

**REPORT ON GOOD/BEST PRACTICES IN GENDER  
MAINSTREAMING IN THE JUSTICE LAW AND  
ORDER SECTOR IN UGANDA**

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## **LIST OF ACRONYMS**

<b>AIDS</b>	Acquired Immunodeficiency Syndrome
<b>CEDAW</b>	Convention on the Elimination of all Forms of Discrimination against Women
<b>CEEWA-U</b>	Council for Economic Empowerment of Women in Africa-Uganda
<b>CSOs</b>	Civil Society Organizations
<b>DPP</b>	Directorate of Public Prosecution
<b>HIV</b>	Human Immunodeficiency Virus
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>JARD</b>	Joint Annual Review of Decentralization
<b>JLOS</b>	Justice, Law and Order Sector
<b>MOLG</b>	Ministry of Local Government
<b>MGLSD</b>	Ministry of Gender, Labour and Social Development
<b>NAPW</b>	National Action Plan for Women
<b>NGO</b>	Non-Governmental Organization
<b>PEAP</b>	Poverty Eradication Action Plan
<b>PPU</b>	Policy and Planning Unit
<b>SAPs</b>	Structural Adjustment Programmes
<b>SIP</b>	Strategic Investment Plan
<b>SWAp</b>	Sector Wide Approach
<b>WID</b>	Women in Development

# **I. INTRODUCTION**

1. This report contains the findings of a study on the emerging good practices in gender mainstreaming in the Justice Law and Order Sector of Uganda. This sector is barely nine years old, and the report is cognisant of the fact that gender mainstreaming is part of a recent paradigm shift in development planning in Uganda, having been introduced as a crosscutting issue in the Poverty Eradication Action Plan of Uganda in 2004. The impact of various gender mainstreaming initiatives in the Justice, Law and Order Sector (JLOS) is yet to be adequately assessed by respective implementers, but nonetheless the report seeks to capture the blossoming good practices that have been established within the sector and which hold the promise of longevity as well as potential for consolidation. The report outlines the economic, social and cultural context in which gender mainstreaming has been undertaken as a development concept and strategy nationally and sectorally. It traces developments and progress achieved in addressing the outstanding issue of gender equality in Uganda on the whole within the national planning and development framework and in JLOS specifically.

2. Analyses are made of constituent institutions of JLOS that have fostered good practices, whether these are in their nascent stage or well developed. The report also assesses limitations on attempts to mainstream gender in various institutions and makes proposals on how to overcome identified gaps in gender mainstreaming in JLOS.

## **The PEAP, gender mainstreaming and SWAps**

3. The Poverty Eradication Action Plan (PEAP) is the over-arching national planning framework for Uganda that doubles as the Poverty Reduction Paper. It steers public action towards poverty eradication, and is prepared through a multilayered and participatory consultative process involving central and local Government, Parliament, donors and civil society.<sup>1</sup>

4. The PEAP is an aggregate of several international commitments that Uganda has undertaken, one of which is the Millennium Development Goals. The PEAP provides the priority planning actions for sectors and necessitates that sectors collectively develop objectives, outputs and outcomes as well as detailed expenditures in a sector-wide approach (SWAP). Sectors jointly develop strategic investment plans (SIP) and programmes within an overall medium-term expenditure framework which forms the basis for budget allocations. Under the decentralization model of governance, districts must then plan and implement the sector priorities and programmes based on local priorities.<sup>2</sup>

5. The PEAP unequivocally states that Uganda women are disempowered, citing factors such as unequal ownership of assets, traditional practices of bride price, and the occurrence of

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<sup>1</sup> Ministry of Finance, Planning and Economic Development (2004) PEAP 2004-2008 page 15.

<sup>2</sup> Ministry of Finance, Planning and Economic Development (2000), Poverty Reduction Strategy Paper: Uganda's Poverty Eradication Action Plan Summary and Main Objectives.

domestic violence, which militate against gender equality and foster poverty. This finding then provides the basis for the integration of gender perspectives in public service frameworks, hence validating gender mainstreaming as a national development concept. The Uganda Gender Policy 2007 recognizes that women-specific targeted interventions within the mainstream of development may be required so as to improve their condition, and that the gender and development approach does not de-emphasize women, but rather focuses on their empowerment and equality with men.<sup>3</sup>

6. Gender mainstreaming is a powerful tool that is imperative in ensuring equality between women and men, which has been described by United Nations as the process of assessing the implication for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes to ensure that inequality is not perpetuated.<sup>4</sup>

7. The Justice, Law and Order Sector is but one of the PEAP sectors, falling under PEAP Pillar 4 on Good Governance. In this report, the context in which the gender mainstreaming performance of JLOS institutions is analyzed stems from the processes of sector-wide approaches as necessitated under the PEAP 2004-2008. In that regard, it is important to have a proper understanding of the principles upon which the operations of sector-wide approaches (SWAs) to development planning are premised.

8. Sector-wide approaches represent a donor shift in budget support from projects to sectors. SWAs refer to the clustering of ministries and Government institutions, donors and stakeholders involved in complementary or thematically aligned mandates of public service delivery. These actors work together to develop jointly an overall strategic plan and budget, identify expenditures related to executing stated priorities and objectives, as well as develop monitoring mechanisms. In other words, in SWAs "All significant funding for the sector supports a single sector policy and expenditure programme, under government leadership, adopting common approaches across the sector, and progressing towards Government procedures to disburse and account for all funds."<sup>5</sup>

9. SWAs provide an opportunity to integrate gender dimensions into all sectors rather than address gender, which has multifaceted components, as a stand-alone issue. As an aid modality, SWAs offer the added advantage of developing sector policies and strategies that are gender responsive. As clearly reflected in the PEAP, women are heavily affected by the incidence and burden of poverty; which is not accidental, but rather a consequence of systemic gender discrimination. Gender mainstreaming in SWAs is a vital tool that is required in order to foster equal opportunities and benefits for women and men in the development process. Studies point out that SWAs provide "a gender mainstreaming approach to development cooperation in

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<sup>3</sup> Ministry of Gender, Labour and Social Development (2007) Uganda Gender Policy 2007 page 36.

<sup>4</sup> United Nation (2000). Economic and Social Council Summary of the Womenwatch Online Working Groups on the 12 Critical Areas of Concern. Document # E/CN.6/2000/PC/CRP.1/February 2000.

<sup>5</sup> Foster M. (2000) New Approaches to Development Cooperation: What can we Learn from Experience with implementing Sector Wide Approaches? Working paper 140, Centre for Aid and Public Expenditure, Overseas Development Institute, London, UK.

which underlying differences in women's and men's resources, power, constraints, needs and interests are explicitly recognized and acted on in all situations, so as to reduce gender inequality.”<sup>6</sup> Omission to mainstream gender issues into SWAs would reinforce the imbalances that exist between men and women in power relations. This would most likely result in limitations in women's participation in and access to decision-making mechanisms and overall, women will not benefit adequately and on an equal basis with men from planned interventions.

10. In light of the several constraints women face when accessing the justice system, JLOS provides an opportunity for a gender-responsive approach that will take into account the needs, interests and perspectives of women with a view to eliminating the structural barriers that they face in benefiting from JLOS offerings in the provision of justice administration and service delivery. Legal rights and their enforcement are an important leverage to ensure that the status quo of women is reinforced whenever inequalities exist, and JLOS must facilitate the realization of these rights by undertaking to eliminate all barriers in this regard. Important issues such as the constraints and opportunities, as well as the impact of gender differences in accessing justice and their consequential effects must guide the designing and execution of JLOS programmes.

11. The adoption of SWAs has provided an entry point for addressing the gender implications of programmes, with gender analysis at various levels; needs assessment programming design, budgeting and impact assessments. In realizing its mandate, JLOS has identified gender mainstreaming as a priority action. JLOS is attempting to ensure that women in Uganda are not discriminated against in the course of justice administration, but rather, that they benefit on an equal basis as men. This preserves important civil and political rights that Uganda has undertaken to protect under the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). These important instruments have in common the aim to ensure equality and non-discrimination for women, as well as equal protection under the law for men and women. The mission of JLOS to ensure a just society within a gender-responsive framework is in keeping with the Millennium Development Goals, which call for the promotion of gender equality and empowerment of women.

## II. METHODOLOGY

12. The study process comprised of the following methodologies:

(a) **Literature gathering and review:** The consultant undertook reviews of accessible data, including Internet sites. This involved studying national instruments such as the Constitution, the PEAP, the National Gender Policy framework instruments for gender mainstreaming, as well as the JLOS strategic investment documents and plans of action. Also of particular interest was literature on guidelines and practices in sector-wide approaches and gender mainstreaming. Various JLOS institutions visited also elicited key documents, including

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<sup>6</sup> OECD (2002) Gender Equality in Sector-Wide Approaches; A Reference Guide page 3.

policy papers, evaluation reports, training manuals and strategic plans and policies. The document review primarily focused on programmes, activities and evaluation reports.

(b) **Stakeholder consultations** : One-on-one in-depth qualitative interviews were held with key personnel in the JLOS institutions (See Annex I). This was necessary due to the wide range of actors and the very specific mandates that each institution undertakes as a matter of law and practice. Attempts to have a focus group discussion were made when a JLOS meeting of the Committee on Land and Family was scheduled to meet, but unfortunately, the said meeting did not take place. Due to bureaucratic procedures, the police forces and the Ministry of Internal Affairs were not interviewed. Meetings with the JLOS focal official from the Ministry of Justice and Constitutional Affairs did not elicit the required information despite several efforts.

### **Limitations of the study**

13. A major drawback of this study was the lack of gender-disaggregated data and impact assessment reports in the JLOS institutions. There was a general lack of evaluative information and in particular on gender mainstreaming, even where gender mainstreaming interventions clearly existed. This made it difficult or impossible in some cases to draw concrete conclusions on the impact of gender mainstreaming strategies, in order to facilitate a better illustration of a good or best practice. Failure to document institutional practices and strategies relating to gender mainstreaming in JLOS seems to have resulted in loss of memory and evidence of some good practices, especially where key actors had resigned or left JLOS.

## **III. ECONOMIC, SOCIAL AND CULTURAL BACKGROUND**

14. Uganda has come a long way from being the war-ravaged, socially and economically debilitated State that it was up until the 1980s. Unlike the post-independence period when the country was characterized by anarchy, human rights violations and economic disorder, Uganda now operates under the rule of law. The country is set on a reform recovery process that has seen the economy grow despite several challenges, including inflation, high poverty levels and corruption. In 2005, the transition to political pluralism was concretized and representative participation in governance established as a democratic tenet. Since the return to democratic rule, conflict breakouts in parts of the country and pandemic diseases like HIV/AIDs have threatened the stability, growth and development of the country, but multifaceted interventions by the Government, civil society actors and development partners have helped to alleviate these problems somewhat.

15. Imbalances in power relations between men and women have traditionally existed in Uganda, and the socio-economic developments in the country in the last few decades have only served to reinforce the subordination of women. The effects of the several conflicts experienced in Uganda over the various post-independence regimes affected Ugandans from all walks of life, but they had severe gender implications for women, who were affected more by war in multiple forms, either as combatants or as victims, or as part of the vulnerable groups suffering as a result of war.

16. The gendered impact of SAPs and World Bank austerity measures that many African countries experienced in the 1980s has been documented in several studies. The major features included a drastic fall in standards of and access to crucial public services such as food and clean water, healthcare, education, finances, resources and productivity inputs, as well as the feminization of poverty. In this regard, Ugandan women were not insulated from the gender disparities and structural marginalization in the political and socio-economic and cultural arena, in both the public and the private spheres.

### **Challenges and constraints to progress made towards mainstreaming gender**

17. While significant strides have been made towards achieving gender equality, the prevalent situation is still that of inequality and marginalization of women in Uganda. Women are still unable to access opportunities that men do in all spheres of public life. Gender relations between men and women in Uganda are characterized by inequalities in the private and public sphere, at the family, communal and national level. Governance structures and processes are dominated by men. Due to the higher premium placed on masculinity, men have higher literacy levels than women (adult literacy rate for women is 57.7 per cent, the ratio of female to male is 0.75).<sup>7</sup> Men dominate the formal employment sector and are numerically and substantively more visible in the socio-economic (the ratio of female to male earned income is 0.53)<sup>8</sup> and political arena (as of 2005, seats by women parliamentarians accounted for only 29.9 per cent despite affirmative action imperatives).<sup>9</sup> As a result, women (33 per cent) are poorer than men (30 per cent)<sup>10</sup> and as noted in the PEAP 2004, gender dimensions to poverty are strikingly obvious.<sup>11</sup> This is a combination of several factors, including socially conditioned gender roles; structural imbalances in gender equality propagated by stereotypes and entrenched by dominant patriarchal norms, and cultural practices that render women subordinate to men.

18. Other factors contributing to and simultaneously constituting gender discrimination include high maternal mortality and morbidity rates (505 per 100, 000 births),<sup>12</sup> early marriages (53 per cent marriages occur by the age of 18),<sup>13</sup> gender inequality regarding the right to own property (only 16 per cent women own registered land),<sup>14</sup> gender-based violence (with a prevalence of 40 per cent),<sup>15</sup> few opportunities for women in professional jobs (30.2 per cent)<sup>16</sup>, as well as cultural biases leading to discrimination. While women form the dominant labour force, especially in the agricultural sector (77:64)<sup>17</sup>, overall, gender inequality characterizes economic activity, whereby female economic activity accounts for 79.7 per cent.<sup>18</sup> As noted in a

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<sup>7</sup> UNDP Human Development Report page 328.

<sup>8</sup> UNDP Human Development Report page 332.

<sup>9</sup> *ibid*

<sup>10</sup> Uganda Gender Policy page 7.

<sup>11</sup> PEAP 2004 Page 18.

<sup>12</sup> Uganda Gender Policy page 9.

<sup>13</sup> *ibid*

<sup>14</sup> *ibid*

<sup>15</sup> Uganda Gender Policy page 10.

<sup>16</sup> Uganda Gender Policy page 12.

<sup>17</sup> UNDP Human Rights Index 2007/2008 page 340.

<sup>18</sup> *ibid*



number of Government reports, in general, women are still poorer than men and still lack control over resources and livelihood assets; e.g., only 25.5 per cent control the land they cultivate.<sup>19</sup>

19. From the outset of the NRM Government in 1986, human rights issues were high on the agenda and the intense discourse and focus on restoration of civil rights of Ugandans served to give women a platform to articulate their interests. This enabling environment proved important in galvanizing activism and garnering crucial consensus around the inclusion of women and gender concerns, particularly during the constitutional reform process and in the development of national governance frameworks such as the parliamentary electoral colleges for women, local government women councils and the establishment of a ministry for to address the concerns of women.

20. From the late 1980s to date, Uganda has evidenced a strong women's movement, with many actors from the civil society, NGOs and community-based organizations, politicians, media and academia highlighting women's interests and concerns and the need to provide equal opportunities for women in key governance mechanisms, some of which have found expression in important government policies, strategies and institutional mechanisms. At the political level, the involvement of women has been evidenced in increased appointments in the executive and judicial sector, as well as in public institutions, such as the appointment of women to ministerial positions (23 per cent).<sup>20</sup> Affirmative action measures in parliamentary electoral processes have also resulted in unprecedented numbers of women in Parliament, although perceptions exist that the logic of affirmative action has not been fulfilled.

#### **IV. PROGRESS ACHIEVED IN WOMEN'S GENDER CONCERNS**

21. Generally, indicators for a successful gender mainstreaming initiative include institutional measures undertaken to achieve gender mainstreaming, planning and analysis that consciously and specifically incorporates gender concerns, interests and experiences; resource allocation; initiatives towards reform of laws and policies; participation of women in decision-making as well as efforts to re-orient national governance processes towards incorporating gender perspectives. It is against this backdrop that the assessment of Uganda's performance, and specifically, that of JLOS, is undertaken.

##### **(a) Gender-responsive/enabling policy environment**

22. Over the past two decades, Uganda has experienced several reform processes, including the adoption of significant normative development frameworks and instruments propounding good governance paradigms. Uganda ratified the Convention on the Elimination of all Forms of Discrimination against Women in 1985 and is a party to the Beijing Declaration and Platform for Action (1995) and the Millennium Declaration (2000), the latter of whose goals are closely

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<sup>19</sup> Uganda Gender Policy page 7.

<sup>20</sup> UNDP (2007) Human Development Report ( Palgrave Macmillan, New York) 2007/3008 Fighting climate change: Human solidarity in a divided world page 345.

reflected in the PEAP. Uganda is also a signatory and a party to the Protocol on the Rights of Women in Africa (2003), as well as the AU Heads of State Solemn Declaration on Gender Equality (2004).

23. The Constitution of Uganda provides an enabling environment for gender mainstreaming as it espouses the fundamental right to equality among the sexes<sup>21</sup> in every respect and calls for gender balance and fair representation<sup>22</sup> as well as the recognition of the role of women in society.<sup>23</sup> It also recognizes the right to affirmative action measures for marginalized groups which include those marginalized on the basis of gender<sup>24</sup>. Specifically relating to access to justice, several constitutional provisions recognize women as being entitled to equal rights, obligations and protection of the law in the private and public spheres. Customs that militate against the rights of women are proscribed<sup>25</sup>, hence protecting the rights of women to equality under customary, civil and criminal law, although the reality on the ground does not reflect this position, as will be discussed later on in this report.

24. Uganda has laws that touch on the rights of women specifically, but these tend to regulate personal relations, such as the laws on marriage, divorce and inheritance. In 1997, a National Gender Policy was established which has since been revised in 2007 and renamed the Uganda Gender Policy. This Policy addresses gender inequalities by providing a “clear framework for identification, implementation and coordination of interventions designed to achieve gender equality and women’s empowerment”. It mandates the Ministry of Gender, Labour and Social Development (MGLSD) to set priority areas of action at the national, sectoral, district and community level. In line with the PEAP, SWApS have adopted the mainstreaming of gender perspectives as crosscutting issues across the sectors. The Social Development Sector Strategic Investment Plan, of which the MGLSD is the lead agency, aims to achieve gender equality through the promotion of equity and women's advancement. The Uganda Report on the Implementation of the Beijing Platform for Action<sup>26</sup> notes that the Policy itself has been influential in the adoption of mainstreaming gender “as a cardinal principle” in sectoral and district development programmes, resulting in increased attention to how such programmes involve and benefit men and women.

25. The National Action Plan for Women (NAPW) which was revised in 2007 is a policy instrument that seeks to translate the concerns and objectives contained in the Africa Platform for Action, the Dakar Declaration, the Global Platform for Action and the Beijing Platform Declaration into concrete actions. The revised National Action Plan for Women focuses on five critical action areas: legal and policy framework and leadership; social and economic empowerment of women; reproductive health, rights and responsibilities; the girl child and education; and peacebuilding, conflict resolution and freedom from violence.

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<sup>21</sup> The Constitution of the Republic of Uganda, 1995 Article 21.

<sup>22</sup> Objective VI

<sup>23</sup> Objective XV

<sup>24</sup> Article 33 (4)

<sup>25</sup> Article 33(1)

<sup>26</sup> Report on Government of Uganda’s implementation of the Beijing Platform for Action (1995) and the Outcome of the Twenty-third Special Session of the General Assembly (2000) page 1. [www.un.org/womenwatch](http://www.un.org/womenwatch)

## **(b) Institutionalization of gender mainstreaming in governance mechanisms**

### **Gender incorporated into the PEAP as a crosscutting issue**

26. Prior to 2004, gender tended to be handled as a stand-alone issue for the Ministry of Gender, Labour and Social Development (MGLSD), Women's Councils and departments of community development. Previous PEAPs, including the one of 2000, lacked an explicit gender perspective.<sup>27</sup> A Gender PEAP Team constituted in 2002 undertook the gender component of the PEAP during the PEAP national review process, with the result that gender was integrated as a crosscutting issue to be addressed in all sectors.

27. The PEAP 2004 notes that eliminating gender inequalities is key to eradicating poverty in Uganda. However, the value addition of the PEAP to gender mainstreaming is limited by the absence of specific gender-based indicators in the Annual PEAP Implementation Review. Currently, there is evidence of gender-responsive budgeting at the national, sectoral and district level, which is facilitated by the Ministry of Finance, Planning and Economic Development. This Ministry tacitly admitted that the benefits and incentives of implementing budgetary allocations have failed to be equitably accessed by various socio-economic groups, and noted the need to institutionalize gender and equity budgeting through its budget call circulars.<sup>28</sup>

### **Gender incorporated into budgeting mechanisms at all levels; national, local and sectoral**

28. The Ministry of Finance, Planning and Economic Development has produced the Guidelines for the Budget Process for Financial Years 2005/2006 to 2007/2008 Sector Working Groups Terms of Reference and Guidelines on Gender and Equity Budgeting. These guidelines require planners to assess constraints to gender equality and overall inequity and propose policies and interventions that will address the constraints.<sup>29</sup> The Ministry of Finance's call circular for 2005/2006, for example, required government planners to commit themselves to gender and equity objectives in the planning and budgeting process, and to identify these requirements and incorporate the cost implications for the next financial year 2005/2006 and the medium term. Similarly, as per the sector investment plans, local governments are required to integrate gender planning and budgeting into their processes.

### **Affirmative action as a mechanism for participation and inclusion in governance**

29. A constitutional reform process which canvassed broad views on reforms resulted in the establishment of a Constitution in 1995 that was strong on civil, political and economic and social rights of Ugandans, a novelty in Ugandan constitutional law. The inclusion of protections for vulnerable groups was particularly welcome in several quarters of populations at risk, who had long felt marginalized from the mainstream of political, developmental processes and

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<sup>27</sup> Ministry of Finance, Planning and Economic Development (2003) PEAP Revision Guide Page 25.

<sup>28</sup> Ministry of Finance, Planning and Economic Development (2008) Gender-disaggregated data for the justice, law and order sector page 4.

<sup>29</sup> UNIFEM (2007) Gender-responsive Budgeting Programme Guidance sheet series - No. 1 page 4.

decision-making structures, including women. Structurally, the inclusion and mainstreaming of these groups in governance has been well developed. However, the ability of women as individuals or collectively to influence decision-making towards gender equality is still low.

30. Uganda introduced the local government system in 1986 in a revolutionary bid to increase the participation of citizens in their governance and bring the structures, powers and systems of service delivery closer to them. Under the decentralization law, provisions for the participation of women in governance structures at local government and below guaranteed quotas for women as one third of all council members were to be composed of women.

31. However, the election of women councillors in electoral colleges outside the mainstream election processes has been also viewed as a major drawback, because it perpetuates the concept of women in decision-making as an “add-on”, made worse in a patriarchal socio-political context where there is still a lack of legitimacy for women in such positions. Also, research has shown that affirmative action is still regarded with suspicion by many members of the population, and is regarded as giving women politicians an easy ride, further undermining their legitimacy. This lack of understanding of affirmative action is attributable to a lack of adequate civic education in the general population.

32. Furthermore, women have failed to attain key decision-making positions in local government, and few council chairpersons are female. There has also emerged a nationwide trend in which males are deputized by women in public office, rarely vice versa, thus mirroring traditional gender roles in the family. In addition, studies have also indicated that women’s effectiveness in council meetings and proceedings is hindered by their low levels of education and self esteem, especially in council debates and in the presence of their male counterparts.

### **Gender-responsive civil society organizations involvement in sectors**

33. Several civil society groups and individual actors emerged in the 1980s who advocated for the equal rights and opportunities of men and women. They lobbied successfully for important institutional and policy reforms that benefited the mainstreaming of gender experiences and concerns in the various national and local development processes. To date, many vibrant NGOs, including those espousing gender equality, have been involved in the planning, implementation and monitoring processes of several sector programmes, including the JLOS, and some receive funding from the Government to facilitate the implementation of sector strategic plans. The Legal Aid Basket Fund, though not under the JLOS, is one such mechanism.

### **Establishment of a ministry dealing with gender**

34. A separate ministry was set up for women initially known as the Ministry of Women in Development in 1991, which was reflective of the emphasis on specifically addressing the empowerment and advancement of women within the mainstream. Currently, the national machinery for gender mainstreaming responsible for initiating, coordinating and implementing policies and programmes to empower women is the Ministry of Gender, Labour and Social

Development (MGLSD).<sup>30</sup> The Ministry has a gender mainstreaming strategy in place, and in 2007 established a Department of Gender and Women's Affairs dedicated to gender-specific analysis, planning and mainstreaming. However, the effectiveness of the Ministry is impaired by the fact that it has persistently been under-funded and under-resourced, despite having a very wide mandate in addition to gender affairs. Reference is also made in the Uganda Gender Policy to the tendency for government policies to narrowly define gender needs and view achievements numerically rather than qualitatively.<sup>31</sup>

### **Progress in gender mainstreaming**

35. Several milestones have been achieved through the work of the Ministry, including integrating gender perspectives into sectoral and district agenda and planning processes.<sup>32</sup> As illustrated in the National Gender Policy and the National Action Plan on Women, progress in the area of programme, policy and legislative reforms has also been registered as follows:

- At the national level, the highest level of development planning and policy setting, the PEAP has structurally integrated gender mainstreaming in all its processes.
- More development programmes are incorporating gender perspectives in their planning, analysis, monitoring and budgeting processes at national and local level, drawing from the PEAP and the Poverty Reduction Strategy Papers.
- Affirmative action in the election of female legislators has improved the visibility of women in governance issues, although nomination to appointive positions is low.
- Women's presence in educational institutions increased substantially with the advent of UPE, which especially promoted gender equality in and the advancement of girl child education. These has helped increase literacy rates among women.
- The involvement of women in male-dominated sectors such as micro-finance institutions has increased.
- There are improvements in the recognition of women's land rights and development of anti-poverty and pro-economic growth strategies that target men and women in Uganda.

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<sup>30</sup> Ministry of Gender, Labour and Social Development (2007) The National Action Plan on Women 2007.

<sup>31</sup> Uganda Gender Policy page 12.

<sup>32</sup> Government of Uganda (2000) Report on Government of Uganda's implementation of the Beijing Platform for Action (1995) and the outcome of the Twenty-third Special Session of the General Assembly.

## **V. GENDER MAINSTREAMING IN JLOS INSTITUTIONS**

36. The following part of the report analyses the practices in gender mainstreaming that have evolved in the justice, law and order sector to assess which ones are noteworthy and sound. The identification of a practice as an emerging or established good or best practice is based on the feasibility of the concept, strategy or action, the extent to which it has been implemented, and the results of such an intervention. The impact of this practice should have a propensity to foster long-term benefits for the targeted beneficiaries and build capacity for them to be able to achieve the goals of gender equality.

### **A. The justice, law and order sector (JLOS)**

37. The Justice, Law and Order Sector was established in line with the PEAP pillar on good governance, and its goal is to enhance quality of life and ensure that poverty in Uganda is eliminated. Access to justice is addressed as a goal under the PEAP and its importance cannot be overstated, as it guarantees good governance through the observance of the rule of law, a prerequisite to human development.<sup>33</sup> JLOS has the following policy objectives: to foster a human rights culture across the JLOS institutions; to promote the rule of law and due process; to enhance access to justice for all people, particularly the poor and other marginalized groups; to undertake law reform; to reduce the incidence of crime and promote safety and security of the person and property; and to enhance JLOS contribution to economic development. The integration of gender as a crosscutting issue was made a priority action of the sector operations under the Strategic Investment Plan of 2006-2011 (SIP II).

38. Several studies prior to setting up JLOS concluded that service delivery by criminal and commercial justice agencies were dissatisfactory, leading to perceptions of high levels of corruption and insecurity of the person and property.<sup>34</sup> At that point the constituent institutions of the sector had not developed a clear policy framework and suffered funding constraints.<sup>35</sup> JLOS was conceived in 1999 as a reform process for improving the administration of justice and maintenance of law and order in Uganda<sup>36</sup>, and was the first of its kind in Africa.<sup>37</sup> It also arose from a desire by stakeholders of the justice sector to align with the PEAP and to undertake reforms in the criminal and commercial justice programmes. As early as 1999, the JLOS reform initiative brought on board donors, civil society, NGOs and government. A JLOS secretariat was formed in 2000 within the Ministry of Justice and Constitutional Affairs, which Ministry also acted as the lead agency for the sector. The overall mission of JLOS was defined as “to ensure

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<sup>33</sup> JLOS (2004) Justice Law and Order Strategic Investment Plan Midterm Evaluation 2001-2002/2005-2006 VOL 1 Page 19.

<sup>34</sup> (host not cited) TOR for a Midterm Evaluation of the Justice, Law and Order Sector (JLOS) Strategic Investment Plan for the Medium-Term 2001-2006. [www.gsdr.org](http://www.gsdr.org)

<sup>35</sup> *ibid*

<sup>36</sup> JLOS Strategic Investment Plan 2001-2006, 2006/2011.

<sup>37</sup> Evelyn Edroma and Donal Cronin (2007) Results Framework and Accountability for Cross-cutting Issues: Lessons from the Justice, Law and Order Sector in Uganda- (Summary paper presented at the Workshop on Development Effectiveness in Practice: Applying the Paris Declaration to Advancing Gender Equality, Environmental Sustainability and Human Rights, Dublin, Ireland, April 26-27 page 1. <http://www.oecd.org>

that all people in Uganda live in a safe and just society”.<sup>38</sup> JLOS sought to attain “increased coordinated programme planning, budgeting, implementation, monitoring and evaluation of all sector institutions”<sup>39</sup> through a sector-wide, prioritized and costed strategic investment plan, hence the Strategic Investment Plan 2001-2006, (SIP) and 2006-2011 (SIP II) respectively.

39. JLOS provides a collaborative approach to justice administration, with intersectoral linkages to service for the following institutions; Ministry of Justice and Constitutional Affairs; Ministry of Internal Affairs; the Judiciary; the Uganda Prison Service; the Uganda Police Force; the Directorate of Public Prosecutions; the Judicial Services Commission; the Uganda Law Reform Commission; the Ministry of Gender, Labour and Social Development (Probation Services), and the Ministry of Local Government (Local Council Courts). JLOS has a district presence too, with coordination committees that oversee its operations at district level.<sup>40</sup> These institutions are involved in the maintenance of justice, law and order in Uganda and have varied but complementary roles in administering justice. Currently, SIP II covers criminal and commercial justice, as well as land and family justice. JLOS has organized its work in the following groups: commercial justice, criminal justice, family justice, land justice and the Budget Working Group. A Development Partners Group also exists. Gender is handled as a crosscutting issue in SIP II.

40. It has been posited that SWApS are both an opportunity and a threat for gender equality mainstreaming, and which way holds sway depends on the preparedness and ability of organizations to articulate gender mainstreaming.<sup>41</sup> The operational processes and structures of JLOS are well suited to facilitate gender-specific analysis and mainstreaming. Although JLOS institutions receive funds through their line ministries, the JLOS Sector Budget Framework Paper prepared by the Budget Working Group sets out the priorities of JLOS based on its SIP, one of whose priorities is gender mainstreaming. Through its intersectoral working groups and policy planning units, JLOS offers a common space for the collective analysis of the gender implications of identified programmes in all the working groups’ areas of focus. This would likely result in concerted and comprehensive gender mainstreaming collaboration across the sector.

41. The findings of the JLOS Strategic Investment Plan Midterm Evaluation 2001-2002/2005 will largely inform the review of JLOS efforts in gender mainstreaming. The evaluation was undertaken to assess the sector’s performance during the 2001/2004 period in the areas of access to justice, efficiency and effectiveness and quality of justice. In addition, it assessed JLOS contributions towards the attainment of the PEAP aims; the efficiency and effectiveness of programme and financial management structures, including the monitoring and evaluation systems in place in JLOS; the effectiveness of and support for the JLOS reform programme at local level; and the intersectoral policies and working relationships with other line ministries,

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<sup>38</sup> JLOS (2004) Justice, Law and Order Strategic Investment Plan Midterm Evaluation 2001-2002/2005-2006 VOI Page 19.

<sup>39</sup> Evelyn B. Edroma (2005) Sector-wide Approach in Justice, Law and Order: the Uganda Experience. The ALRAESA Annual Conference on Fusion of Legal Systems and Concepts in Africa, Entebbe.

<sup>40</sup> SIP II

<sup>41</sup> Margaret Kakande (2007) Financing for gender equality and empowerment of women: Uganda’s experience page 2-3, EGM/FFGE/2007/EP.8. <http://www.un.org/womenwatch/daw>

especially the Ministries of Local Government and Gender, Labour and Social Development, as well as with and between the donors supporting JLOS.

### **Gender-specific constraints to accessing justice**

42. While the report notes that women have several structural barriers that make it difficult for them to obtain equal rights and opportunities as men, this section looks at specific barriers that exist in the justice system in Uganda. The Uganda Gender Policy notes that the entire legal system i.e. “laws, legal processes and enforcement procedures”, still affect women disproportionately, thereby limiting their rights and protection under the law.<sup>42</sup> All these make the provision of appropriate and effective administration of and access to justice all the more imperative.

43. The NAPW too notes several bottlenecks in the justice delivery system, which include case backlog; inflexible systems and procedures, insecurity; corruption; inefficiency and negative cultural and religious beliefs, all of which constrain the ability of women to access justice. Several laws relating to the personal status of women are in urgent need of reform, such as the laws on sexual offences and inheritance. New laws are also required to ensure gender equality in the area of domestic relations.

44. According to a JLOS review of gender and access to justice in Uganda,<sup>43</sup> there are gender-specific and multilayered barriers to accessing justice. These constraints are embedded within the law, in the administrative procedures of service delivery agencies and within the communities. The Review on Gender and Access to Justice notes that institutional challenges such as male-dominated agencies of justice administration, gender-biased or neutral laws, lack of gender sensitivity on the part of personnel, poverty, cultural biases and technical procedures affect the ability for women to access to justice, thus requiring extensive gender-responsive interventions by JLOS. The Review also observed that lack of access to justice and insecurity of person and property compound the problem of poverty.

45. A comprehensive study on the challenges to women’s contribution to the Ugandan economy identified several legal barriers faced by female entrepreneurs and which disproportionately affect women attempting to formalize their businesses, such as the bureaucratic registration and licensing processes.<sup>44</sup> In addition, lengthy and rigid land laws and titling processes affect the ability of women to access credit facilities, while women’s access to land is made more difficult by laws like the Land Act, the Succession Act and the Divorce Act, all of which have a negative bearing on women’s access to resources. This is aggravated by a lack of information on legal rights and access to legal representation, all of which affect women more negatively than men, causing disparities in legal protection and leading to economic disempowerment. The study noted that simplified licensing and registration systems facilitate and expedite formalization of business entities, which is beneficial for female entrepreneurs.

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<sup>42</sup> Uganda Gender Policy 2007 page 8.

<sup>43</sup> JLOS (2002) Desk Review of Gender and Access to Justice in Uganda.

<sup>44</sup> Ellis A, Manuel C and Blacken M (2006) Gender and Economic Growth in Uganda (The World Bank ) page 4.



46. Evaluations of JLOS indicate that institutional progress has been made in significant areas.<sup>45</sup> Improved communication and coordination of justice administration has led to joint preparation of strategic plans, budgeting, reporting and speedier processes in commercial courts. Commercial laws have been reformed and court structures have been constructed, which has improved the performance of the commercial courts.

*Emerging good practices in gender mainstreaming*

47. **The Working Group on Gender:** Gender mainstreaming was not specifically provided for as an objective of JLOS in SIP, meaning that programmes were planned in a gender-neutral manner. Given the legal barriers faced by women which had been identified in various studies and policy instruments, this had negative implications for the legal rights of and access to justice for women.<sup>46</sup> To remedy this significant shortcoming, the Working Group on Gender comprising of volunteers from government bodies, development partners and civil society was constituted to close the gender gap highlighted in JLOS analyses.<sup>47</sup> It served as a critical body in integrating gender concerns and perspectives in the Commercial Justice Programme of JLOS, which covers the commercial courts and tribunals, commercial lawyers, the Centre for Arbitration and Dispute Resolution, and the land and company registries. The Working Group's impact can be seen in the following gender-responsive strategies that JLOS adopted under SIP.

48. **Gender planning, analysis and evaluation:** In a sector like JLOS that covers institutions with wide and varying mandates, target groups, beneficiaries and operational strategies in justice delivery, it was imperative that a situational analysis of the prevalent concerns, needs and constraints to accessing justice across the sector be undertaken. Initially, however, gender implications had not been envisaged in the terms of reference of the proposed studies. At the initiative of the Working Group on Gender, the tools for conducting a commercial justice baseline survey integrated gender issues, with the objective of ensuring that gender perspectives were incorporated into the Commercial Justice Reform Programme.<sup>48</sup> From the outset of the criminal justice programmes, gender perspectives were integrated into the terms of reference of various institutional reviews and stakeholder consultations.<sup>49</sup> The outcome of these gendered analytical process was invaluable in designing and implementing gender-responsive programmes in JLOS. The Working Group on Gender also developed tools for monitoring and evaluating gender issues in order to develop a baseline that would progressively track recruitment, training and staffing and generally gender mainstreaming in JLOS institutions. A gender policy and strategy for the sector has been drafted but has not yet been adopted.

49. **Mainstreaming gender as a cross-cutting issue:** In SIP II (2006-2011), gender was adopted as a cross-cutting issue to be considered in all working groups' programmes, as opposed to being handled solely by the Working Group on Gender. Thus, the working groups on SIP II are required to address gender mainstreaming in all planning, implementation and evaluation

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<sup>45</sup> JLOS (2004) Justice Law and Order Strategic Investment Plan Midterm Evaluation 2001/2002-2005/2006 VOI 1page 24.

<sup>46</sup> JLOS Desk Review on Gender and Access to Justice p 36.

<sup>47</sup> *ibid*

<sup>48</sup> *ibid*

<sup>49</sup> JLOS Desk Review on Gender and Access to Justice p 37.

processes; something which the Working Group on Commercial Justice for instance, has already done. This has served to legitimize the institutionalisation of gender mainstreaming in JLOS.

50. **Strategic partnerships with gender-responsive CSOs:** JLOS/civil society partnerships and engagements have been fostered to allow for the participation and empowerment of organizations advocating for gender equality. The exploitation of the synergies between government, civil society and private sector actors in the various JLOS working groups is a progressive step from the isolated and sometimes hostile relations that CSOs and governments had in the past. For example, CEEWA, an NGO focusing on gender-based research and advocacy with a focus on removing legal and administrative barriers to investment in Uganda, is part of the Working Group on Commercial Justice. CEEWA is developing proposals on gender mainstreaming advocacy and communication and information strategies in the commercial sector and plans to target its advocacy strategy on JLOS committee members, women entrepreneurs, the private sector and CSOs promoting women's access to commercial justice.

51. As the above practices illustrate, through its policies, strategies and structures, JLOS has made a concerted effort to mainstream gender perspectives in its operational processes. The rights of women to equality under the law, provided for in ICCPR and in CEDAW, and the recognition of women as full parties before the law can best be protected by a holistic approach involving all actors and ensuring gender equality outcomes. The ICCPR enjoins governments to provide effective legal remedies to men and women through judicial, administrative or legislative measures, and by mainstreaming gender perspectives across JLOS. This would improve exponentially the chances of reducing or eliminating gender-based structural barriers to access to justice. In one illustration, in 2003, the judiciary took special note of the JLOS Gender Access to Justice Review and the issues it raised, which informed its own development of a gender and access to justice strategy.<sup>50</sup> This is evidence of a coherent gender mainstreaming effort building on synergies from intersectoral linkages.

52. A key strategic objective of the Beijing Platform for Action is to ensure the presence of women in power and decision-making positions in order to integrate gender perspectives into legislation, public policies, programmes and projects. The engagement of gender specialists from institutions such as MGLSD and gender-responsive CSOs is an attempt to bridge the structural capacity gap in JLOS and to facilitate gender analysis of issues relating to access to justice. The sustained participation of these experts has medium-to-long-term benefits as they undertake the process of influencing policies and processes of JLOS towards gender equality to ensure that women benefit qualitatively and equally from their designed interventions.

### **Constraints to establishing best practices**

53. Despite the emerging good practices identified above, JLOS has faced some limitations in its attempt to mainstream gender in the sector. Capacity constraints in gender mainstreaming in some working groups have been identified. Experienced gender analysts from the MGLSD are part of some but not all working groups, causing an imbalance in gender mainstreaming

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<sup>50</sup> DANIDA (2003) Gender and Access to Justice Strategy for the Uganda Judiciary Draft Report Page 3.

expertise across the working groups. Some of the JLOS institutions have nominated focal persons to the JLOS structures who lack knowledge or skills in gender analysis, planning, advocacy, budget allocation and evaluation. For example, the Budget Working Group of JLOS lacks skills in planning and budgeting across the sector,<sup>51</sup> and specifically in gender budgeting. While it is still early days yet, preliminary signs of losing sight of gender mainstreaming in the working groups have been observed.<sup>52</sup> The strategic decision on whether to have a core gender focus unit within a sector-which may “Ghettoize” gender concerns – or whether to diffuse gender analysis across the sector structures and run the risk of de-emphasizing gender concerns, is undoubtedly a difficult balancing act. Key respondents regretted the dissolution of the Working Group on Gender and feel that their core focus on gender mainstreaming was a lost opportunity, despite appreciating the need for gender mainstreaming skills in all the working groups.

54. In addition, the sector has faced capacity constraints in effective monitoring and evaluation, particularly since the JLOS secretariat, the District Access to Justice Committees and policy planning units that were initially identified as monitoring mechanisms are not well developed.<sup>53</sup> JLOS developed a policy matrix in October 2003, with one of its inputs involving monitoring.<sup>54</sup> In 2004, evaluations pointed to a lack of monitoring systems with impact indicators, which at the time were still being developed by the Sector.<sup>55</sup> The sector-wide indicators for monitoring progress in access to justice, efficiency and effectiveness and quality of justice are yet to be comprehensively identified, developed and implemented.<sup>56</sup> The Criminal Justice Programme had developed indicators that were gender-disaggregated, although by 2003 non-compliance of monitoring against these benchmarks in the sector had been noted.<sup>57</sup> The failure to develop effective monitoring tools and systems with gender-specific indicators limits the capacity of JLOS to assess whether it is achieving its purpose of improving access to justice for women.

55. The JLOS Secretariat has not been well facilitated to carry out its roles, which include monitoring and evaluating progress. In terms of human resources, the JLOS Secretariat consisting of a senior technical advisor, Commercial Justice Advisor and one resource person as at 2004 lacks skills in gender mainstreaming.<sup>58</sup> JLOS has not been immune to constraints in government funding such as budget cuts or delayed releases, which disrupt effective implementation of programmes.<sup>59</sup>

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<sup>51</sup> Justice, Law and Order Strategic Investment Plan Midterm Evaluation 2001-2002/2005-2006 VOI 1 Page 133.

<sup>52</sup> Own observations, i.e. interviews with respondents from some key JLOS institutions indicated that there were no specific attempts to mainstream gender, with some believing that the Ministry of Gender, Labour and Social Development should handle this aspect.

<sup>53</sup> Justice, Law and Order Strategic Investment Plan Midterm Evaluation 2001/2002-2005/2006 VOI 1 page 144.

<sup>54</sup> Justice, Law and Order Strategic Investment Plan Midterm Evaluation 2001/2002-2005/2006 VOI 1 page 26.

<sup>55</sup> Justice, Law and Order Strategic Investment Plan Midterm Evaluation 2001/2002-2005/2006 VOI 1 page 64,74.

<sup>56</sup> Justice, Law and Order Strategic Investment Plan Midterm Evaluation 2001/2002-2005/2006 VOI 1 page 144..

<sup>57</sup> Justice, Law and Order Strategic Investment Plan Midterm Evaluation 2001/2002-2005/2006 VOI 1page 206-207.

<sup>58</sup> JLOS (2004) Justice, Law and Order Strategic Investment Plan Midterm Evaluation 2001/2002-2005/2006 pages108-109.

<sup>59</sup> JLOS (2004) Justice, Law and Order Strategic Investment Plan Midterm Evaluation 2001/2002-2005/2006 Page 132, 135.

56. The establishment of policy planning units within Ministries is a welcome administrative innovation. These units are key to the process of planning and development at the institutional and sectoral level and could provide a platform for gender mainstreaming in JLOS. However, these PPU's are in various stages of setup across the sector and hence have not lived up to their potential.<sup>60</sup> The JLOS Review Report of 2004 recognized the value of these policy planning units, identifying the need for important requisite skills for these units such as management, organizational, administrative, leadership and negotiation skills, but omitted gender analytical skills. The involvement of gender focal points in such a unit would have invaluable spin-off benefits in the gender mainstreaming process.

57. The documentation of good practices in the sector along with access to information is problematic and affects the capacity of the JLOS institutions to build on former successes. Lack of follow-up in consolidating good practices translates into lost momentum and opportunities. For example, the achievements of the Working Group on Gender under SIP were hard to document, and many of the original members of the working group had moved on or retired, without the strategies that they had developed being adequately captured.

58. There is some evidence that intersectoral linkages in JLOS have been enhanced, but there is still a lot of work to be done in strengthening these ties. For example, the judiciary has a gender and access to justice strategy in place which built on the Gender and Access to Justice Review. The judiciary could share its strategy with JLOS institutions with parallel mandates, such as local council courts. In another example, while the MGLSD issues guidelines for gender mainstreaming across all sectors, there is no evidence that its presence in JLOS has served to ensure that these guidelines are institutionalized in JLOS.

## **Recommendations**

- (i) Lack of a dedicated objective of gender mainstreaming under SIP II may make it difficult for the gender implications of JLOS programmes to be taken into account. Gender-specific objectives and indicators are important benchmarks against which gender performance can be evaluated. It is important for JLOS to develop a specific objective focusing on mainstreaming gender, which can then inform the working groups' agenda. This would also necessitate gender-specific budget lines.**
- (ii) There is need to build capacities in gender analysis in all the working groups in the sector to ensure gender-responsive planning and implementation. Such focal points can also serve as a resource of gender analysts and planners within their own line ministries and institutions.**
- (iii) It is important for JLOS to undertake gender-based research on a continuous basis to facilitate empirical gender analyses. All attempts should**

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<sup>60</sup> JLOS (2004) Justice, Law and Order Strategic Investment Plan Midterm Evaluation 2001/2002-2005/2006 Page 113.

**be made for data to be gender-disaggregated, in order to facilitate gender responsiveness planning and evaluation**

- (iv) A comprehensive gender-policy and strategy for gender mainstreaming in JLOS should be established.**

## **B. Ministry of Local Government**

59. The Ministry of Local Government is in charge of the local council courts in Uganda, which are part of the institutions of good governance set up under decentralization. These courts exist right from the lowest basic unit of administration, the village. They serve as grassroots mechanisms of justice administration and were designed to be simple, accessible in nature, with the objective of expediting justice delivery by applying norms, languages, procedures and personnel with which the communities are conversant and comfortable. These courts are easy for local people, and particularly women, to access. Studies, including the JLOS Gender Review, indicate that these community-based dispute resolution mechanisms are viable, given that the majority of Ugandans are unable to physically access the formal court systems or appreciate the technicalities involved, including the cost of legal representation.

60. However, cultural and traditional practices play a key role at this level; indeed, a 1998 JLOS baseline survey on local council courts noted the lack of gender sensitivity and respect for human rights and natural justice in these courts due to the prevalence of patriarchal norms.<sup>61</sup> Gender inequality often leads to discriminatory outcomes,<sup>62</sup> given the systemic subordinate status of women to men at this level. In addition, the courts are largely composed of men, thus deterring women who may wish to forward cases that sometimes are seen as taboo subjects, especially domestic violence, sexual assaults, disputes relating to land and inheritance issues. Local council court personnel are not required to have any technical skills under the law. Thus these courts have often served to reinforce gender inequalities, rendering justice inaccessible to women.

61. In this regard, the MOLG undertook legal reform activities and capacity-building initiatives with the objective of increasing gender awareness and responsiveness in justice administration.

### *Emerging good practices in gender mainstreaming*

62. **Gender-responsive laws and structures:** The Ministry of Local Government (MOLG) taking into account the barriers that women face in accessing justice in the local council courts have employed affirmative action measures with the aim of qualitatively and quantitatively increasing the presence and participation of women in these courts. The law setting up the local government sets aside a quota for women councillors at every level of local government as a form of affirmative action. Thus, at the village or parish level, one third of all court judicial personnel must be women. The Local Council Courts Act of 2006 makes it mandatory at the

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<sup>61</sup> Justice, Law and Order Strategic Investment Plan Midterm Evaluation 2001/2002-2005/2006 VOI 1 Page 30.

<sup>62</sup> Ibid

town or division level for at least two members of the court to be women. While it is too early to tell what impact these measures have fostered regarding the outcomes of these courts' decisions, MOLG personnel reported that at the local council III level, attitudinal change has been noted as there is a greater appreciation of women's concerns and their cases are treated with due seriousness by court personnel.

63. The MOLG has also received reports from its focal point officers at the community level on an increase in the number of women resorting to local council court, and that female court personnel are participating more in decision-making during court proceedings.

64. **Capacity-building in gender sensitivity:** In 2006-2007, the MOLG undertook a pilot training programme of new councillors at all levels on gender mainstreaming to integrate gender perspectives during planning, implementation, monitoring and evaluation, and budget allocation. The main purpose was to ensure gender skills in decision-making structures that have an impact on district programmes and resource allocation, which impact on women's well-being. Also, it was felt that since council executives form the local council court personnel, they too can draw on the gender trainings in their court proceedings. The MOLG also issues circulars to the courts on the gravity of the challenges that women accessing the courts system are likely to face, and appropriate interventions required for overcoming them. However, this programme has only been rolled out to a few districts and its impact is yet to be assessed.

65. **Gender mainstreaming through monitoring budgetary allocations:** The MOLG prioritizes the objective of ensuring that the budgeting processes and modalities take into account the need to mainstream gender concerns into district development programmes in order to benefit women in the district and uplift their status. The MOLG provides the local government with assessment manuals of minimum conditions and performance measures for local governments. It monitors the assessment of District Plans to ensure that the crosscutting issues of gender are incorporated. A quota for gender activities is earmarked in the national assessment guidelines issued to the districts. At assessment stage, local governments must show evidence of gender mainstreaming performance indicators or risk penalties under the assessment guidelines; for example, 20 per cent reduction of funds by 2005. District/municipal performance measures also require certain gender performance indicators to be met. This sanctioning mechanism has succeeded in deterring district budgets that are not gender-responsive.

66. The Beijing Platform calls upon governments to establish the goal of gender balance in governmental bodies, public administrative entities and the judiciary. It also recommends setting specific targets to substantially increase the number of women in all governmental and public administration positions, if necessary through affirmative action. This position, which is reinforced in CEDAW, has been underscored in the Constitution of Uganda, hence legitimizing the adoption of special affirmative action measures such as the quota allocation for women in the local council courts.

67. Further, the Beijing Platform recommends the provision of gender-sensitive training for women and men to promote non-discriminatory working relationships. The increased visibility and involvement of women officials in judicial mechanisms is necessary to build the

confidence of women litigators regarding the fairness of the judicial system. However, a commensurate effort to train the judicial officials is also required, as not all women are gender-sensitive or have knowledge or skills in gender analysis. Further, gender sensitive trainings will serve to diminish reliance on patriarchal norms.

### **Constraints to gender mainstreaming**

68. While this section shows that the MOLG has made attempts to prioritize gender mainstreaming, the Ministry lacks a gender policy. In addition, there are no specific resources earmarked for gender mainstreaming. No mechanisms have also been designed for monitoring progress on the impact of gender mainstreaming as a crosscutting issue even regarding the local council courts project. Moreover, resources are lacking for a concerted training programme to build up on the introductory training that was given to the councillors.

### **Recommendations**

- (i) MOLG should identify within the JLOS planning and implementation processes the gender mainstreaming activities under its mandate that should be prioritized and implemented.**
- (ii) More resources should be allocated towards building the capacity of local council court personnel in gender analysis.**
- (iii) The judiciary, which has a gender and access to justice strategy, should increase interactions with the local government courts through MOLG to share perspectives on gender mainstreaming with these courts.**
- (iv) The Ministry should develop monitoring mechanisms for its gender mainstreaming programmes.**

### **C. Ministry of Gender, Labour and Social Development**

69. Uganda's strong political commitment to the Beijing Platform for Action is evident through the setting up of crucial institutions for the advancement of women, including a national machinery headed by a cabinet Minister. The Ministry of Gender, Labour and Social Development (MGLSD) is the main agency mandated to ensure that gender mainstreaming is attained through the implementation of the Uganda Gender Policy. The Ministry works within a conducive policy environment that seeks to ensure that sector-specific gender policies are established, as evidenced in the roads, health, education, justice, law and order sectors. The MGLSD falls under JLOS because juvenile justice delivery and probation services fall under its ambit, but no evidence was availed on how it has undertaken gender mainstreaming activities in this aspect. Rather, this section discusses the practices developed by the Ministry across the sectors in general, from which JLOS has also benefited from. Taking into account the detailed discussion of MGLSD in section C, this part of the report goes directly into an assessment of the good practices identified.

*Emerging good practices in gender mainstreaming*

70. **Establishment of focal points and mechanisms that promote gender analysis, planning and mainstreaming:** The MGLSD has established focal point officers at ministerial and sectoral level with the objective of building capacity in gender mainstreaming analysis and promoting the gender mainstreaming agenda. These are officials whose strategic placement is to ensure gender-responsive strategies, programmes and policies across the sectors, and to develop understanding as well as commitment around the gender mainstreaming agenda. However, this function is in addition to their designated official duties, and while it was envisaged that senior officials at management level who can influence sectors would be targeted, these officials have tended to be overwhelmed by the workload.

71. In six districts, MGLSD has established focal point officers i.e. gender office designates who exclusively handle the gender mandate. They have made the work of the Ministry more effective in following up on gender-related activities.

72. **Capacity-building for JLOS:** MGLSD has established quarterly review meetings at interministerial level. In this forum, the Ministry trains its focal points on gender mainstreaming, analysis, planning, monitoring and evaluation. It has developed several training resource materials and programmes on gender sensitization trainings for the judiciary to address (i) Concerns about the collection, analysis and dissemination of development statistics; (ii) Gender concerns in national development programmes; (iii) Gender concerns in district development programmes; and (iv) Gender sensitization for magistrates and State attorneys. MGLSD has trained the police and the Ministry of Internal Affairs on gender-based violence both organizations are JLOS institutions. This training has been very valuable in providing much needed information and skills in gender analysis for various JLOS actors in their fields of competence.

73. **Promoting legal literacy:** The Ministry has developed several simplified booklets on various areas of the law and policies with the objective of raising awareness on gender equality and women's rights and of highlighting current developments in legal activism. These have also served as useful sources of information, especially in light of the high legal literacy levels in Uganda.

74. Additionally, paralegal training programmes were established in model districts for purposes of fighting gender inequality and facilitating reporting and documentation on progress in gender mainstreaming. These trainings were later taken up by civil society partners, and have proved useful in information sharing and dissemination on gender mainstreaming.

75. **Gender mainstreaming advocacy strategies:** The MGLSD has undertaken advocacy and lobbying skills training workshops for women councillors and other local government women leaders in Kayunga and Kabale districts. The outcomes have been the identification of concrete and wholesome strategies to ensure that the needs and concerns of women are brought into the mainstream arena of the development process. This approach has also created a



critical mass of women with skills in gender analysis, lobbying and advocacy, which in turn has contributed to increased opportunities to mainstream gender.

76. **Development of gender mainstreaming structures in development processes:** A PEAP gender team that included the MGLSD was set up with the aim of ensuring that gender mainstreaming is incorporated as a crosscutting issue in the PEAP review processes. The MGLSD also developed gender mainstreaming guidelines for SIPs which facilitate reviews of the PEAP from a gender perspective. This team also comprises of sector gender focal points.

77. **Participation in sector reviews:** The sector working groups review sector work plans and participate in biannual reviews, to highlight gender implications and perspectives. During sector reviews, the MGLSD has a slot to appraise implementation in the period under review and to identify efforts at gender mainstreaming. This has proven to be an effective strategy, because in subsequent reviews sectors make attempts to address gaps identified by the MGLSD in previous reviews.

78. **The Gender Forum:** The Ministry set up the Uganda Gender Forum, which brings together actors from ministries, academia, the private sector, women parliamentarians and CSOs dealing with gender, with the objective of enabling gender mainstreaming practitioners and activists to share best practices in gender analysis. This forum has contributed towards charting out an agenda for the women's movement. It gave birth to the gender PEAP team, which has influenced the national planning framework, the Beijing +10, and has collaborated with CSOs to promote advocacy on gender equality and mainstreaming. These functions are replicated by the District National Forum. However, lack of funds has stalled the activities of the forum since 2006.

79. **Building capacity in gender budgeting and analytical skills:** The pre-budget women caucus at the district level is organized by the Ministry with a view to equipping women to analyse the budget for gender responsiveness. In addition, the district mobilizes round table discussions between women councillors and councillors at all levels to gain consensus for adopting women-friendly policies and by-laws. It has been a useful mechanism to demystify the budget documents to women groups and to enable them to support and lobby for budget items as a bloc.

80. **Gender analysis, research and planning:** In six pilot districts, the MGLSD has focused on conducting sector reviews for gender-focused poverty trend analyses for purposes of raising awareness on gaps in gender mainstreaming in the development process. In addition, technical planning committees have been targeted for gender mainstreaming trainings to avoid gender-neutral approaches that overlook the interests of women. This has been useful in ensuring that programmes are developed to cater to the interests and needs of women and men in order to reduce gender inequalities.

81. **Involvement in performance assessments with a view to gender mainstreaming:** Gender forms part of the measures against which local governments are assessed for development funding. The Ministry participates in district performance assessments, applying

the gender parameters of performance with the aim of ensuring gender-responsive resource allocation. Their feedback has served to ensure that non-compliant district plans are sanctioned, while those that meet gender performance criteria are rewarded. The downside to this is that for those districts that are sanctioned, women's programmes are likely to be affected due to cutbacks in finances.

82. The work of the MGLSD in partnering with non-State actors such as CSOs, NGOs, the media and academia is crucial in replicating good practices in gender mainstreaming. The Constitution enjoins the State to take all necessary steps to involve the people in the formulation and implementation of development plans and programmes which affect them,<sup>63</sup> with far reaching benefits. These stakeholders provide skills, resources and strategies that complement the work of the MGLSD in gender mainstreaming. The Beijing Platform for Action too calls for support to non-governmental organizations and research institutes that conduct studies on women's participation in and impact on decision-making. It also call for taking positive action to build a critical mass of women leaders, executives and managers in strategic decision-making positions. Clearly, the MGS LD has taken its mandate to create this enabling environment very seriously.

83. The MGLSD through its capacity-building efforts has succeeded in raising the visibility of gender mainstreaming at interministerial, sectoral, national and local government levels as a viable and integral development concept. The Beijing Platform for Action encourages the active involvement of a broad and diverse range of institutional actors in the public, private and voluntary sectors to work for equality between women and men. This has the propensity to foster a multiplier effect. In the districts, where it has undertaken sustained advocacy efforts, the political and technical leaders have developed an appreciation of gender mainstreaming in all sectors and have created a demand for more capacity-building in this area. At the national level, there is growing evidence of this demand, and three of the gender focal point officers have succeeded in obtaining budget lines for gender mainstreaming i.e. the Ministry of Works, Transport and Communication, the Ministry of Agriculture, Animal Industry and Fisheries, and the Ministry of Water Resources.

### **Constraints in gender mainstreaming**

84. The MGLSD is constrained in terms of human and financial resources. Within the Ministry itself, the Department of Gender and Women's Affairs suffers similar resource constraints. This makes it harder for the Ministry to implement the gender mainstreaming strategy and to carry out its mandate effectively. The Ministry has a broad range of units with limited or no conceptual connectivity, e.g. the National Social Security Fund, labour, persons with disabilities, the elderly and many others. The roles of many of these units are not clearly defined, further worsening the perennial lack of human and financial resources. Frequent

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<sup>63</sup> National Objectives and Directive Principles of State Policy (X)

relocation and re-naming of the Ministry of Gender raises doubts about on the value attached to its important role in gender mainstreaming in all government agencies in Uganda.<sup>64</sup>

85. The national gender focal points are ill-equipped in terms of gender analysis and planning skills, including inadequate gender policy directions to effect gender mainstreaming in their ministries or sectors. The ministry is one of the least funded and the civil service restructuring process has in the past drastically reduced the number of its staff. In addition, the Ministry lacks effective monitoring mechanisms for its wide mandate at the national and local levels, which makes assessment of the impact of its interventions difficult. Reports on the Joint Annual Review of Decentralization (JARD), for example, do not address the impact of programmes on women and men, despite gender-responsive laws, programmes and policies existing at this level.

## **Recommendations**

- (i) Gender focal officers should be incorporated into the public service structures and be given a specific mandate to implement gender mainstreaming programmes and policies.**
- (ii) For equal participation of women and men in the development process to be realized, there must be continuous capacity-building efforts and mentoring of key actors. Gender mainstreaming trainings should be institutionalized in all sectors and even at the district level in order to build capacity.**
- (iii) The national budget should include gender-specific budget lines, and the PEAP should have a gender-specific component and indicators built into it in order to ensure that gender is fully integrated into the process.**
- (iv) MGLSD should be involved in the activation of a gender policy and strategy for JLOS, and should also ensure that probation and juvenile justice components under JLOS serve as good models of gender mainstreaming.**

## **D. The judiciary**

86. The judiciary is not only a pivotal part of the government framework, but is the ultimate arbiter of rights, hence wielding far-reaching powers on the ability of women to attain equality with men. Regardless of the inputs of all other JLOS actors, unless the judiciary is gender-sensitive, justice may remain illusory for women whose rights are being violated, with consequences for their wellbeing. A formal or neutral administration of the law by the judiciary, without taking into account the constraints that women face in accessing the judiciary, would fall short of the requirement in CEDAW necessitating States Parties “to establish legal protection of

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<sup>64</sup> Kwesiga, Joy (2003): The National Machinery for Gender Equality in Uganda: Institutionalized gesture Politics In Rai (ed) Mainstreaming Gender, Democratizing the State? Institutional Mechanisms for the Advancement of Women. (pp 203-221) Manchester: Manchester University Press.

the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination.”<sup>65</sup>

87. As a microcosm of society, the judiciary may knowingly or unknowingly reinforce cultural norms, including gender stereotypes and patriarchal norms. In order to administer justice fairly to men and women, it is vital that the judiciary not reinforce gender subordination or inequality in its judgments. In addition, the judiciary should consider the nature of the laws that it administers in order to ensure that only just and equitable laws are enforced in the courts of law. Awareness of the gender constraints that women face when accessing justice can also enable the judiciary to reform some of its own proceedings through court practice rules. To do this, the judiciary itself must be made gender-sensitive. While the JLOS Midterm Review reflects substantive reforms that have been undertaken within the judiciary with significant benefits for court users, the information therein is not gender-disaggregated. The extent to which the judiciary as an institution within JLOS has developed practices to promote gender equality is analysed in this section.

88. The judiciary in Uganda is dominated by male judges, and in the higher courts which rule on cases with very significant normative value, the absence of women champions of gender equality is keenly felt in the judgments at that level. In a welcome move, the judiciary undertook a review of gender-based obstacles to access to justice for users and came up with the Judiciary Access to Justice Strategy.<sup>66</sup> Several findings all point to the fact that barriers to access to justice in Uganda have gender dimensions. These include the masculine character of litigation and the lack of control over productive resources by women who cannot afford litigation costs. In addition, the Judiciary Access to Justice Strategy noted that within the judiciary, there exists an over-domination of male judicial officers at all levels, save for the Court of Appeal, as a result of gender stereotypes embedded in the education system.<sup>67</sup> Consequently, fewer women are engaged in policy and decision-making organs, resulting in fewer gender concerns being put on the agenda of the judiciary.<sup>68</sup>

89. The absence of affirmative action in the judiciary such as quotas for recruitment of female staff to ensure gender balance has been felt.<sup>69</sup> The judiciary has a gender and access to justice strategy which was developed in 2003, and which it is in the process of implementing. The strategy includes development of a civic education programme for court users to reach all men and women, court open weeks to build confidence in women court users, development of a court users guide, a citizens advisory office on court premises, gender-disaggregated records, and a strengthened monitoring mechanism. The strategy also noted the need for the orientation and intense gender sensitization of court personnel, increased female representation in top management positions, and a more gender-balanced distribution of judicial officers. It notes too

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<sup>65</sup> CEDAW, Article 2 (c).

<sup>66</sup> DANIDA (2003) Gender and Access to Justice Strategy for the Uganda Judiciary Draft Report Page 1.

<sup>67</sup> DANIDA (2003) Gender and Access to Justice Strategy for the Uganda Judiciary Draft Report Page 22.

<sup>68</sup> *ibid*

<sup>69</sup> DANIDA (2003) Gender and Access to Justice Strategy for the Uganda Judiciary Draft Report Page 3.

the imperative of putting gender on the agenda of the policymaking organ of the judiciary. Various components of this strategy have been undertaken, while others are yet to be engaged.

90. The Judicial Services Institute has designed and undertaken gender-specific programmes for judicial officers covering topics such as gender and related concepts, human rights, the relevance of gender to human rights, violence against women, gender and access to justice, the role of culture and religion in access to gender justice, and how to handle women and children court users.

#### *Emerging good practices in gender mainstreaming*

91. **Building on JLOS intersectoral linkages:** A consultative review process was undertaken by the judiciary for purposes of determining the gender-based obstacles encountered by officials and users of the judicial system. The process took into account the JLOS gender and access to justice study and an effort was made to link it to the gender and access to justice strategy of the judiciary. This enabled the judiciary to design relevant and evidence-based strategies to address the concerns of women regarding barriers to justice.

92. **Gender equality jurisprudence:** Several training programmes have been undertaken to orient judges in gender analysis and sensitivity to gender inequalities with the involvement of the National Association of Women Judges and the Judicial Studies Institute. Progress has been noted on the awareness of judicial officers of gender concerns in the execution of their duties. In a few leading cases that have been from recent years, gender analyses have led to pronouncements that reinforce the imperative of gender equality. In particular, the Constitutional Court has banned outstanding gender discriminatory laws in what is widely viewed as a major gain for gender equality in Uganda. The law that made it easier for men to get a divorce on discriminatory grounds was nullified in 2004.<sup>70</sup> The law that made it harder for men than women to be charged with adultery on discriminatory grounds as well as the inheritance law that provides more inheritance rights to men on a discriminatory basis were voided in 2007,<sup>71</sup> due to their failure to guarantee the equality of men and women under the law.

93. The judiciary, in passing judgments that proscribe gender-based discrimination, acts as a vanguard of rights for Ugandan women. CEDAW urges States Parties like Uganda to take all appropriate measures to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women. This important principle is echoed in the Constitution of Uganda. Thus, by rendering nugatory discriminatory laws according to internationally accepted standards and principles of gender equality, the judiciary helps build confidence in the justice system for women litigators. In addition, efforts by the judiciary to orient officers towards gender analysis and sensitivity are positive interventions for dealing with individual biases.

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<sup>70</sup> Uganda Women Lawyers & 5 others v Attorney General Constitution Petition No. 2 /03.

<sup>71</sup> Law Advocacy for Women in Uganda v Attorney General - Constitutional Petitions Nos. 13 /05 /& 05 /06 [2007] UGCC 1 (5 April 2007).

94. CEDAW also calls upon States Parties to guarantee women the same legal capacity as men, as well as the same opportunities to exercise that capacity.<sup>72</sup> The efforts of the judiciary to create an enabling environment for women and men by raising awareness through the court users guides it has published, provide women with the necessary information to make informed choices.

### **Constraints to gender mainstreaming in the judiciary**

95. No resources are specifically earmarked for gender mainstreaming activities. Within the budget of the judiciary, there is no special funding allocated for promoting gender issues / activities. The gender trainings are incorporated in the Jurisprudence of Equality Programme as a result of the pressure of the Women Judges and Magistrates Association, which advocated for their inclusion within the wider training given to judicial officers.<sup>73</sup>

96. The lack of a link between the Judicial Service Commission regulations and the Judiciary Gender and Access to Justice Strategy may cause a discrepancy in gender mainstreaming, yet these two institutions have complementary functions. Although the judiciary would like to increase its enrolments to ensure gender equality, it has no control over appointments, which are made on merit and are the preserve of the Judicial Service Commission (recommends), the President (appoints) and the Parliament (approves).

97. The judiciary was to develop a gender policy in line with the Gender and Access to Justice Strategy, but this has not yet been undertaken.

### **Recommendations**

- (i) A gender policy for the judiciary should be developed in conjunction with the Judicial Services Commission, and monitoring benchmarks and mechanisms set in place to chart progress.**
- (ii) Resources should be specifically allocated for gender mainstreaming activities in the judiciary for both court users and judicial personnel. The recommendations for eliminating gender barriers to justice within the judiciary, as contained in the Gender and Access to Justice Strategy Report, should be implemented in a timely manner.**
- (iii) The Gender and Access to Justice Strategy Report should be disseminated to the other JLOS institutions, particularly those involved in handling cases, such as the local council courts.**

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<sup>72</sup> Article 15 (1) and (2).

<sup>73</sup> DANIDA (2003) Gender and Access to Justice Strategy for the Uganda Judiciary Draft Report Page 18.

## **E. Uganda Law Reform Commission**

98. The Uganda Law Reform Commission (ULRC) is an autonomous body established under the Constitution to study and keep under constant review the laws of Uganda, with a view to making recommendations for their systematic improvement, development, modernization and reform. As part of its mandate under JLOS, the ULRC proposes reform for outdated legislation. It also proposes enactment of new laws in areas lacking legislation, all in collaboration with line ministries.

99. Although not specifically articulated, the powers and functions of the Uganda Law Reform Commission (ULRC) are wide-ranging, and can facilitate gender equality through gender-responsive legislative proposals for law reform. The Commission's functions involve studying and constantly reviewing the laws of Uganda and making proposals for reform. In doing so, the Commission is enjoined to adopt good regional and international practices, including those of the African Union and the United Nations. The Commission can receive, review and consider any law reform proposals referred to it by any person or authority; it can also provide advisory services requested by any government ministry or department for law reform. The Commission is also mandated to foster in its reviews the adoption of new or more effective methods for the administration of the law and dispensation of justice. This gives the Commission a powerful mandate to review gender-insensitive laws.

100. Many laws in Uganda are either gender-neutral, gender-insensitive and require amendment. For example, the ULRC proposed the Domestic Relations Bill to promote the rights of a family, including property ownership; to establish responsibilities of each household member; and to eliminate cultures that pose a challenge to individual rights. It is also working on the Domestic Violence Bill and on amendments to the Succession Act, which provides unequal rights of inheritance to women. The ULRC has undertaken studies for law reform in regard to sexual offences which have resulted in bills being drafted in these areas. Under JLOS, the MGLSD gives gender perspectives on draft laws that are being considered in the sector.

### *Emerging good practices in gender mainstreaming*

101. **Gender audit of laws** : A legal officer who is skilled in gender analysis has been assigned to conduct a gender audit of laws under consideration in ULRC for the purpose of proposing gender-responsive legal reforms or enactments. In addition, the ULRC also outsources gender experts to review draft laws. However, this innovation is limited by the fact that some of the Government bodies that refer laws to ULRC for consideration lack an appreciation for gender mainstreaming and gender perspectives, and yet they have the power to shape the final provisions of the law.

102. **Promoting a gender equality agenda through advocacy**: ULRC has raised awareness of the need for law reform to ensure gender-responsive laws that promote equality of men and women. The promotion of public awareness of gender issues through public dialogues, workshops, consultative and consensus-building meetings with key stakeholders has been useful in informing the public about the key aspects of the law, and its benefits for the family

stability. In addition, ULRC is networking/developing partnerships with the CSOs such as the Centre for Domestic Violence Prevention (CEDOVIP), the Uganda Women Lawyers Association (FIDA-U), Action for Development (ACFODE) and other women's organizations that work at the grassroots to raise awareness of gender equality.

103. The role of ULRC in proposing modifications to gender-biased laws to address women's concerns where gender gaps exist is exemplary. It is in compliance with CEDAW, which calls for a modification or nullification of such laws. It is necessary to build up the expertise in ULRC to conduct interministerial and JLOS consultations on laws that may need reform.

## **Recommendations**

- (i) **The gender mainstreaming capacity of ULRC officers should be enhanced by increasing the number of gender experts.**
- (ii) **The officials in charge of gender mainstreaming in ULRC should liaise with the MGLSD focal officers at ministerial level to enable them to monitor laws that do not promote gender mainstreaming, and to create a demand for gender-sensitive laws.**

## **F. Directorate of Public Prosecutions**

104. The Directorate of Public Prosecutions (DPP) is charged with prosecution of criminal cases in Uganda, and is a member of JLOS. It also handles cases of juvenile justice.

### *Emerging good practices in gender mainstreaming*

105. **Gender Desk:** The DPP has established a gender desk for the purpose of handling any gender concerns or issues among staff, such as sexual harassment, sexual offences, protection and facilitation of women witnesses, and ensuring gender sensitiveness when handling particular gender cases. However, this desk has not been adequately resourced to make it efficient or effective.

106. **Training on gender sensitivity in handling cases:** Gender orientation of officers has been undertaken by JLOS and the MGLSD with the aim of fostering gender responsiveness. Although the DPP does not have a gender policy, officers have benefited from continuous trainings on gender sensitivity when handling criminal cases. Officers are required to be gender-sensitive when handling matters involving expectant mothers or breast feeding mothers, for example. However, the challenge the DPP faces is the high rate of turnover of officials, which makes the assessment of its interventions rather difficult. Consequently, the new officers recruited in the past five years have not benefited from a gender training programme.

107. **Gender-responsive recruitment practices:** The Ministry has deliberately focused on recruiting more women. As part of the recruitment process within the DPP, gender is given consideration since it is felt that women officers are competent and should be targeted. In the



last recruitment process, there were 150 applicants, of which 130 were women. Eventually, out of the 60 new State Attorneys recruited, 40 were women and 20 were men.

108. Gender balance through gender-responsive recruitment procedures is a positive undertaking by the Government and complies with the recommendations of the Beijing Platform for Action. In addition, trainings to orient officers towards gender sensitivity ensure that women who pass through the criminal system are not oppressed by the various procedures that they undergo.

### **Constraints to gender mainstreaming**

109. The DPP officers recruited in the past few years lack awareness and training in gender issues, and the gender desk has not been influential in ensuring gender mainstreaming due to lack of capacity. In some cases, as in domestic violence, the matters stop at prosecution stage and never proceed to trial.

### **Recommendations**

- (i) **The DPP should establish a gender mainstreaming strategy and allocate resources for it, as well as develop monitoring mechanisms to track progress.**
- (ii) **The orientation of officers should include content on gender sensitivity in general and on criminal procedures in particular. Trainings should be undertaken on a continuous basis in conjunction with MGLSD.**

### **G. Uganda prison services**

110. The Uganda Prisons Services (UPS) is a member of JLOS. It works together with other arms of Government to ensure law and order in the country; although it is at the tail end of the justice delivery system. It is the only body mandated by the Constitution to lawfully handle prisoners. It is estimated that country-wide, as of June 2008, there were 1,009 female prisoners out of a total of 27,660. The Prisons Services do not have a gender policy per se but have adopted the human rights-based approach in executing their mandate. In this regard, gender concerns are addressed within the context of human rights.

#### *Emerging good practices in gender mainstreaming*

111. **Affirmative action:** The Prisons Services have adopted the approach of granting special measures to different categories of women with special needs, with the aim of reducing their vulnerability. The UPS pays special attention to gender issues and has done so particularly by allowing very young children to stay with their prison mothers; giving special protections for breastfeeding mothers and pregnant women prisoners; developing a special diet for pregnant women and breastfeeding mothers; and opening a children's day care centre in Luzira prison for incarcerated mothers to access and take care of their children.

112. **Training:** Prison officers have been trained in gender issues in order to make offices gender sensitive. Gender training is emphasized during the basic training of officers, which has increased gender sensitivity towards women prisoners.

113. **Recruitment:** In order to address gender balance in the staffing of the institution, as part of its expansion programme, every year UPS recruits about 500 officers and has adopted a deliberate policy that ensures that at least 100-150 officers are women.

114. **Adoption of a rights-based paradigm:** The prison system has adopted a human rights approach to gender issues. This approach asserts the right of women to equality with men in all spheres, and requires the duty bearer to guarantee the realization of women's rights.

115. The Uganda Prisons Services have taken special measures to ensure that vulnerable groups within the female population are not marginalized. The human rights framework in which gender concerns are being undertaken is a useful tool, as it is premised on Uganda's legal obligations under CEDAW, the ICCPR, the International Covenant on Economic, Social and Cultural Rights, and several other instruments that reiterate the equal civil and socio-economic rights of women and men.

## **Recommendation**

116. **The Uganda Prisons Services should establish a gender mainstreaming strategy and policy and allocate resources for it, as well as develop monitoring mechanisms to track progress.**

## **H. Judicial Service Commission**

117. The Judicial Service Commission is set up under Article 146 of the Ugandan Constitution to recruit and discipline judicial officers and also carry out public service education and judicial training. It is therefore one of the ten core institutions under JLOS that helps to close personnel gaps. The Commission plays a lead institutional role in providing civic education.

### *Emerging good practices in gender mainstreaming*

118. On its own initiative, the Judicial Service Commission undertook gender-balanced recruitments in the lower benches with the objective of increasing women officers in the judiciary.<sup>74</sup> Increasing the number of women in decision-making structures is desirable to enhance the opportunities for women to influence outcomes, including judicial decisions. However, the Commission lacks a gender policy or strategy and has limited resources to increase awareness of gender issues.

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<sup>74</sup> Gender and Access to Justice Strategy for the Uganda Judiciary Draft Report.

## Recommendations

- **Opportunities should be made for the judiciary to share concerns and perspectives on gender mainstreaming strategies with the Judicial Service Commission, for a coordinated approach to gender mainstreaming.**
- **The Commission should also develop a gender mainstreaming strategy which will take into account gender equality in recruitment, appointments and promotions in the judiciary.**

## I. Conclusion

119. Crucial gender mainstreaming strategies and interventions identified and undertaken by JLOS institutions present opportunities for changes in the status quo of women in Uganda. Nonetheless, the concept of mainstreaming also presents a challenge, requiring a fundamental and comprehensive paradigm shift in national planning processes, resource allocations, skills development and impact assessment mechanisms. One of the biggest drawbacks to mainstreaming gender is that it is an initiative that is likely to be regarded as a foreign agenda because it is largely donor driven. Indeed, JLOS itself is in part a donor-driven setup. Its genesis is not bottom-up and appears to have been borne through gender-related conditionalities in international finance institutions and donor financial assistance programmes. This is a threat to its long-term effectiveness and acceptability. There is therefore a need for more partnerships between government institutions and women's CSOs in Uganda to warehouse and institutionalize this concept.<sup>75</sup>

120. While gender mainstreaming is a relatively new entrant in development planning in Uganda, on the whole, it has been taken embraced by JLOS as a major concept of human development and as a PEAP cross-cutting issue. Progress has been made with regard to commitments to gender equality and mainstreaming in the operations and strategies of several JLOS institutions, at varying degrees of implementation, as illustrated in the study. The most progress is evidenced particularly in regard to formulating feasible and logical policies and designing and implementing programmes with the objective of attaining equal access to justice for women and men. While most programmes are in nascent stages, an analysis of the JLOS institutions reviewed in this study strongly suggests that key benefits seem to be already emerging. There have been gains in creating awareness on gender mainstreaming, building strategic alliances with partners, and boosting the capacities of stakeholders and women to access decision-making structures and undertake gender analyses of planned interventions.

121. However, it is in regard to assessing the impact of such efforts as well as their long-term benefits that challenges to determining the viability of gender mainstreaming programmes are posed. Lack of clear goals on gender mainstreaming and strong monitoring mechanisms that

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<sup>75</sup> See *Women and Politics in Africa: The case of Uganda* by Donna Pankhurst, Parliamentary Affairs, Volume 55 no. 1, 119- 128 at 126, also in *Mainstreaming Gender, Democratising the State* by S.M. Rai (Ed) Manchester U.P. 2003.

would incorporate gender indicators is prevalent. This situation is aggravated by weak intersectoral linkages. Partners have pointed out the lack of gender-disaggregated data across JLOS.<sup>76</sup> Even in the case of local governments, which have specific gender performance measures, their Joint Annual Review of Decentralisation (JARD) reports do not address crosscutting issues like gender. The performance indicators of local governments are used as a sanctions/rewards system for resource allocation, but little emphasis is put on how the programmes affect the well-being and status of women. The spirit of commitment to gender mainstreaming must transcend standard-setting policies and discourses and translate into results-oriented strategies and adherence to agreed goals if gender mainstreaming is to succeed.

122. In Uganda as elsewhere, key issues in gender mainstreaming continue to revolve around whether the national machineries and State institutions are the best avenues for achieving women's advancement and gender equality, especially within the context of a fledgling democracy like Uganda. Gender mainstreaming can only be achieved along with wider democratic ideals of improved accountability and transparency, otherwise affirmative action and increasing the number of women can only be "gesture politics". In an atmosphere characterized by personalized patronage politics, gender mainstreaming policies and practices are vulnerable. They are likely to be mere add-on gestures geared designed to extend State patronage to a new clientele. The persistent failure by Parliament to pass and implement cornerstone pieces of legislation that would greatly advance JLOS efforts towards gender-sensitive legislative reform, such as the Domestic Relations Bill, the Domestic Violence Bill and Sexual Offences Bill, point to the ineffectiveness of the so-called critical mass of women in politics.<sup>77</sup>

123. What is clear is that the lives of Ugandan women are jeopardized daily as a result of the structural barriers that gender inequality erects. JLOS as a sector has an imperative mandate to integrate and mainstream gender concerns into all its operational processes and policies, in order to achieve real gains for women. The collectivity of actors within the same sector, with common goals, purposes and strategies for gender mainstreaming, should strive to ensure that all the resources and capacities are focused on attaining not only formal but also equitable justice for women in Uganda.

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<sup>76</sup> African Development Fund (2005) Uganda multi-sector country gender: profile agriculture and rural development; North East and South region (ONAR) page 11.

<sup>77</sup> See *Goetz M*, The problem with patronage: constraints on women's political effectiveness in Uganda, in *No Shortcuts to Power*. Published in African Women in Politics and Policy Making, Zed Books, London, 2003.

## ANNEX I

### List of Persons Interviewed

Person Interviewed	Designation	Institution
Grace Kyasiimire	Commissioner, Gender and Women Affairs	Ministry of Gender, Labour and Social Development
Margaret Mabweijano	Assistant Commissioner, Gender and Women Affairs	Ministry of Gender, Labour and Social Development
Cornelius Magara	Principal Officer, (Women in Development (WID))	Ministry of Gender, Labour and Social Development
Susan Muwanga	Senior WID officer	Ministry of Gender, Labour and Social Development
Jayne Ekapu	Principal Gender Officer	Ministry of Gender, Labour and Social Development
Sherina Tibenkana		Ministry of Justice and Constitutional affairs
Lillian Kiwanuka	Legal Officer	Uganda Law Reform Commission
Stella Aguti	Research Officer	Ministry of Local Government
Rachel Odoi Musoke	Technical Advisor	JLOS Secretariat
Catherine Baineomugisha	Technical Advisor	JLOS Secretariat
T Ochen	Commissioner (Enterprises)	Uganda Prisons Services
F.N. Othembi	Registrar in Charge of Education,	Judicial Service Commission
Flavia Senoga Anglin	Acting Chief Registrar	Judiciary
Rossette Ndeezi	Coordinator	CEEWA