals should teach people in the community through training, meetings and discussions to create awareness about:

- Their rights;
- How they can protect their rights;
- How they can resolve their problems and disputes peacefully;
- How they can write petitions, affidavits, complaints and other documents;
- How they can acquire legal aid services and give them referrals;
- How they can get involved in specific development and welfare programs;

initiated by government and civil society organizations and participate in them effectively;

- How they can discuss their basic human rights and answer questions about society.

## **2. Legal First Aid**

A paralegal provides immediate preliminary solutions in emergency situations for example in case of arrest by law enforcers, a paralegal can organize to secure a police bond.

## **3. Social Analysis**

A paralegal must be in position to understand the structural nature of social problems people face and interpret them to enable people think of long term solutions.

## **4. Advocacy**

The paralegal brings the problems faced by disadvantaged groups with whom they are working to the attention of policy makers. Sometimes this



may mean presenting the case of the community or an individual before officials, tribunals and quasi- judicial bodies.

## **5. Mobilization**

Paralegals are supposed to create awareness and interest among people to take collective action in solving community problems. Therefore through mobilization, paralegals help:

- To encourage the community to debate matters of common interest;
- To organize people for development;
- To engage in political work through community organizations;
- To strengthen existing desirable structures;
- To establish priorities in a community;
- To share problems with the community by joining hands to pursue issues of common concern;
- To communicate among various people;
- To identify and mobilize resources for meeting community needs.

## **6. Counselling**

Paralegals are trained to provide legal and other services of mediation and conciliation in the case of disputes arising between members of the community. A paralegal as a mediator can encourage the members of the community to negotiate and settle disputes amongst themselves in friendly ways. For example:

- If a husband and wife have a marital problem;
- Parents failing to educate their children;
- Child marriages;
- Problems between a vendor and a supplier;
- Problems between vendor and landlord.

## **7. Referral**

A paralegal should be able to refer members of the community to appropriate offices and institutions for action. For example if a woman claims that she was assaulted then one should refer her to a relevant government department like the police to report a case.

## **8. Networking**

A paralegal establishes contacts with other organizations, groups and individuals for example journalists, researchers, NGOs, and the like, in order to generate support for solving problems faced by the community to which she provides services.

### **Paralegals and lawyers**

Paralegals are the link between the community and the lawyer. They bring cases to lawyers which they would not normally know about. It's the paralegals job to tell a lawyer about developments or challenges in the community and any broader problems that communities are facing.

### **Challenges of paralegals**

Paralegals have experienced many challenges in the past because many people do not understand who they are and what they do. For example police officers are sometimes very negative towards paralegals because they do not think that the paralegals have a right to be asking questions.

# CHAPTER THREE

## HUMAN RIGHTS AND THEIR IMPORTANCE

## Objectives

1. Enable paralegals to understand what human rights are.
2. Recognize the different categories of human rights and how they interrelate.
3. Become familiar with the contents of the Universal Declaration of Human Rights (UDHR) and other International Instruments.
4. Emphasize the importance of the 1995 constitution and its bill of rights.
5. Make paralegals know what to do when violation of human rights occur.

## What are Human Rights?

- These are entitlements that all persons enjoy or possess by virtue of the fact that they are human beings.
- When they are provided for in the national constitution or in the law, then they become constitutional or legal rights.
- They are God –given and every person is born with them.
- They are not favors, privileges, gifts or rewards given to you by anybody.

- They are not granted by the state but by the creator of human beings. The state is only obliged to guarantee, protect and promote the human rights of all human beings under its care.
- Human rights are enjoyed wholesomely and they should not be separated.

### **What are the sources of Human Rights?**

- The creator (God), the sovereign power who is the giver of every human life.
- Religion, for example the Ten Commandments in Christianity or the six pillars of faith in Islam.
- Culture and tradition for example in many cultures, men are required to protect women and children, and look after them.
- The law, for example international and national laws. Therefore, any byelaws, ordinances and regulations affecting women should comply with the above laws.

## **Characteristics of human rights**

1. They are natural or inherent
2. Human Rights Are Universal and non-discriminative
3. Human Rights are inalienable
4. Equality
5. Interdependent and interrelated

The following are the fundamental rights and freedoms that are universally recognized as contained in the Uganda's Constitution of 1995.

- Right to life; (Article 22)
- Freedom from torture; ( Article 24)
- Freedom of expression and association; ( Article 29)
- Freedom from slavery; ( Article 25)
- Freedom of thought, conscience and religion; ( Article 29)
- Freedom from arbitrary arrest and detention; (Article 23)
- Right to fair trial. (Article 28)

## **Who are street vendors?**

These are people most especially women and girls who conduct petty trading along the streets and roads in major towns and cities in Africa. They sell a range of products like fruits and vegetables, roasted or cooked groundnuts, simsim or maize and the like.

## **Street Vending and Human Rights**

The National and International human rights law provides no explicit protections for the rights of street vending. Nevertheless, vendors are subject to the more general rights outlined in human rights treaties, most notably the International Covenant on Economic, Social and Cultural Rights (ICESCR).

While street vending does not constitute formal employment, work that is fully taxed and regulated by the state, it serves as one of the only realistic forms of income generation for the urban poor when states cannot or will not take steps to promote formal job creation.



It is this right to engage in productive economic activity that street vendors seek to protect and that is constantly threatened by state repression. More generally, street vendors receive few protections for a broad range of economic and social rights by the State.

In Uganda, women street vendors can only assert their rights to engage in their economic activity depending on the political environment. Besides, the legal or normative framework for conceptualizing the rights of street vendors, women street vendors still continue to suffer in their daily operations and have to continuously negotiate their rights with politicians, thus it is also imperative that new strategies be employed to minimize the risk and challenges.

### **What to do when human rights are violated?**

When a person suspects or believes that her rights have been or are about to be violated or abused, there are a number of ways through which such a person can defend or protect her rights or seek redress.

1. Anyone whose rights have been violated can report to the Local Council Committee and file a complaint. The councils are available in all your localities.
2. If a violation is a serious one, whether of criminal or civil nature, one can report to a Police station or Court of law.
3. Where the violation is caused by a public servant or civil servant in the course of his/her duties, a complaint can be filed against such person in an administrative body relevant to that person's office for example Public Service Commission, Judicial Service Commission and the like.
4. There are other bodies that deal with human rights violations against individuals such as Inspectorate of Government, and the Uganda Human Rights Commission.
5. If a person is not a direct victim of a violation but wants to challenge a government policy or law or any custom as being unconstitutional, one can file a petition in the constitutional court. This the court that interprets the provisions of the constitution.
6. The government, through its organs and agencies, has the power to redress the violations suffered by any individual or group of individuals

whose rights have been violated or disregarded. It's a constitutional right that must be observed, respected, promoted and defended by both the government and every citizen.

7. Contact any human rights organization to seek advice or counsel. An organization may take up a case or refer you to the relevant body or authority.

# CHAPTER FOUR

## POWERS OF POLICE, LOCAL AUTHORITIES AND RIGHTS OF THE ACCUSED (Police Act, Cap.303)



## Objectives

1. Be familiar with the basic laws, procedures and practices relevant to searches, seizure, and detention in Uganda.
2. Understand the basic rights of the accused in the face of searches, seizures, arrests and detention.
3. Articulate the limits of police powers in Uganda.
4. Know the available remedies and means of seeking redress for violations of the rights of suspects.

When a person is arrested by the police as a suspect for breaking a law in Uganda, he/ she is questioned, detained and formally charged. This accused person may then be taken to court where he/she will be required to plead either guilty or not guilty to the charge. If he/she pleads guilty, he/she will be convicted and sentenced. If he/she pleads not guilty, he/she will be tried and if not found guilty by the Judge or Magistrate, the accused will be released. If found guilty, he/she will be sentenced, but may appeal against the ruling to a higher court. Throughout this process, the Government powers are limited by the Constitution and various laws and statutes in the way the Police treat the accused.

## **Functions of Uganda Police Forces: (s.4 (1), s.9 Police Act Cap.303), Article 212 of the Constitution.**

- To protect the life, property and other rights of the individual;
- To maintain security;
- To enforce the laws;
- To ensure public safety and order;
- To detect and prevent crime under limited circumstances;
- To perform service of the military force.

### **Stops and searches by the Police**

A search is an inspection of a person or premises for the purpose of finding out whether anything that may be useful to the police in its investigation may be found on the body of the person or in the premises searched. Before making a search, the Police Officer must have reasonable grounds to suspect that the person may possess or premises may contain something that is useful for an investigation he/she is authorized to conduct. The Constitution does not allow unlawful search of the person, home, or other property of that person.

## **General Police powers to search (s.27)**

Normal procedure requires that a Police Officer gets a search warrant before he/she can make a search of your house, vehicle or place of business. A search warrant is a written authorization given by the court allowing the police to search premises, place or vehicle named in the warrant for the purpose of taking possession of anything that is relevant to investigation of a crime.

A search warrant must be signed by the Magistrate or Judge issuing it and must bear the seal of the court.

## **Circumstances where police search may be done without a warrant**

- Where he/she reasonably suspects an unlawful activity is taking place or about to take place;
- Where immoral or disorderly people are staying;
- Where an item cannot be obtained in another way without excessive delay.

## **Police authority to stop and search persons**

The police may search or detain a person if he has reasonable grounds to suspect that stolen property may be found on that person. S.7 of the Criminal Procedure Code Act (CPCA) provides that whenever it's necessary to cause a woman to be searched, it shall be made by a fellow woman with strict regard to decency.

## **Search of an arrested person**

The Police has the authority to search any person who has been arrested and seize anything discovered on the person that might be reasonably used as evidence in criminal proceedings. However, the police do not have authority to strip the arrested suspects of their clothing.

## **Arrest by the Police (s.23)**

An arrest is an act where the Government deprives the person of his/her liberty for the purpose of compelling that person to appear in court to



answer a criminal charge. An arrest usually involves taking you in custody and detaining you. Although the Government has the legitimate authority to see that law breakers are punished according to the law, arrest detention and prosecutions must be carried out in strict compliance with our constitution and laws. Force must be kept to a minimum. Under the constitution, any person unlawfully arrested, restricted or detained is entitled to compensation from Government.

### **Who else can make an arrest?**

- Magistrates who have general arrest powers within the local limits of their jurisdiction;
- Military police officers have authority to arrest military personnel, but have no powers to arrest civilians;
- Private citizens can make an arrest but only when:
  - i) A suspect commits a serious crime in their presence;
  - i) They reasonably believe that the suspect has committed a very serious crime.

When citizens make arrest, they must immediately hand the suspect over to a Police Officer or take him/her to the nearest Police Station.

- Chiefs or Town Agents also can arrest a suspect and hand him/her to Police.

## **Rights of the suspects upon arrest (Article 28 of the Constitution)**

Frequently suspects are tortured and brutalized by Police Officers; forced to confess to a crime against their will; denied access to their family, a lawyer and medical treatment; held on remand for a long period of time without being brought to trial and subject to terrible, inhuman prison conditions. It's essential for all of us to know our rights upon arrest to help avoid some of these human rights abuses which always go unpunished.

Immediately after the arrest, first and foremost, when arrested, restricted or detained:

- You must be informed immediately of the reasons for the arrest restriction or detention and your right to a lawyer of your choice.

- The police must give you this information in a language that you understand;
- When arrested over a crime, you must be brought to court as soon as possible but never later than 48 Hours from the time of your arrest;
- Police can grant you early release through a police bond which is free of charge;
- Your next of kin shall at your request be informed of the detention as soon as possible;
- The next of kin, lawyer and personal doctor shall be allowed reasonable access to you;
- You shall be allowed access to medical treatment including if you request for it and can pay ;
- You have a right to apply to court to be released on bail.

### **When arrested, you should:**

- Request the presence of your LC 1 chairperson to witness the arrest;
- Request to know why you are being arrested;

- Not offer any bribe to the Police Officer not to effect the arrest;
- After taking your statement, and it's an offence that is not capital in nature, request to be released on a police bond which is free of charge.

## **Bail and pre- trial detention**

If you are arrested, the police has to present you before a court of law unless they decide to release you on bond. A pre-trial detention is where the police detains a suspect in their cells or takes the suspect to court and remanded to prisons pending trial. A police bond is where the Police releases you from custody pending investigations on your case and requires you to report from home when they need you. A police bond is free. If you are taken to court and charged, in most cases you can request to be released on court bail. Bail is granted by a judge or magistrate and sum of money is deposited to court as requirement that ensures that you return for your court hearings. If you do not return, you lose the money and you are arrested again.

In simple terms, bail is the release of an accused person from detention pending trial or until Court takes a decision on his/her case.

**Article 23 (6) (a) of the Constitution** provides for the right of an accused person to apply to court to be released on bail subject to the legal requirements and conditions which must be fulfilled before court grants bail.

The Magistrates Court Act, (MCA) s75 (1), provides for situations and circumstances when a pre-trial detainee may be granted bail. These are;

Where the accused is not being charged of any of the following offences:

- Acts of terrorism,
- Cattle rustling,
- Abuse of office 2
- Rape,
- Embezzlement,
- Causing financial loss,
- Defilement,
- Offences under the Fire arm's Act, punishable by at least ten years imprisonment or more,

- Offences triable by only the High Court,
- Corruption,
- Bribery and
- Any other offences for which the Magistrate Courts have no jurisdiction to grant bail.

To note here is that the Magistrate has power to grant bail for any other offences triable by him/her that are not included in the above list.

### **The powers of a Chief Magistrate in relation to bail include;**

- Power to direct that an accused person be released on bail if bail was denied by a lower Court within his/her area of jurisdiction where the accused is charged with an offence which may be tried by a Magistrate.
- Reduction of bail bond where in the Chief Magistrate's opinion, the amount set by the lower court is excessive or is intended to deny the accused bail if it was set by the lower courts.

## CHAPTER FIVE

### ACCESS TO JUSTICE BY WOMEN STREET VENDORS

## Objectives:

1. To know the distinction between a criminal and a civil case
2. To outline the procedures of criminal justice system in Uganda
3. To create understanding of the structure of the court system in Uganda
4. To create understanding of the composition jurisdiction and powers of the Local Council Courts
5. To highlight Alternative Dispute Resolution as an affordable option.

Women informal workers are among the most marginalized as their work is not recognized and their experiences of violence are ignored by local Government authorities who have the mandate to change the status quo. There are few work-related complaint mechanisms for workers in the informal economy. They often lack access to state-provided complaint and recourse mechanisms and lack the financial means to seek legal recourse; they cannot afford to pay legal fees or spend time away from work in legal proceedings. As highlighted above, the perpetrators of violence can include representatives of the state, employers and owners of capital, other workers, and criminal actors; these perpetrators are difficult to confront given the



unequal power balance. Furthermore, when women informal workers seek justice, their employment status, gender, class, race, ethnicity, sexual identity, and nationality can contribute to the discrimination they face before the law.

### **What is the difference between a criminal case and a civil case?**

Criminal cases are generally offenses against the State. Criminal offences are seen as a crime against both the state and the person, so the state will investigate the matter and prosecute the person involved at court. This is because it is the duty of the state to ensure that members of the public are safe, and that public order is maintained. Someone who commits a crime is threatening public safety.

Civil cases on the other hand, are typically disputes between individuals regarding the legal duties and responsibilities they owe each other. However, a dispute may result in both criminal and civil liability. For instance, during a land dispute there might be a murder case and the Police will come in to handle the crime and not the civil aspects of the dispute.

Matters relating to violence and sexual harassment are criminal in nature and certainly fall within the cases that have to be reported to Police directly because those cases are prosecuted by the state against the accused persons and that is why the file is usually named; **i.e. Uganda Vs. Mukasa**, (Mukasa becomes the person accused to have committed the offence like indecent assault and Uganda (State) representing the complainant).

### **Reporting crimes or complaints:**

You can call the police on emergency line 999/112 and where the two numbers cannot be reached call the Professional Standards Unit toll free lines 0800 200019, 0800 199199, 0800 199299.

- You can go to the nearest police station to you at the time of the incidence and file a complaint about the crime. Sexual assault, assault, theft, threatening violence etc.
- The police officer in charge will listen to you, enter the matter in the Station diary and give you a reference number of your case.
- The police officer assigned your file, will take down your statement accurately without adding their own words to your story, on completion,

your statement should be read back to you before you append your signature or thumbprint.

- The Officer should then give you some advice on what they will do to deal with your complaint. However, if the act you are complaining about is not recognized as a crime under the law, like recovery of a debt, the Police shall advise you accordingly.
- In the course of reporting a crime involving sexual violence as provided for under the Penal Code Act, Cap. 120, Laws of Uganda, survivors must obtain a medical examination form from the Police, also known as a Police Form 3A (PF3) or for Physical violence Police Form 3 in order to be examined by a medical practitioner.

*The Police Form 3 is a document that is given to a victim or survivor of a crime after an assessment by the police officer that there is reasonable basis to believe that an offence has been committed against the victim or survivor. It is made under the Police Act of 2006 as amended. The PF3A is often critical to the successful prosecution of cases involving sexual violence. Indeed, Police usually do not pursue further investigation of cases without the PF3A form.*

## **What you should ensure before appending your signature or thumbprint on the statement.**

- Read through the statement or request the Police Officer to read for you the statement aloud and you have understood what is recorded;
- Ensure your complaint has been recorded accurately and all the contents are correct;
- Ensure your name and contact address is recorded correctly;
- Then you can append your signature or thumbprint on every page.

## **What happens once my complaint is made with the police?**

- The complaint sets the Police investigation into motion. As part of that, the Police may speak to victims or witnesses, record statements, check out the crime scene, send articles for forensic examination, question several people and with each lead go on to make further investigations.
- Once investigations are complete, the officer in charge must make a full record of it. If the investigation reveals that a crime has been committed,

all of the investigations and evidence are recorded, a charge sheet is prepared and the suspect is arrested.

- The Police Officer handling the case forwards the file to the Resident State Attorney under the Directorate of Public Prosecutions (DPP) for advice.

### **What can I do if the police are not investigating the matter or there are delays in investigation or refusing to examine the most obvious lines of inquiry?**

- Complain to a Senior Police Officer in the particular department or station;
- The Senior Officer shall in normal circumstances order the junior officer to investigate the case or can call the file for perusal;
- Besides, you can also report the complaint to the Police Professional Standards Unit whose contact is mentioned above.

## **Directorate of Public Prosecution (DPP)**

Once the Directorate of Public Prosecutions (DPP) receives the file, the State Attorney will review the file. If the State Attorney is satisfied that there is sufficient information that a crime may have been committed, he/she advises the Police what charges to apply in the case and the suspect produced in court for plea taking and hearing of the case.

If the State Attorney finds the evidence insufficient, he/she instructs the Police to conduct further investigation or close the file and release the accused. Any formal charges applied at the advice of the State Attorney at this time may be different than those recorded at the time of the arrest.

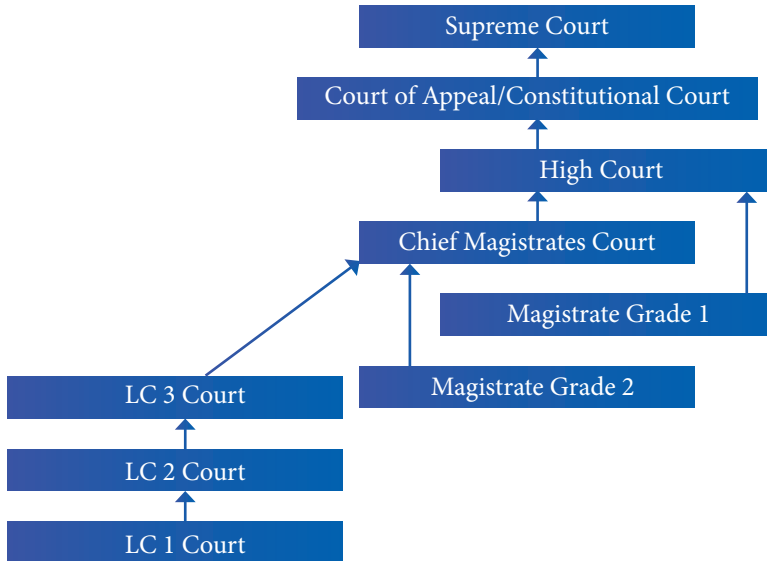
## **Formal Methods of Dispute Resolution**

The formal system refers to a system of justice that involves the courts of law. It entails initiating a matter in court and it is the court to determine the issues raised, the rights of the parties, and make orders accordingly. It is important to note that court decisions are binding on either party. Any party dissatisfied with the decision can appeal as stipulated by the law. It

therefore involves greater time and resources than informal methods of dispute resolution, but offers the parties finality in reaching decisions and enforceability of the decision by the courts and police.

Formal litigation involves an action brought in court to enforce a particular right. In this system, cases go through the whole court system which consists of the Supreme Court at the top, a Court of Appeal or Constitutional Court, the High Court and the Magistrates Courts. There are also Local Council Courts as illustrated below.

## COURT STRUCTURE





### **a) The Supreme Court:**

The Supreme Court is established by Article 130 of the Constitution. It is the highest Court within the judicial pyramid as a final court of Appeal in Uganda. It has no original jurisdiction that is, it has no powers to hear a case for the first time; except for cases where the law says that the particular cases can only be heard for the first time in the Supreme Court, for instance Presidential Elections petitions. The Court is headed by the Chief Justice and the decisions of the Supreme Court form precedents (guides) which are followed by all lower courts.

### **b) Court of Appeal / Constitutional Court**

The Court Appeal was created by the 1995 Constitution. It is positioned between the Supreme Court and the High Court. As its name suggests, it hears cases or appeals from the High Court. The Court of Appeal also has no powers to hear a case for the first time; except for cases that are brought to interpret the constitution. In this case it sits as a Constitutional Court. It is headed by the Deputy Chief Justice.

### **c) High Court**

The High Court of Uganda is established by Article 138 of the Constitution and is the third court in order of hierarchy. It has unlimited original and appellant jurisdiction over all matters both civil and criminal in Uganda. Appeals from all Magistrates Courts go to the High Court. The High Court is headed by the Principal Judge who is responsible for the administration of the court and has general supervisory powers over Magistrate's Courts.

### **d) Magistrates Courts**

Magistrate's Courts are the lowest courts, with three levels: Chief Magistrates, Magistrates Grade I and Magistrates Grade II. Magistrates' courts handle most of cases in Uganda. There are currently 38 Chief Magistrates' Courts, 120 Magistrates' Grade I Courts and over 100 Magistrates' Grade II Courts. Each Chief Magistrates' Court has a Chief Magistrate who supervises all magistrates Courts within his/her areas of jurisdiction. Decisions of the Magistrates Courts can be appealed to the High Court.

## **e) Local Council Courts**

In 1988, the Government established Local Council Courts (LCCs) to adjudicate over selected disputes or cases. LCCs significantly contributed to making justice more accessible to the poor, vulnerable and marginalized persons at local levels. Indeed, a study on Justice Needs in Uganda 2016, found that when people get legal problems, they usually first approach LCCs or police. LCCs apply customary norms and provide local audience for dispute resolution. LCCs are established from the village level (LC1), parish level (LC2), and on to the sub-county level (LC3). They are supervised by the Chief Magistrates.

### **Composition of local council courts**

The Local Council Court of a village or parish is made up of all members of the executive committee of the village or parish.

The local council court of a town, division or sub-county is made up of five members appointed by the town council, division council or sub-county council on the recommendation of the respective executive committee. At

least two members of the town, division or sub-county local council court shall be women.

The Local Council Courts Act, 2006, gives powers to LCCs to hear and decide certain cases. According to this the Act, LCCs can try and determine:

1. Cases of a civil nature whose value does not exceed shillings two million only relating to:
  - a) Debts
  - b) Contracts
  - c) Assault or assault and battery
  - d) Conversion
  - e) Damage to property
  - f) Trespass
  - g) Nuisance

When trying cases under this section, LCCs cannot hear cases that are over shillings Two Million only.

2. LCCs also hear cases of a civil nature governed only by customary law relating to:
  - a) Disputes in respect of land held under customary tenure;
  - b) Disputes concerning marriage, marital status, separation, divorce or the parentage of children;
  - c) Disputes relating to the identity of a customary heir;
  - d) Customary bailment.

“Customary law” means the rules of conduct established by custom, norm and long usage having the force of law and not forming part of the common law nor formally enacted in any legislation; In trying cases under this section, the authority of LCCs is not limited by the monetary value of the subject matter in dispute;

3. LCCs also hear cases that arise out of violations of bye-laws and ordinances that have been made under the Local Governments’ Act
4. LCCs also hear matters indicated under the Children’s Act (these have been detailed in the section on Children’s rights)
5. Matters relating to land

## **What decisions or orders can a Local Council Court make?**

A Local Council Court may make an order for any one or more of the following reliefs (solutions):

- (a) Reconciliation;
- (b) Declaration;
- (c) Compensation;
- (d) Restitution;
- (e) Costs;
- (f) Apology; or
- (g) Attachment and sale; and
- (h) If the case relates to violation of a bye-law or Ordinance, the LCC can impose a fine, community service or any other penalty authorized by that bye-law or Ordinance.

If a LCC hears a case relating to

- (i) Debts, contracts, assault or assault and battery, conversion, damage to property; or Trespass; or
- (ii) Cases of a civil nature governed only by customary law relating to disputes in respect of land held under customary tenure; marriage, marital status, separation, divorce or the parentage of children; identity of a customary heir; or Customary bailment. In awards exceeding Five Million Shillings, the LCC must refer the case to the Chief Magistrate of the area to put this order into effect. If the Chief Magistrate finds that the award is too much, s/he may reduce the amount of the award taking into consideration awards that have been made in similar cases.

## **Appealing from a decision of a court**

A person who is not satisfied with a decision of a court can take his or her 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. From the list of courts drawn above, a person who is discontented with a decision of the LCI Court to can appeal to the

LCII Court. Appeals from LCII Court go to LCIII Court. If a person is not satisfied with the decision of the LCIII Court, then that person can appeal to the Chief Magistrate's Court. From the Chief Magistrate, one can appeal to the High Court for that decision to be re-considered. A person who is not happy with the High Court decision can appeal to the Court of Appeal, and from there to the Supreme Court.

## Legal Aid service providers

There are a number of organizations that provide legal aid services besides the formal Government institutions. They include

- *The Legal Aid Clinic of the Law Development*
- *The Public Defender Association of Uganda*
- *Advocates Sans Frontiers*
- *Association of Women Lawyers in Uganda*
- *The Refugee Law Project*
- *Legal Action for Persons with Disabilities (LAPD)*
- *International Refugee Rights Initiative*
- *Law and Advocacy for Women in Uganda*



- *Anti -Corruption Coalition Uganda*
- *International Justice Mission*
- *The Legal Aid Project of the Uganda Law Society*
- *Platform for Labour Action*
- *Uganda Network on Law*
- *Ethics and HIV/AIDS*
- *Uganda Christian Lawyers Fraternity and many others.*

*Their contact addresses are given in the appendix.*

## **How to lodge a complaint with the legal aid service providers?**

Most legal aid service providers have a user friendly system of lodging complaints. You have to contact them by phone or go to their offices and fill a complaint form, including your address. They have lawyers who shall follow your complaint to logical conclusion, if it has merit and usually free of charge.

## **Informal Methods of Dispute Resolution**

The informal system is an out-of-court settlement of disputes. It is also referred to as Alternative Dispute Resolution (ADR), where matters are resolved amicably as the parties agree to a settlement without litigation. ADR has advantages over formal litigation including that it is less costly and time saving, it is private and confidential, and the parties retain more control over the process by agreeing on procedural rules, venue, and the third-party facilitators. ADR, however, does not guarantee a resolution and parties may still end up in the courts of law? Informal methods of conflict resolution include arbitration, negotiation, conciliation or mediation and they are discussed below.

### **Arbitration:**

Arbitration is the submission of a dispute to an unbiased third person, or group of persons, designated by the parties to the controversy, who agree in advance to comply with the award, a decision to be issued after a hearing at which both parties have an opportunity to be heard. The arbitration

process is typically more structured and formal than negotiation, mediation and conciliation. Unlike the litigation process, the arbitration, as well as the arbitrator's decision, is private. As part of the agreement to arbitrate, however, the parties may agree that the arbitrator's decision is appealable in court.

### **Conciliation:**

Conciliation is an informal out-of-court settlement where the parties seek to reach an amicable settlement with the assistance of a conciliator who acts as a neutral party. The conciliator will meet with the parties separately in an attempt to resolve their differences. During the conciliation, the conciliator will often make settlement proposals to the parties. Conciliation differs from arbitration, however, because the parties are not bound by the conciliator's settlement proposals.

### **Negotiation:**

Negotiation is an informal bargaining process between two or more parties seeking to discover a common ground and reach an agreement to settle a

matter of mutual concern or resolve a conflict. Negotiations may occur directly between the parties in conflict and do not require a third party to facilitate discussions. Approaches to negotiation often fall under two categories: positional negotiation or problem solving negotiation.

Positional negotiation seeks to preserve the parties' interests, but to adjust their views and positions in an effort to achieve settlement. Parties in positional negotiation often start by making extreme opening claims and then attempt to persuade the other side to move closer to their initial position. Oftentimes, compromises do not efficiently satisfy the true interests of the parties in dispute.

Positional negotiation is culturally understood, compatible with competitive activities in society, requires little preparation and is easy to do, the outcome is relatively predictable and can be used successfully between parties with no future relationship and where there is a need to divide scarce resources. However, on the other hand, Positional negotiation overlooks the parties' needs and interests, focuses on one issue, makes parties defensive, prevents a settlement and it may also result in personal attacks of either parties.

Problem solving negotiation is less competitive or adversarial and focuses on uncovering the parties' individual needs and interests in an attempt to formulate solutions that maximize benefits to both parties. It requires parties involved to separate themselves from the problem and focus on mutual needs and interests and not their initial positions. The goal is not to determine who is right or wrong but to negotiate a settlement that maximizes benefit for both parties. This type of negotiation deals with the real conflict, looks at interests and needs of parties, and the possible options for settlement. Though it is good but also overlooks the fact that parties may not have sincere motives to try and resolve the dispute.

### **Mediation:**

Mediation is the process by which a neutral third person facilitates communication between parties to a dispute and assists them in reaching a mutually agreed resolution of the dispute. Unlike arbitration and conciliation, any agreement should come from those in dispute not from the mediator.

## **Role of the parties and the mediator:**

The parties to mediation should come prepared to present their positions, disclose information and participate in negotiations towards a consensual outcome.

The main role for the mediator during this process is to facilitate the parties' negotiation by providing an appropriate physical environment, a procedural framework, an improved emotional environment where parties can speak openly, and improved communication. A mediator may also serve as a source of legal knowledge to the parties who might not understand their rights and obligations.

## **Mediators should observe the following principles in leading mediation:**

1. Impartiality;
2. Transparency;
3. Sensitivity;
4. Confidentiality;
5. Accountability.

## **Advantages of mediation**

Mediation has a number of advantages over other methods and they include:

1. It is time saving;
2. Both parties are happy;
3. Keeps families together;
4. It is cheaper than going to court;
5. Keeps community together;
6. It is simple;
7. Anyone can do it and does not have to be a judge;
8. There are no rules to follow like in court;
9. Mediation is fast and cost effective;
10. Mediation results in most cases are a win-win situation and are more likely to maintain or repair their relationship after the conflict is resolved;
11. Mediation is also constructive in a way that it is focused on solutions and the future, not just on solving the immediate and narrow problem;

12. Finally, Mediation has long been the standard method of dispute resolution in many cultural institutions and parties are therefore likely to be familiar with the practice.

### **Mediation procedure:**

It is important that the mediator come prepared with a clear structure for how the mediation will proceed. Although it is the parties that must shape the final resolution, the mediator's role is to provide a framework for those negotiations. Although the mediation process should be tailored to the mediator's style and the nature of the dispute, the mediation process can be understood through two phases: (a) the problem defining stage; and (b) the problem solving phase.

#### **(a) Problem defining stage**

1. Introduction and setting ground rules
2. Parties explain their position
3. Mediator to summarize position and issues.



## **(b) Problem solving stage**

1. Negotiating solutions
2. Resolution

## **Communication:**

Most often, poor communication leads to conflict and also hampers the process of dispute resolution. Communication is therefore problematic when ambiguous, uncertain, destructive, or over emotional. Mediation requires excellent communication skills on the part of the mediator as a communicator of the parties' positions and a facilitator of negotiations. In essence, the mediator must make himself or herself understood, must understand the parties, and must make the parties understand themselves and each other. The mediator must therefore remain alert to the underlying reason why communication has broken down and assist in its reparation.

The following areas of skills should be developed and employed by a mediator to improve communication during mediation:

## **1. Active Listening**

Active listening is an important part of being a successful mediator. A good listener is able to get better information, build trust, and defuse emotions. When applied properly, active listening can release tension and give the speaker a feeling of being understood. As a result it de-escalates and brings calm to what could otherwise be a contentious mediation. In active listening, a mediator should employ the following techniques:

### **Paraphrasing**

Paraphrasing means communicating what a speaker just said, but in your own words without changing the meaning. This is part of active listening, in that it reassures parties, builds trust, and ensures that the mediator understands the information conveyed.

### **Questioning**

Questioning is perhaps the most common technique associated with a mediator. As discussed, questioning can serve as an active listening technique, but can serve a variety of other purposes, including to seek clarity and give information; to gain parties' attention; to maintain control of the conversation; to check the accuracy of the information; and to suggest

options for settlement. A variety of techniques can be employed for effective questioning:

1. Open-ended questions
2. Closed-ended questions
3. Clarifying questions
4. Reflective questions
5. Probing questions
6. Hypothetical questions
7. Rhetorical questions

### **Non Verbal Communications:**

Mediators should pay attention to non-verbal communication to ensure that the right message is communicated to the parties at different stages of the mediation process. Non-verbal communication can convey status, attitude, anxiety, emotions and confidence. It can be encouraging and reassuring. It can also serve as a threat, however, even if unintended. Non-verbal communication can be expressed through a variety of means, for example:

- 1. *The environment:*** the physical environment of the mediation room can convey a message to the parties, and the mediator should be conscious that they are sending the right message. The message could be one that conveys authority or safety and openness, depending on the mediator's style.
- 2. *Paralanguage:*** the non-verbal distinction in verbal communication that may add meaning to language such as the tone of voice, the volume, the pitch, emphasis, sighs and yawns.
- 3. *Body language:*** all forms of physical appearance may convey a message, including clothing, physique, posture, body movement, hand gesture, facial expression and eye motion. Parties often try to hide or fake their language to some degree to avoid appearing vulnerable. However, body language is not as easy to hide. Care should be exercised in interpreting body language as there are many divergences in meaning of bodily gestures across different cultures.

## **Caucusing:**

Caucusing is a private meeting between the mediator and just one of the

parties that is held out of earshot of the other side. Not all mediations make use of caucusing, but depending on the situation, it might be useful to get past an impasse or if communication breaks down. A caucus might be used to divert hostility, filter out negativities, explore potential outcomes, educate parties, and allow parties to speak more openly about issues that they might consider too personal or embarrassing to share with the group. However, caucusing can have its drawbacks. For example, it might slow the pace of negotiations and parties might become suspicious and paranoid about what is being said out of their presence. Parties might become concerned that the mediator has lost his or her impartiality. The mediator must take care to maintain confidentiality after the caucus and only reveal information to which the disclosing party consents. As a result, many mediators acknowledge that while caucusing can be a useful tool when mediation hits roadblocks, open joint sessions are preferred.

### **Brainstorming:**

Brainstorming is one of the tools used in mediation and is a process by which the parties and the mediator identify as many solutions as possible

for resolving a problem. Brainstorming is designed to generate creative and lateral thinking among the parties. It involves each of the parties being encouraged to propose settlement options, regardless of how realistic these may be and the role of the mediator is to encourage openness and creativity, and not to judge.

### **Drafting a Memorandum of Understanding:**

Once an agreement is reached, the mediator should reiterate the terms verbally to the parties and then draft a memorandum of understanding formalizing the agreement. The memorandum should be sufficiently clear and detailed so that the parties understand exactly their rights and obligation, including the dates by which they agree to comply and any agreed consequences for noncompliance. The mediator should be sure that nothing in the memorandum conflicts with the law. The memorandum should be signed by the parties and the mediator. Other cultural leaders or government officials present as witnesses should also be invited to sign and stamp it and each party should be given copies of the same.

## **Ethical and legal considerations:**

In some situations, a mediator could be liable in tort, breach of contract, or for breach of fiduciary duties if he or she does not act both competently and ethically.

A mediator must, therefore, remain neutral in all aspects of the mediation. He or she has to give both parties the opportunity to be heard and should avoid being heavy handed. Ultimately, it is the parties that must voluntarily accept the agreement and the mediator should not be seen as imposing a decision. The mediator chooses to participate voluntarily and therefore it is also important that the mediator not participate if there is a conflict of interest (e.g., mediator is a close relative of a party or has a financial interest in the outcome of the dispute). The mediator also has a duty of confidentiality and privacy to the parties with respect to information he or she obtains during the course of the case.

## APPENDICES

1. Police Form 3 – Medical examination of an injured person
2. Police Form 3A – Medical examination of victim of sexual assault.
3. Police Form 53 – Charge sheet
4. Police Form 105 – Complaint against a Police Officer
5. Mediation agreement





POLICE FORM 3

## UGANDA POLICE

### MEDICAL EXAMINATION OF AN INJURED PERSON

#### PART (a)

#### REQUEST FOR MEDICAL EXAMINATION OF AN INJURED PERSON

*(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..... day of.....20.....  
case and has been sent as you on the.....

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

Name of the Police Officer:..... Name No:..... Rank:.....

Signature:..... Telephone contact:.....

#### PART (b)

#### MEDICAL EXAMINATION OF AN INJURED PERSON

*(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 must be a clinical officer or a medical doctor



POLICE FORM 3A

UGANDA POLICE

## 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

Police Station.....

Date.....

Police Charge Register No.....

**CHARGE**

UGANDA versus.....

**STATEMENT OF OFFENCE****PARTICULARS OF OFFENCE**.....  
Signature of Officer Preferring Charge.....  
Signature of Magistrate



UGANDA POLICE FORCE

Ref. No. ....

Date: .....

**COMPLAINT/S AGAINST A POLICE OFFICER [POLICE FORM 105]****PART I: INTRODUCTION**

This form is for lodging complainant's against a police officer on cases of violation of human rights and unprofessional conduct under Section 70 of the Police Act 303, which provides for complainants by the public against police officers. A person is entitled, without prejudice to any other legal means of redress available to him or her, to make a written complaint as to – (a) an instance of bribery, corruption, oppression or intimidation by a police officer; (b) any neglect or non performance of his or her duties by a police officer; (c) any other misconduct by a police officer.

**PART II: COMPLAINANT PARTICULARS**

1. Name: .....

Age: .....

2. Gender:  Male  Female

3. Place of Residence [Village, Sub County, District, Plot No.]

.....

.....

4. Telephone: .....

5. Email: .....

**PART III: DETAILS ABOUT THE COMPLAINT**

(a) Who is involved [Fill in the Victim's Names, Age and Gender]?

.....

.....

## **MEDIATION AGREEMENT**

THIS AGREEMENT made this.....day of....., 20.....

### **BETWEEN**

.....of C/o P. O. Box .....,  
Tel:.....email:.....  
(Hereinafter called “first party” which expression shall where the context so admits include his successors in title) of the one part;

### **AND**

.....of C/o P. O.  
Box....., Tel.....,  
email:.....hereinafter referred to as “The second party”, which expression shall where the context so admits include his successors in title of the other part.

**WHEREAS** the first and second parties have been involved in a dispute involving (example) Boundary of land near Awoja bridge in Soroti district.....

.....  
.....  
.....  
.....

**AND WHEREAS:**

The parties agreed to mediate this case in order to get to a mutually acceptable agreement in relation to the above said dispute

**AND WHEREAS:**

The first party acknowledges that he trespassed onto the second party's property and planted crops on it.

The second party admits having beaten and slaughtered the first party's cows when they came onto his land

**1. NOW WHEREFORE THE PARTIES AGREE as follows:**

- a. The second party will compensate an amount of UGX 200,000/- for slaughtering his cows;
- b. The first party will not enter onto the second party's property to graze his cows
- c. Boundary marks will be planted to separate the land in the presence of traditional elders and Local Council members. This will be done within two weeks of signing this agreement;
- d. At the end of the boundary marking process, a party will be organized to indicate the end of this dispute

**2. The parties and the mediator understand and agree as follows:**

- (a) The mediation has been entered into voluntarily and without force from any party;
- (b) Both parties have the authority to enter into the mediation agreement and make decisions;

It is understood between the parties and the mediator that the discussions during the mediation; and the mediation agreement are strictly confidential. Any draft resolutions and any unsigned mediated agreements will 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 a settlement of the dispute.

**IN WITNESS WHEREOF** the parties have caused their hands to be affixed hereunto the day, month and year first above written.

Signed by:

.....

**First Party**



.....

**Second Party**

In the presence of:

.....

**Mediator**

.....

**Witness**



## Legal aid providers and Key stakeholders contact list

- 1. The Legal Aid Clinic of the Law Development Centre**  
Plot 339, Kagugube Road,  
Makerere Hill,  
P.O. Box 7117, Kampala  
Tel: 0414 540127  
Email: lac@infocom.co.ug
- 2. The Public Defender Association of Uganda**  
Suite 11, City Apartments,  
Bombo Road  
P.O Box 27352  
Tel : 0414 286467/+256  
772933354/ +256 414540770
- 3. Advocates Sans Frontiers**  
Plot 49, Kanjokya Street,  
Kamwokya  
P.O Box 36710, Kampala  
Tel : 0312-265842,  
Email : ug-hom@asf.be
- 4. Association of Women Lawyers in Uganda**  
(FIDA) Plot 11, Kanjokya  
Street, P.O Box 2157,  
Kampala.  
Tel : 0414 530848

Email : fida@fidauganda.org

5. **The Refugee Law Project,**  
Plot 9, Perry Gardens, Old  
Kampala  
P.O Box 33903, Kampala  
TEL. 0414 343 556  
Email : info@refugeelawproject.org
6. **Legal Action for Persons with  
Disabilities (LAPD)**  
Kira road, Ntinda.  
P.O Box 14166, Kampala.
7. **Uganda Network on Law,  
Ethics, and HIV/AIDS.**  
Plot 5A, Kimera Road, Ntinda  
P.O Box 70269  
Tel : 0414 532829  
Email : uganet@yahoo.com
8. **Uganda Christian Lawyers  
Fraternity.**  
Baptist House ,Wandegeya  
P.O Box 42, Kampala  
Tel: 0414 534 031  
Email : ugclf@yahoo.co.uk

**9. Platform for Labour Action**

Plot 68Ug6, Kanjokya Street,  
Kamwokya

P.O Box 9714, Kampala

Tel : 0414 253383

Email : pla@utlonline.co.ug

**10. The Legal Aid Project of the  
Uganda Law Society.**

Plot 5A, Acacia Avenue

P.O Box 426, Kampala

Tel : 0414 342 424

Email : lap@uls.or.ug

**11. International Justice Mission**

P.O Box 70445 Kampala

Email : Uganda@ijm.org

**12. Anti Corruption Coalition  
Uganda**

Plot 243 Tufnell Drive, Mulago-  
Kamwokya

Hill, Kampala

Tel: +256-414-535659

**13. Law and Advocacy for Women  
in Uganda**

P.O.Box 25324, Kampala

Tel: 041-235445

Tel: 041-345605

**14. Uganda Womens Network**

Plot 710, Block 216, Mirembe  
Close, Bbuye- Kigowa Ntinda  
P.O. Box 27991, Kampala  
Tel. +256 414 286 539  
Email: info@uwonet.or.ug

**16. Actionaid Uganda**

Plot 2514/2515 Gaba Road  
P.O. Box 676 Kampala  
Tel. +256 392 220 002/3  
www.actionaid.org/uganda

**17. National Associations of  
Women's Organisations in  
Uganda**

Plot 1 Perryman Gardens

P.O. Box 1663 Kampala

Tel. +256 414 258463

Email: nawou@nawouganda.  
org

**18. Justice Centre Uganda**

Kampala Centre

Chief Magistrates Court,  
Mengo

Kabaka Anjagala Road

Tel. 0759 500440

**19. Foundation for Human  
Rights Initiatives**

Plot 13 Lulume Road Nsambya

P.O. Box 11027 Kampala  
Tel. +256 414 510263  
Email: fhri@starcom.co.ug

**20. Uganda Human Rights Commission**

Twed Plaza, Lumumba Avenue  
P.O. Box 4929 Kampala  
Tel. + 256 414 232190  
[www.uhrc.ug](http://www.uhrc.ug)

**21. Muslim Centre for Justice & Law**

Bwaise Road Ku Saatu,  
UMEME Building (Next Top

Radio)  
P.O Box: 6929 Kampala  
Uganda

Toll free Line: 0800256250

Tel: +256 414 531084

+256 701 282887

Email: [muslimjustice@yahoo.com](mailto:muslimjustice@yahoo.com) / [info@mcjl.ug](mailto:info@mcjl.ug)



Strategic Initiative  
for Women in the  
Horn of Africa



SIHA Network