



**LUNDS**  
**UNIVERSITET**

*Lund University Master of Science in  
International Development and Management  
May 2014*

## **LEGAL EMPOWERMENT THROUGH LEGAL AID**

**EXAMINING HOW LEGAL AID PROMOTES LEGAL EMPOWERMENT FOR  
VULNERABLE WOMEN IN UGANDA**

**WORD COUNT: 14970**

Author: Sanna Josefin Benjaminsson  
Supervisor: Magnus Andersson

## **Abstract**

The paper explored current approaches to legal aid and whether they effectively incorporate legal empowerment strategies for vulnerable women in Uganda. The conception and application of legal empowerment of the poor was analyzed from a capabilities perspective informed by “development as freedom” focusing on women. The study presented an investigation on how one can bring together the theoretical insights of legal empowerment with a study of current practices and perceptions of legal aid and legal empowerment in advancing women’s access to justice. By doing so it contributed to the broader discussion on the role of law and development in empowering disadvantaged and vulnerable people, as well as expanding their freedoms, as the link between legal empowerment and access to justice remains significantly unexplored within the capabilities approach. In particular the paper assessed legal aid from the perspective of rights awareness and rights enablement, key components of legal empowerment. Through the capabilities approach it uncovered that legal aid service provisioning plays a significant role in promoting legal empowerment and enhancing women’s capabilities to access justice. However at times they are treating symptoms in the legal sphere with limited reflection on how enhanced capabilities in access justice can create tradeoffs in other spheres.

**Key Words:** *Uganda, Legal Aid, Legal Empowerment, Legal Development, Rule of Law, Capabilities, Development as Freedom, Access to Justice, Rights Awareness, Rights Enablement*

**Abbreviations**

ADR	Alternative Dispute Resolution
CA	Capabilities approach
CLEP	The Commission on the Legal Empowerment of the Poor
CSO	Civil Society Organizations
GoU	Government of Uganda
JLOS	Justice Law and Order Sector
LASP	Legal Aid Service Providers
LASPNET	Legal Aid Service Providers Network
LEP	Legal Empowerment of the Poor
NGO	Non Governmental Organization
SBS	State Brief Scheme
ROL	Rule of Law
ULS	Uganda Law Society
UNDP	United Nation Development Program

## **Acknowledgement**

First and foremost I would like to thank my host organization World Voices Uganda (WVU) for all the support and friendship throughout the internship. Without your help and guidance I would not be able to conduct this research. I would also like to extend a special thank you to all legal aid service providers who shows that that devotion and hard work, through minimal resources can make a true difference in peoples lives and their chance to access justice. I would also like to thank all of the respondents for offering their time and patience to this research. A thank you also goes to my supervision group and my supervisor whose constructive comments and feedback helped a lot. Finally, for friends and colleagues in Kampala and Kagadi for true inspiration and an amazing adventure.

## **TABLE OF CONTENTS**

<b><u>ABSTRACT</u></b>	<b><u>1</u></b>
<b><u>ABBREVIATIONS</u></b>	<b><u>2</u></b>
<b><u>ACKNOWLEDGEMENT</u></b>	<b><u>3</u></b>
<b><u>1. INTRODUCTION</u></b>	<b><u>6</u></b>
1.1 RESEARCH PROBLEM	6
1.2 RESEARCH AIM	7
1.3 RESEARCH QUESTION AND SUB QUESTION	7
1.4 SUMMARY	7
<b><u>2. BACKGROUND</u></b>	<b><u>8</u></b>
<b><u>2.1 ACCESS TO JUSTICE AND LEGAL AID SERVICE PROVISIONING IN UGANDA</u></b>	<b><u>8</u></b>
2.2 THE LEGAL AND REGULATORY FRAMEWORK FOR LEGAL AID	8
2.3 INSTITUTIONAL MECHANISMS	9
2.4 MODELS OF LEGAL AID	10
2.5.1 BARRIERS IN ACCESSING JUSTICE	11
2.5.2 GENDER AND ACCESS TO JUSTICE	12
<b><u>3. CONCEPTUAL AND THEORETICAL FRAMEWORK</u></b>	<b><u>13</u></b>
3.1 RULE OF LAW ORTHODOXY	13
3.2 LEGAL EMPOWERMENT	14
3.3 THE CAPABILITIES APPROACH	16
3.4 LEGAL DEVELOPMENT, LEGAL AID AND CAPABILITIES	17
<b><u>4 METHODOLOGY</u></b>	<b><u>19</u></b>
4.1 RESEARCH DESIGN	19
4.2 WORLDVIEW	19
4.3 METHODS	20
4.4 SAMPLING	20
4.5 ETHICAL CONSIDERATIONS	22
4.6 TRANSCRIBING AND ANALYZING DATA	22
4.7 LIMITATIONS	23
<b><u>5. FIELDWORK ANALYSIS</u></b>	<b><u>23</u></b>
5.1 THE ROLE AND UNDERSTANDING OF LEGAL AID	23
5.2 RIGHTS AWARENESS	23
5.2.1 CONFIDENCE AND SELF-RESPECT	23
5.2.2 ACTION ORIENTED RIGHTS AWARENESS	25
5.2.3 RIGHTS AWARENESS FOR STAKEHOLDERS	26
5.3 RIGHTS ENABLEMENT	27
5.3.1 INTEGRATED RIGHTS ENABLEMENT	28
5.3.2 AGENCY AND BACKLASH IN RIGHTS ENABLEMENT	30
5.4 RIGHT ENHANCEMENT AND RIGHTS ENFORCEMENT	32
<b><u>6. CONCLUSIONS</u></b>	<b><u>33</u></b>
6.1 SUMMARY OF FINDINGS	33
6.2 FINAL REMARKS	34

<b>7. BIBLIOGRAPHY</b>	<b>35</b>
<b>8. APPENDIX</b>	<b>39</b>
<b>8.1 LIST OF RESPONDENTS</b>	<b>39</b>
<b>8.2 INTERVIEW GUIDE</b>	<b>40</b>
<b>8.3 LIST OF WOMEN'S BARRIERS IN ACCESSING JUSTICE</b>	<b>41</b>

## **1. Introduction**

### **1.1 Research Problem**

The Republic of Uganda (hereafter referred to as Uganda) has developed a comprehensive legal framework with a host of legal instruments and institutions. The constitution in particular does to a large extent provide the citizens with the normative protection of access to justice. Moreover in terms of the supply side of justice, Uganda has developed sound institutional mechanisms, through the creation of the Justice Law and Order sector (JLOS), in order to promote an integrated framework for the rule of law (ROL) and access to justice (JLOSb, 2012). However the normative protection of access to justice through the law is undermined by a widening gap between the legal framework and the law on paper, and the law in practice (2012a:8). Secondly, while there has been substantive efforts in strengthening the institutional mechanisms to enhance access to justice a range of notable obstacles exists ranging from corruption, lengthy court delays, case backlog, inefficiencies to low institutional productivity, weak service delivery as well as decentralization of districts further undermining the capacity of JLOS to concur with the increasing demand (Rukare in Banik 2008: 112, DIHR 2011:33, JLOS 2012:8-12). Finally social, political, economical and geographical barriers seriously undermine the capacity of ordinary citizens so seek remedy to their legal problems. Consequently majorities of people in Uganda are lacking the resources and capabilities to enjoy and effectively claim their rights as a result of inaccessibility in financial, geographical, technical and psychological terms (Rukare in Banik 2008:110). Moreover structural gender inequalities and biases permeate all level of the Ugandan society, which particularly exacerbates women's access to justice, hindering legal empowerment, further exacerbating their vulnerable capability space (JLOS:2002 5-6). To this end poor and vulnerable people in particular are facing an access to justice challenge, and the capability to effectively claim their rights. Increasingly non-governmental organizations (NGO) and JLOS are making provisions to target vulnerable peoples access to justice informed by legal empowerment. Strategies include but are not excluded to legal awareness, legal advice/assistance, alternative dispute resolution (ADR) and legal representation (OSJI, 2012:6, LASPNET 2004:vi, DIHR 2011:72). The underlying assumptions are derived from the theoretical discussion of the role of law in development. For several years the discourse on law and development focused largely on the law, lawyers and state institutions, rather than on the legal needs of the poor. Legal empowerment provides an alternative paradigm to the so-called ROL orthodoxy, which promotes participatory approaches to development. It focuses on bottom up approaches looking at the specific needs of the poor which combine elements of process and substance, independence, control, choice, agency, livelihoods, access to justice, and ROL (Bordat et al, 2011:93). Legal aid as an approach to promote legal empowerment is increasingly being recognized as a strategic entry point to overcome barriers in accessing justice. The rationale is that legal aid can provide a remedy to the various challenges faced by the poor and vulnerable such as affordability, lack of legal representation, alienation due to technicalities and lack of awareness. Therefore legal aid emerged as a dominant approach in enhancing access to justice while promoting legal empowerment in creating rights, capacities and or opportunities for the poor that give them power

in using the law and legal tools confidently (Bruce et. al, 2007:29). Legal aid could not only enable vulnerable groups to resolve their disputes but also enhance their legal awareness and hence agency to claim their rights as well as advocate for and social, policy and legal change (Justice Centers Uganda, 2014). Consequently the justification of the study lies in the access to justice challenge faced by large parts of the population and the necessity to enhance women's capability space and legal empowerment.

## **1.2 Research Aim**

The intention is that the conception and application of legal empowerment is to be analyzed from the capabilities perspective informed by "development as freedom" focusing on women as the unit of analysis, from the perspective of Legal Aid Service Providers (LASP). The paper intend to explore current approaches to legal aid as provided LASPs and weather their perception of legal empowerment has informed their strategies to advance vulnerable women in Uganda. Moreover it contributes to the broader discussion on the role of law and development in empowering disadvantaged and vulnerable people, as well as expanding their freedoms, as the link between legal empowerment and access to justice remains significantly unexplored within the capabilities approach (CA). Hence the paper also examines how legal aid services can affect women's capability space. Consequently the paper is to use a CA to explore the concept of legal empowerment and analyze whether legal aid enhance the capabilities of vulnerable women. Ultimately the study presents an investigation on how one can bring together the theoretical insights of legal empowerment with a study of current practices and perceptions of legal aid in the advancement of women in Uganda.

## **1.3 Research Question and Sub question**

### **How Does Legal Aid Promote Legal Empowerment for Vulnerable Women in Uganda?**

What are the Implications of Such Strategies on Women's Capability to Access Justice?

## **1.4 Summary**

The first section of the thesis presents the background and provides a summary of access to justice and legal aid services in Uganda. It looks at the normative protection of rights under laws and polices, institutional mechanisms, and different models of legal aid. This is followed by a discussion on the barriers face by people and in particularly vulnerable women in accessing justice and claiming their rights. As women often lack legal knowledge and have limited access to legal services, proves that access to justice is inextricable linked to sex. This discussion frames the problem and hence the importance of promoting legal empowerment as well as enhancing women's opportunities. The background is followed by the conceptual and theoretical framework. It looks at the two contrasting conceptual frameworks, namely the *Rule of Law Orthodoxy* and *Legal Empowerment*, in law and development cooperation to contextualize legal aid and the role of such. Subsequently the theoretical framework which uses the CA as presented by Sen (1999) and Nussbaum( 2003) is discussed, which provides the paper with its backbone. The third section of the paper addresses and justifies the chosen methodology. It particularly discusses the appropriateness of a case study approach in the examination of the perception of legal



empowerment, while addressing methods of gathering data including sampling choices. The final part of the thesis presents the data gathered through the semi-structured interviews. The intention is to scrutinize to how LASPs promotes legal empowerment for women. Secondly it examines whether legal empowerment strategies mainly through rights awareness and rights enablement translates into enhanced capability space for women. Finally the paper concludes that LASP approach legal aid in a rather comprehensive way as a lot of strategies promoted by NGOs look at legal aid more broadly, and in line with the expansion of the legal empowerment paradigm, yet theoretical and practical obstacles remain in effectively enhancing women's capability space.

## **2. Background**

### **2.1 Access to Justice and Legal Aid Service Provisioning in Uganda**

Access to justice as approached in this paper is not only about the ability to access justice institutions, but rather approached systematically "*to include all aspects of contact, entry and use of the legal system*" (JLOS 2002:4). Hence it refers to where individuals or communities can access de facto justice through the enforcement of laws, as well as the quality of justice as provided by the justice delivery system (Ibid:5). In line with the United Nations Development Program (UNDP) access to justice must involve just and equitable legal and judicial outcomes which includes "*the ability of people to seek and obtain a remedy through formal and informal institutions of justice and in conformity with human rights standards*" (UNDP, 2005:5). Access to Justice will mainly be interpreted by four main dimensions; (JLOS 2002:5, Rukare in Banik 2008:112);

- Physical access – user proximity to law enforcement agencies
- Access in financial terms – user affordability
- Access in technical terms –how comfortable users are with the legal language and procedural requirements as well as how users are treated by the duty bearers
- Psychological access- how confident users are in engaging with judicial agencies

### **2.2 The Legal and Regulatory Framework for Legal Aid**

The normative protection and provision of legal aid is to be found under extensive legal frameworks. First of all legal aid is defined under the Advocates (Legal Aid to Indigent Persons) Regulations as "*the provision of legal advice or representation by a lawyer, an advocate or a paralegal, as the case may be, to a client at no cost or at a very minimal cost*" (Obura 2010:4). While legal aid should be a responsibility of the state in the protection, promotion and fulfillment of human rights, both the state and non-state actors provides legal aid services in Uganda without any comprehensive policy backing from the Government of Uganda (GoU) (Ibid:4). Until the National Legal Aid Policy is approved and formally adopted, legal aid services will largely remain the domain of non-state actors (WB 2009:6). However, the right to legal aid is contained in various laws including the Constitution, the Trial on Indictment Act, the Poor Persons Defence Act, the Magistrates' Court Act and the Advocates Act and Regulations relating to legal aid made thereunder (Justice Centers

Uganda:2014). The constitution of Uganda is a benchmark for access to justice for all<sup>1</sup>. Article 21 guarantees equality before law to all citizens (GoU:1995). Moreover it lays out the principles for the government to ensure personal safety, security and access to justice. The rights and freedoms are protected under chapter four. This chapter also gives the parliament the power to enact laws necessary to address social, economic or education imbalances in society (Ibid). Yet the most vulnerable and marginalized groups are by virtue of their circumstance prevented from enjoying these rights and often unable to access justice. Because of the extent of poverty many are not able to afford legal services of private practitioners. As a response the constitution under article 28 (3) imposes an obligation by the state to provide free legal aid to a person accused with an offence that carries a sentence of death or imprisonment for life. The State Brief System (SBS) discussed later is a consequence of this constitutional provision.

The most notable regulatory framework for the provision of legal aid is to be found in four major acts (Obura, 2010:6-9, GoU, 1995, Justice Centers Uganda, 2014). *The Trial on Indictment Act, Cap. 23* in particular provide for an advocate to any person accused of an offence before the high court at his or her own expense as of right. By the *The Poor Persons Defence Act, Cap 20*, legal aid is to be provided where a prisoner is unable to obtain aid by his or her own means. *The Magistrates' Court Act, Cap. 16* provide any accused person with an advocate before Magistrates' Court. Finally there is the *Advocates Act, Cap. 267 as amended by Act. No. 27 of 2002* and its regulations. This one gives the The Uganda Law Society (ULS) provision to supervise and control the provision of legal aid to indigent persons. Moreover the *The Advocates (Legal Aid Services to Indigent Persons) Regulations, No. 12 of 2007* provides for the rules of legal aid service provisioning such as eligibility, maintenance and the quality of services. There is also additional regulation through the *The Advocates Pro bono Services to Indigent Persons Regulations No. 39 of 2009* which provides requirements for advocates and their pro bono services (LASPNET 2004:50-51, Obura 2009:8).

### **2.3 Institutional Mechanisms**

Two decades of civil, political and economical regress left the Ugandan justice system in ruin. At the end of the 1980s there were limited human and financial resources that seriously undermined performance in the justice sector. Moreover weak legal and policy directions to legitimate state institution negatively affected effective execution of mandates. There were chronic and systematic constraints that impeded access to justice, service delivery, effective planning and budgeting. The justice system was further curtailed by corrupted practices and limited proximity to the end users. Other issues ranged from ineffective procedural guidelines to significant gender based discrimination (Rukare in Banik 2008:111-112, JLOS 2012b). As a result there was a lack of access to justice for everyone in Uganda no matter ones circumstance. After 1986 Uganda slowly began the path towards recovery of the ROL in the country. Gradually justice institution

---

<sup>1</sup> This is stressed under Article 50(1) of the 1995 constitution, which states, "Any person who claims that a fundamental or other right to freedom guaranteed under this constitution has been infringed or threatened is entitled to apply for a competent court for redress which may include compensation" (GoU:1995).

strengthened their performance through various means; enhanced legislation, institutional establishments, research, and program interventions (WB, 2009:6). The various interventions in the justice sector culminated in sector wide approaches by the new millennium through the establishment of JLOS<sup>2</sup>. With the JLOS the administration of justice became more aligned through a common vision, policy framework as well as unified goals and objectives among the justice institutions. Most importantly JLOS provides the actors with holistic approaches to improve access to justice, and common planning, budgeting, program implementation, monitoring and evaluation (JLOS 2012b). During the same period civil society organizations (CSO) working with similar issues increasingly engaged in interventions that targeted the end users of justice delivery with a focus on human rights education, legal rights awareness and legal aid. Such engagements culminated in the establishment of The Legal Aid Service Providers' Network (LASPNET) in early 2001. The goal of LASPNET is to steer the involvement of private sector players to address the access to justice challenge for disadvantaged and vulnerable people (LASPNET 2014). Today legal aid service provisioning in Uganda is found at three main structures where the JLOS represent the supply side, the Legal Aid Basket Fund represents the funding side and where the Legal Aid Services Providers Network (LASPNET) represent the demand side (Obura 2009:9).

#### **2.4 Models of Legal Aid**

The State has provided legal aid mainly through the SBS managed by the Judiciary, funded through the Case Backlog Project, the Legal Aid Clinic of the Law Development Centre, and the Justice Centre Pilot that are hosted by the judiciary. Via the SBS the GoU through the judiciary allocate funds to the court to run a criminal session with a symbolic fee to advocates who are to represent poor offenders with capital offences. However the system is limited by an inadequacy of funds including limited supervision of the advocates (LASPNET 2004:48). Similarly The Legal Aid Clinic of the Law Development Centre which is a law school clinic model of service, has funding problems as well as logistical and supervision challenges, which has results in limited operations. The Justice Centre Pilot on the other hand is a more comprehensive strategy which aims to provide legal aid in a more holistic manner by both assisting the poor with procedural assistance as well as as empowering communities to claim their rights via awareness raising, ADR, and policy and legal reform advocacy. However it has limited outreach and is still just operating in very few districts (Obura 2009:12-14). A range of non-state actors provides different models of legal aid such as: legal aid clinics, out reaches, pro bono, and paralegals (DIHR 2011:46). The clinic-based model is a service where clients walk in to the offices of the legal aid service providers, to receive legal aid including legal advice, legal representation in courts, and other dispute resolution mechanisms. Some also undertake research advocacy, lobbying and

---

<sup>2</sup> The sector comprises of: Ministry of Justice and Constitutional Affairs (MOJCA); Ministry of Internal Affairs (MIA); The Judiciary; Uganda Police Force (UPF); Uganda Prison Service (UPS); Directorate of Public Prosecutions (DPP); Judicial Service Commission (JSC); The Ministry of Local Government (Local Council Courts); The Ministry of Gender, Labor and Social Development (Probation and Juvenile Justice); The Uganda Law Reform Commission (ULRC); The Uganda Human Rights Commission (UHRC); The Law Development Centre (LDC); The Tax Appeals Tribunal (TAT); The Uganda Law Society (ULS); Centre for Arbitration and Dispute Resolution (CADER) and The Uganda Registration Services Bureau (URSB). (JLOS 2012b)

strategic interest litigation. The outreach model means that the services are taken to the communities, where the legal aid service providers offer a range of services, including but not limited to legal awareness sessions on key legal issues and basic human rights, legal education, and mobile clinics. It should be noted that most NGOs operate in thematic areas limiting beneficiaries. The pro bono model on the other hand is an initiative of the Uganda Law Society and the Law Council that provides free services of advocates (WB 2009:25). Finally there is the Paralegal model, which is a cost effective method of assisting the indigent.<sup>3</sup> In Uganda, the term paralegal is defined under the Advocates (Legal Aid to Indigent Persons) Regulation, as a person who holds a qualification in law, other than a degree in law, recognized by the Law Council. Among other things a paralegal advice people on their rights, assist lawyers and provide education and training (DIHR 2011:47). Additionally community-based paralegals can provide legal aid services that are more proximate to rural communities.<sup>4</sup>

### 2.5.1 Barriers in Accessing Justice

Despite different levels of substantive laws and a comprehensive strengthening of the justice system over the past decades a majority of people in Uganda are lacking the resources and capabilities to enjoy and effectively claim their rights as a result of inaccessibility due to social, political, economical and geographical barriers. Hence by virtue of their circumstances, may it be location, sex age, culture, religion or socio-economic status such as poverty; unemployment and illiteracy people are unable to access justice. What exacerbates the inaccessibility to justice in Uganda is the lack of information and awareness by the public to know the who, where, what, how and when, of accessing to justice (Justice Centers Uganda, 2014). In the latest strategic plan of JLOS this was identified as one of the outstanding challenges (JLOS 2012a:9). There is also a growing concern from LASP about the absence of a National Legal Aid Policy, which has curtailed government fiscal and structural commitment to legal aid service provisioning (JLOS 2012a:30, Namubiru Mukasa 2010:1). As of now legal aid is mainly provided by non-state actors who are highly dependent on donor funding, which ultimately affects sustainability of its operations (Obura 2009:20). Other problem has to do with geographical coverage of legal aid service providers which is exacerbated by decentralization in which new districts constantly emerged without the necessary human and financial resources (JLOS 2012a:9, LASPNET 2004:9, DIHR 2011:33). Around 85% of the population are living in rural areas demonstrating the critical gap in them benefitting from the conventional access to justice strategies (WB 2014). While there

---

<sup>3</sup> The Lilongwe Declaration notes: “It has all too often been observed that there are not enough lawyers in African countries to provide the legal aid services required by the hundreds of thousands of persons who are affected by criminal justice systems. It is also widely recognized that the only feasible way of delivering effective legal aid to the maximum number of persons is to rely on non-lawyers, including law students, paralegals, and legal assistants. These paralegals and legal assistants can provide access to the justice system for persons subjected to it, assist criminal defendants, and provide knowledge and training to those affected by the system that will enable rights to be effectively asserted. An effective legal aid system should employ complementary legal and law-related services by paralegals and legal assistants.” (Penal Reform International, 2004:4)

<sup>4</sup> Some of the services offered by NGOs include: *Legal advice so clients can prepare for self representation, legal assistance and accompanying clients who need to follow up with the police or the courts, mediation, conflict resolution and reconciliation between parties (ADR), basic counseling, client support and protection, including informing on the availability of different legal options, drafting legal documents or administrative documents, such as letters to various governmental or non governmental agencies, tracing of sureties/witnesses, helping clients during bail process, preparing clients’ briefs to be submitted to lawyers or jurists working with the affiliating NGOs on referral basis or referring the client to other legal aid service providers.* (DIHR, 2011:70)

has been progress JLOS points out that "*services remain largely inaccessible outside of urban settings and particularly for socially and economically disadvantaged groups*" (JLOS 2012a:9). Even when people do have access to justice, financial constraints prove to be a major obstacle, especially given the fact that over 50% are living below the income poverty line (HDR, 2013:5). Accordingly the high costs of litigation through court fees, the cost of advocates, transportation and the opportunity cost of not attending household chores means that large parts of the population are unable to access justice (Judiciary 2012:16). There is also a problem of mob justice (which has its roots in the period of turmoil and lack of confidence in formal justice system) and high levels of ignorance of their legal and human rights amongst the general population in Uganda, which consequently has led to a lacking voice to demand for accountability (WB 2009:11, Birabwa-Nsubuga 2012). Corruption and public perception of the judiciary exacerbates inaccessibility for ordinary people. The fact that the British imposed the judicial system means that it still remains alien to many people, affecting psychological access and confidence in approaching it. This also impacts technical accessibility, as the legal language is English, which not all Ugandans speak. It further explains some of the modern day access to justice challenges in that the imposed judicial system focuses on retribution and punishment instead of reconciliation, which is the traditional way of looking at justice (Rukare in Banik 2010:113). Additionally, delays in the administration of justice hamper the process of seeking justice. A trends analysis report of the Justice Centers highlights problems of slow court processes, huge backlog cases as well as an inherent weakness in the justice system that obstruct timely resolution of cases (Judiciary 2012:17). JLOS particularly underlines the problem of service delivery and low institutional capacity and productivity (JLOS 2012a:9).

### **2.5.2 Gender and Access to Justice**

Gender related barriers in accessing justice exist at all levels; through laws, institutions and at communities where disputes occur through social and cultural practices (JLOS 2002:7). Hence structural gender inequalities and biases permeate all levels of the Ugandan society, which exacerbates women's access to justice, hindering legal empowerment for women, and aggravating their vulnerable capability space. When it comes to the normative protection of access to justice Uganda has a rather comprehensive policy and legislative environment that promotes gender equality and women's rights. The GoU has put in place a range of measures to improve women's conditions as well as their position vis a' vis men. Some of the constitutional provisions have been translated into national legislation such as *The Domestic Violence Act*, *The Female Genital Mutilation Act*, and *The Local Government's Act* (Judiciary 2012:13). The relatively favorable legislative environment is further reflected in the many mechanisms and policies targeted to enhance gender equality. There is National Machinery for Gender Mainstreaming, National Gender Policy, National Action Plan on Women, Social Development Sector Strategic Investment Plan and Gender Responsive Development (Tanzarn 2003: 10-12). Moreover gender is mainstreamed in JLOS programs, budgets and service delivery, and its latest strategic plan gender justice is a key priority area in which JLOS makes a commitment in developing a gender strategy (JLOS

2012a:10). A study on gender and access to justice by the JLOS specifically points out that despite that a comprehensive policy framework exists to address gender related barriers to accessing justice “*there is a need for a logical and synergetic linkage to consolidate and translate the policies into concrete strategies and actions*”(JLOS 2002:10). It goes on pointing out how many constitutional guarantees to advance women’s access to justice remains empty promises and that the national gender policy lacks an implementation framework. While there is a broad understanding of gender issues within justice institutions, what is lacking is a sophisticated analysis of gender based obstacles and applicability such knowledge (Judiciary 2012:27-30). The fact that policies and legislation does not translate into practice means that they often remain “*hollow promises, having little impact on the day to day lives of women*” (UNWOMEN 2012:7). Social and cultural barriers severely undermine women’s capability space. Gender related barriers and biases in accessing justice are ranging from the public- private divide, poverty, literacy, to culture and plurality of community- based dispute resolution (Please see Appendix 3 for a more comprehensive list). Among other things women and children are sometimes not allowed to inherit estates from their husbands, and can be confined to abusive marriages because of lacking negotiating and bargaining power. The private- public divide limits women’s mobility and when it comes to production and access to resources women have limited decision-making power. This is specifically evident when it comes to land in which women are having user rights but often lack control over the resources. In a rural country like Uganda this plays a significant role as it underpins economical, social and political lives of people, ultimately affecting the legal space for women (Tanzarn 2003:10). Additionally women are regarded to property through the payment of bride wealth, which increases men’s’ ability to control women’s social, economical and political lives. Other gender-based obstacles are to be found at educational level whereby girls are at times prohibited to attend primary school in preference to boys.

### **3. Conceptual and Theoretical Framework**

#### **3.1 Rule of Law Orthodoxy**

The ROL has slowly been integrated within the international development discourse (Affram 2011:6). One of the dominant approaches used to promote justice and the ROL is often referred to as the ROL orthodoxy, which has its roots in a focus on institutions in development. It can shortly be described as a set of ideas and strategies aiming to bring about the ROL, often as a way to promote economic growth, good governance, poverty alleviation, security and human rights (Golub, 2003:7). It is characterized by a state centric and top down approach, which focuses on the supply side of justice, particularly state institutions such as the judiciaries as well as top legal officials, attorneys and foreign consultants. There is a tendency that the legal systems problems and cures is determined narrowly by a focus on courts, prosecutors, contracts, law reform and other institutions and processes in which lawyers play central role (Golub 2003:8-9). The wide array of intervention guided by the ROL orthodoxy does to a large extent exclude civil society or on the building of the capabilities of the poor (Ibid 5). The ROL orthodoxy is furthermore characterized by a reliance on foreign expertise, initiatives and models (Golub 2003:9, Affram

2011:11). Recently this approach has been criticized as of few tangible results especially for vulnerable and disadvantaged people. Evidence suggest that its limited results stems from the fact that state justice sector institutions are of limited relevance for them in obtaining justice, that legal and institutions arrangement cannot easily be imported, and that national elites often resist or capture reform agendas (Golub, 2003). Additionally the law and justice sector reform movement has over the past two decades increasingly been characterized by ,

*“ A systematic lack of knowledge and rigor in the assessment, design and evaluation of projects and in particular, underinvestment in impact evaluation; an inadequate and/or ineffective change management strategies centering excessively on the supply side, particularly the judiciary which, at best, are imbalanced by lacking any corresponding focus on the demand side, notably civil society; and spotty performance and a disappointing lack of evidence of success, which may as much be a deficit of evidence as a deficit in results.” (Asian Development Bank 2009:39)*

Thomas Caroters in his book *Aiding Democracy Abroad* scrutinizes ROL and democracy effort in developing countries and suggest that there missing link of power that undermines development efforts. He suggests that by focusing on state institution, judicial strengthening and legislative change one *“can alleviate some problem but the underlying systemic pathologies remain”* (Caroters 1999: 101). Similarly Thomas Heller (2003:399) propagates that the effectiveness of the ROL assistance has been “spotty” because the approach largely takes a political strategy that reinforces legal institutions by investing in a coalition of judges rather than generating ownership. Hence the movement has strengthened the traditional autonomy and monopoly of courts instead of generating a demand driven civil society focus.

### **3.2 Legal Empowerment**

As a response to the growing critique of the ROL orthodoxy, legal development cooperation gradually moved towards bottom-up approaches. Such approaches contrast the ROL orthodoxy by focusing on the end users of the justice system instead of the institutions. The emerging paradigm contains concepts such as *access to justice/ equal access to justice* and *legal empowerment/ legal aid 2.0*. There is a great deal of overlapping between the two approaches and some agencies and programs use them interchangeably. The similarities is that they share a common concern in that vulnerable and poor people should be the main beneficiaries of legal intervention, opposed to trickling down and possibly help them through systemic, institutional reforms. Additionally intervention should be guided by the needs and preferences of the poor. Nevertheless there are some underlying assumptions and goals in which the two approaches diverge. Access to justice focuses on the lack of access to the law and legal systems, which ultimately deprive people from the ability to effectively, claim and protect their rights (Van de Meene and Van Rooij 2008:6-7). However the *“key concept in legal empowerment is not the law, it is power”* (Golup 2003, 7). This entails looking at the whole process in terms of power relationship determining the negotiating capability of the poor vis a’ vis prevailing structures of power and authority (Moser in Alsop 2004:40). Interestingly the legal empowerment paradigm does address “the missing link of power” as propagated by Carothers. Hence legal empowerment is more about power and freedom than it is about the law itself (Islam 2010: 4). While the broad concept of legal empowerment of the poor

(LEP) emerged in 2001 through the annual report of the Asian Development Bank which was further elaborated on by the UNDP Commission on Legal Empowerment of the Poor (CLEP) in 2005, the concept is not well defined and different organizations approach it differently (Bruce et. Al, 2007:1-2). A definition provided by the USAID, will be used in this paper as it concisely incorporates several dimension of the concept;

*“Legal empowerment of the poor occurs when the poor, their supporters, or governments – employing legal and other means – create rights, capacities and/or opportunities for the poor that give them new power to use law and legal tools to escape poverty and marginalization. empowerment is a process, an end in itself, and a means of escaping poverty.”* (Bruce et. al, 2007:29)

This definition helps to provide some clarity to the concept by identifying empowerment as a strategy and the law as a means to empowerment. It also specifies a focus on the poor with the objective to escape poverty (Bruce et. Al, 2007:29). Simply put legal empowerment looks at the lack of power, opportunities and capacities that hinder marginalized and poor peoples ability to use the law and legal tools to enhance their livelihoods and take control over their lives (Van de Meene and Van Rooij 2008:6-7). Legal empowerment is rooted in a human rights based approach to development, which asserts that disempowerment, exclusion and discrimination result in poverty. The rationale is that *“legal empowerment fosters development through empowering and strengthening the voices of individuals and communities, starting at the grassroots and from within”* (UNGA, 2009:3). A broader understanding of LEP becomes clear when considering poverty in terms of capability and opportunity deprivation rather than a sole function of GDP (Sen 1999). In such framework poverty refers to external constraints that limits individuals capacity and opportunity to exercise and effectively claim their rights. It is also assumed that LEP happens when the poor, their supporters or governments, are employing legal and other means to create new rights, capacities and opportunities for the poor that give them new power to use law and legal tools to escape poverty and marginalization (Banik 2008: 10). Legal empowerment is hence the process of systematic change through which the poor and excluded become able to use the law, the legal system and legal services, to protect and advance their rights and interests as citizens (CLEP 2008:3). From a human rights perspective legal empowerment can be seen as both a process and goal in itself. Moreover it focuses on civil society to strengthen legal capacities of the poor. Strategies aims to be practical, flexible and responsive to socio-legal context, and they are to benefit the most vulnerable who are least able to access justice (Maru 2010:84). Many scholars agree on the four entry points of legal empowerment as categorized by USAID (Bruce et. al 2007).

- *Rights Enhancement* involves reforming the law, giving the poor a voice. It focuses on marginalized peoples capability to access the law and to provide a more favorable environment in which marginalized groups effectively can claim and enjoy their rights (Hackman 2012:8).
- *Rights Awareness* involves providing knowledge as a means to legal empowerment. Awareness and knowledge is key for vulnerable people to understand their rights and processes. The rationale is that rights awareness will enhance the demand side of justice in which the citizens can demand for the implementation and fulfillment of rights among



the duty bearers (Ibid 4).

- *Rights Enablement* involves enhancing vulnerable peoples legal means to access justice by providing affordable and accessible legal aid, as well as promoting affirmative action, and the process of incorporating vulnerable people in public procedures. Additionally it involves institutional and individual capacity development for marginalized groups (Bruce et. al 2007:21)
- *Rights Enforcement* involves providing access to enforcement so that poor and vulnerable people can access and protect their rights through fair mechanisms through developing the capacities of formal institutions as well as through traditional and ADR mechanisms.

Finally legal empowerment entails several substantive dimensions and is reach through economic, social and political means (Bruce et. al, 2007:29). As highlighted by Sen in his account on legal development; “*linking legal reform with economic expansion, social progress, political enrichment and other kinds of development which complement each other and are mutually reinforcing*”(Sen 2000:2). USAID (Bruce et. al, 2007:9) echoes this line of thought by stating that while ROL and social inclusion have more direct impact on the effectiveness of legal empowerment measures “*education, health, and social security of the poor act to constrain or enable the poor’s realization of legal empowerment and can be invested in over time to improve LEP*”. Social opportunities and political processes are crucial for the realization of sustainable and long-term legal empowerment of the poor. For instance limited democracy and lack of education undermines poor and vulnerable people to effectively voice their needs and demand for accountability. Similarly, participation in political processes is necessary for legal empowerment. Accordingly poverty reduction entails not only the expansion of economic but so also political and social assets that enhance poor peoples capabilities and opportunities. Ultimately legal empowerment is about creating the means in which poor and vulnerable people can strengthen their capabilities and claim their their civil, political, economic, social and cultural rights (Hackman 2012:6).

### **3.3 The Capabilities Approach**

While it has been recognized that the legal empowerment agenda in international development discourse has been largely devoid of theoretical underpinning (Banik 2008:20) the concept does indeed reflect Sens notion of “development as freedom” which focuses on expanding peoples freedom to improve their lives, where peoples capabilities offer the potential for living one’s life as one wish to (Sen,1999). Sen defines five types of freedom; political freedoms, economic facilities, social opportunities, transparency guarantees, and protective security in which every category of rights and opportunity can advance the capability of a person. Rather than being passive recipients of the benefits of development programs individuals can effectively shape their own destiny given the right opportunities. Consequently Sen propagates a freedom-centered understanding of economics and the process of development is agent-oriented (Sen 1999: 11). The first key concept in the CA is that of functionings, which can be defined as, achieved outcomes, things that a person is able to be or do. As functionings refer to outcomes that are valued by a person

individual choice referred to as agency, is a key component of functionings. Capabilities are defined as the freedom to achieve desired functionings, in other words they are people's potential functionings. According to Sen (1992:40) capability is "a set of vectors of functionings, reflecting the person's freedom to lead one type of life or . . . to choose from possible livings." Hence the notion of freedom is embodied in the term capabilities, which means the range of options a person has in deciding what kind of a life to lead.

*"A functioning is an achievement (outcome), whereas a capability is the ability to achieve (potential). Functionings are, in a sense, more directly related to living conditions, since they are different aspects of living conditions. Capabilities, in contrast, are notions of freedom, in the positive sense: what real opportunities you have regarding the life you may lead (Sen, 1987:36).*

Ultimately the process of development can be seen as a process of expanding the capabilities of people (Sen 1984:497). While Sens CA has become part of mainstream development it is not without critique. For instance Tomas Pogge has attempted a strong critique of the CA, arguing that it cannot produce a public criterion of social justice that rivals the resources views (such as Rawls theory of utilitarianism) (Dickson 2010 in Banik 2010:132). However as suggested by Sandrine Berges this argument does not seem persuasive as he pays inadequate attention to Martha Nussbaums contribution to the CA which makes its universally applicable because of the addition of aristotelianism (Berges 2007:20-21)<sup>5</sup>. Nussbaum focuses on the strengthening of capabilities rather than functionings as the desired political goal based on the greater need for freedom of choice (Chodwhury and Chatterje 2013:112). Her reasoning is grounded in aristotelianism and she argues for the conception of human flourishing, which she uses to back up a detailed list of human capabilities. Hence while Sen does not provide us with a list of capabilities on grounds of heterogeneity of cultures and their needs, as well as the dynamic shifts of societal structures through time, Nussbaum propagates for an open-ended list of ten central human capabilities namely; life; bodily health; bodily integrity; sense, imagination, and thought; emotions; practical reason; affiliation; other species; play and control over one's environment (Nussbaum 2000a:78-80). Moreover Nussbaum suggests that her list of capabilities should be associated with fundamental entitlements, which governments have the responsibility to guarantee (Nussbaum 2000b:241).

### **3.4 Legal Development, Legal Aid and Capabilities**

As a result of the modern understanding of legal aid, it has become an integral, if not the most important, component of access to justice (Chatterje and Chowduru, 2005:117). In theory the use of an array of legal aid services for the poor has the potential to promote legal empowerment through the expansion of opportunities and capabilities. The rationale is that legal aid could not only enable vulnerable groups to resolve their disputes but also enhance their legal awareness and

---

<sup>5</sup> For a discussion on the different views on the CA see Deneulin, S. (2012) *The capability tradition: A note on two interpretations*, University of Bath, or Deneulin, S. (2011) *Recovering Nussbaum's Aristotelian Roots*, *Revista Cultura Económica*, No 81/82 December, pp 31-37

hence capability to claim their rights as well as advocate for and social, policy and legal change. Moreover legal empowerment initiatives have the potential in theory to benefit women through for example affirming women's inheritance, citizenship, labor, and other rights, and in reducing gender violence, while positively influencing children's well-being, productive investment of family resources, and a host of other development goals (Opens Society Justice initiative 2012:4). Moreover it has the potential to assist marginalized and poor people in overcoming obstacles such as affordability of user costs, lack of legal representation, alienation due to technicalities and ignorance of legal rights (Obura 2010:4). As Sen's concept of development as freedom underscores, legal empowerment through legal aid strategies can enable the disadvantaged to increase their freedom and agency through effective participation in family, community, and government decision-making (Open society justice initiative, 2012:4). Just as Maggie Carfield in her account on peoples capabilities and the ROL (2005:358:) suggest the need to asses whether the legal system promotes substantive outcomes that enhance poor peoples capabilities, this paper aims to utilize the application of the capabilities approach to legal empowerment. It examines whether the provision of legal aid not only adheres to the legal empowerment paradigm but also if it could overcome inequalities in the capability space. Sen has made specific reference to legal and judicial reform where he called for a more integrated view on legal development rather than talking independently about its economic, social, political or legal components.

*“Legal development is not just about what the law is and what the judicial system formally accepts and asserts. Legal development must, constitutively, take note of the enhancement of people's capability - their freedom - to exercise the rights and entitlements that we associate with legal progress. [...] Given this need for conceptual integrity (in this case, the need to see legal development not just in terms of legislation and laws but in terms of effective freedoms and capabilities), all the instruments that causally influence these freedoms must be taken into account in assessing what progress is being made in enhancing the development of a successful legal and judicial system.”.* (Sen 2000:11)

Hence the advantage of analyzing legal aid in a capabilities continuum is that it enables one to examine it more comprehensively, incorporating the social economical and political dimensions of legal. As highlighted by Sen, freedom in any sphere (legal, political, economical or social) may depend on instruments from other instrumental spheres. Take for instance the realization of legal rights for women. It does not only depend on legislative change but also on the ability and or capability of that woman to read and write and other social opportunities. Hence the capability deprivation in one sphere, in this case illustrated by illiteracy, ultimately affects her ability to realize her legal rights. Consequently the idea of legal development, and arguably legal empowerment is that it is utterly dependent on certain social or economic characteristics.

## **4 Methodology**

### **4.1 Research Design**

The methodology chosen for the study is that of qualitative research, and the research design strategy is a case study as it will be a detailed and intensive analysis of a single case; legal aid in Uganda. Additionally inductive methods were used in the analysis, whereby the data interacted with theory and gradually became integrated to the theoretical framework. The reasoning behind choosing a case study is much reflected in the argument by Yin (2009) who propagates that a case study is used when the researcher wants to “*understand complex social phenomena*” (Yin 2009:4). The aim was to investigate several organizations, legal aid service providers and institutions closely connected to legal aid service provisioning. The main advantage of using a case study is that it will enable me to have close but professional collaboration with the participants. This relationship enables participants to tell their subjective stories and understandings of the social phenomena in a flexible milieu (Creswell 2009:7). The approach complements the research questions and the qualitative design of the research. A view supported by Maxwell (2005:22) who stats that: “*the strengths of qualitative research derive primarily from its inductive approach it focuses on specific situations or people, and it emphasis on the word rather than numbers*”. The aim is to “*generalize to theory rather than to population*” (Bryman 2008: 391). A qualitative research approach seem more relevant as the purpose is to understand key stakeholders perceptions and role of legal aid in promoting legal empowerment for vulnerable women in Uganda. Moreover the intention is to see how their understanding of legal aid is reflected in programs and activities. Secondly using qualitative research enables me to see whether legal aid is approach more holistically. When it comes to transferability the research through its qualitative approach aims to provide a thick description as of the rich accounts from the various participants.

### **4.2 Worldview**

A social constructivism perspective shapes the research as it seeks to understand the world one lives in (Creswell, 2003). It recognizes multiple subjective meanings of the world and it is my responsibility as a researcher to look and interpret the complexity of such meanings. Such position often implies that social phenomena and their meanings are continuously being reinvented by the social actors (Bryman 2008). Thus, focusing on the perspectives of legal empowerment relies wholly on the participants’ views. As such, I intend to grasp the subjective meaning of participants’ views on legal empowerment using an interpretive epistemological approach. Hence this research will take a step toward understanding the social world by analyzing participants’ interpretation of their world (Bryman 2008; Mikkelsen 2005). Furthermore, I recognize my influence on research outcome, as my interpretation may be shaped by personal, cultural and historical experiences (Creswell 2003). This may have inevitable influence on interview questions, data analysis as well as conclusions.

### **4.3 Methods**

To contextualize the research question I used secondary data consisting of literature review, as well as documents from the JLOS. The primary data was collected through in-depth interviews. I choose to conduct semi structured in-depth interviews as it is optimal for collecting data on individuals as it will provide me with personal perspectives, histories and experiences (Mack et al. 2005:2). It should also be good when exploring concepts such as legal empowerment. Moreover participant observations did play a significant role during my research. My experience working with legal aid enabled me to go from outsider to a partial insider. It helped me to observe the daily interaction between LASP and other relevant actors in the administration of justice. I attended meetings, conferences, and workshops on legal aid service provisioning in Uganda, which gave me a deeper understanding of the issues faced by LASP and a general overview of the access to justice challenge in Uganda. Based on my observations and dialogues with colleagues, an interview guide was developed with the help of a supervisor from my host organization with extensive knowledge on legal aid. However as of the semi structured nature of the interviews this template merely served as a tool to direct question and was not applied systematically throughout the interview. As described by Mikkelsen (2005:171) the topics and objectives of the interview was decided in advance but I decided the sequence and wording. Also the semi-structured interviews gave me the flexibility to ask follow-up question responding to the direction in which the interviewees take the interview (Bryman 2008:446). Just as identified by Mikkelsen (2005:171) such semi structures interview did indeed remain fairly conversational and situational. The semi structured interview format also helped me with cross checking the data, which according to Devereux and Hoddinot (1993:34-35) could be done through posing different questions and similar questions asked at different times. The interview questions posed were open ended to enable a “discovery oriented method” and not lead the participants to certain answers. However it should be noted when the participants asked me for clarification, explanations or paraphrasing I did indeed struggle with posing open-ended questions at all times. In terms of positioning, this method helped me in avoiding appearing like a distant researcher. Active listening, with little interruptions meant that the respondents often took control over their story and which provided me with many rich and lengthy answers. This also meant that they answered more than one question when elaborating.

### **4.4 Sampling**

As my focus<sup>6</sup> is on the perceptions of LASP and key stakeholders who had extensive knowledge on legal aid service provisioning in Uganda, the respondents were identifies through purposeful and convenience sampling (Yin 2003:42). As such the criteria for the sampling meant that the respondent had to have a very good understanding of English, as well as a well-established background in legal aid service provisioning with substantial influence on legal aid service

---

<sup>6</sup> It is worth to mention that the scope, focus and sampling of the research were partly influenced by the decision not to have an interpreter. That meant that I was not to investigate legal aid from the perspective of beneficiaries as these most often composed of vulnerable women who did not speak English. I had previously worked with an interpreter but I came to the conclusion that the methodological challenges presented as of language barriers would threaten the credibility, transferability and dependability of the study.

provisioning in Uganda. The participants came from academic backgrounds with extensive knowledge on developmental work associated with access to justice, and they were in the ages of 25-50 years. A majority of the respondents were also lawyers themselves. Hence it is fair to say that most of the participants would fall into the category of middle and/or upper class.

Furthermore snowball sampling was used whereby I accessed informants through previously made contacts and their social networks. Giving the name of the person who provided me with the respondents details proved particular useful in terms of accessing the participants. This was an effective strategy to find and recruit what Mack et.al (2005:5) refers to “hidden populations”, groups that are not easily reached through other sampling strategies. Through previous experience during the autumn I came to learn that emails to general addresses found online rarely gave any response to such clientele. Hence the use of networks through my host organization and the use of a gatekeeper turned out to be detrimental in gaining access and cooperation of the interviewee. It also seemed important when gaining their trust (Sheyvens and Storey 2003:25-27). I felt that while not being a lawyer myself (which I got asked many times) my previous work through my host organization added to my credibility and it helped me to establish legitimacy. This also meant that I came in contact with some of the respondents at conferences and workshops in Kampala. I do believe that it was beneficial for my research to harness what Mullings (1999 in Sheyvens and Storaye 2003:186) describe as “shared positional spaces. “ In line with Mullings I am convinced that “*it is good to present yourself to elites as a temporary insider - someone who knows the ropes of the particular issue under concern and is therefore an intellectual equal* “ (Ibid:186). When contacts were made it turned out to be rather easy to schedule appointments and it should be noted that Uganda proved a rather favorable environment for conducting research as of its centralized and close-knit professional sphere. In short, networking and personal contacts proved to be particularly useful if not detrimental, as Uganda most definitely is a society “*where personal links are paramount*” (Sheyvens and Storay 2003: 185) as it aided me to identify key informants. However a problem encountered was the tight schedule of the respondents. I could detect similarities mentioned in Sheyvens and Storay when conducting “elite research” when it came to lack of seriousness which meant that there were last minute cancellations and numerous interruptions during the interview process.

I conducted 10 face to face interviews in total, 6 of them being in Kampala and rest in Kibale district during the months of January and February 2014, which all took around 30-45minutes. I also conducted one group interview with around 15 respondents.<sup>7</sup> While this will not generate a representative sample, the use of purposive sampling targeting key informants, still provided me with a sound technique to generalize to theory. Through identifying key informants I was able to, through a limited amount of interviews, collect a lot of relevant data. Such process also aided theoretical saturation in which themes and categories rather quickly emerged from the limited number of interviews and still generated data that became saturated. The interviews took

---

<sup>7</sup> I decided not to use the data from the group interview as of limited interpretation and understanding of legal aid service provisioning in Uganda by the respondents

place in the respondents private office spaces were the participants were comfortable<sup>8</sup>. Just as identified by Finch (1984) I imagined that that conducting the interviews in the respondents own time and space would facilitate a smooth running dialogue and release of information. Yet because of the tight schedule of many of my respondents, conducting interviews in relaxed and comfortable environment to facilitate the release of information proved to be harder said than done. Nevertheless when there was a tight time schedule for the interview I soon learned what questions to focus on in order to get the most data collected.

#### **4.5 Ethical Considerations**

To assure that no data got lost I used a voice recorder on my smartphone. I told the respondents about my background and my intent with the research. Moreover I informed the participants that they did not have to respond to any questions if they felt uncomfortable. To ensure ethical conduct the participants had the choice of confidentiality to honor the principle of “do no harm”. All the participants gave the permission to use their name, especially after the interview was conducted. Nevertheless to ensure the principle of do no harm all the respondents are anonymous and given pseudonyms in the research. Before I started the interviews I also ensured oral informed consent. As highlighted by Mack et al. (2005:9) “*informed consent is one of the most important tools for ensuring respect for persons during research*”. My business card or my email was handed to the participants if they felt in need of contacting me at anytime during the research. This also ensured that the participants could resign from the research at any stage (Mack, 2005:40; Bryman, 2012:138).

#### **4.6 Transcribing and Analyzing Data**

All the interviews were transcribed using an audio tool, and written down to spoken word English. While most of the transcription went smoothly, one interview present considerable obstacle as of the accent and bad voice quality. This data have consequently been approach with caution. The transcriptions were read several times to get a grasp about the content, and the data was consequently analyzed inductively detecting emerging themes and categories. The themes that emerged were connected to the different narrative from the respondent. From all the data around 150 narratives were obtained and categorized in a Microsoft Excel template. By getting familiar with the data it became clear that the respondent answer could not only be divided into broad thematic areas, but it also corresponded to the conceptual categorization of legal empowerment in terms of rights awareness, rights enablement, rights enforcement and rights enhancement. It should be noted that the data analysis was guided by Powell and Renner (2003: 2-5) as it aided the accessibility of the information gathered.

---

<sup>8</sup> It should be noted that one of the interviews was conducted in an empty restaurant due to time constraints and unavailable of other spaces at the time.

#### **4.7 Limitations**

The use of snowball sampling in which I targeted informant through networks already established might create biases. Most of the respondent knew me from a rural LASP, which also might affect the way in which they answered the questions. Additionally it should be noted that my approach to legal aid service provisioning is influenced by my time in my host organization and hence my understanding of not only legal aid in general also the extent of urban biases. However being aware of such issues helped me in actively avoiding subjective biases. Moreover the limited number of participants might undermine a variety of responses to what legal aid service provisioning entail. It should be noted that in assessing legal empowerment solely from the perspective of service providers might create biases in which they rarely talks about the limitations of their own legal aid services. Hence the analysis might have been strengthened by a comparative study also looking at vulnerable women's view on the programs. However as previously discussed practicalities to do such research could endanger the whole study. Also the study makes it clear that the intention is to look at the perception of legal empowerment among legal aid service providers and how such perception informs to legal aid service provisioning.

### **5. Fieldwork Analysis**

#### **5.1 The Role and Understanding of Legal Aid**

Legal aid is mainly discussed from two entry points; rights awareness, and rights enablement. While these are dimensions of legal empowerment in particular and not legal aid per se, the modern expansions of legal aid, and by the wide interpretation of legal aid among the respondents these dimension are to be used in the assessment of the role and understanding of legal aid. Hence while legal aid officially focuses on access to institutions and the formal access to legal advice through lawyers or paralegals, a lot of strategies promoted by NGOs look at legal aid more broadly and in line with the expansion of the legal empowerment paradigm. Nevertheless rights enforcement and rights enhancement will be given less attention as it has little to do with legal aid service provisioning because it largely focuses on justice institutions and not the delivery of legal aid by LASP.

#### **5.2 Rights Awareness**

##### **5.2.1 Confidence and Self-Respect**

Enhancing women's capabilities and raising her awareness, as well as increasing her confidence were common responses to what legal empowerment meant for women. This was reflected in the respondents approach to legal aid in which all of the informants talked about right awareness as a key strategy to promote legal empowerment. One respondent stated, "*They even lack legal knowledge, they need legal awareness*"(Alex) when referring to vulnerable women in Uganda. What can be derived from the interviews is that almost all LASP provide different forms of rights education targeted to vulnerable groups. Many of the interviewed underlined how access to justice is undermined by a fear of the legal system, language and procedures by vulnerable people and in



particular women, and that “*the challenges is that people don’t know*”(Benjamin), hence stressing the fact that confidence and agency are key dimensions of legal empowerment. It was also common responses to what the goal of awareness rising was, where it is important “*educating and empowering them, training and training until they gain confidence*” (Peace). One LASP summarizes and exemplifies the importance of legal aid that focuses on awareness rising;

*Sometimes it is not only about court. When they (vulnerable people) think about legal aid they think about court. Sensitization and community empowerment do a lot especially for grassroots community, because they are far from court, but when they know their entitlement they can demand for things. They can demand from their local leader, they can demand from their husband. They know that a man should maintain their children so they can demand for that. (Akiiki)*

By gaining awareness about their rights and entitlement several respondents described the importance of confidence;

*Those women who access legal aid services are able to build up confidence. Their improved awareness has aided them in administration of justice. They are able to talk to the police, walk to court /.../ they have the courage to speak, and they know where to report (Innocent)*

Similarly another LASP mentioned the importance of legal aid in raising the confidence of women and the consciousness of her potential.

*Women have raised their conciseness. Legal aid has played a part in that /.../ legal aid has opened up the eyes so that they can play part. (Charles)*

The rationale was that by gaining confidence through awareness about their rights and legal tools women could have their voices heard and empower themselves. One LASP described that the goal of LE strategies was “*to help them (vulnerable women) empower themselves enough to stand up for their rights*”(Akiiki). Another LASP described legal empowerment as “*enhancing their capabilities, their knowledge so they have the confidence*” (John). The general sentiment among the interviewees was that right awareness is an essential part of legal empowerment and legal aid strategies. A general understanding of legal empowerment was hence about creating conditions to expand vulnerable women’s capabilities and opportunities to claim her rights as well as advocate for and social, policy and legal change. As in the words of a service provider;

*I would understand it as creating conditions that enable women to meet their needs, both material, social, financial and administrative. Because a legally empowered women to me, also means creating a framework so the women also have their voices heard.(Agaba)*

Theoretically rights awareness means that people increase self-confidence and capacity to access justice, which translates into them claiming their rights more forcefully (Jonckheere et al 2013:13). In an account on the work and ideas of Sen, Des Gasper and Irene van Stavere (in Agawar et.al 2005:149) highlight the importance of value and particularly the value for self-respect, which is different from freedom. Nussbaum brings up the issue of self-respect in her list of capabilities under affiliation and the importance of “*having the social bases of self-respect and non-humiliation*” (Nussbaum 2000:79). Self-respect has both independent and instrumental significance as “*being respected is a significant factor in growing out of poverty, and in turn involves and affects capabilities of self-esteem and confidence*” (Des Gasper and Irene van Stavere in Agawar et al 2005:149). The rationale

is that self-esteem for women is an important means and a first step to improve their well-being. In other words, women might have the technical and practical (through rights enablement) ability to use the legal tools but without self-confidence, gained through rights awareness she might not access justice. Hence it is not the lack of freedom that hinders her but an issue of value and self-esteem that undermines her ability to effectively claim their rights. Consequently while value and self respect cannot be fully understood in Sens language of freedoms it does provide women with a chance to enhance their capability space.

### **5.2.2 Action Oriented Rights Awareness**

For rights awareness to enhance women's capability space it needs to be action oriented, that is translate into a greater access to justice and use of legal tools. This is in line with the conceptual categorization by USAID (Bruce et. al,2007:17) which stresses that legal empowerment strategies needs to be action oriented, where women gain confidence to exercise their agency in claiming justice- so that *women are coming out demand for their right* (Peace). Here one service provider exemplifies that awareness ultimately must translate into an action;

*A legally empowered woman is a woman who knows that she has a right to claim. And secondly she knows where to make a claim /.../ It is not only about policy and awareness it is about the utter effects of taking legal action- a woman who has the confidence to claim her right* (John).

Similarly another LASP highlighted the importance of *rights awareness* being action oriented in terms of enabling women to demand their rights.

*In my opinion legal empowerment is all about making women aware, teaching them about different legal issues. In life everything is legal /.../ So it is about raising their awareness of their entitlement under the law so they can demand their right under the law.* (Akiiki)

The respondents highlight a range of strategies to provide rights awareness ranging from community sensitization on the markets to music, drama and theater groups. Most of the interviewed were also using the media as a channel to enhance public education and to promote rights awareness. Radio proved to be a popular means of delivering accessible legal aid in which many of the LASP either had radio programs or worked with partners to deliver radio programs on topics concerning laws and rights. While resource constraints and other factor undermined the outreach of radio programs it should indeed be recognized as an effective means to deliver innovative legal aid as the radio is the most used media in Uganda. Rights awareness via the radio was given quite some attention by the LASP as it is accessible for vulnerable people, addressed gender based obstacles and issues of poverty, accessibility and illiteracy in particular. Moreover many of the LASP provide public education through posters and newspaper. Moreover the executive director of a legal aid service provider states that before "*legal aid is about going to court, secondly mediation , then training. Now, It's the other way around.(...) It is a shift that actually goes away from for access to institution. Is it going away from orthodoxy of the rule of law*" (John). From a capability perspective it can promote an environment for women to exercise her agency, expanding her freedom. In other words awareness rising can have a direct impact on women capability space in which she, through enhanced knowledge gain confidence to access justice.

### 5.2.3 Rights Awareness for Stakeholders

A second strategy of promoting legal empowerment is in targeting key stakeholders and institutions involved in the administration of justice to endorse a more favorable environment for the expansion of opportunities (Bruce et. al, 2007:18). Some of the respondents brought up how people involve in the administration of justice are collaborating in making justice more accessible for vulnerable people. LASPs and other key stakeholders were regularly meeting to discuss issues of the law, share information and provide training for each other. Consequently legal literacy campaigns for stakeholders might transcend into a greater overall awareness in local communities which could add on to vulnerable peoples ability to access justice.

A majority of the informants also talked about the importance of extending training into informal structures and particularly on to traditional leaders. Informal justice mechanisms and traditional leaders plays a big part in access to justice in a country like Uganda where culture have a strong hold and formal accessibility is seriously undermined for political, social and economical reasons. Hence informal avenues are often the first option for vulnerable people to access justice. While many of the respondent raised concerns of gender insensitivity in the informal structures, a majority of the respondents directed rights awareness to traditional leaders as a way to enhance fair and accessible justice mechanisms for vulnerable people particularly rural women. The C.E.O of one LASP described how they are trying to work with rights awareness and gender training to traditional leaders.

*There are issues around the values, gender sensitivity and gender responsiveness. What we do in our training we include it. Training look both at law and human rights, and to build in poverty element of formal into the training for the informal structures (Florence)*

A majority talked about gender sensitive training and the importance of such to be able to reach vulnerable women in their space. While there are substantive efforts by LASP to provide rights awareness that have a positive impact of women's capability space, its transformative aspect is to some extent undermined by a lacking in-depth analysis and an informed identification of gender barriers. While gender based obstacle and structural barriers are discussed by all of the respondent, such awareness seems not to be fully integrated in project strategies. Several respondents underlined the failure of delivering gender sensitive legal aid in local communities.

*Unfortunately curriculum for sensitization has not been done probably, as going to content. People have done awareness raising, but looking at content how much does it identify with scenario with men and women at the grassroots who is oppressed. Some speak theoretically but does it translate into practice (John).*

Hence if LASP fails in reaching women in their arena, rights awareness will remain a hollow strategy to improve women's access to justice and have a minimum effect on women's capability space. If rights awareness is to promote legal empowerment for women, gender sensitive project strategies needs translate into focused yet sustainable project delivery where women are effectively

reached. Informed analysis on where, when and how to reach vulnerable women is hence key for rights awareness to be transformative.

Overall legal aid does to a large extent enhance access to justice by providing rights awareness that promotes psychological access and access in technical terms for vulnerable women. One could arguably state that legal aid through rights awareness does promote legal empowerment for women by building their confidence in claiming their rights. As previously pointed out, enhanced knowledge about ones rights might not be a capability per se but a means to enhance once capability space through the promotion of self respect which can be detrimental and a first step for women in accessing justice. While referring to capabilities in general UNDP particularly points out the importance of being knowledgeable to enhance peoples freedom (Mahbub ul Haq in UNDP,2014). Likewise legal knowledge and enhanced rights awareness provide marginalized group with a means or the necessary condition for the realization of the capability to access justice. Just as legal empowerment is about increasing the power of vulnerable people to use the law and legal tools, awareness and information provide the means to such ends. One LASP summaries the essence of legal empowerment shortly; “*Women gaining rights, exercising their rights. Its about knowledge*” (Benjamin). Ultimately LASP plays a significant role in the promotion of rights awareness to advance legal empowerment.

### **5.3 Rights Enablement**

An important aspect of legal aid is the dimension of rights enablement, meaning directly assisting vulnerable people in exercising their rights. One could think about rights enablement through procedural assistance as a way to bridge the gap between rights granted and their ability to exercise those rights effectively (Committee on Legal Services for the Poor in Bruce et. al 2007:21). A wide array of services were brought up, similar to those described in the background ranging from legal advice, counseling, mediation, ADR, legal representation in court and writing of wills and other legal documents. A great number of the LASP gave several examples of how legal aid directly expanded women’s capability space enhancing her opportunities. Among other example, one LASP expressed it in the following way;

*Some of the women in our project are now landowners. A man has signed as a witness. Originally women were the witnesses. You reach at a way were the man is a witness. An example where the women now here is empowered. (Agaba)*

A particularly useful strategy brought up by a majority of the respondents was the use of paralegals and/or “fit persons” where local residents work in their local community’s giving legal assistance. Many of the LASP highlighted the strength of paralegals and/or fit person being the fact that they enhance the physical and financial accessibility of legal aid and more importantly it being context specific, as in the words of one respondent; *Those people being in community know their issues more and how to approach communities more (Akiiki)*. Some of the respondents raised concerns that legal aid being designed from “outside”, that is urban centers, lacked an integrated approach that effectively addressed issues faces by rural and vulnerable women. Hence making the case of paralegals being context specific and relevant in terms of assisting vulnerable groups to confidently using legal tools.

### 5.3.1 Integrated Rights Enablement

Many of the respondents brought up the importance of integrated procedural assistance and the necessity of linkages between CSO and justice institutions. Women have equal rights on paper in Uganda to a large extent, and there are sound institutional mechanisms to provide for access to justice, but without programs targeted at increasing female literacy, economic empowerment, employment opportunities, basic education the realization of access to justice is a challenge (Nussbaum 2000:54). One LASP talked about their work *with both livelihoods and legal advice. Connecting more integrated approach to providing support* (Florence). A longer account portrays the importance of providing integrated legal aid to attend to other dimension than just the legal. Hence providing support that to a greater extent to support opportunity expansion for women:

*In Lira they work with farmers, the intervention we do is dealing both with legal information and advice but also look at economical livelihoods, so to be able to target the farmer, and give them legal support but also information about farming, agriculture and empowerment.(...) . In Gulu issues goes beyond legal, some are around helping the client having access to economical services, some are about information about how to do business. We support them on how to form a business entity, form an association. Which then for them translates into livelihood support that they do for themselves. /.../So yes you can do the legal but good partnership then you can attend to other dimension* (Florence).

Several respondents highlighted the importance of taking an integrated approach to legal empowerment, looking at not only at the legal dimensions but also economical, social and political factors that affect vulnerable peoples freedom and opportunities;

*Issues are not only legal, there are livelihood issues; we can look at economical empowerment issues, personal issues, and attitude change. That's one way of looking at empowerment from that perspective* (Florence).

Consequently the interpretation of legal empowerment among the interviewees meant that it is not only about enhancing peoples legal awareness or creating the means in which marginalized can exercise their rights and effectively use the law or legal tools. Overall legal empowerment, just as legal development, cannot be isolated from other variables as it is so dependent and inextricable from social, political, and economic empowerment. As propagated by Sen there is interconnections between different aspects of development, and in particular between legal and non-legal features of the process of development (Sen, 2000). Similarly legal aid needs to incorporate a broad understanding of all of the dimensions of empowerment which addresses linkages between women's access to justice and overall social opportunities<sup>9</sup>. A lack of social opportunities was repeatedly addressed as a considerable obstacle in promoting legal empowerment for women. Education and poverty seriously undermined legal empowerment for women as well as poor peoples ability to effectively voice their needs. One respondent highlighted such issues by stating; *The challenges to me I see, one illiteracy in the community* (Musoke). Interestingly some of the respondents stressed the problem of delivering legal aid thematically in which social problems and the access to justice challenge is dealt with in isolation to targeted

---

<sup>9</sup> Social opportunities as defined by Sen is "the arrangements that society makes for education, health care and so on, which influence the individual's substantive freedom to live better." (Sen 1999:39)

groups and through thematic interventions. That is service delivery that solely focuses on one dimension or category of legal empowerment, or instruments from one sphere or dimensions of development and empowerment. In other words there is a danger of isolating the problems faced by vulnerable groups in accessing justice and not dealing with them in a comprehensive and integrated way. One of the LASP stated that addressing legal aid thematically might result in a failure to promote considerable impact at the grassroots.

The interpretation of legal empowerment by the respondents is to a large extent compatible by an integrated development approach, which is the essence of the CA. The interviewed indicated the need to, at a theoretical and practical level, address legal empowerment strategies in Uganda through more integrated approaches. From an integrated “development as freedom” perspective as propagated by Sen “*development as a whole cannot be considered separately from legal development(...).development is a functional relation that amalgamates distinct developmental concerns respectively in economic, political, social, legal and other spheres.*” Accordingly procedural legal aid and legal empowerment strategies can not be approached in a vacuum. Legal development and legal empowerment strategies is just one out of a “*multiplicity of access point into what is essentially a circle of causation*”, to enhance peoples opportunities (Byron and Sheldrick 2012:10). Focusing solely on the legal in isolation runs the risk of ignoring other critical factors needed to enhance women’s capability space. One LASP highlighted the shortcomings of mainly focusing on the legal dimensions for women without and equally sophisticated analysis on social, economical and political issues.

*Different services have often helped women and other clients to access formal rights. Maybe someone is trying to get a divorce, you help, someone needs maintenance, you help. So when it comes to formal justice- to a large extent that has happened yes. But beyond the formal, going beyond the law to issues that affect person to some extent, not all the time. For example you have a situation where women have an issue of inheritance maybe have lost her right to stay on the land, the land has been taking over and you might stop that. But you might find that the person and relationship, might have children, but because of the legal conflict the family bond is disrupted which has implications on social support/network that is important for the women. So I think legal aid services we have been able to do a lot on formal. Not sufficiently in social issues. We are beginning to rethink our approach so that we have a more integrated approach that deals with dimensions beyond the legal. (Florence).*

From a capabilities perspective such conditions becomes problematic when one includes the dimensions of value and particularly values for other people (Des Gasper and Irene van Stavere in Agawar et al 2005:143). Theoretically one could argue that she gains the capability to access justice and thus providing her with greater freedom. Nevertheless her expansion of opportunities in the legal sphere might constrain her in others and undermine the things she values to do or to be whereas her freedom has to be assessed on the basis whether her participation in the public activity and use of legal tools is considered important. This include family and social support and “*to engage in various forms of social interaction (...) to have the capability for both justice and friendship*”(Nussbaum 2000:79). There are interdependencies between different capabilities (Robeyns, 2003:67) and this should also be the case between access to justice and for instance the capability of affiliation. In this case there are tradeoffs between the capability to access justice and

other capabilities that a women might value. Claiming that the women are free to participate in the legal sphere through enhanced capabilities focus only on legal constraints, *based on a view that there are no other ethically relevant constraints and on a voluntaristic conception of agency*. (Des Gasper and Irene van Stavere in Agawar et al 2005:141). Ultimately access to justice and legal empowerment need to be accompanied by an equally sophisticated analysis on instruments in the other spheres and how they are linked or disconnected from the possibilities of change. In other words capabilities associated with access to justice needs to be enhanced though a greater capability space in other spheres. This further stress the importance of integrated approach where legal empowerment have to be viewed through a broader interpretation of freedom as well as incorporating all dimension of women's empowerment.

Such integrated way of looking at legal aid could also extend to linkages. Almost all of the LASPs interviewed mention the need to partner with other CSO as well as with justice institutions. While improving linkages between different actors was identified as key in enhancing the outcomes of legal aid it was also identified as one of the major limitations. A majority of the respondents talked about the need of better linkages. Both between enhanced collaboration between NGOs, which focused on collaboration instead of competition, and enhanced collaboration between CSO and justice institutions. The World Bank (2009:56) in a Legal and Judicial Sector Study particularly highlighted the need for JLOS to create a deeper partnership with CSOs with a need of taking advantage of inter sectorial linkages.

For legal assistance to have a greater impact it should, as identified by a majority of the respondents, use a wide array of fora such as churches, women's groups and farmers unions. Theoretically such cooperation could deal with the isolated capabilities conundrum, in which legal dimension are merged with others. Moreover all of the respondents identified the problem of accessibility as seriously undermining legal aid in legally empowering women. The rationale is that resource constraints and capacity constraints restrict the potential impact of legal aid. The impact of legal aid was almost only visible in urban centers and LASP were concentrated in urban areas where most women already know their rights and the law. Even though LASP are doing a lot to enhance vulnerable peoples legal capability the impact remains extremely limited.

### **5.3.2 Agency and Backlash in Rights Enablement**

If legal aid it to have an impact on the women's expansion of freedom and legally empower them it must involve an approach that incorporates the dimension of agency. Legal aid services and the direct assisting of vulnerable people must include a deep understanding of how strategies affect the capabilities of women. Whether it truly promotes agency and empowerment of women or whether the service provided only proves to be treating the symptoms. There is a danger of procedural assistance being less transformative then hoped for. One service provider exemplifies the problem of agency in procedural assistance in the following way;

*Sometimes you get a situation when you get repeated client for the same serious problem. /.../ Are we helping the client to get out of the same situation, not to make the same mistakes? So bringing the issues of agency.* (Florence).

There seems to be need of a thorough analysis that not only incorporates several dimensions of legal empowerment, but also deals with the consequences of women's enhanced capability space. There is a danger that legal aid in advancing the status of women will create a backlash in that men feel threatened by the developments. Uganda is to a large extent a patriarchal society whereby unequal gender relations are deeply rooted in society. Promoting legal empowerment for women, increasing her capabilities and strengthening her voice is challenging the prevailing gender norms. What some respondent identified was that the provision of legal aid targeted at enhancing women's capabilities and rights alone can lead to a manifestation of resistant to challenges to power structures, ultimately undermining women's freedom. Nussbaum highlights this problem questioning whether the promotion of freedom is a coherent political project as some freedoms limit others<sup>10</sup>. In this case gender justice cannot be successfully pursued without limiting male freedom. Nussbaum propagates,

*"No society that pursues equality or even an ample social minimum can avoid curtailing freedom in very many ways, and what it ought to say is: those freedoms are not good, they are not part of a core group of entitlements required by the notion of social justice, and in many ways, indeed, they subvert those core entitlements."* (Nussbaum 2003:44)

Ultimately strategies aimed at legally empower women need to develop an understanding of the social political and economic realities in the country. Otherwise efforts can generate a backlash and negatively affecting women's capabilities, as a reaction to what might be culturally considered as an infringement of women into men's space. One LASP brought up the issue of men feeling that women are getting too much to say about things, whereby it is important to *not to look at men as aggressors but at themselves as agents of change* (John). Another LASP stressed the importance of addressing legal concerns at household level so that the capability to access justice is seen and enhanced from at household level, including men, women and children. The intention is to more effectively deal with cultural barriers without creating a backlash for women.

Conclusively rights enablement is a great means to enhance women's capabilities by directly assisting them in accessing justice. It seems rather obvious that procedural assistance that targets financial and geographical accessibility ultimately strengthen women's access to justice and promoting legal empowerment. However as discussed, rights enablement strategies cannot be treated in isolation to other spheres. The best outcomes and greatest impact on developing vulnerable women's opportunities is by assisting them through integrated approaches that deals with issues at economical, political and social level and which looks at what women care to be, do or value. This needs to be accompanied by an understanding of the backlash that the advancement of women might create, and hence an understanding on how certain freedoms limits others. Without a sophisticated analysis of such legal aid strategies there is a danger of undermining legal empowerment as well as the impact on women's opportunities. Nevertheless just like LASP plays a significant role in promoting legal empowerment through rights awareness it does indeed

---

<sup>10</sup> It should be noted that these freedom does not refer to the ones considered by Sen.



provide a range of means to promote rights enablement which is a core element of legal empowerment.

#### **5.4 Right Enhancement and Rights Enforcement**

Rights enhancement involves making the law responsive to the needs of vulnerable. Many of the respondents stressed issues with ineffective institutions and the extensive problem with corruption in the justice sector. Legal aid is further undermined by unprofessionalism in the sector “*where the legal expert themselves seems not be professional. Overtaken by money therefore they are diluting the profession* (Charles). One of the respondents underlines the issue of money and how justice is about the amount of money you can pay. Generally a range of issues were brought up by the respondent indicating a need for rights enforcement and rights enhancement for the promotion of legal empowerment. While legal aid is not directly about rights enhancement CSO and LASP plays an important role in voicing the concerns for the poor and advocating for law reform that will help them. Strategies mentioned by the respondents include lobbying at national and sub county level. While discussing legal empowerment several respondents did indeed bring up the importance of the legal framework and enforcement of laws, that is the elements of rights enforcement and rights enhancement in legal empowerment. In other words the LASP interviewed identified the need to promote an environment supportive of vulnerable peoples rights and access to such rights. Here one LASP argues for enhanced opportunities through the means of formal and informal structures:

*I think it has both the aspect of the person, the women to use the legal processes but is also about the legal system as such. Are the laws making it possible and are the institutions accessible or not* (Florence).

While LASP tries to actively engage in legal reform many are content with the laws and policies present in the country. Almost all of the people interviewed stressed the issues of implementation and lack of resources. Hence the problem is that policy is not translating into action or enforcement.

For legal aid to sustainably promote legal empowerment there needs to be developments in those dimensions, and LASP can voice demands and push for change, but it is ultimately up to policy makers and justice institutions to deliver changes in such spheres. Legal aid creates the condition for vulnerable people to voice their demands and put pressure on policy makers and justice institutions to promote rights enforcement and right enhancement. While there is a causal link between the four categories of legal empowerment, institutions and policy makers have to respond to the justice challenge by implementing the normative framework and improving justice institutions if legal empowerment is to be long term and fully promoted.

## **6. Conclusions**

### **6.1 Summary of Findings**

Through the analysis it is clear that legal aid is approached in accordance to the legal empowerment paradigm. While this paper focused on the perception of a selected number of LASP the response was rather unified in the recognition of the importance of legal aid in supporting rights awareness and rights enablement, key components of legal empowerment. Legal aid as portrayed by the respondents plays a significant role in enhancing women's capabilities and opportunities. The findings seem to suggest that a great deal is done to provide women with the legal information and tools to put the law into their hands, while at the same time giving them the confidence and self-respect, which can translate into greater access. As can be deduced from the analysis legal aid can enhance access to justice in psychological terms through better confidence, in financial access by providing free services to vulnerable people, in physical access through for example paralegals, and access in technical terms assisting with an understanding of rights and laws. Moreover LASP does indirectly assist in rights enhancement and rights enforcement through advocacy, where they are demanding for changes in the countries legal framework as well as for responsive institutional mechanisms for the poor and vulnerable. Hence LASP does play an important role in promoting legal empowerment, yet efforts need to be accompanied by legislative reform and overall strengthening of justice institution to effectively add to rights enhancement and rights enforcement. By effect LASP promote legal empowerment by focusing on issues of power and how to deliver strategies that enhances vulnerable peoples capability to access justice putting the law in their hands. To a large extent, the way legal aid is approached theoretically and delivered practically supports a Sens development as freedom in which the goal is to enhance women's capability space. On a practical level though, legal aid is as provided in Uganda today is extremely limited as of lacking resources and geographical coverage, and hence only provides a small amount of women with a chance to enhance her capability and opportunities.

Looking at access to justice and legal empowerment from a capability perspective does bring up some considerable issues undermining women's ultimate freedom. The paper has touched upon issues emerging from how different capabilities are linked or disconnected for women's overall freedom. To assess legal aid service provisioning in Uganda and whether it enhances women's capability space one has to ask; does legal aid offer vulnerable women more opportunities to a life they value? And does legal aid services effectively promote legal empowerment for women in Uganda if capabilities in other spheres are not considered? If legal aid is to effectively promote legal empowerment it has to attend to not only legal dimensions but also so also political, economical and social dimensions affecting legal empowerment. While there are considerable efforts in doing so, it seems like women's overall capability space and freedom is undermined by a lacking integrated analysis in which legal empowerment just as legal development has a tendency to be approached in a vacuum, isolated from other dimensions. There is need of an analysis, which provides LASP with integrated and comprehensive service delivery, that does not only prioritize linkage with other CSO and justice institutions, but also other dimension and instruments stemming from economic, political and social spheres.

Moreover Uganda is a patriarchal society where gender norms are deeply rooted enhancement of capabilities in the legal sphere might create tradeoffs in other, in which some freedoms limits others. The backlash identified is an example on how legal empowerment and the advancement of women through legal means can create a reaction ultimately undermining gender equality. Legal empowerment need to be accompanied by improvements in other spheres so that the capability space is not infringing on other thing a women care to value. Similarly legal aid needs to incorporate a broad understanding of all of the dimensions of empowerment, which addresses linkages between women's access to justice and overall social opportunities. Hence there is a lacking analysis on the interdependence of the different spheres and how they influence each other. While some of the respondents addressed such issues, strategies by all LASP need to address such interconnects more systematically and effectively. Such understanding also has to translate into effective project strategies, which ultimately focuses on agency instead of mainly focusing on short-term assistance.

## **6.2 Final Remarks**

For sustainable legal empowerment one should look at the expansion of people's opportunities and capabilities, their freedoms, to effectively exercise their rights and entitlements. This should be done by assessing capabilities in different spheres in relation to each other. Legal empowerment should promote an environment in which women confidently can exercise their rights. Strategies does not only need to enhance the means in which women can overcome barriers such as material an institutional resource constraints, but also by creating a social acceptance of the legitimacy of women's claims. Moreover legal aid needs to address legal empowerment through the use of instruments in the economic, political and social spheres. Similarly other sectors might benefit from using legal empowerment methodologies for example in livelihood approaches, microfinance, and public health education to generate a more favorable environment for the advancement of women. The paper found that research on legal aid looking at men and masculinities including the problem of backlash might be beneficial to find effective strategies to promote legal empowerment for both men and women without undermining one of them, in a culturally sustainable way. Moreover a qualitative study on vulnerable women as legal aid beneficiaries might give some more depth in assessing their capability space, particularly in what they care to value. The CA could inform the way scholars think about the effectiveness of legal empowerment and could thus be a useful approach to assess programs and service delivery connected to access to justice. Ultimately the capabilities valued by vulnerable people should be the basis of all legal empowerment initiatives, yet include an analysis of core freedoms as propagated by Nussbaum. Justice institutions should likewise promote rights enhancement and rights enforcement by strengthening access to justice in communities. Participatory mechanisms are necessary to integrate all the stakeholders and their perspectives in the promotion of legal empowerment and access to justice.

## 7. Bibliography

- ADB Special Evaluation Study. (2009). *ADB Technical Assistance for Justice Reform in Developing Member Countries*. Asia Development Bank
- Affram, H. (2011). *Equal Access to Justice, A Mapping of Experiences*, SIDA
- Berges, S. (2007). Why the Capability Approach is Justified, *Journal of Applied Philosophy*, Vol 24:1, pp 16–25
- Birabwa-Nsubuga, C. (2012) *Access to Justice Should Be a Reality For All in Uganda*, justice centers Uganda , [Online]. Available from: <<http://justicecentres.go.ug/press-release/access-justice-should-be-reality-all-uganda>> Last accessed: 20140510
- Bordat ,S. Willman. D. Susan, S. Kouzzi, S. (2011). Women as Agents of Grassroots Change: Illustrating Micro-Empowerment in Morocco, *Journal of Middle East Women's Studies*, Vol. 7, No. 1 (Winter 2011), pp. 90-119 , Indiana University Press
- Bruce, J. Garcia-Bolivar, O. Hanstad, T. Roth, M. Nielsen, R. Knox, A . Schmidt,J. (2007). *Legal Empowerment of the Poor: From Concepts to Assessment*, USAID, Washington, D.C. <[http://pdf.usaid.gov/pdf\\_docs/PNADM500.pdf](http://pdf.usaid.gov/pdf_docs/PNADM500.pdf) >Last accessed: 20140312
- Bryman, A. (2012). *Social Research Methods* (4<sup>th</sup> ed.). New York: Oxford University Press.
- Carothers ,T.(1999). *Aiding Democracy Abroad: The Learning Curve*, Washington, D.C.: Carnegie Endowment for International Peace
- Carfield, M. (2005). Enhancing Poor People's Capabilities Through the Rule of Law: Creating an Access to Justice Index , *Washington University Law Review* , Vol 83:1
- Chatterjee, P. Chowdhur, S. ( 2013). A Capabilities Approach to Access to Justice, *Journal of Indian Law and Society*, Vol4 (Winter)
- Creswell, J. W. (2009). *Research Design: Qualitative, quantitative, and mixed methods approaches* (3<sup>rd</sup> ed.). Los Angeles, London, New Delhi and Singapore: Sage Publication.
- CLEP. (2008). *Making the Law Work for Everyone*, Vol:1,Report of the Commission on Legal Empowerment of the Poor , United Nations Development Programme, New York
- Devereux , S and Hoddinot (ed), J. (1993). *Fieldwork in Developing Countries*, Colorado Lynne Rienner Publishers
- Dickson, K. ( 2011).The Informal Health Industry in East Africa and Implementation of the Legal Empowerment of the Poor Agenda in DevelopingCountries.In Banik, D (ed) (2011) *The legal empowerment agenda : poverty, labour and the informal economy in Africa* , Ashgate Publishing Limited, Farnham
- DIHR (2011). *Access to Justice and Legal Aid in East Africa, A comparison of the legal aid schemes used in the region and the level of cooperation and coordination between the various actors, DIHR and The East Africa Law Society*
- Finch, J. (1984), "'It's great to have someone to talk to": the ethics and politics of interviewing women' in C Bell and H Roberts (eds), *Social Researching: Politics, Problems, Practice*, London: Routledge and Kegan Paul.
- Gasper. D , Van Stavere I. (2005) *Development as Freedom- And What Else?* In Agarwal, B. Humphries, J. Robeyns, I. (ed) .(2005) *Amartya Sen's Work and Ideas: A Gender Perspective*, Routhledge, Taylor and Francis Group, New York

Golub, S. (2003) *Beyond the Rule of Orthodoxy- The Legal Empowerment Alternative*, Working Papers, Rule of Law Series, Democracy and Rule of Law Project, No.41, October 2003, Carnegie Endowment for International Peace. Washington D.C, USA

GoU (1995) *The Constitution*, [Online]. Available from:  
<[http://www.parliament.go.ug/new/images/stories/constitution/Constitution\\_of\\_Uganda\\_1995.pdf](http://www.parliament.go.ug/new/images/stories/constitution/Constitution_of_Uganda_1995.pdf)> Last accessed: 20140516

Haki Legal Empowerment Network (2011). *The Legal Empowerment Approach to International Development*, White Paper [Online]. Available from:<<http://www.hakinetwork.org/wp-content/uploads/2011/06/Haki-Legal-Empowerment-White-Paper.pdf>> Last Accessed: 20140510

Human Development Report. (2013). *Uganda* [Online]. Available from:<<http://hdr.undp.org/sites/default/files/Country-Profiles/UGA.pdf>> Last accessed: 20140312

Islam, S. (2010) *Legal empowerment as a pathway out of poverty examining BRAC's human rights strategy in tackling poverty*, Available from:  
<[http://www.chronicpoverty.org/uploads/publication\\_files/islam\\_brac.pdf](http://www.chronicpoverty.org/uploads/publication_files/islam_brac.pdf)> Last accessed: 20140517

Jensen. E. (2003). *The Rule of Law and Judicial Reform: The Political Economy of Diverse Institutional Patterns and Reformers' Responses*. in Jensen E. and Heller T., *Beyond Common Knowledge: Empirical Approaches to the Rule of Law*, Stanford, CA: Stanford University Press.

JLOS (2012b) *JLOS Our History* [Online]. Available from:  
<http://www.jlos.go.ug/index.php/2012-09-25-13-11-16/our-history>  
Last accessed: 20140510

JLOS (2012a) The Third JLOS Strategic Investment Plan (SIPIII) 2012/13-2016/17, [Online]. Available from: <[http://www.jlos.go.ug/index.php/document-centre/document-centre/cat\\_view/3-strategic-investment-plans](http://www.jlos.go.ug/index.php/document-centre/document-centre/cat_view/3-strategic-investment-plans)> Last accessed: 20140512

JLOS .(2002). *The Justice, Law and Order Sector Programme: Study on Gender and Access to Justice*, [Online]. Available from: <<http://www.commonlii.org/ug/other/UGJLOS/report/R2/2.pdf>> Last Accessed: 20140405

JLOS. (2011). Participatory Gender Audit, Final Report, [Online]. Available from:  
<[http://www.jlos.go.ug/index.php/document-centre/document-centre/cat\\_view/80-gender](http://www.jlos.go.ug/index.php/document-centre/document-centre/cat_view/80-gender)>  
Judiciary of the Republic of Uganda. (2012). *Judiciary Gender Policy Strategy- Attaining Gender Equality in Access and Treatment by the Judiciary*. [Online]. Available from:  
<<http://www.judicature.go.ug/files/downloads/JudiciaryGenderPolicyandStrategy.pdf>> Last Accessed: 20140515

Jonckheere, S. Musirimu, E. Liversage, H. (2013) Legal Empowerment to Secure Women's Land Rights in Burundi, Paper prepared for presentation at the "ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY" The World Bank - Washington DC, April 8-11

Justice Centers Uganda. (2014) Background. [Online]. Available from  
<<http://www.justicecentres.go.ug/home-page/welcome-justice-centres-ug>> Last Accessed:20140517

LASPNET (2014) *Historical background*, [Online]. Available from :  
<<http://www.laspnet.org/about.php>> Last accessed: 20140512

LASPNET. (2004). *Access to Justice for All, Report of the Baseline and Needs Analysis Survey on Legal Aid Service Provisioning in Uganda* [Online]. Available from:  
<<http://siteresources.worldbank.org/INTJUSFORPOOR/Resources/LASPNETUgandaAccessToJusticeforAll.pdf>>, Last accessed: 20140516

- Mack, N. Woodsong, C. MacQueen, K.M. Guest C. Namey, E. (2005). *Qualitative Research Methods: A Data Collector's Field Guide*. Family Health International/USAID
- Mahbub ul Haq, in UNDP (2014). *About Human Development* , Available from : <<http://hdr.undp.org/en/humandev>> Last Accessed: 20140519
- Maxwell, J. A. (Ed.). (2005) *Qualitative research design: An interactive approach* (2nd ed.). Thousand Oaks, CA: Sage.
- Mikkelsen, B. (2005). *Methods for Development Work and Research, (Second Edition). A New Guide for Practitioners*. London: Sage
- Moser, C, *Rights Power and Poverty Reduction*, in Alsop,R (ed) .(2004), *Power, Rights, and Poverty: Concepts and Connections* , DFID and World Bank
- Maru, V. (2010) *Allies Unknown: Social Accountability and Legal Empowerment, Health and Human Rights in Practice*, Vol 12:1
- Namubiru Mukasa, S. (2010). *Proposal for Strengthening Access to Justice in Uganda Through Increased Stakeholder Collaboration, Presented to Strengthening Access to Justice in East Africa Program*, Uganda National Working Group
- Nussbaum, C. (2003). Capabilities as Fundamental Entitlements: Sen and Social Justice, *Feminist Economics* 9(2 – 3),pp 33-59
- Nussbaum, M.C. (2000a). *Women and Human Development: The Capabilities Approach* , Cambridge University Press, Cambridge
- Nussbaum, M.C. (2000b) *Women's Capabilities and Social Justice* journal of human development vol 1 no 2, 2000
- Obura Hellen (2010) *Facilitating Access to Justice Through Legal Aid, Models, laws and Practices in East Africa: A case of Uganda*, A paper presented at the eight east African Judicial conference, Arusha , [Online]. Available from: <<http://www.eamja.org/Papers%20to%208th%20EAMJA%20Conference/Facilitating%20Access%20To%20Justice%20Through%20Legal%20Aid%20by%20Mrs%20Hellen%20Obura-Uganda.doc>> Last accessed: 20140516
- Open Society Justice Institution (2012) *Legal Empowerment: An integrated approach to justice and development*, Draft Working Paper, [Online]. Available from: <[http://www.communitylegalservice.org/publication/legal%20empowerment\\_ojsi.pdf](http://www.communitylegalservice.org/publication/legal%20empowerment_ojsi.pdf)> Last Accessed:20140510
- Penal Reform International. (2004) *The Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa* ,Conference on Legal Aid in Criminal Justice: the Role of Lawyers, Non-Lawyers and other Service Providers in Africa, November 22-24,Lilongwe, Malawi , [Online]. Available from:<<<http://www.penalreform.org/wp-content/uploads/2013/06/rep-2004-lilongwe-declaration-en.pdf>>> Last accessed: 20140516
- Robeyns, I. (2003). *Sens Capabilities Approach and Gender Inequality: Selecting Relevant Capabilities*, *Feminist Economics* 9(2 – 3),pp 61 -92
- Rukare, D (2008) *The Access to Justice Challenge in Uganda*, in Banik, D. (ed). (2008) *Rights and legal empowerment in eradicating poverty*, University of Oslo, Norway
- Scheyvens, R. and Storey, D. (2003). *Development Fieldwork: Working with Marginalised, Vulnerable or Privileged Groups*. London, Thousand Oaks and New Dehli: Sage Publication.

- Sen, A. (2000). *The Role of Legal and Judicial Reform in Development*, World Bank Legal Conference, Washington, DC, June 5
- Sen, A.(1999). *Development is Freedom*, Random House, USA
- Sen, A (1992). *Inequality Reexamined*. Harvard University Press.
- Sen, A. (1987) The Standard of Living. in Hawthorn, G. (de) (1987) *The Standard of Living*, Cambridge: Cambridge University Press.
- Sen, A. (1984). Rights and Capabilities in *Resources, Values and Development*. Cambridge, Harvard University Press.
- Sheldrick, B.M. (2012) *Access to Justice and Legal Empowerment as Vehicles of Poverty Alleviation: Governance Challenges to Linking Legal Structures to Social Change* , Legal Working Paper Series on Legal Empowerment for Sustainable Development
- Tanzarn, N (2003). *Integrating Gender into World Bank Financed Transport Programs, Case Study Uganda, Road Sector Support*, World Bank.
- Taylor-Powell, E. and Renner, M. 2003. *Analyzing qualitative data*. Madison, WI: University of Wisconsin Extension.
- UNDP (2005), *Programming for Justice: Access for All. A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice*. Asia-Pacific Rights and Justice Initiative UNDP Regional Centre in Bangkok
- UNGA. (2009). *Legal empowerment of the poor and eradication of poverty, Report of the Secretary-General,A/64/133*, 13 July . [Online]. Available from: [http://www.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/legal-empowerment/report-of-the-secretary-general-on-legal-empowerment-and-poverty-eradication-a-64-133/A\\_64\\_133\\_EN.pdf](http://www.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/legal-empowerment/report-of-the-secretary-general-on-legal-empowerment-and-poverty-eradication-a-64-133/A_64_133_EN.pdf) Last Accessed: 20140515
- UNWOMEN. (2012) Progress of the Worlds Women 2011-2012, In Pursuit of Justice.
- World Bank . (2014). Indicators Uganda [Online]. Available from : <<http://databank.worldbank.org/data/views/reports/tableview.aspx>> Last accessed: 20140312
- World Bank (2009) *Uganda Legal and Judicial Sector Report*. [Online]. Available from : <[https://openknowledge.worldbank.org/bitstream/handle/10986/3088/497010ESW0P11010Bo\\_x341968B01PUBLIC1.pdf?sequence=1](https://openknowledge.worldbank.org/bitstream/handle/10986/3088/497010ESW0P11010Bo_x341968B01PUBLIC1.pdf?sequence=1)>, Last accessed: 20140312
- Yin, K. R. (2009). *Case Study Research Design and Methods*. London: Sage
- Yin, R. K. (2003). *Case Study Research: Design and Method 3<sup>rd</sup> edition*. Thousand Oaks, California: Sage Publications, Inc
- Van de Meene, I. Van Rooij , B .(2008). *Access to justice and legal empowerment : making the poor central in legal development co-operation*, Law, Governance and Development; Research and Policy Notes. Amsterdam: Leiden University Press

## 8. Appendix

### 8.1 List of Respondents

Name	Title	Gender	Organization	Involvement with legal aid
Benjamin	Acting Manager	male	State based justice institution	direct
Florence	C.E.O	female	Highly influential legal aid service provider	direct
Innocent	Program Coordinator	male	NGO	indirect
Akiiki	Senior Associate Legal Services Division	female	Legal aid service provider	direct
Charles	Commissioner	male	Ministry of Gender, Labor and Cultural affairs	direct and indirect
Alex	His Worship Magistrate Grade I	male	Magistrate	indirect
John	Executive Director	male	Highly influential legal aid service provider	direct
Musoke	Officer in Charge – Criminal Investigations	male	Police	indirect
Agaba	Station Manager	male	NGO	direct and indirect
Peace	Legal Officer	female	State based legal aid service provider	direct



## 8.2 Interview Guide

1.

- What is your understanding of legal empowerment for women?
- Do you think legal aid service has been beneficial promoting legal empowerment of women?
- In your opinion are legal aid service gender sensitive to the needs of diverse women? Explain
- How are legal aid services in Uganda connected to grassroots development, facilitating access to justice for the grassroots women?
- What models/types of legal aid services are most available/accessible for women? How can they be improved
- Overall, how do you feel about the quality of service you are able to provide to women?
- How has legal aid facilitated women's participation in the administration of and access to justice? ( as key player and as beneficiaries)

2.

- Are you satisfied with the way legal aid services are provided to women
- What are the main constraints for legal aid in promoting legal empowerment for women?
- What is the gender based obstacles/barriers for women in accessing justice in Uganda?
- In you opinion are there policy gaps to effectively promote women's legal empowerment?
- What policies are needed at national level to improve legal aid in Uganda?

3.

- In you opinion what is needed to strengthen legal empowerment for women through legal aid?
- What key policy suggestions can you give to support legal aid in enhancing legal empowerment for women?
- What can be done to enhance participation of women in the administration of justice and legal empowerment?
- What resources, support or community links would allow you/your office to meet more of women's needs?

### 8.3 List of Women's Barriers in Accessing Justice

THE JUSTICE, LAW AND ORDER SECTOR PROGRAMME STUDY ON GENDER AND ACCESS TO JUSTICE (JLOS 2002:30-31)

Barriers to Justice	Implications for Men	Implications for Women
1. Representation in justice delivery agencies	The agencies are male-dominated, hence more accessible to men	Women are intimidated from using male- dominated agencies
2. Gender biased laws	Men dominate the law –making process and easily influence it with their interests	Most gender- biased laws reflect the dominant power relations and interests of men
3. Gender neutral laws	Gender neutral laws are made by male- dominated legislatures and processes thus reflecting male perceptions of justice as the standard	Gender-neutral laws effectively discriminate against women and obstruct justice
4. Physical access to justice delivery agencies	Men control household incomes and can afford transport to the agencies. The men are less burdened with domestic chores so they can make time to go to the justice delivery agencies	Majority of women have neither the time nor the money to make it to the justice delivery agencies
5. Training and orientation of persons in justice delivery agencies	The training and orientation of persons in the justice delivery agencies is based on the male standard to the men's benefit	Gender issues are not apparent to majority of persons in the justice delivery agencies, to the detriment of women
6. Gender sensitivity of technical and non-technical officers	Some of the technical and none technical officers carry gender biases and stereotypes that may obstruct justice for men	Technical and support staff in justice delivery agencies have gender biases and stereotypes that invariably discriminate and marginalize women
7. Confidence in the system as impartial and transparent	Gender as a social construction accords men status, privileges and power. Men's confidence is more affected by poverty.	The effects of poverty and gender oppression leave women more powerless and less confident
8. Technicalities in the justice delivery system	There are more educated men and they have valuable contacts in the public sphere Majority of men are in a better financial position to engage the services of lawyers	Women are more illiterate than men and are relegated to the domestic sphere with minimal contacts in the public sphere Women have limited access to finances for engaging lawyers
9. Delayed delivery of justice	Delayed delivery of justice obstructs justice for men and women	Delayed delivery of justice obstructs justice for men and women
10. Culture and the patriarchal system	Culture and patriarchy uphold values that privilege men in allocation of roles and resources – which are essential for accessing justice	Culture and patriarchy disadvantage the women especially in allocation of productive resources , which are essential for accessing justice
11. Plurality of community- based dispute resolution fora	These are male-dominated and apply customary laws that privilege men.	The representation of women here is marginal and powerless in decision-making
12. Illiteracy and ignorance	There are more educated men and they have valuable contacts in the	Women are more illiterate than men and are relegated to the domestic

	public sphere	sphere with minimal contacts in the public sphere
13. Poverty and the cost of justice	Poor men are inhibited by the costs involved in the formal justice system.	Women who constitute the majority of the poor are more inhibited than men by the cost of justice
14. Public-Private Divide	The divide dictates that dispute resolution is restricted to the private sphere thus restricting women and men from using the justice delivery agencies	Dispute resolution in the private sphere is male dominated and upholds patriarchal values to the detriment of women's access to justice.
15. Conflict and Insecurity	Conflict and insecurity affect security of person and property for men thus obstructing justice. The breakdown of law and order during conflict and displacement constrain access to justice	Women are more vulnerable during situations of conflict and insecurity. They suffer gender specific forms of violence during conflict and displacement