

# **Exploring Access To Justice Through Traditional Mechanisms And The Formal Justice System For Women Who Experience Violence in Uganda**

---

**Presented by: Ms Bafaki Regina ( Principal Investigator)**

**Co-Investigator: Ms Paska Fortunate and Dr Wanjiru Makoma**

# Background

---

- ❑ 27% of Ugandan Women have been physically abused by a partner or husband in their lives.
- ❑ 48% of women seek help from their families (39%) from in-laws and the rest from friends and neighbors **(MGLSD 2004)**
- ❑ Two systems in existence ( Formal and Traditional), and there seems no coordination/ synergy
- ❑ Very few women access the formal justice system

# Study Objectives

---

- To describe the existing traditional and formal mechanisms for access to justice by women who experience violence
- To describe the perceptions of women and the general population regarding access to formal and traditional justice systems in response to VAW

# Study population

---

- 2 sub-counties of Bwambara and Nyakishenyi in Rukungiri in Western Uganda and Aparara and Ogur in Lira district in Northern Uganda.
  - Out of the two sub counties two parishes were selected and one village in each parish.
-

# Methodology

---

- Qualitative methods were employed: focus group discussions and in-depth interviews.
  - Key informants included Police, health workers, local council leaders, court clerks and magistrates, Clan leaders, religious leaders and paternal aunts
  - 8 Focus group discussions ( 11- 12 participants) were conducted and 61 Key Informants (KIs) interviewed
-

# Findings: Traditional mechanisms - Strengths

---

- More accessible to the survivors than formal system
- Less Costly
- Friendly
- Listen well and confidential
- They are not corrupt
- Encourage reconciliation and mediation
- Trusted because of the positions they hold in society
- Respected

*" When a woman reports to me, I call the man listen to both sides and we discuss what they feel should be done to help them. In the process I also teach them about marriage. If the complainant has injuries I send her to the government authorities for instance the police because I cannot handle such cases. Most couples I counsel forgive each.*

***Religious Leader - Lira District***

---

# Constraints

---

- ❑ Emphasize reconciliation irrespective of the danger of the survivor
  - ❑ No records kept for reference purposes
  - ❑ No enforcement of the decisions they make
  - ❑ Lack shelters for survivors
  - ❑ Practice discriminatory justice and are guided by cultural values that are unfavorable to women
-

# Formal Justice- Strengths

---

- Have Laid down procedures. (Criminal case):

*"One has to report the case first to Local Council 1 who will forward it to police. The police will take the file to the state attorney. If there is enough evidence, he/she sends it to court, but if there is not enough evidence, he/she directs the police not to carry out the arrest or to release the person if they had arrested him. However, if there is evidence, the complainant is told to bring 3 or 4 witnesses. These could be children or neighbours. If the couple stays alone, then the doctor has to examine the complainant and fill a form to confirm that there was assault for instance. However such a case may be lost just because there are no witnesses"* Judicial Officer – Rukungiri District

- Have powers to enforce any action or punishment
  - Principles of natural justice (fair hearing) are central in hearing all the cases
  - Promote reconciliation in civil matters
  - Can advise, arbitrate and prosecute
-



# Constraints

---

- ❑ Unfriendly/intimidating environment ( Language and personnel)
  - ❑ Long ,complicated and unknown procedures
  - ❑ Costly ( Transport, Litigation and logistics)
  - ❑ Corruption
  - ❑ Long Distances ( District/ Sub –county head quarters)
  - ❑ Lack of shelter for the survivors of violence
  - ❑ Poor record keeping
  - ❑ Poorly facilitated institutions (Police and Probation)
  - ❑ Ignorance of the women about the system
  - ❑ Ignorance of the relevant laws and procedures by some officials
-

# Linkages between formal and traditional justice system

---

- ❑ Guided by natural justice (fair hearing)
- ❑ Emphasize mediation and reconciliation
- ❑ Women not knowledgeable about their rights and procedures within the two systems
- ❑ Lack shelters for survivors of violence
- ❑ Male dominated and insensitive to the women's plight.

*"Yes, I reported to the LCs but they did not help me, he would buy alcohol for them and they would judge the case in his favour. I didn't report to police because when they jailed him, his relatives would harass me and if he came back I would suffer more. I am out of his home that is why I am here at the police station to report the case. But after recording my statement the OC told me that the case will be heard on Wednesday. He also requested for 25,000/= for transport to go and arrest the culprit. I do not have the money so I don't know what I can do. I am going back to see if I can get a kind person to give me the money in return for my labour". **26 year old survivor -Rukungiri***

---

# Recommendations

---

- ❑ Awareness creation on VAW and justice among key players within the two systems
  - ❑ Establish legal aid clinics for survivors of violence
  - ❑ Strengthen Local Council Courts to address VAW
  - ❑ Conduct a study on clan system as a traditional mechanism for addressing VAW
  - ❑ Improved staffing and facilitation within the formal justice system
-

## Lessons Learned ( By participating in the process)

---

- ❑ Appreciated further importance of research in advocacy and have used the findings to develop an advocacy plan
  - ❑ Narrow understanding of Justice and violence by women and general population
  - ❑ Importance of peer learning and sharing, mentoring and coaching as approaches to capacity building
  - ❑ Acquired VAW research skills – (Trained research assistants for this study and a baseline survey for the Prevention of Sexualized Violence Against women and girls project we are implementing).
  - ❑ Improved Networking and profile of the organization
-