



Gender Transformation & Empowerment

**INTEGRATION OF THE CONCLUDING OBSERVATIONS AND
RECOMMENDATION OF THE CONVENTION ON THE ELIMINATION
OF DISCRIMINATION AGAINST WOMEN (CEDAW) COMMITTEE
IN TO THE JUSTICE, LAW AND ORDER SECTOR (JLOS) SECTOR
INVESTMENT PLAN III (SIP III), 2012/13 – 201/17**

May 2012

Policy Brief Series No. 5/ 2012

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Introduction

This policy brief is produced by Uganda Women's Network as part of the series of policy analysis documents. The brief focuses on the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW). Uganda ratified CEDAW in 1995 and as a state party is obliged to submit regular reports on progress of implementation of CEDAW provisions to the CEDAW committee. UWONET is leading CSO monitoring role and advocacy actions on CEDAW compliance in Uganda.

1. The policy brief is specifically targeted at the Justice, Law and Order Sector which comprises of eleven core government institutions and 4 (four) allied agencies directly involved in administration of justice and maintenance of law and order. Through this framework, the intention is to increase levels of cooperation, coordination and communication. The mission of the sector is to ensure that all people in Uganda live in a safe and just society. Its overall goal is to enhance quality of life and ensure that poverty in Uganda is eliminated. The sector purpose is to improve safety of the person, security of property and access to justice in order to encourage economic development and benefit the poor and vulnerable people. In view of this, the sector brand name is ***Justice for All***.

JLOS launched its 3rd 5 year Strategic Investment Plan in March 2012. This policy brief focuses on the interface between CEDAW and the JLOS SIP III. It comprises 3 sections. Section 1 provides a brief background to the CEDAW reporting process. It highlights key issues articulated in the Government of Uganda consolidated 4th, 5th, 6th and 7th report presented to the CEDAW committee in October 2010, aspects of the CSO shadow/ alternative report and concluding observations of the CEDAW Committee. Section 2 considers the interface between the priority issues from the concluding observations and recommendations of the CEDAW Committee and the JLOS Strategic Investment Plan III. Specifically, it considers issues that were incorporated into the JLOS SIP III and which issues were excluded based on UWONET's policy recommendations to ensure compliance with the concluding observations and recommendations of the CEDAW Committee. Finally, Section 3 provides policy recommendations specifically to address those CEDAW specific issues excluded or not explicitly addressed in the JLOS SIP III.

1. Background

1.1 The CEDAW Process

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is a United Nations Convention established in 1979 as a global instrument to address women's rights. CEDAW is largely referred to as the global women's Bill of Rights.

By accepting the Convention, States commit themselves to undertake a series of measures to end discrimination against women in all forms, including:

- To incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women;
- To establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and
- To ensure elimination of all acts of discrimination against women by persons, organizations or enterprises.

The Convention provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life - including the right to vote and to stand for election - as well as education, health and employment. States parties agree to take all appropriate measures, including legislation and temporary special measures, so that women can enjoy all their human rights and fundamental freedoms.

The Convention is the only human rights treaty which affirms the reproductive rights of women and targets culture and tradition as influential forces shaping gender roles and family relations. It affirms women's rights to acquire, change or retain their nationality and the nationality of their children. States parties also agree to take appropriate measures against all forms of traffic in women and exploitation of women.

Countries that have ratified or acceded to the Convention are legally bound to put its provisions into practice. They are also committed to submit national reports, at least every four years, on measures they have taken to comply with their treaty obligations.

1.2 Government of Uganda CEDAW Report

The Government of Uganda ratified CEDAW in 1995; and is obliged to submit progress reports on implementation of CEDAW to the CEDAW committee every four years. In October 2010, the GoU submitted the consolidated 4th, 5th, 6th and 7th Country report highlighting national efforts towards compliance with CEDAW. Some notable achievements highlighted in the report included: legislation and law reform to support women's rights including: annulment of discriminatory sections of the Succession Act and provisions on divorce; and newly enacted legislation on Domestic Violence,

Female Genital Mutilation and Trafficking in Persons. The establishment of an Equal Opportunities Commission was also recognized as an achievement. A number of challenges were cited which were a bottleneck to implementation of CEDAW. A number of these include; the inadequate knowledge of the rights of women under the Convention, the continues weak and institutional capacity of the Ministry of Gender, the persistent patriarchal attitudes and deep rooted stereotypes regarding roles, responsibilities and identities of women and men in all spheres of life, the lack of a comprehensive strategy, including review and formulation of legislation and establishment of goals and time tables, to modify or eliminate traditional practices and stereotypes that discriminate against women among other: Suggested measures to address this situation included increased resource allocation to support planning and implementation of policies and programmes to address gaps in the realization of women's rights.

1.3 The CSO Shadow Report

UWONET led a civil society coalition which produced a shadow report to the GoU CEDAW State report. The UWONET report also recognized similar achievements in legislation and law reform through enactment of new laws to safeguard women's rights. The report however, noted that the continued intransigence on the previous Domestic Relations Bill – currently the Marriage and Divorce Bill denies many women (and children) their rights particularly on dissolution of marriage. Similarly, urgent enactment of the Sexual Offences Bill was cited.

The report also makes several recommendations to address the bottlenecks in implementation of the law to safeguard women's rights including: increased human and financial resource for the family and children courts; broadening the scope of medical professionals to submit evidence on VAW; research, training and cross-border actions to address trafficking in persons; banning of discriminatory inheritance laws, practices and customs; concrete programmes that empower, protect and promote the rights of women; and ratification of the optional protocol to CEDAW which provides a framework for investigation and reporting of incidences of VAW to the CEDAW Committee.

1.4 The CEDAW Committee Concluding Observations

The CEDAW Committee in its concluding observations noted the progress made by the GoU since the 3rd periodic report in 2002. This included a wide range of legislative measures to redress discrimination in the areas of: land rights; employment; re-enforcing the complaints system for women through the establishment of the Equal Opportunities Commission; Prohibition of defilement of girls and boys; Domestic Violence; FGM; Prevention of Trafficking in Persons; and International Criminal Court Act; as well as policies, programmes and plans of action. The Committee however

was concerned at the low priority given to comprehensive legal reform to eliminate sex discriminatory legislation, particularly, the delay in passing of the Marriage and Divorce Bill, Sexual Offences Bill and the HIV/AIDS Prevention and Control Bill. The Committee recommended that the Convention and related legislation be made part of the training of the relevant JLOS structures. Specific recommendations on operationalization of the Equal Opportunities Commission; implementation of newly enacted legislation; measures to ensure safety and reparations for women victims of violence in post-conflict Northern Uganda; and strengthening of the national gender machinery were made.

2. Analysis of Priority recommendations of the CEDAW Committee Integrated into or omitted from the JLOS SIP III

The JLOS institutions have individual mandates in advancing legal and human rights which converge into the wholistic administration of justice in the country. The CEDAW Committee recalled states to systematically and continuously implement all the Provisions of CEDAW. One of the key assignments in this brief is to analyze how the JLOS has conformed to the CEDAW Committee recommendations through its Strategic Investment Plan. JLOS is a key sector in the realization of women's rights through implementation of CEDAW. In view of this, UWONET, as part of its advocacy actions on CEDAW, submitted policy recommendations to the JLOS structures on key issues for inclusion in the JLOS SIP III based on the outcome of the CEDAW reporting process.¹ Part 1 of this analysis considers key attributes of the JLOS SIP III from a CSO perspective and Part II comprises an analysis of the SIP III against the Civil Society policy recommendations.

2.1 . Key Attributes of the JLOS SIP III

2.1.1 Policy Shift

Overall the SIP III seeks to deepen and broaden access to JLOS services through well targeted interventions aimed at the legal, policy and regulatory framework. It indicates a policy shift towards expansion of legislative reform focus from process and content to include impact of law reforms. Civil Society welcomes this shift recognizing that it will contribute towards actualization of the law as a deterrent to commission of crimes against women's rights.

For instance, although major legislation to address VAW/GBV was passed in 2009/2010, that is, the Domestic Violence Act, Anti-FGM Act and Prevention of Trafficking in Persons Act, to date, no individual has been either charged or convicted under any of these laws. Some of the attributes could be due to the limited understanding and dissemination of the laws among the JLOS institutions. This implies that the Justice, Law and Order sector must now focus on capacity building for the JLOS representatives, dissemination of the laws and implementation aspects which will ensure that the law is applied and has the desired impact in redressing violations of women's rights.

¹ UWONET. Position Paper: Integrating Key Issues from CEDAW Concluding Observations into JLOS SIP III. July 2011

While the SIP II focused on four areas: Criminal justice, Commercial Justice, Family and Land Justice, The SIP III also commits the Sector to expanded focus in transitional justice, gender, children. It further commits to development and funding of special programmes to target gender, age, poverty and other vulnerabilities.

An additional legislative policy shift indicated in the SIP III is that enactment of laws is predicted on appropriation of resources for implementation. While Civil Society welcomes articulation of this position to enhance implementation, it also believes that all legislation should be costed but this should not become a hindrance towards the passing of legislation to address women's rights.

2.1.2 JLOS Institutions

The 15 JLOS institutions are collectively responsible for the administration of justice with individual mandates that include: legislation and legal services, adjudication, arbitration, civic education on administration of justice, policing and public order management, law reform, public prosecutions, promotion of human rights awareness, legal training and legal aid. The Equal Opportunities Commission, recently established by an Act of Parliament (2007) also has a mandate which falls under the realm of the administration of justice.

The CEDAW Committee in its concluding observations calls upon the State Party to accelerate the operationalization of the Equal Opportunities Commission; to enforce constitutional guarantees and the provisions contained in the Equal Opportunities Act. In drawing a link between the JLOS institutions and the concluding observations of the CEDAW Committee, Civil Society believes that the EOC should be brought into the ambit of the JLOS structure. The institution needs to be adequately resourced in order to legitimize its role as a comprehensive and effective complaints mechanism for women and other marginalized groups which is supplementary system for access to justice.

2.1.3 Institutional/ Partnership Arrangements

The SIP III indicates that its delivery will be through the 17 institutions in the Sector along with Non- State Actor Partners and Development Partners. The Management structure includes a Leadership Committee, Steering Committee and Technical Committee. Both Leadership and Steering Committees have provision for incorporation of any institutions including Non-State actors into their meetings as they deem necessary. In addition Working Groups as extensions of the Technical Committee will be established. The Working Groups are: Access to Justice Civil (Civil Main, Land Justice, and Family Justice); Access to Justice Criminal; Human Rights and Accountability; Budget Working Group; and Transitional Justice Working Group. CSOs will nominate suitable representatives to the Working Groups. A Gender Task Force

will also be established to specifically promote gender mainstreaming in the sector. Formal partnership arrangements will be entered into between the Sector and CSOs. These arrangements present opportunities for CSOs to directly interface and engage with the JLOS structures to address women's and other vulnerable persons' access to rights through the justice system.

2.1.4 Gender Mainstreaming

The SIP III indicates the sector commitment to Gender Mainstreaming at the institutional level – through a Gender Task Force and appointment of Gender Focal Points. A draft JLOS Gender Strategy was developed; as part of an effort to ensure gender mainstreaming across the sector in both programming and human resource. A commitment towards development of a Gender Policy is also indicated; and will serve as an overarching guide for engendering the sector. This should be matched with adequate financial resources in order to be effective.

2.1.5 Sector Policies/ Strategies

The SIP III provides for development of several sector policies/ strategies to support its implementation. These policies/ strategies will serve various purposes including guiding growth and development of the sector. It is important that gender is mainstreamed into these various strategies. Among the structures, strategies and guidelines are:

- Justice System Transformation Policy (for access to justice and JLOS services)
- Sector Policies in key areas of access to justice including: JLOS services, accountability, human rights observance, transitional justice, service provision to special interest groups, resource acquisition and management
- Sector-wide service delivery structure
- Infrastructure Development plan
- De-concentration strategy and functionality plan
- Capacity-development strategy (includes gender and diversity responses and leadership development)
- Guidelines for Prosecution of Sexual and Gender-based crimes

UWONET will continue to play the monitoring role and document status on the implementation of the strategies and policies. The documentation and findings will form a basis for programming and future intervention with specific focus on areas not incorporated as priority for the sector.

2.2.0 Analysis of the JLOS SIP III against the policy recommendations submitted by UWONET

Policy recommendations on the SIP III focused on the 3 outcomes as indicated below:

1. Policy, legislative and Regulatory Framework Strengthened
2. Access to JLOS Services particularly for vulnerable persons enhanced
3. Observance of Human Rights and Accountability promoted

2.2.1 Policy, Legislative and Regulatory Framework Strengthened

Issue	UWONET Recommendation	JLOS SIP III Indication
Outcome1: Policy, Legislative and Regulatory Framework Strengthened		
Prioritised legislation	Include Sexual Offences Bill, Succession Act, Marriage and Divorce Bill, HIV/AIDS Prevention and Control Bill	Annex 1 includes all these listed legislations except the HIV/ AIDS Prevention and Control Bill. It also indicates that the list of prioritized legislation will be reviewed on an annual basis by the Management Committee.
		A misnomer on the list however is that the Succession, Marriage and Divorce Bill is amalgamated into one legislation and categorized under economic growth, employment and prosperity and not Gender Justice where it is best placed.
Law Reform	Develop a strategy for fast-tracking laws declared unconstitutional on grounds of discrimination against women	Addressed through inclusion of the Succession, Marriage and Divorce Bill on the list of prioritized legislation; although as noted, the Succession law should be separate from the Marriage and Divorce Bill.

Issue	UWONET Recommendation	JLOS SIP III Indication
Timeframe for prioritized legislation	Include a timeline in which pending gender laws are to be enacted	Not clearly stipulated apart from annual prioritization list and assumption that all the legislations therein will be finalized in the timeframe of the SIP III.
Partnerships	Enhance the strategy of working with Non-State Actors	Included in the institutional management and partnership arrangements
Legal Awareness	<p>Simplify the laws and translate them into local languages and make them accessible to women</p> <p>Ensure a robust legal awareness programme that enables women know about the laws that protect them</p>	<p>Addressed through output on enforcement of laws – strategy to simplify and make available updated laws, policies and standards to internal and external users.</p> <p>Partially addressed through output on enforcement of laws – strategy to simplify and make available updated laws, policies and standards to internal and external users.</p>
JLOS Institutional Capacity on CEDAW	Ensure that all JLOS institutions especially at operational level, are aware of CEDAW and are abreast of the changes in laws and know their roles and procedures related to the protection of women’s rights under the new laws	Can be addressed through the capacity development strategy.

Issue	UWONET Recommendation	JLOS SIP III Indication
	<p>Identify through research and strengthen through capacity-building key areas for enforcement of new laws especially in the Judiciary, Police, DPP and locally at DCC and LCC levels</p>	<p>Addressed through output on enforcement of laws improved including conducting pre and post-regulatory impact analysis on priority laws</p>
<p>Monitoring law enforcement</p>	<p>Actively monitor the enforcement and implementation of laws that impact women</p>	<p>Addressed through output on enforcement of laws improved including conducting pre and post-regulatory impact analysis on priority laws</p>
<p>Budgetary Considerations</p>	<p>Make the necessary budgetary allocations to ensure enforcement and implementation of the gender laws and regulations as well as for awareness creation.</p>	<p>Policy development for enactment of laws predicted on appropriation of resources indicated.</p> <p>The SIP III also provides for an indicative 3 year budget for its delivery which however remains largely dependent on financing from development partners.</p>

2.2.2 Access to JLOS Services Particularly for Vulnerable Persons Enhanced

Issue	UWONET Recommendation	JLOS SIP III Indication
Outcome 2: Access to JLOS Services for Vulnerable Persons Enhanced		
Strengthen capacity of the police to respond to GBV	Strengthen the crime prevention unit in community affairs	Can be addressed through Gender strategy and SIP III output on vulnerability profiled and discrimination and access to JLOS service eliminated. Specific strategies include implementation of programmes to address gender gaps in access to JLOS services and fast-tracking investigation, prosecution and adjudication of sex and GBV and Domestic Violence cases.
	Increase the budgetary allocation to the CFPU by 10%	Not directly addressed. SIP III indicates that the JLOS institutions will have to prepare implementation plans to implement the broad sector reform areas. Every year the sector will prepare a common workplan and budget based on the agreed priorities in the SIP III. Action: Advocacy to focus on the annual plans and budget process
	Train police officers in the CID and CFPU on GBV by focusing on enhancing investigation of GBV	Can be addressed through the Capacity Development Strategy

Issue	UWONET Recommendation	JLOS SIP III Indication
	Utilise the slots in the lecture days allocated to the DPC to relay information on how to provide victim-friendly services to survivors of GBV	Can be addressed through the Capacity Development Strategy
	Equip the police surgeon with equipment and PEP	Can be addressed through the sector Gender strategy and the annual budgeting process
	Streamline GBV within the Police Act and Standing Orders	Can be addressed through the Gender mainstreaming strategy for the sector institution
	Development of a strategy to address GBV within the police barracks	Can be addressed through the Gender mainstreaming strategy for the sector institution
	Invest in infrastructure and services functional for SGBV cases especially those aimed at improving the work of the Family and Child Protection division of Police	Can be addressed through the output on vulnerability profiled and discrimination and bias in access to JLOS services eliminated; strategy – promote service delivery innovations including Justice Centres and implement programmes to address gender gaps in access to JLOS services. In addition, it can also be addressed through the sector-wide Infrastructure development plan and Capacity Development Strategy
Strengthen capacity of the Judiciary to respond toGBV	Inclusion of a component on GBV in the training curriculum for judicial officers	Can be addressed through the Capacity Development Strategy

Issue	UWONET Recommendation	JLOS SIP III Indication
	Measures taken to make the court room victim-friendly	Can be addressed through Guidelines for Prosecution of Sexual and Gender-based crimes
	Expedite the process of development of the Legal Aid Policy	In place
	Ensure adequate funding for legal aid	Requires advocacy actions for adequate resource allocation.
	Create awareness about the legal aid policy especially through means that target women	Can be addressed through the output on Legal Aid Policy and Law Implemented with strategies – legal and rights awareness programmes among others. Also output User Empowerment Services improved; strategy – public education on administration of justice
	Invest in training JLOS personnel to address attitudes and stereotypes that negatively affect women’s access to justice/ JLOS services	Can be addressed through the Capacity Development Strategy
		The Office of Administrator General was decentralized under previous SIP although services remained at the central level.
		The SIP III sets growth targets for districts with a core chain of JLOS services which does not include the Office of the Administrator General.

Issue	UWONET Recommendation	JLOS SIP III Indication
	Decentralise the office of the Administrator General so as to ensure access to justice services especially by the widows	Action: Follow up advocacy on expansion of district coverage of Administrator General's offices through the Sector wide service delivery structure or de-concentration strategy and functionality plan.
	Take concrete measures to address SGBV in the transitional justice initiative with a focus on aligning with and advancing UNSCR 1325, 1820 and the Goma Declaration.	SIP III indicates that JLOS will develop a Transitional Justice Policy with concomitant legislation enacted. Among the strategies for this is development of Guidelines for prosecution of Sexual and Gender-based crimes. Action: Follow up this process to ensure compliance with the National Action Plan on UNSCR 1325, 1820 and the Goma Declaration.
	Develop clear codes of conduct for the treatment of survivors of SGBV and ensure their compliance.	Can be addressed through the strategy on development of Guidelines for prosecution of Sexual and Gender-based crimes.
	Develop where necessary and ensure compliance with gender sensitive client charters among the various JLOS institutions	Not explicitly addressed. Action: Include in the Gender strategy

Issue	UWONET Recommendation	JLOS SIP III Indication
	Pursue the successful prosecution of SGBV cases and showcase them as successful accomplishments.	Can be addressed through the output on service delivery standards met; strategy - build capacity of JLOS institutions and stakeholders specifically on delivery of gender justice. And, the output on vulnerability profiled and discrimination and access to JLOS services eliminated; strategy – fast track the investigation, prosecution and adjudication of SGBV and DV cases and show them as successful accomplishments.
	Develop a sector-wide system to track and report on measures taken to prevent VAW, investigations of occurrences, prosecutions and punishment of perpetrators, and the protection, relief or remedies for victims including compensation.	Not explicitly addressed. Action: Engender the Sector M&E system and functions to capture data related to the various aspects of VAW for further analysis.

2.2.3 Observance of Human Rights and Accountability Promoted

Issue	UWONET Recommendation	JLOS SIP III Indication
Outcome 3: Observance of Human Rights and Accountability Promoted		
Capacity building on CEDAW	Induction of newly recruited magistrates, police, prison officers and prosecutors to include a session on CEDAW and human rights principles	Can be addressed through the Capacity Development Strategy

Issue	UWONET Recommendation	JLOS SIP III Indication
	Review the training curriculum for the UPF for both pre-service and in-service police officers to include a session on CEDAW.	Can be addressed through the Capacity Development Strategy
	Enhance human rights awareness and practice at institutional and sector level with particular emphasis on women's rights as stipulated in CEDAW.	Can be addressed through the Capacity Development Strategy
Gender Policy	Expedite the process of development of the Gender Policy so that it becomes part and parcel of the sector accountability protocols.	Addressed in the output on administrative service delivery. Strategy – Develop sector policies in key areas of access to JLOS services; accountability; human rights observance; gender and diversity... to enhance co-ordination under the one sector one policy framework and one voice approach.
	Ensure that accountability for gender mainstreaming, compliance with women's rights standards as set out in CEDAW and performance of gender equality is perceived as a key responsibility of the institution and all staff.	Addressed in JLOS commitments on development of a Gender Policy and finalization of the Gender Strategy.

Issue	UWONET Recommendation	JLOS SIP III Indication
Sector violations of women's rights	Investigate and punish violations of women's rights by JLOS institutions.	Not explicitly addressed; although reference is made to application of rights-based programming to reduce human rights violations.
		Action: Stronger commitment from the sector is required on this and should be articulated in a sector strategy with clear sanctions against offenders.
	Investigate complaints of sexual harassment within JLOS institutions with a view to addressing them.	Addressed in the output on JLOS Internal Accountability promoted; strategy – strengthen internal complaints handling mechanism.
	Develop institution-specific sexual harassment policies and enforce them.	Not explicitly addressed. Action: Advocacy for development of Sexual Harassment policies
Corruption	Invest into research on the effects of corruption in the JLOS on women.	Not clearly articulated in the output on Anti-corruption Measures in JLOS adopted and implemented. Action: Advocacy for inclusion of research on effects of corruption under this output.

Policy Recommendations

UWONET therefore makes the following policy recommendations based on the preceding analysis:

1. The EOC should be brought into the ambit of the JLOS structure and capacitated in order to legitimize its role as a comprehensive and effective complaints mechanism for women.
2. The establishment of the Institutional Management Structures should proceed with CSOs provided optimal representation through their own designated process of selection of those CSOs best able to champion their issues in a particular structure/ working group/ task force.
3. The process of development of the Sector Gender Policy and finalization of the Gender strategy should be expedited.
4. Gender should be mainstreamed in the various sector policies/ strategies/ plans to be developed for implementation of the SIP III.; in particular, the Capacity Development Strategy.
5. The annual planning and budgeting process for the sector should adopt a gender budgeting approach to ensure that the available resources are equitably distributed.

Conclusion:

it is important to note that full and effective implementation of CEDAW by all sectors is indispensable for achieving the MDG's, Women empowerment, Gender Equality and overall social- economic and political development of this Country.

Civil society calls upon JLOS to spearhead prioritization and implementation of CEDAW and the CEDAW Committee Concluding Observations for development.

About UWONET

Uganda Women's Network-UWONET, is an advocacy and lobby network comprising of 16 national women's organizations, institutions and 9 individuals. It was established in 1993 to provide space for collective engagement of organizations advocating for women's rights especially the eradication of gender based discrimination.

Vision

A Ugandan society free of all forms of gender based discrimination

Mission

To coordinate collective action among members and other stakeholders through networking, capacity building, resource mobilization, policy research and advocacy for the attainment of gender equality in Uganda

With support from:



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