

Terms of Reference to Develop a Costed Strategy for Institutionalized Specialist Justice System and Structure for Management cases of Gender Based Violence (GBV) against women and girls.

Reference: RFP/UGA30/2022/05655

1. Introduction

Victims of GBV are globally recognized as particularly vulnerable and face grave challenges when coming into contact with the justice system. They can be reluctant participants in the court process because of the deeply personal and intimate character of the offences, the nature of relationship to the defendant and the high levels of trauma suffered. These factors also impact on the evidence given, and thus the outcomes of cases. Insensitive treatment by officials and fear of the perpetrator also affects reporting and participation rates. Special courts and procedures are a commonly used tool globally to address these issues, provide efficient and sensitive adjudication of GBV cases, and enhance justice for women and girls hence this consultancy.

Article 126 of the Constitution of the Republic of Uganda provides for the mandate of the Judiciary which is: judicial power is derived from the people and shall be exercised by the Courts established under this Constitution in the name of the people and in conformity with the law and with the values, norms, and aspirations of the people. The Judiciary is independent in the exercise of its functions, and this has been strengthened with the enactment of the Administration of the Judiciary Act, 2020 which seeks to give effect to the constitutional provisions. The Judiciary has implemented several interventions seeking to enhance access to justice for survivors of Gender Based Violence (GBV) including:

In April 2013, the Judiciary issued Sentencing Guidelines to provide discretionary sentencing ranges for judges to use in determining appropriate sentences for selected capital and non-capital offences (The Constitution (Sentencing Guidelines for Courts of Judicature) (Practice) Directions, 2013. The Sentencing Committee, chaired by the Principal Judge and with the Technical Advisor to the Judiciary serving as secretary, are also developing guidelines for additional lesser offences, the new guidelines have not yet been issued) and to provide a “mechanism for considering the interests of victims of crime and the community and to promote consistency and transparency in sentencing. (Uganda Judiciary: Recommended Sector Priorities to Improve Women’s Access to Justice and Eliminate Violence Against Women and Girls, UN Women and CEDOVIP, 2018). Limited relationship between the established Judicial Sentencing Guidelines and plea negotiations (charges and sentencing) has resulted into negotiations becoming discretionary and including inherent biases and attitudes (including discriminatory attitudes) held by judicial officers and state attorneys. This has led to overly lenient plea agreements being unfair to victims and failure to consider the gravity of the offence and the importance of passing deterrent sentences (Report on Situational Analysis of National, Global and Regional Practices regarding implementation of victim – centered,

gender sensitive and human rights-based plea bargaining, UN Women, Emmanuel Kasimbazi and Dora Kanabahita, 2021)

- In May 2014, the Judiciary initiated the plea-bargaining initiative in Uganda's High Courts to address crippling criminal case backlog, reduce pre-trial detention of accused persons and to increase the role and participation of victims in the process. To this end the Judiciary has organized camps where accused persons in prisons are sensitized, registered for the process, and their files are shared with the students for assessment and prior preparations. For example, at least 300 capital cases have been concluded in Gulu because of the Plea-Bargaining Prison Camp in June 2020 (Kasimbazi and Kanabahita, 2021) However, the sentencing and plea-bargaining framework has been implemented in a gender blind and perpetrator centred manner, thereby undermining public confidence in the justice system (Negotiating Gender Justice: An Assessment of Plea Bargaining in Cases of Violence Against Women and Girls in the High Court of Uganda, UN Women and CEDOVIP, 2018). To optimize the potential benefits of plea bargaining and in ending impunity for offenders, Office of the Director of Public Prosecutions (ODPP) is developing gender sensitive, victim – centered and human rights-based plea-bargaining guidelines for use by prosecutors in plea bargained cases.
- In 2018, Justice, Law and Order Sector (JLOS) with support from UNFPA piloted special court sessions to clear the backlog of GBV cases in selected High and Chief Magistrates Courts (The sessions were conducted in thirteen (13) selected Courts both in the High Courts and Chief Magistrates Courts in Mukono High Court, Mbale High Court, Masaka High court, Bushenyi High Court/ Mbarara High Court, Gulu High Court, Moroto High Court, Soroti High Court, and the Chief Magistrates Court in Nabweru, Iganga, Kapchworu, Lira, Sironko and Iganga)
- The Judiciary has held numerous plea-bargaining sessions, disposing of more than 6,000 cases and saving the Judiciary an estimated 1.7 billion UGX. Recommendations from the GBV sessions emphasized the need to expedite the setting up of a special court system or procedure at all court levels to provide effective prosecution and adjudication of GBV, increase the reporting and conviction rates, reduce delays and secondary victimisation for survivors.
- The Judicial Training Institute with support from UN Women has developed a training manual for judicial officers on effective management of GBV and Violence Against Children (VAC) cases.
- ODPP has also received support from UN Women to complete a Multi-Sectoral Handbook for Victim-Centred Investigation, Prosecution, and Adjudication of GBV Cases
- The International Justice System with support from UN Women, UNICEF and UNDP has developed a Training of Trainers Manual on Effective Investigation, Prosecution and Adjudication of Gender-Based Violence (GBV) and VAC

- In terms of capacity building to effectively manage GBV cases training of justice actors including judicial officers, state attorneys, police officers including of the criminal investigation department, probation officers, health workers, etc, to handle survivors in a gender sensitive, victim centered, and trauma informed manner has been undertaken using handbooks, SOPs and training manuals. To date 288 judicial officers, prosecutors, police officers (F=153: M=135) have been trained with support from UN Women, UNICEF and UNDP

2. Context and Rationale

GBV remains rampant throughout Uganda, not only violating the human rights of victims, but also severely undermining the nation's economic and social development. Domestic violence, rape, and defilement are consistently some of the highest crimes reported to the police in Uganda. High numbers of SGBV cases are reported to the justice system, but there is a low level of case disposal which has led to a significant case backlog. For example, of the 1,335 cases of rape reported to the Uganda Police Force (UPF) in 2017, less than 30% were brought to court and 1.5% of those brought to court resulted in a conviction. Of the 14,985 defilement cases reported to the UPF in 2017, less than 31% were taken to court and 13% of those taken to court resulted in a conviction. Of the 15,325 cases of domestic violence reported to the Police in 2018, only 17% were brought to court, only 24% of which resulted in convictions. A slight improvement was seen in the conviction rates for GBV cases in 2019: domestic violence was 28%, followed by defilement at 15% and rape was 2% (Annual Police Crime Report, 2017, 2018, 2019).

Lengthy procedures and systemic gaps in the justice system and weak legal enforcement further discourage women from seeking help and reporting these crimes. The challenges to case disposal include slow processes, capacity (logistical and technical) challenges, negative attitude and social factors, and the vulnerability of survivors of violence. It is important to note that while delays impact on justice in all cases, this is particularly true in GBV cases, where victims experience significant shame and societal pressure to hide the abuse and pressure from family, community, and the public justice system itself—through violence, threats, intimidation, victim-shaming and negative cultural norms—to withdraw from the system and 'forgive' the perpetrator; the issue of "consensual defilement" cases congesting the system pointing towards a need for legislative reform at some point (persons below 18 cannot have consensual intercourse in Uganda without committing a capital offense); weak quality of investigation (transport, equipment), gaps in the collection of evidence; Police using mediation in criminal cases (which is against the law) and; social and cultural norms leading parents to press charges as a means to extort money from the alleged perpetrator. Other than poverty (92%), the main reasons women and girls do not report incidents of violence are lengthy formal justice procedures (87%) and weak enforcement of the laws (79%). Before the onset of GBV sessions the average time taken to dispose of a GBV case was more than 1 month and average time spent by offenders on remand would be 2 years. Swifter justice improves safety, enhance victim participation, and reduces the pressure to withdraw the cases (The Case for the Urgent Establishment of Special Sexual and Gender Based Violence Courts in Uganda, Policy Brief Issue No. 2, UN Women, Embassy of Sweden and CEDOVIP, 2019)

3. Justification

Victims of GBV are globally recognized as particularly vulnerable and face grave challenges when coming into contact with the justice system. They can be reluctant participants in the court process because of the deeply personal and intimate character of the offences, the nature of relationship to the defendant and the high levels of trauma suffered. These factors also impact on the evidence given, and thus the outcomes of cases. Insensitive treatment by officials and fear of the perpetrator also affects reporting and participation rates.

Special courts and procedures are a commonly used tool globally to address these issues, provide efficient and sensitive adjudication of GBV cases, and enhance justice for women and girls. Moreover, the International Conference on the Great Lakes Region (ICGLR) Kampala Declaration of 2011 mandates partner governments to establish special courts and procedures for dealing with Sexual Gender Based Violence (SGBV) and the Kigali International Conference Declaration Mandates States to establish one stop SGBV centres as part of the specialist and victim-friendly service delivery approach.

4. Purpose

The overall purpose of this assignment is to develop a costed strategy for institutionalisation of GBV courts in Uganda detailing the various costed options and advising on the modality most suitable for Uganda in view of the prevailing context. The strategy should also include the business case for a specialised justice system from entry to exit, that is, the Police to Prisons, for handling GBV cases against women and girls.

Assignment Objectives:

- a. Establish the extent to which the justice system has evolved in terms of handling GBV against women and girls.
- b. Provide strategic guidance for the institutionalization of GBV Courts and the entire justice system UPF, ODPP, Department of the Government Analytical Laboratory (DGAL), Uganda Prisons Service (UPS) in Uganda and determine associated costs for actualization of the Strategy.
- c. Establish a scheme for the comprehensive categorizations of GBV offenses and processes for their detection in the justice system. Which offenses qualify as GBV cases? What are the criteria? And what is the process for screening files to detect these cases?
- d. Identify the following:
 - measures that will have to be adopted by the justice system to ensure that victims of GBV are handled in a gender sensitive, victim-centered and trauma informed approach by police, prosecution, judicial officers and the corresponding administrative staff and health workers.
 - The role that can be played by Probation and Social Welfare Officers and organisations working on prevention and response to GBV of in terms supporting survivors access quality services.

5. Scope of Work

Under the supervision of the Programme Specialist Access to Justice at UN Women, the Permanent Secretary (PS) Judiciary and Chief Registrar and ADC, the consultant will:

- Review all literature related to institutionalisation of GBV courts globally in particular South Africa, Liberia, Zimbabwe, Australia, United States and Botswana including the SGBV sessions in Uganda being supported by UNFPA and Austrian Development Corporation (ADC) to get a gist of the key components of an institutionalised specialist justice system and structure for adjudicating cases of GBV against women and girls.
- Review relevant international, regional, and national instruments and laws respectively on GBV against women and girls and identify principles which should be integrated in the institutionalised system.
- Conduct consultations with the representatives from Government institutions (Judiciary, ODPP, UPF, Ministry of Gender, Labor and Social Development (MGLSD), JLOS Secretariat; Uganda Prisons Service; selected high court judges and the Chief Magistrates; Registrars, relevant representatives of UPF and Resident in the selected court circuits) UN agencies (UN Women, UNICEF, UNDP, UNFPA, RC), NGOs (including Women Rights Organisations (WROs), JLOS Development Partners' Group and other development actors, including the donor community.
- Hold focus group discussions with women GBV victims and witnesses in GBV cases.
- Develop a comprehensive list outlining all categories of GBV offenses (e.g., under which circumstances can "assault" be classified as a GBV offense) and related processes for detection of such cases in the justice system.
- Recommend the costed specialised system that should be adopted by the Judiciary which should include but not limited to the following (UN Women, Embassy of Sweden and CEDOVIP, 2019):
 - Reforms that must be taken by the specialized units for victims of GBV (ODPP, UPF) in terms of strengthening their capacities to manage GBV cases effectively and efficiently against women and girls.
 - Identify where the specialist system should be located across the justice system.
 - Measures that could be adopted to ensure that there is a consistent gender sensitive, victim-centred and trauma-informed approach across all GBV cases against women and girls.
 - Criteria of crimes to be included in specialised court, division, or list including how these cases will be detected and captured in the justice process.
 - A case flow scheme depicting the recommended specialized flow of GBV cases through the justice system.
 - Mechanisms to ensure prioritization and expedited management and disposal of GBV cases
 - Role that can be played by the District Coordination Committee (DCC) to ensure accountability and effective coordination of the specialist system.

- A mechanism for ensuring debriefing and support for staff within the specialist system to address the stress and vicarious trauma associated with consistent exposure to GBV cases.
 - The role that can be played by Probation and Social Welfare Officers and organisations working on prevention and response to GBV of in terms supporting survivors access quality services.
 - An M&E component to track progress on implementation of the strategy.
- Conduct a validation workshop and refine the strategy for institutionalisation of GBV courts.

6. Duration of Work

The consultancy is required be completed in 45 days with a tentative start date of 1st March 2022 as per indicative timelines set out below under specific deliverables

DELIVERABLE SCHEDULE

Deliverable	Timeframe
Submission of acceptable Inception Report	March 14, 2022
Report on the analysis of desk-based research and consultations highlighting global and regional good practices.	April 18, 2022
Detailed and Costed Strategy for Institutionalised Specialist Justice System and Structure for management of cases.	May 13, 2022

The specific deliverables of the consultancy are as follows:

#	Tasks	Deliverables	Timeline s	Pay %
1.	Carry out desk review; design methodology and workplan (in Gantt chart format); and conduct inception conversation with relevant Government, UN and Donor partners	An INCEPTION REPORT on the content and methodology for development of the Institutionalized Specialist Justice System and Structure for adjudicating cases of GBV against women and girls, in line with international human rights standards, guiding principles as well as a proposed mechanism for ensuring compliance and accountability by duty bearers. The inception report should provide information on the following: <ul style="list-style-type: none"> • an understanding of the assignment, • identify documentation to be reviewed and persons to be consulted. 	14 th March 2022	20%

		<ul style="list-style-type: none"> • tools for review of documents and conducting consultations. • workplan • composition of the team and role of each team member 		
2.	<ul style="list-style-type: none"> • Review all literature related to institutionalisation of GBV courts globally in particular South Africa, Liberia, Zimbabwe, Australia, United States and Botswana including the SGBV sessions in Uganda being supported by UNFPA and ADC to get a gist of the key components of an institutionalised specialist justice system and structure for adjudicating cases of GBV against women and girls. • Review relevant international, regional, and national instruments and laws respectively on GBV against women and girls and identify principles which should be integrated in the institutionalised system. <p>Conduct consultations, gather relevant information, and undertake analysis in line with above Scope of Work section, detailed objectives and tasks.</p>	<ul style="list-style-type: none"> • A report on the analysis of desk-based research and the consultations highlighting global and regional good practices regarding implementation of institutionalized court and system for victims of GBV and vulnerable women and girls, the UN Essential Packages Services. The desk-based report should highlight the following: <ul style="list-style-type: none"> • Principles from international, regional, and national legislation which should inform the institutionalised court/system for victims of GBV and vulnerable women and girls. • Key features of the institutionalised court/system for victims of GBV and vulnerable women and girls in other jurisdictions and identify those that can be replicated in the Ugandan context with justification. • Lessons learned from other jurisdictions that are implementing the institutionalised court/system for victims of GBV and vulnerable women and girls and how they can inform the system to be adopted in Uganda. • Findings from the consultations on what the institutionalised court/system for victims of GBV and vulnerable women and girls should consist of and how to build on the existing system. • Draft costed Strategy for Institutionalized Specialist Justice System and Structure for adjudicating cases of GBV against women and girls which should include but not limited to the following: <ul style="list-style-type: none"> • Reforms that must be taken by the specialized units for victims of GBV in 	18 th April	65%

	<p>terms of strengthening their capacities to manage GBV cases effectively and efficiently against women and girls.</p> <ul style="list-style-type: none"> • Identify where the specialist system should be located across all courts in the Judiciary. • Measures that could be adopted by the specialised justice system to ensure that there is a consistent gender sensitive, victim-centred and trauma-informed approach across all GBV cases against women and girls. • Criteria of crimes to be included in specialised court, division, or list including how these cases will be detected and captured in the justice process. • A case flow scheme depicting the recommended specialized flow of GBV cases through the justice system. • Mechanisms to ensure prioritization and expedited management and disposal of GBV cases • Role that can be played by the DCC to ensure accountability and effective coordination of the specialist system. • A mechanism for ensuring debriefing and support for staff within the specialist system to address the stress and vicarious trauma associated with consistent exposure to GBV cases. • The role that can be played by Probation and Social Welfare Officers and organisations working on prevention and response to GBV of in terms supporting survivors access quality services. • An M&E component to track progress on implementation of the strategy. • Power point presentation and other tools for presenting the draft strategy. 		
	<p>Present to a project technical team the following:</p> <ul style="list-style-type: none"> • findings and recommendations • draft strategy in preparation for a stakeholders' meeting. 		

		<ul style="list-style-type: none"> Report of the validation workshop highlighting the recommendations for the draft strategy 		
3.	Integrate recommended changes from stakeholder consultation meeting into report and produce final report with refined costed strategy	<p>Detailed and costed strategy for Institutionalized Specialist Justice System and Structure for management of cases of GBV against women and girls which should provide for the effective investigation, prosecution, and adjudication of GBV offences.</p> <p>Final strategy with revised findings and recommendations</p>	13 th May 2022	15%

8. Qualifications of the Firm:

- The firm must be a registered entity with a valid registration and a location of business in Uganda.
- At least 10 years demonstrated of work experience on GBV against women and girls, social norm change, survivor centered case management of GBV against women and girls would be a distinct advantage
- At least 5 years work experience of working with the justice system in developing countries or the justice system of a developing country, specifically in sub-Saharan/East Africa would be an asset.
- Proven experience with UN agencies and/or work experience within the East African region would be an asset.
- The team composition is expected to have at minimum one senior staff leading the assignment and a minimum of 4 persons to support the assignment. The Team lead must have a minimum of 7 years of relevant professional experience in developing legal or policy documents and in operationalized research on justice systems

Qualifications of the Consulting Team

The project lead should have Master's (or equivalent) or higher Degree in Criminal Justice, Law, Human Rights, Gender, International Relations, or any related field. The Project lead will have overall responsibility for the deliverables. She/he should have a minimum of 7 years demonstrable experience in developing legal or policy documents and in operationalized research on justice systems. She/he should be conversant with legal and policy frameworks on ending violence against women and access to justice for women in Africa. Excellent written and verbal English communication and interpersonal skills is required; ability to work effectively and responsively within a multicultural environment.

The other team members should have at least a degree in Law, Gender Studies, Statistics, Policy, Data Analysis or related field; The /data analyst and other team members should have a minimum of 5 years of experience in the areas of legal research, litigation and advocacy in gender justice and human rights. Strong written and verbal communication and interpersonal skills is required.

9. Application Procedure

Interested and qualified firms should send Expressions of Interest that include: **Technical Proposal and Financial Proposal** by strictly following the instructions of the Request for proposal not later than Tuesday 22 February 2022, 12:00pm (Eastern Africa Time).

Note: The above documents must be submitted to the online application system as two separate documents clearly named; all Incomplete applications or/and applications received after the closing date will not be given consideration.

Evaluation Criteria

Section 1. Vendor's qualification, capacity and experience			Points
1.	<u>Reputation of organization and staff credibility / reliability / industry standing</u> Offeror shall provide a brief description of the organization, including the year and country of incorporation, and types of activities undertaken		10
1.2	<u>General Organizational Capability</u> Offeror shall:		30
	a) Outline General Organizational Capability which is likely to affect implementation (i.e. management structure, financial stability (including annual turnover for the last three years) and project financing capacity, size of the organization, strength of project management support e.g. project management controls, global networking, financial stability).	10	
	b) Include a description of past and present experience and relationships that have a direct relationship to the performance of the Terms of Reference. Include relevant collaborative efforts the organization may have participated in.	10	
	c) Explain any partnerships with local or other organizations relevant to the performance of the Terms of Reference. Special attention should be given to providing a clear picture of roles, responsibilities, reporting lines and accountability. Letters of commitment from partners and an indication of whether some or all have worked together previously.	5	
	d) Explain whether any work would be subcontracted, to whom, how much percentage of the work, the rationale for such, and the roles of the proposed sub-contractors. Special attention should be given to providing a clear picture of the role of roles, responsibilities, reporting lines and accountability.	5	
1.3	<u>Relevance of specialized knowledge and experience on similar engagements done in the region / country</u> Offeror shall:		100
	a) Provide information confirming relevance of: - Specialized Knowledge - Experience on Similar Programme / Projects - Experience on Projects in the Region	50	
	b) Describe the experience of the organization performing similar goods, services or works. Experience with another UN organizations/ major multilateral / or bilateral programmes is highly desirable.	30	
	c) Provide at least 3 references with the following information: - Client - Contract value - Period of performance (from/to) - Role in relation to undertaking the goods/services/works - Reference Contact Details (Name, Phone, Email)	20	

1.4	<u>Quality assurance procedures, risk and mitigation measures</u> Offeror shall describe the potential risks for the performance of the Terms of Reference that may impact achievement and timely completion of expected results as well as their quality. Describe measures that will be put in place to mitigate these risks and ensure quality assurance. Provide certificate (s) for accreditation of processes, policy e.g. ISO etc.		20
1.5	<u>Organization Commitment to Sustainability</u> Offeror shall inform whether: <ul style="list-style-type: none">• Organization is compliant with ISO 14001 or ISO 14064 or equivalent• Organization is a member of the UN Global Compact• Organization demonstrates significant commitment to sustainability through some other means (for example internal company policy documents on renewable energies, disability inclusion or membership of trade institutions promoting such issues)• If applicable, submit Compliance Certificates, Accreditations, Markings/Labels, and other evidence of the Vendor’s practices which contributes to the ecological sustainability and reduction of adverse environmental impact (e.g. use of non-toxic substances, recycled raw materials, energy-efficient equipment, reduced carbon emission, etc.), either in its business practices or in the goods it manufactures.		40
Total Points for Section 1			200
Section 2. Proposed methodology approach and implementation plan			Points
2.1	<u>Analysis Approach, Methodology</u> Offeror shall:		200
	a) Provide in sufficient detail a description of the organization’s approach and methodology for meeting or exceeding the requirements of the Terms of Reference;	100	
	b) Explain the organization’s understanding of UN Women’s needs for the goods/services/works and how the different service elements shall be organized, controlled and delivered;	40	
	c) Describe the available performance monitoring and evaluation mechanisms and tools and how they shall be adopted and used for a specific requirement;	60	
2.2	<u>Management - timeline, deliverables and reporting</u> Offeror shall provide a detailed description of how the management for the requested goods/services/works will be implemented to achieve the requirements of the Terms of Reference. The activities in the implementation plan should be properly sequenced, logical and realistic.		50
2.3	<u>Sustainability-related approach to the service/work required</u> Offeror shall: Provide a detailed description of the methodology for how the organization/firm will achieve the Terms of Reference of the project, keeping in mind the appropriateness to local conditions, project environment and sustainability considerations.		50
Total Points for Section 2			300
Section 3. Management Structure and Key Personnel			Points
3.1	<u>Composition of the team</u> The offeror shall:		180

	a) Describe the availability of resources in terms of personnel and facilities required for the Terms of Reference.	35	
	b) Describe the structure of the proposed team/personnel, and the work tasks (including supervisory) which would be assigned to each.	35	
	c) Provide an organigram illustrating the office location (city and country), reporting lines, together with a description of such organization of the team structure, should be submitted.	10	
	d) For each of the key personnel provide the CV using the format provided [delete if not applicable].	40	
3.2	<p><u>Gender Profile</u></p> <p>The offeror shall provide information on the gender profile of the organization:</p> <ul style="list-style-type: none">- Women-owned Business status – whether the entity is owned, controlled or managed by at least 51% women;- Proportion of women in managerial position;- Gender balance of the proposed project/team;- Policies in place that contribute to gender equality;- Details of any women-owned or women-led subcontractors that will be engaged in the project, including at different tiers of their supply chain;- Gender parity policy in place;- Commitment to the Women’s Empowerment Principles (www.weeps.org/join) - if more than 10 employees;- Agreement to signing of the Voluntary Agreement to Promote Gender Equality and Women’s Empowerment in case of contract award - if less than 10 employees; <p><i>The total for all sub-criteria below shall <u>not exceed 3%</u> of the total technical points (max. 20 of 700 points).</i></p> <p>Good practices of gender-responsive companies can be found here: http://weprinciples.org/Site/CompaniesLeadingTheWay/</p>		20
Total Points for Section 3			200
TOTAL POINTS			700

Pass score: Bidders should score at least [490 points] in their technical proposal in order to be considered for the next stage of the evaluation. Bidders with a score below the minimum required will be disqualified.