

Access to justice for domestic violence cases in Uganda

Executive Summary

Domestic violence remains a serious challenge in many Ugandan families today. In 2019, domestic violence cases were 6.3 percent of all reported cases, and DV was the fourth most frequently reported crime category after thefts, assaults and sex-related crimes. Despite the magnitude of reported DV cases, the justice system's response to apprehend perpetrators of DV is still low. DV cases account for only 2 percent of the cases processed by the Office of the Director of Public Prosecution (ODPP) annually. Furthermore, only two-thirds of Domestic violence files registered with the ODPP are sanctioned while a substantial proportion of these cases are closed due to lack of evidence. This brief notes that limited funding, limited technical capacity within the justice system may explain the poor access to justice in Uganda. To ensure access to justice for domestic violence survivors, measures are required to build the capacity of officers handling domestic violence cases. Also, there is a need to increase the budget for investigations if more cases are to be prosecuted in the Courts of Law.

Introduction

Domestic violence¹ is among the most frequently reported criminal offences in Uganda. In 2019, at least 13,639 domestic violence cases were reported to Police, and these accounted for 6.3 percent of the total criminal cases reported during the year (Uganda Police Force, 2020).¹ Uganda has enacted several legal, regulatory and enforcement frameworks that criminalize these offences such as the 2010 Domestic violence Act, and the 2011 Domestic Violence Regulations. Notwithstanding the above legal framework, domestic violence remains rampant. According to the 2016 Uganda Demographic and Health Survey (UDHS), at least 22.5 percent of women aged 15-49 years had experienced physical violence during the past one year (Uganda Bureau of Statistics and ICF, 2018).²

While both men and women experience domestic violence, women and girls remain the majority survivors of the crime. For instance, the UDHS report (Ibid) indicates that only 12.1 percent of men aged 15-49 years report experiencing domestic violence during the past year. In 2012, the Centre for Domestic Violence Prevention (CEDOVIP) estimated that the medical costs of addressing GBV were UGX 22 Billion annually (CEDOVIP 2015).³ This amount was more than the annual budget allocated by the MGLSD to address GBV in the country.

Overall, the high rates of GBV undermine Uganda's efforts to achieve the targets set under Sustainable Development Goal 5 (SDG5)-target 5.2 and SGD 16- Goal 16-targets 16.1, 16.2 and 16.3 which focus on the elimination of all forms of violence against all women and girls in public and private spheres. This brief therefore analyses the effectiveness of the judicial system to timely respond to domestic violence cases, common assault cases and the underlying reasons behind these trends to ensure that policy and country aspirations are met.

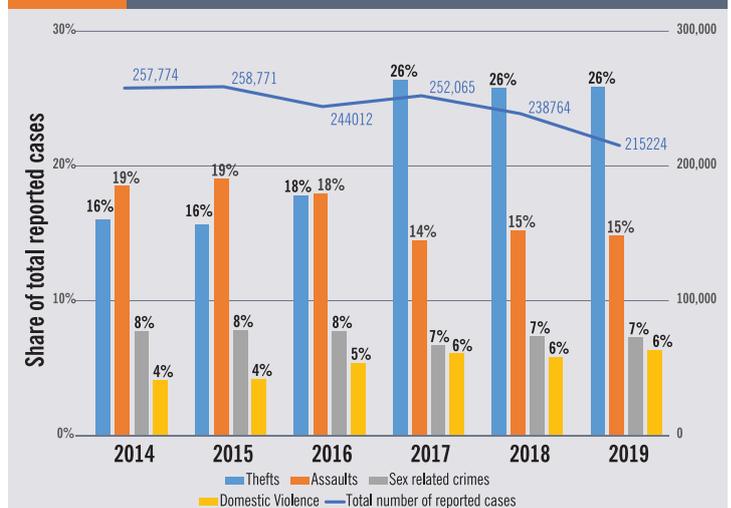
Data sources

Beyond desk review of related literature, documents, secondary data used in the analysis were sourced from the Office of the Director of Public Prosecutions (ODPP) and the Uganda Police Force (UPF).

Key findings

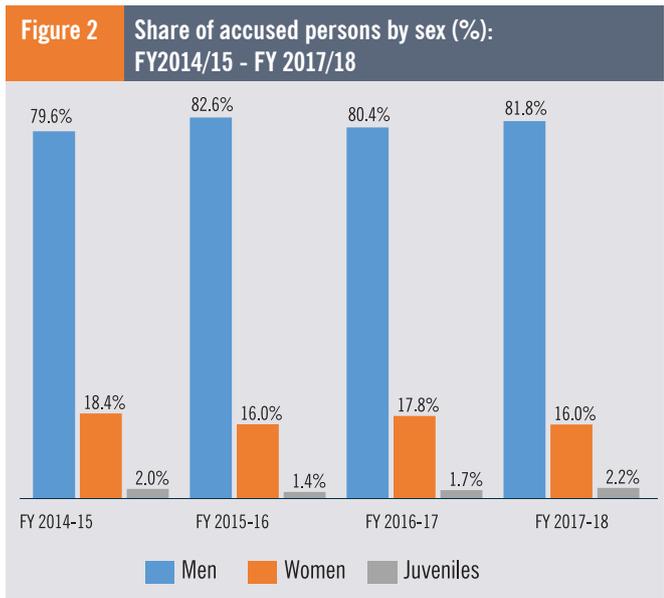
The share of domestic violence cases in total crimes reported has increased over time. Figure 1 shows the four most frequently reported crimes in Uganda during 2014 and 2019. Domestic violence cases increased from 4 percent in 2014 to 6 percent, starting in 2017.

Figure 1 Share of leading crimes reported to Police: 2014 - 2018



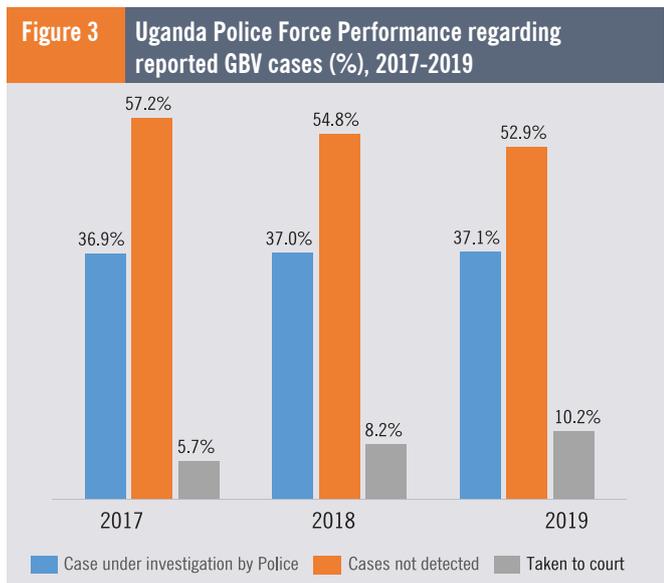
Source: Authors own construct using data from the Uganda Police Force Annual Crime Reports.

Men remain the main perpetrators of domestic violence: Consistently for the five years under review, at least 80 percent of the accused in domestic violence case files lodged with the ODPP are men (Figure 2). The 2016 UDHS notes that among women who have experienced domestic violence, the most frequently cited persons committing the violence are: current husband/partner (59 percent), former husband/partner (29.2 percent) and current/former boyfriend (5.6 percent). The corresponding distribution for men who have ever experienced violence is current wife/partner (53.5 percent), own friend/acquaintance (19.5 percent), former wife/partner (12.4 percent) and current girlfriend (6.4 percent).



Source: Authors own construct (2020) using data from ODPP

Low prosecution of domestic violence cases: Notwithstanding the relatively large number of domestic violence cases reported, only a small proportion of the cases are prosecuted through the Courts of Law. Figure 3 shows the performance of the Uganda Police Force concerning reported GBV cases; only a small proportion of cases end up in court although the

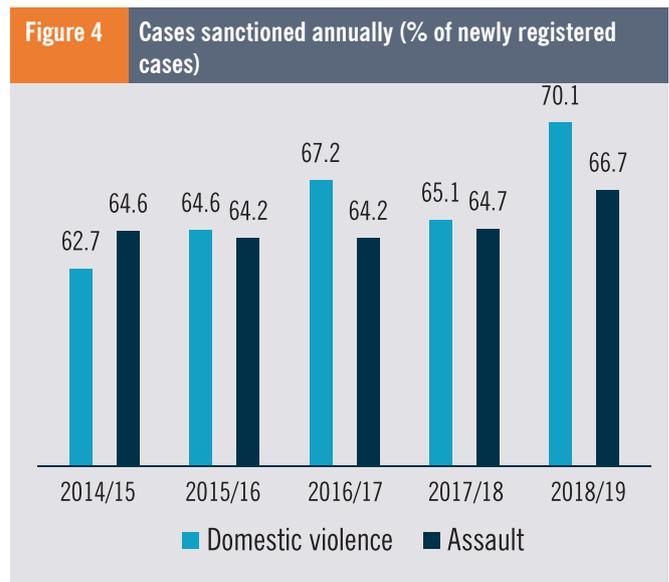


Source: Authors own construct (2020) using data from the Uganda Police Force

share of cases taken to court nearly doubled from 5.7 percent in 2017 to 10.2 percent in 2019. The relatively low percentage of DV cases prosecuted is partly attributed to delayed investigations arising from limited funding, technical capacity to carry out forensic investigations, limited equipment and staffing gaps in the Uganda Police Force. For instance, the Criminal Investigation Department (CID) currently has only 5,292 personnel instead of the approved 19,843, leading to work overload in carrying out investigations (UPF 2018). Besides, the withdrawal of cases by the complainants or their relatives who connive with their perpetrators and prefer to settle matters amicably contrary to following lengthy prosecution procedures cases in the courts of law is part of the problem (Kato 2017).⁴ As noted in Kato (2017):

“A person comes to the police station and opens up a domestic violence case, and she disappears forever. You try to follow up the case until you get frustrated. Sometimes the victim tells you she is no longer interested in following up the case. At times victims or their relatives connive with local council leaders and settle matters at household level” – **Commissioner Child and Family Planning Unit (CFPU) in the Uganda Police Force (UPF)- December 2017**

Relatively good sanction rate of the assault and domestic violence cases forwarded to court: Both the sanction rate for assault and domestic violence cases has steadily increased between 2014/15 and 2018/19. Both offences had an average sanction rate of about 64 percent, with the highest sanction rate for domestic violence cases at 70.1 percent in 2018/19 (Figure 4). Nonetheless, despite this achievement, the sanctioning is not timely hence delaying justice for the victims and allowing the perpetrators to temper with the evidence. According to the 2018/19 JLOS annual performance report, the poor performance is attributed to inadequate staffing challenge in the ODPP, judicial and magistrate courts, which leads to high case backlogs. For instance, some districts have no Resident State Attorneys to sanction some case files.



Source: Authors' own construct (2020) using data from ODPP

High conviction and dismissal rates of offences committed with low acquittal rates: Both conviction rates for domestic violence and assault cases increased from 55.9 percent to 59.3 percent and from 55.7 percent to 60.3 percent in 2014 to 2018 respectively (Table 1). Notwithstanding this increase, conviction rates still fell short of the 64 percent target set by JLOS Gender Strategy (2020-23). In contrast, close to four in ten domestic violence cases (39.4 percent) are dismissed annually from the courts of law (Table 1). There have been low acquittal rates especially those related to domestic violence largely attributed to over adjournment of cases which frustrates witnesses, causing them to lose interest in a case and fail to attend court (UPF 2018). Also, lack of a victim/witness support system and failure to trace witnesses due to the long passage of time between filing and hearing of cases have stagnated dismissal and acquittal cases over the years (JLOS 2019).⁵

Table 1 Prosecution Performance: share of the convicted, dismissed and acquitted cases: 2014/15-2018/19

Offence category	Court status	2014/15	2015/16	2016/17	2017/18	2018/19
Domestic violence	Convicted	55.9	57.8	56.8	51.5	59.3
	Dismissed	38.4	36.7	36.5	46.7	38.9
	Acquittal	5.8	5.4	6.8	1.8	1.8
Assault	Convicted	55.7	58.9	59.0	56.5	60.3
	Dismissed	37.9	34.9	34.3	38.7	33.7
	Acquitted	6.4	6.2	6.6	4.8	6.0

Source: Authors own construct (2020) using data from ODPP Case Statistics

A substantial number of sanctioned domestic violence cases are closed annually due to lack of evidence: The numbers of assault cases being closed annually have steadily declined over time. Specifically assault cases closed annually reduced from 1,636 to 965 cases from 2014/15 to 2018/19, a 41 percent decline (Figure 5). However, these remain higher than domestic violence-related cases (almost 12 folds higher). Specifically,

Figure 5 Number of cases closed annually: 2014/15-2018/19



Source: Authors own construct (2020) using data from ODPP

the domestic violence cases closed in 2018/19 dropped to 82 from 349 cases in 2017/18 – representing a 76.5 percent decline. High rates of case closures are attributed to lack of evidence to pin the perpetrators. This does not suggest that there is no sufficient evidence to prosecute these cases. Still, at times complainants/victims tend not to cooperate with Police and judicial officers in investigating cases after receiving bribes from the perpetrators. Also, other cases are undermined by the loss of interest by the witnesses after several court adjournments (Kato 2017). Besides, the judicial response system or procedural or legal issues are also partly to blame for the inefficiencies in the system despite gains in infrastructure for providing justice services to the public (JLOS 2019).

Conclusion

Assaults and domestic violence are the most commonly reported cases to Police in Uganda. About five in ten leading crimes reported to Police annually are related to common assaults, domestic and threatening violence. Worse still, the cases forwarded for prosecution suffer higher rates of closure, acquittal and dismissal due to lack of evidence. Also, the potential trials are affected by limited technical capacity both at Police and Judiciary to carry out forensic investigations, over adjournment that disinterests witnesses from following up cases and bribery of victims and their relatives by the accused. Nonetheless, the sanction rate is high among both offences, where at least on average, over six in ten cases related to common assaults and domestic violence are sanctioned. Furthermore, the equipment used in investigations is archaic, and there are low staffing gaps in the Police and Judiciary to solve all cases reported on time fully. The gaps in judicial systems will continually deny women and girls access to justice, a loophole that will make them more susceptible to further abuse by their perpetrators. The continued existence of DV crimes deprives women of their human rights as well as good health to be economically productive, further undermining Uganda’s effort towards the attainment of the Sustainable Development Goals targets set under 5.2 and 16.1, 16.2 and 16.3.

Recommendations

- Need to strengthen data systems to collect more gender-disaggregated and timely data** on domestic violence and assault cases. The data from ODPP and UPF was aggregated for all sexes concerning prosecution, sanction, conviction and dismissal rates even though sex-disaggregated data was available at the time of reporting the cases. This will require increased financial resources and capacity building to these sectors on the importance of granular data.
- Upgrade and invest in investigative equipment:** Increased investment in the state of the art equipment such as Spyware to record and monitor activities, device cloning, GPS tracking, digital scanners, Layered Voice Analysis and more will facilitate forensic investigations through proper crime scene management and evidence collection. As a result, this will shorten the lifespan of cases hence improving on the prosecution rates.
- Strengthen victim and witness support systems;** Institutions in the justice and law and order sector should open up more functional

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desks/offices at the lower local Government levels to protect crime victims and their witnesses while safeguarding reliable witness testimonies needed to prosecute successfully and sentence perpetrators of criminal acts.

References

- 1 Uganda Police Force (2020). Uganda Police Annual Crime Report 2019
- 2 Uganda Bureau of Statistics (UBOS) and ICF. 2018. *Uganda Demographic and Health Survey 2016*. Kampala, Uganda and Rockville, Maryland, USA: UBOS and ICF.
- 3 CEDOVIP (2015). Economic costs of Domestic violence in Uganda
- 4 Kato, J. (2017). Why Gender Based Violence prosecution remains a challenge, Daily Monitor, December 01, pg.5.
- 5 Justice Law and Order Sector [JLOS] (2019). Annual Performance Report 2018/19

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Endnotes

- 1 Domestic violence according to Act 2010 means a domestic relationship (means family relationship or similar to family) defined in section 3; hence domestic violence constitutes any act or omission of a perpetrator which-harms, injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the victim or tends to do so and includes causing physical abuse, sexual abuse, emotional, verbal and psychological abuse and economic abuse.

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