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PROGRESS MADE IN THE ESTABLISHMENT AND STRENGTHENING OF SPECIAL COURTS/MECHANISMS FOR FAST TRACKING SEXUAL OFFENCES IN THE CRIMINAL JUSTICE SYSTEM IN THE ICGLR

ESTABLISHMENT SPECIAL COURTS IN ICGLR

Progress made in the establishment and strengthening of special courts/mechanisms for fast tracking sexual offences in the criminal justice system in the ICGLR

Introduction

This is a report of a multi-pronged assignment, at the behest of the Regional Training Facility of the International Conference on the Great Lakes Region (ICGLR-RTF), focused on progress made by ICGLR member states in the implementation of the commitment to establish and strengthen special courts, sessions and procedures to fast track prosecution of SGBV crimes, pursuant to the Declaration of Heads of State and Government of the Member States of the International Conference on the Great Lakes Region at the Fourth Ordinary and Special Session on Sexual and Gender Based Violence (SGBV), 2011. In Commitment 8 of the Declaration (Kampala Declaration),

ICGLR Heads of State and Government committed to direct concerned ministries to establish and strengthen special courts, sessions, and procedures with the aim of fast tracking SGBV cases in the police and the judiciary.¹ They committed to provide the special courts, sessions and procedures with adequate financing, facilities and gender sensitive officers.

Objectives of the assignment

The objectives of the study were to:

1. Assess progress and identify good practices in the establishment of implementation of Commitment 8 in the Kampala Declaration 2011;
2. Conduct a regional workshop for judicial officers and prosecutors to sensitise them on the ICGLR legal instruments, particularly the commitment to fast-track the prosecution of sexual offences trials through special courts, sessions and procedures;
3. Propose a model law to guide ICGLR member states as they enact or strengthen domestic legislation for the establishment of special courts, sessions and procedures;
4. Present the report on progress, good practices and model law for consideration and adoption at the High Level Meeting of Ministers of Justice and Gender in Brazzaville, Republic of Congo.

Methodology

Information on progress in the implementation of commitment 8 of the Kampala Declaration was obtained from questionnaires completed by national consultants in each member state. The consultants were identified and contracted by the ICGLR-RTF. Additional information was

provided by the judicial officers, prosecutors and ICGLR-RTF trainers that participated in the sensitisation workshop held on 12-14 November 2019, and by experts from the ministries of justice and of gender who met in Brazzaville on 24-26 November 2019.¹ Additional and complementary information was collected through document review.²

A regional workshop for judicial officers and prosecutors was organised in Kampala, Uganda on 12-14 November 2019. It was attended by Participants from Burundi, Central African Republic, Republic of Congo, Democratic Republic of Congo, Kenya, Uganda, Rwanda, Republic of South Sudan, Sudan, Tanzania and Zambia.³ It was designed to sensitise the participants on ICGLR legal/policy instruments for the prevention, investigation, prosecution and trial of sexual offences. The workshop was also to generate and validate the information collected through questionnaires on the status of implementation of commitment 8 of the Kampala Declaration 2011, as well as input into the proposed model law on the establishment of special courts, sessions and procedures for fast-tracking the prosecution of sexual offences cases.

PART I: SGBV and the legal framework in the ICGLR

Sexual violence in the ICGLR region

The International Conference on the Great Lakes Region (ICGLR) is an inter-governmental organization of the countries in the African Great Lakes Region, namely Angola, Burundi, Central African Republic, Republic of Congo, Democratic Republic of Congo, Kenya, Uganda, Rwanda, Republic of South Sudan, Sudan, Tanzania and Zambia. The ICGLR traces its origins in UN Security Council 1291 (2000), and 1304 (2000) that called for an International Conference on peace, security, democracy and development in the Great Lakes region. The resolutions were passed against a backdrop of intense armed conflicts in the Democratic Republic of Congo (DRC) that involved many non-state armed groups, as well as several neighbouring countries. The repercussions threatening regional peace, security and development were many: loss of life and property; widespread use of rape and other forms of sexual and gender based violence as weapons on war; movement of large numbers of people around the region as refugees and internally displaced; illicit flow of small arms and exploitation of natural resources.

In response the ICGLR adopted the Pact on Security, Stability and Development in the Great Lakes (2006) that entered into force in June 2008. The Pact has 10 Protocols, namely:

- Protocol on Non-aggression and Mutual Defence in the Great Lakes Region
- Protocol on Democracy and Good Governance
- Protocol on Judicial Cooperation

¹ A copy of the questionnaire is annexed to the report (Annex 1).

² A list of documents reviewed is annexed to the report.

³ The Report of the workshop is Annex 3.

- Protocol for the Prevention and the Punishment of the Crime of Genocide, War Crimes and Crimes against Humanity and all forms of Discrimination
- Protocol Against the Illegal Exploitation of Natural Resources
- Protocol on the Specific Reconstruction and Development Zone
- Protocol on the Prevention and Suppression of Sexual Violence Against Women and Children
- Protocol on the Protection and Assistance to Internally Displaced Persons
- Protocol on the Property Rights of Returning Persons
- Protocol on the Management of Information and Communication

Legal framework for SGBV crimes

Global Level

International humanitarian and criminal law

At the global level there is a strong legal framework for addressing sexual crime in both international humanitarian and criminal law. The Geneva Conventions 1949 which apply during war and seek to protect non-combatants, prisoners of war, and wounded fighters prohibit sexual violence. Of particular relevance to the prevention of sexual violence is the Fourth Geneva Convention which protects civilians including during non-international armed conflict (civil war).⁴ The Convention prohibits cruel and inhuman treatment, and crimes against personal dignity and honour of an individual. Article 27 clearly states that “*women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault...*” This prohibition is reiterated in the 1977 Additional Protocol to the Geneva Convention. Article 76(1) provides that women are especially protected from “rape, forced prostitution and any other form of assault”.

In the recent past international criminal law has been explicit in its condemnation of sexual violence. The statutes governing the establishment of the international tribunals for former Yugoslavia; the criminal court for Rwanda, and the Special Court for Sierra Leone included rape and other forms of sexual violence in the mandates of the criminal tribunals. Article 5 of the Updated Statute of the International Criminal Tribunal for the Former Yugoslavia (ICTY) classifies rape when committed against civilians during war as a crime against humanity.⁵ Similarly, rape was listed as a crime against humanity in the Statute of the International Tribunal for Rwanda.⁶ The Special Court for Sierra Leone was given jurisdiction to try “...[r]ape, sexual slavery, enforced prostitution, forced pregnancy and any other form of sexual violence” as crimes against humanity.⁷ The Rome Statute establishing the International Criminal Court lists rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity among the crimes

⁴ Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949

⁵ http://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf

⁶ Article 3 of the Statute.

⁷ Article 2, Statute of the Special Court for Sierra Leone, 16 January 2002

against humanity.⁸ The statute also lists them as serious violations of the laws and customs applicable in both international and non-international conflicts.⁹

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) treats SGBV crime as a form of discrimination against women, which is defined as, “...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

State parties are required to regularly include in their periodic reports to CEDAW measures taken to deal with SGBV.¹⁰ CEDAW obligates states parties to prohibit, prevent, and prosecute SGBV as a violation of fundamental human rights of women. It asserts that violence against women prevents women from enjoying the rights to life, to equal protection of the law, to liberty and security of the person, and to the highest attainable standard of physical and mental health.¹¹ States parties commit to ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity.¹² The state obligation to eliminate SGBV is of an immediate nature with no justification for delayed action.¹³

General Recommendation No. 35 the obligation of states parties extend to ensuring that ensure that victims/survivors of gender based violence have access to justice and to an effective remedy.¹⁴ The CEDAW Committee urges states to ensure that judicial bodies refrain from engaging in any act or practice of discrimination against women and to strictly apply all criminal law provisions punishing such violence. They should also ensure that “...all legal procedures in cases involving allegations of gender-based violence against women are impartial, fair and unaffected by gender stereotypes or the discriminatory interpretation of legal provisions, including international law.”¹⁵ CEDAW prohibits the mandatory referral of sexual crime cases to alternative dispute resolution procedures, including mediation and conciliation. It recommends that the use of such procedures should be strictly regulated and

⁸Article 7 (1)(g)

⁹ Article 8(2)(b)(xxii) and Article 8(e)(vi)

¹⁰ General Recommendation No. 19 on Violence Against Women issued by the CEDAW Committee during its Eleventh session (1992)

¹¹ Ibid, paragraph 7.

¹² Ibid, paragraph 24.

¹³ General Recommendation No. 35 on Gender based violence (2017), CEDAW/C/GC/35, paragraph 21

¹⁴ Ibid, Paragraph 29

¹⁵ Ibid, paragraph 26

used only if a specially qualified team confirms that the victim/survivor's consent is freely given.¹⁶

Continental Level

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)

The ICGLR Protocol on SGBV provides for member countries to be guided by regional and international law in their effort to prevent and prosecute SGBV Crimes. The Maputo Protocol has been ratified by the majority of ICGLR member countries.¹⁷ Under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol),

SGBV is a violation of a woman's rights to life, integrity and security of person. State parties are obligated to enact and enforce laws that prohibit all forms of SGBV, including sexual violence.

¹⁸ The States parties to the Protocol commit to enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or in public.¹⁹ They further commit to punish the perpetrators of violence against women and implement programmes for the rehabilitation of women victims.²⁰ The Protocol defines violence against women as including any acts or threats of non-consensual sex whether committed in times of peace or of war.²¹

In 2017, the African Commission on Human and Peoples' Rights, which promotes and monitors progress in the implementation of the Maputo Protocol, issued the *Guidelines on Combating Sexual Violence and Its Consequences in Africa*. The Guidelines define sexual violence as:

"...any non-consensual sexual act, a threat or attempt to perform such an act, or compelling someone else to perform such an act on a third person. These acts are considered as non-consensual when they involve violence, the threat of violence, or coercion. Coercion can be the result of psychological pressure, undue influence, detention, abuse of power or someone taking advantage of a coercive environment, or the inability of an individual to freely consent. This definition must be applied irrespective of the sex or gender of the victim and the perpetrator, and of the relationship between the victim and the perpetrator."

¹⁶ Ibid, paragraph 32

¹⁷ Only Burundi, Central African Republic, South Sudan and Sudan are yet to ratify the Maputo Protocol.

¹⁸ Article 4, Maputo Protocol.

¹⁹ Article 4(1)(a), Maputo Protocol.

²⁰ Ibid Article 4(1)(e)

²¹ Ibid. Article 1

The Guidelines further expound the definition by listing the different forms of sexual violence in the same manner as the ICGLR Protocol in Articles 5-8. Sexual violence can also amount to international crimes.

ICGLR specific

Protocol on the Prevention and Suppression of Sexual Violence against Women and Children (2006)

At ICGLR level, the main instrument is the Protocol on the Prevention and Suppression of Sexual Violence against Women and Children adopted in 2006. The objectives of the protocol are to:

1. Provide protection for women and children against the impunity of sexual violence in the specific context of the Great Lakes Region;
2. Establish a legal framework under which Member States undertake to prosecute and punish the perpetrators of crimes of sexual violence in the Great Lakes Region;
3. Provide a legal basis for the surrender of persons and fugitives charged with committing offences of sexual violence, without prejudice to the Protocol on Judicial Cooperation;
4. Make provision for the establishment of a regional mechanism for providing legal, medical, material and social assistance, including counselling and compensation, to women and children who are victims and survivors of sexual violence in the Great Lakes Region.

The Protocol defines sexual violence as any act which violates the sexual autonomy and bodily integrity of women and children under international criminal law, including, but not limited to:²²

- a) Rape;
- b) Sexual assault;
- c) Grievous bodily harm;
- d) Assault or mutilation of female reproductive organs;
- e) Sexual slavery;
- f) Enforced prostitution;
- g) Forced pregnancy;
- h) Enforced sterilization;
- i) Harmful practices, inclusive of all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and children, such as their right to life, health, dignity, education and physical integrity, as defined in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;

²² Article 5

- j) Sexual exploitation or the coercion of women and children to perform domestic chores or to provide sexual comfort;
- k) Trafficking in, and smuggling of, women and children for sexual slavery or exploitation;
- l) Enslavement by the exercise of any or all of the powers attaching to the right of ownership over women and includes the exercise of such power in the course of trafficking in women and children;
- m) Forced abortions or forced pregnancies of women and girl children arising from the unlawful confinement of a woman or girl child forcibly made pregnant, with the intent of affecting the composition of the identity any population or carrying out other grave violations of international law, and as a syndrome of physical, social, and psychological humiliation, pain and suffering and subjugation of women and girls;
- n) Infection of women and children with sexually transmitted diseases, including HIV/AIDS; and
- o) Any other act or form of sexual violence of comparable gravity.

This definition draws from international and regional human rights instruments, including the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples' Rights (ACHPR) on the Rights of Women in Africa (Maputo Protocol).²³

ICGLR member States commit themselves to punish any person who, with intent, knowledge, recklessness, or negligence, violates the sexual autonomy and bodily integrity of any woman or child, by committing, aiding or abetting the commission of any of the acts of sexual violence as defined in the Protocol.²⁴ They further agree that any person convicted of sexual violence shall be "...subject to social correction and rehabilitation whilst serving their sentences."²⁵ Additionally member States agree to ensure that the criminal procedures for the prosecution of persons accused of sexual violence crimes are gender sensitive, taking into account the trauma and emotional state of the victims and survivors.²⁶ In dealing with SGBV, member countries are to be guided by the international human rights instruments referred to in the preamble. Importantly, member States agreed that "the principles for dealing with sexual violence under this Protocol shall derive from contemporary developments relating to the criminalisation of sexual violence and the punishment of the perpetrators of sexual violence

²³ See for instance, The Convention on the Elimination of all Forms of Discrimination against Women especially CEDAW General Comments 12, 19 and 35; the UN Declaration on the Elimination of Discrimination Against Women (1993); the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

²⁴ Article 4.

²⁵ Article 5(2)

²⁶ Article 6 (5).

under international criminal law.”²⁷ They further agreed that sexual violence shall be punishable in times of peace and in situations of armed conflict.

Annexed to the Protocol is a Model Legislation on the Prevention and Suppression of Sexual Violence against Women and Children.

The model legislation is meant to guide member countries in domesticating and implementing the Protocol, as well as establishing institutional arrangements for the prevention and suppression of SGBV at national level.

The Kampala Declaration (2011)

Following intense advocacy by women’s rights advocates, a Special Heads of State Summit of the ICGLR was convened, in Kampala, Uganda, in December 2011, to discuss the unabated high prevalence of SGBV in the region and the impunity with which the crimes were being committed. The Summit expressed concern that SGBV remained pervasive despite “...the existence of institutional, policy and legal frameworks for the prevention of SGBV and the punishment of perpetrators.”²⁸ In the outcome document (the Kampala Declaration), ICGLR member States committed to take specific actions towards the prevention of SGBV, ending impunity for SGBV, as well as providing support to victims/survivors. Of particular relevance to this assignment is the commitment to direct concerned ministries to establish and strengthen special courts, sessions and procedures with the aim of fast tracking SGBV cases in the police and the judiciary (Commitment 8). They agreed to provide the special courts, sessions and procedures with adequate financing, facilities and gender sensitive officers as well as to improve access to justice for victims/survivors of sexual crimes in accordance with Article 6 (8) of the ICGLR Protocol on SGBV.²⁹

Ministers responsible for justice and for gender subsequently met in Kinshasa (DRC) to follow-up on the Kampala Declaration. Towards the implementation of Commitment 8 of the Declaration, the ministers specifically committed to:

- a) Coordinate with their Chief Justices to establish and strengthen special courts to handle SGBV cases and to provide progress reports to the ICGLR secretariat;
- b) Strengthen existing courts and/or tribunals by building capacities of the staff involved in handling SGBV cases;
- c) Use existing institutions to organise special sessions and to establish mobile courts to handle SGBV cases;

²⁷ Article 3(1)

²⁸ Preamble to the Kampala Declaration

²⁹ Commitment 8 Kampala Declaration

- d) Adopt a more deterrent approach to handling SGBV cases by adopting procedures to deny any request for amnesty or parole for perpetrators of SGBV; and to amend national laws to enhance their deterrent effect.³⁰

Why special courts?

Sexual offences are particularly difficult to investigate, prosecute and adjudicate. A rape or defilement is generally committed in private with no witnesses. The victim becomes not only the complainant but also the sole witness. Socio-cultural norms discourage open discussion of sexual acts, whether consensual or non-consensual - particularly in the context of family. Because of the significant social stigma, victims are often not willing to testify, or if they do, they are unable to provide the graphic details required to secure a conviction. More than 90% of rape cases are perpetrated by a person(s) known to the victim, and include family members.³¹ Victims are therefore under tremendous pressure either not to report the crime, to withdraw the complaint, or not to testify. That pressure may include threats of further violence to the victim or members of the family. Additionally, sexual violence, in whatever form, is a traumatic experience for the victim and those close to her. The trauma is both physical and psychological and is known to have long-lasting consequences. Where the victim is a child, the challenges are even more severe. During the trial, there is the risk of re-traumatisation of the victim as she is forced to be in close proximity with her attacker and therefore likely to relive the attack. The presence of members of her family, the press and members of the public adds pressure, fear and trauma, often making it impossible for the victim to give clear evidence.

Social and cultural attitudes, perceptions and norms often result in gender bias among key players in the criminal justice system, including judicial officers, prosecutors and defence counsels. Lastly, case management systems in different countries are beset by many challenges, resulting in criminal case backlog. Findings of the 2015 National Court Case Census in Uganda, for example, revealed that a staggering 114,809 cases had not been disposed of, with one in every four pending for more than a decade.³² Many of these were criminal cases including sexual offence cases.

It is within this context that the commitment to establish special courts, sessions and procedures has to be positioned. Recognising the difficulty witnesses experience in testifying about the intimate details of these crimes, ICGLR member countries realised that special physical facilities are often necessary, such as suitably adapted court rooms, as well as private consultation and waiting areas. They realised that prosecutors, judicial, investigating,

³⁰ Final Communiqué of Meeting of Ministers Responsible for Justice and for Gender held on 28 July 2012, Kinshasa, Democratic Republic of Congo.

³¹ <https://www.bbc.com/news/uk-scotland-43128350>; <https://www.rainn.org/statistics/perpetrators-sexual-violence>

³² <https://www.monitor.co.ug/News/National/-150000---cases--courts--report/688334-3870082-fgp703/index.html>

medical, as well as probation officers require specialised training and orientation to deal with sexual offences in a victim friendly environment, while ensuring that principles of justice are upheld. Special procedures are established to enable special courts to expedite sexual offences trials, make temporary or permanent orders for the protection of victims and to address impunity.

Progress and good practices in the establishment of special courts/sessions and procedures

ICGLR member Countries have made progress in implementing Commitment 8 of the Kampala Declaration. Almost all have established special procedures for handling and fast-tracking sexual offences cases through the criminal justice system.

A few countries are operating special courts or sessions. The majority of the countries appear to have utilised existing mandates of the Chief Justice/supreme judicial council to establish the special mechanisms. Kenya's special procedures, however, are established by the Sexual Offences Act (2006), the Sexual Offences Regulations (2008), and the Sexual Offences Rules of Court 2014. Most countries are broadening the collaboration between stakeholders. For instance, specialised training is offered to all key players in sexual offence cases and some countries (Kenya, Uganda, Zambia) have regular judiciary-led forums for judicial officers, prosecutors, investigators, social workers and defence counsels. Below are the details:

Special courts

Out of the 12 ICGLR member countries, only three (3) countries confirmed having established special courts for the prosecution of sexual offences. These are Burundi, S. Sudan, and Zambia. Burundi established a special chamber within its existing court system to deal with GBV cases including sexual offences in a victim friendly environment. Once a week, there is a day dedicated to the hearing of GBV cases. Relevant case files are coded colour red for easy identification, listing and expedited trial. The courts are supported by specially trained police officers for fast-tracked investigation. Civil society organisations collaborate with the government to provide training to criminal justice personnel. However, the overall level of knowledge on SGBV by justice and prosecution personnel is still considered low.³³

Zambia launched its first user-friendly fast track court in Kabwe Province in January 2016 and the second in Lusaka in March 2016. By October 2018, the Judiciary reported that over 750 GBV related cases had been handled in Lusaka and Kabwe since their introduction in 2016.³⁴ The third fast-track court was launched in October 2018 in Mongu³⁵ and the fourth in Chipata

³³ Information on Burundi is based on the completed questionnaire as complemented by experts from the ministries of justice and gender who participated in the workshops on 12-14 and 24-26 November 2019.

³⁴ <https://www.judiciaryzambia.com/2018/10/31/addressing-gender-based-violence-launch-of-the-mongu-user-friendly-fast-track-court-for-gender-based-violence/>

³⁵ <https://www.judiciaryzambia.com/2018/10/31/addressing-gender-based-violence-launch-of-the-mongu-user-friendly-fast-track-court-for-gender-based-violence/>

Province in November 2018.³⁶ Currently, there are special courts in 6 of Zambia's 10 provinces. In other areas, Zambia operates special court sessions focused on sexual offences. The objective for Zambia's fast-track courts is to enhance access to justice for both survivor and perpetrator by reducing the time it takes to complete a case. Additionally, the courts are victim-friendly to ensure support and safety. They are fitted with equipment which allows protection for victims from intimidation and from facing their alleged perpetrators.³⁷ There are dedicated magistrates to handle these cases and they have to conclude the trial within a period of 14 days.

In Zambia, the Anti-Gender-based Violence Act No. 1 of 2011 gives the special court power to protect the victim of SGBV. It has the power, both in civil and criminal matters, to order for occupation orders and protection orders. The victim can sue to a civil court for the orders even when the criminal court case is ongoing. It is the responsibility of Police to enforce the order. Usually, this is an interim order and court is briefed on every stage of its execution. The courts use a multi-disciplinary approach where all the stake holders in the criminal justice system meet regularly and agree on how to quicken the hearing of the cases. The interviews at the Police are recorded and a CD is cut out and presented to court so that the victim does not have to narrate the story again. The court proceedings are also recorded.

DRC

In 2012, with the support of the EU Governance Support Program, the Supreme Council of the Magistracy (CSM) of the Democratic Republic of Congo issued a circular for the establishment of special GBV control units in the High Court. The GBV control units are operational in seven provinces namely: Bandundu, Bas-Congo, Nord Kivu, Sud Kivu, Province Orientale, Kinshasa and Katanga.

South Sudan

South Sudan is still experiencing armed conflict in some areas. However, a Special Court for Gender-based Violence and Juvenile Cases was established in Juba in March 2019.³⁸ The court's objective is to provide timely and effective justice services for both the victims/survivors and perpetrators. Judicial officers assigned to the court are undergoing specialised training prior to the court's operations.

Special sessions

³⁶ <https://www.judiciaryzambia.com/2018/11/21/launch-of-the-chipata-user-friendly-fast-track-court-for-gender-based-violence/>

³⁷ <https://www.zm.undp.org/content/zambia/en/home/presscenter/articles/2016/03/11/zambia-launches-second-fast-track-court-to-expedite-gender-based-violence-cases-.html>

³⁸ https://www.ss.undp.org/content/south_sudan/en/home/presscenter/articles/2019/high-level-officials-from-the-netherlands-and-head-of-undps-cris0.html

Three (3) countries reported having established special sessions – Angola, Uganda and Zambia. For Angola, the special sessions only handle domestic violence cases. Zambia operates special sessions in provinces where there are no special courts.

Uganda

In 2018, as part of a strategy by the Justice, Law and Order sector (JLOS) to clear case backlog, the Chief Justice established special sessions to clear SGBV case backlog.³⁹ These pilot special sessions were held in the High Courts of Mbale, Soroti, Moroto, Gulu, Mbarara, Bushenyi, Mukono, Criminal Division Kampala and Masaka; as well as Chief Magistrate courts of Nabweru, Sironko, Kapchorwa, Lira and Iganga.⁴⁰ The special sessions cleared 788 cases in 1 month, exceeding the target of 650 cases. On average, a traditional court session would clear 40 cases in 6 months or more.

“The sessions were targeted at improving the experience of survivors/victims of SGBV as they interface with the criminal justice system through emphasis on victim-centred and gender-sensitive approaches; promotion of a coordinated and integrated approach among the role-players in the chain of justice; and strengthening of the investigation, prosecution and adjudication functions in the management of sexual offences.”⁴¹

The establishment of the special GBV court sessions provided an opportunity for the Uganda criminal justice system to strengthen its collaborative approach. The initiative involved the development of a compendium of case law in the management of GBV cases, training of the different criminal justice actors, collection of information to inform victim impact assessment reports by Probation and Social welfare officers and the implementation of a communication and media strategy.⁴² Continuous support and monitoring and evaluation from senior management were integral to the overall strategy.

Uganda’s intensive training in preparation for the special sessions is a good practice for the region. Participating were all key players in the criminal justice system and CSOs that offer support to survivors, the media, as well as representatives of the Bar. The training covered the following topics:

- How to handle the sessions to ensure that victims are not further victimised or traumatised
- Understanding trauma and how it affects the testimony of the witness or victim
- Forensic requirements of SGBV cases

³⁹ The Practice Direction was issued under Art. 133 (1) b, Constitution of the Republic of Uganda.

⁴⁰ <https://www.jlos.go.ug/index.php/com-rsform-manage-directory-submissions/services-and-information/press-and-media/latest-news/itemlist/tag/SGBV>

⁴¹ Ibid; see also UNFPA (2018), Special Courts in Uganda: Enabling access to justice for survivors of gender-based violence, Issue Brief 8

⁴² Justice Law and Order Sector, <https://drive.google.com/file/d/0B41a8i0MqiqBMGphQUtVQy13N1dhcWZhQVIPbThIV2F6OE4/view>

- How to customise the court environment to make a victim comfortable, especially child victims
- How to interview a victim through a gender-sensitive lens
- How to use a gender lens whilst handling SGBV cases
- Techniques for questioning victims
- How to handle the secondary victims
- Victim-based approaches
- Use of anatomical dolls and other aids for the SGBV testimony
- Options for obtaining evidence other than the victim's statement

Uganda has the Judicial Training Institute (JTI) which organises regular training for judicial officers. A training manual for judicial officers on gender-based violence was developed with support from partners. The manual and *Gender Bench Book* are resources for supporting the Judiciary to strengthen its internal capacities to deliver justice in a gender-responsive manner. An SGBV crimes unit was established in the Directorate of Public Prosecutions (DPP).

In 2017, a civil society-led initiative supported the judiciary to conduct special sessions covering cases from 11 districts of Amuria, Amuro, Dokolo, Gulu, Kaabongo, Katakwi, Kitgum, Kotido, Lira, Moroto and Pader.⁴³ The initiative was located in the JLO's stated strategy of creating specialised divisions and courts for the purpose of improving efficiency and effectiveness of delivery of judicial services. Its aim was to contribute to the reduction of case backlog by supporting the criminal justice system to fast-track SGBV cases, including sexual offences. It is reported that 350 cases were cleared in 3 weeks as a result of the initiative.

One of the stated objectives of the Judiciary/FIDA Uganda initiative was to integrate justice, health and social services to hold offenders accountable. The initiative brought together these partners in the criminal justice system with strong communication links to promote offender accountability, victim safety and case processing consistency, while delivering justice within a speedy time frame. Standard operating procedures (SOPs) were developed to establish the framework of accountability and ensure that partners adhered to the highest ethical and professional standards. The initiative included coordination of all courthouse staff, linking survivors with appropriate services, using a continuum of treatment and services, timely monitoring of treatment plans, direct judicial interaction, explanation of responsibilities and decisions and focusing on behavioural change by offenders.⁴⁴ The collaborative approach was accompanied by national consultations and in the communities where the sessions were to be held.

⁴³ The initiative was spearheaded by the Uganda Women Lawyers Association (FIDA-Uganda) and Action Aid, with funding from Norway through UNFPA.

⁴⁴ UNFPA (2018), *Special Courts in Uganda: Enabling Access to Justice for Survivors of Gender-based Violence*, <https://uganda.unfpa.org/sites/default/files/pub-pdf/Issue%20Brief%208%20Special%20Courts.pdf>

Special procedures

Almost all ICGLR countries have established special procedures for effective and expeditious management of sexual offences.

Democratic Republic of Congo

In DRC, the Sexual Violence Act (2006) outlaws rape and other forms of sexual assault, sexual harassment, sexual slavery, forced marriage, sexual mutilation, the deliberate transmission of sexually transmitted diseases, sexual relations with minors (children under 18) and forced pregnancy, among other acts.⁴⁵ The Act prohibits extra-judicial mediation and settlements for rape.⁴⁶ Act No. 0619 provides for an expedited procedure for investigation and trial of sexual violence cases. Each magistrates court has the power to shift its seatings nearer to the community, depending on the population in a given community. In areas with ongoing armed conflict or war, there are, however, Military operational courts that are set up to handle cases of sexual violence committed by the military or civilians against the military. In 2014, the operational military court of Nord-Kivu sentenced 27 members of the Armed Forces of the Democratic Republic of the Congo to terms of imprisonment of 5 to 20 years and, in some cases, to life imprisonment, for offences of rape, looting and murder committed in Minova, Sud-Kivu Province.⁴⁷

Kenya

Kenya does not have special courts per se to handle SGBV cases. The only semblance of a special court is the Children's Courts which are mandated to handle sexual offence cases where children are either victims or perpetrators. This means that SGBV cases are treated just like any other criminal cases. Occasionally, the children's court may have ad hoc special sessions to fast-track SGBV cases courtesy of Rapid Results Initiative. Nevertheless Kenya has important good practices that the ICGLR Region can learn from:

The main applicable legislation is the Sexual Offences Act (2006). Article 31 confers power upon a court, during sexual offences proceedings, to declare any witness a *vulnerable witness* if such a witness is the victim of the alleged sexual offence, a child, or a person with mental disability. In considering whether a witness should be declared vulnerable, the court may consider any of the following factors:⁴⁸

- (a) age
- (b) intellectual, psychological or physical impairment
- (c) trauma

⁴⁵ Loi no. 06/018 du 20 juillet 2006 modifiant et complétant le Décret du 30 janvier 1940 portant Code pénal congolais.

⁴⁶ Particularly s. 167 – 174 in Title VI of the Penal Code, Book II on sexual violence crime.

⁴⁷ The ruling was issued as RP No. 003-2013 on 15 May 2014, Fourth periodic report submitted by DRC (2016) to the UN Human Rights Committee, CCPR/C/COD/4, at p. 15.

⁴⁸ Section 31(2), Sexual Offences Act (2006), Laws of Kenya

- (d) cultural differences
- (e) the possibility of intimidation
- (f) race
- (g) religion
- (h) language
- (i) the relationship of the witness to any party to the proceedings
- (j) the nature of the subject matter of the evidence; or
- (k) any other factor the court considers relevant.

Upon making such a declaration, the court may allow such witness to give evidence under the protective cover of a witness protection box, allow the witness to give evidence through an intermediary, direct that the proceedings should be held *in camera*, or prohibit the publication of any information that may lead to the identification of the witness.⁴⁹ The court may issue other protective orders, taking into consideration the right of defence to cross-examine the witness. Under the Sexual Offences Rules of Court, 2014 the court may limit access of the press to the court proceedings or to the victim, and may permit the expedited testimony of a witness where it is necessary in the circumstances to meet the ends of justice.

Importantly, the act provides that “No evidence as to any previous sexual experience or conduct of any person against or in connection with whom any offence of a sexual nature is alleged to have been committed, other than evidence relating to sexual experience or conduct in respect of the offence which is being tried...”. In some countries courts still allow victims of sexual crimes to be cross examined on their sexual history (e.g. whether or not she was a virgin at the time of the alleged crime). More recently it is accepted in international criminal law and jurisprudence that evidence of sexual history is not admissible to offset evidence of a sexual crime or reduce its gravity.

Kenya also has detailed national guidelines for the management of sexual violence. The guidelines aim to equip health workers with the skills to offer medical, psycho-social and humanitarian support to victims of sexual violence. They also provide guidance to ensure effective forensic management of evidence so as to facilitate access to justice by victims.⁵⁰ Additionally, in 2018, the country adopted the National Standard Operating Procedures for the Management of Sexual Violence against Children (SOPs). The SOPs seek to enhance the capacity of Health Care Providers and Health Management Teams to respond to and support child survivors of sexual violence. Building on both National and International Sexual and Gender Based Violence SOPs, the document provides a standardized, user-friendly guide on how to apply child-centred approaches for the effective management and support of child

⁴⁹ See also the Sexual Offences Rules of Court, 2014 for detailed provisions applicable in proceedings with a vulnerable witness.

⁵⁰ Ministry of Medical Services (2009), National Guidelines on Management of Sexual Violence in Kenya, Republic of Kenya, Nairobi, http://www.endvawnow.org/uploads/browser/files/national_guidelines.pdf

survivors of sexual violence and describes clear procedures, roles and responsibilities for all health care providers.⁵¹

The country's Sexual Offences Act (2006) criminalises a wide range sexual offences including rape, sexual assault, forced indecent acts, defilement, gang rape, indecent acts with a child, child sex tourism and prostitution, child pornography, exploitation of prostitution, incest, sexual harassment, sexual abuse by persons in positions of authority, as well as cultural and religious sexual offences. The Act also prescribes minimum sentences (generally not less than 10 years) with the court having the discretion to impose up to life imprisonment. The circumstances surrounding the commission of the alleged sexual offence and its impact on the complainant can be adduced either to show that the crime was committed or to assist in the determination of an appropriate sentence to be imposed.⁵²

The Sexual Offences Regulations (2008) mandate the Registrar of the High Court to maintain a register to be known as the Register of Convicted Sexual Offenders containing detailed particulars of the offender, the offence he was convicted for and date of such conviction. The register should also indicate the age of the victim and any relationship with the offender.⁵³ Once entered into the Register, the offender's entry remains in the Register till the offender's death. The Registrar is required to ensure access to the Register by the following persons:⁵⁴

- a) Judicial officers
- b) Advocates of the High Court in criminal proceedings to which the information in the Register is relevant
- c) Probation officers
- d) Children officers
- e) State counsels and prosecutors
- f) Police investigators
- g) The prisons department, and
- h) Other agencies which may require the information.

The Regulations also empower a prosecutor in any criminal proceedings to apply to court to declare a person convicted of a sexual offence, a dangerous offender. The application must be made after conviction and before sentencing. Once a person is so declared, the court shall order that the person shall be under the supervision of a particular government agency e.g. prisons department, the police, probation or the children's department.⁵⁵

⁵¹ Ministry of Health (2018), National Standard Operating Procedures for the Management of Sexual Violence Against Children, 6, https://www.popcouncil.org/uploads/pdfs/2018RH_KenyaMOH-SOPsMgmtSVAC.pdf

⁵² Article 33, Sexual Offences Act (2006), Kenya.

⁵³ Section 6 of the Sexual Offences Regulations, 2008

⁵⁴ Ibid, Section 6(9)

⁵⁵ Ibid, Section 7.

To facilitate better access to the criminal justice system and availability of forensic evidence, the law now permits either a nurse, clinical officer, or doctor to attend to a survivor and they all have full and equal authority to fill in and sign the Post Rape Care (PRC) form. Ultimately, this means that a nurse, clinical officer, or doctor can give evidence in court in regard to the medical evidence collected and documented in the PRC form. Previously, only a doctor could examine a victim of sexual assault and give evidence. With the limited number of doctors and their concentration in major urban centres, many victims had no access. Kenya has adopted detailed guidelines for the medical and forensic management of sexual violence cases, as well as psycho-social support of victims/survivors.⁵⁶

Rwanda

Rwanda has no special court for SGBV cases. The country has adopted a prevention-focused approach to SGBV, mobilising the Rwanda Defence Forces, Police Force and all government structures up to community level to get involved in raising awareness and preventing SGBV. The national strategic response to SGBV is victim-centred. The Penal Code provides that Sexual and Gender-Based Violence cases be exclusively tried *in camera* so as to protect the victims from social stigma.⁵⁷ Law No 59/2008 of 10/09/2008 on Prevention and Punishment of Gender- Based Violence provides for the handling and disposal of GBV cases at the scene of crime whenever possible (Art. 12). Evidence of any person including children and members of the household that is of relevance to the case is admissible in a court of law.⁵⁸ Rwanda established a multi-service centre commonly known as *Isange One Stop Centre (OSC)* in 2009 within the National Police Hospital to receive and assist GBV survivors with all the relevant services needed including medical, legal, psychological and social assistance. The OSC services are available 24 hours a day and are free of charge. By cutting down on procedures and providing services under one roof, these OSC are more victim-friendly, provide rapid response, making victims more willing to seek services and to report GBV cases. Every district hospital delivers the OSC services and in those areas where the OSC have not yet been created, the victims of gender-based violence may approach the main hospital.⁵⁹ The Rwanda National Police has an anti-GBV Directorate to respond to cases of SGBV and protect the rights of the victims. The Directorate has focal points in all police stations in the country who work closely with hospitals and health centres to facilitate access to medical expertise. Similarly, the National Public Prosecution Authority (NPPA) has anti-GBV desks to ensure protection of the victims.⁶⁰

While there is a framework for strong collaboration in the national health response to SGBV, this is not apparent in the criminal justice system. Despite the judiciary reform, collecting evidence in sexual violence cases is still problematic and this is a limitation to the prosecution

⁵⁶ National Guidelines on Management of Sexual Violence in Kenya (2009)

⁵⁷ Rwanda Seventh to ninth periodic report to CEDAW, 25, CEDAW/C/RWA/7-9

⁵⁸ Article 13, Law No 59/2008 of 10/09/2008

⁵⁹ Rwanda's Seventh to ninth periodic report to the CEDAW Committee (2015), CEDAW/C/RWA/7-9 at 14

⁶⁰ *Ibid* at 14

of SGBV suspects. The National Public Prosecution Authority (NPPA) and the Rwanda Investigation Bureau (RIB) have put in place special units specifically in charge of SGBV. However, there is still a need for training judicial officers, prosecutors and investigators on effective and gender responsive handling of sexual violence cases.⁶¹

South Sudan

South Sudan has adopted Standard Operating Procedures (SOP) for Gender Based Violence to guide stakeholders and government institutions in their efforts to prevent, protect and respond to GBV.⁶² The SOPs emphasize the need for a multi-sectoral approach and outline the role of different stakeholders. For the criminal justice system, the SOPs call for the establishment of a special GBV court and the training of judicial officers in gender-sensitive handling of DBV courts. They also call for the establishment of special units in all police stations.

Summary of progress in establishing special courts/sessions/procedures

Progress on establishment of special courts/sessions/procedures

| Member country | Special Court | Session | Procedure |
|------------------------------|---------------|---------|---|
| Angola | | | |
| Burundi | √ | | √ |
| Central African Republic | | | |
| Republic of Congo | | | √ |
| Democratic Republic of Congo | | √ | √ |
| Kenya | | | √ |
| Rwanda | | | √ |
| South Sudan | √ | | √ |
| Sudan | | | √ (2014-2016) for cases involving children only |
| Tanzania | | | |
| Uganda | | √ | √ |
| Zambia | √ | √ | √ |
| Total | | | |

⁶¹ Rutayisire Fidèle (2019), Review of the implementation of the Kampala Declaration (unpublished), October 2019.

⁶² Ministry of Gender, Child and Social Welfare (2014), Standard Operating Procedures (Sop) For Prevention, Protection And Response To Gender Based Violence (GBV) In South Sudan, Juba, South Sudan.

Good Practices

Most actions taken by ICGLR member countries are relatively recent and not backed by a stringent monitoring system to track impact, although in the short term, countries like Burundi, Uganda, and Zambia claimed to have significantly reduced the time for trial of sexual offences. Zambia is particularly commended for setting a 14-day maximum period for concluding cases. However, the determination of a good practice should not just be based on how fast cases are cleared. Determining what amounts to a 'good practice' requires clarity on the standards or parameters against which a practice is to be assessed as good or best. Best or good practices can be described as "...practices that are innovative, proven to have made a difference and models for development elsewhere."⁶³ It distinguishes 'best practices' from 'promising practices' which are either only partially successful or are in their early stages of implementation. Below are proposed criteria for assessing good practices, based on the provisions of the ICGLR Protocol on SGBV, the Kampala Declaration and relevant continental and global human rights standards, including the Maputo Protocol and CEDAW.

Criteria for assessing good practices

The criteria for assessing good or promising practices are extremely important. They have to be derived from the Protocol on the Prevention and Suppression of Sexual Violence against Women and Children, the Kampala Declaration and other policy instruments of the ICGLR, as well as from international and regional development in the management of sexual violence crimes. The Protocol aims to provide protection for women and children against the impunity of sexual violence in the specific context of the Great Lakes Region. The Kampala Declaration commits members to end impunity, and to fast track SGBV cases with adequate finances and trained officers, improve access to justice and protect victims/survivors.⁶⁴ Additionally, in Article 3 (3) of the Protocol member countries agree that measures taken by them to protect women and children from sexual violence shall be based on the principles contained in the instruments referred to in the Preamble of this Protocol.⁶⁵

This report proposes five (5) elements that combine to make a special court, session or procedure as a good practice in the implementation of Commitment 8 of the Kampala Declaration (2011).

⁶³ European Parliament (2015), Overview of the Worldwide Best Practices for Rape Prevention and for Assisting Women Victims of Rape, Directorate for Internal Policies, p. 34, [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/493025/IPOL-FEMM_ET\(2013\)493025_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/493025/IPOL-FEMM_ET(2013)493025_EN.pdf)

⁶⁴ Commitments 7 and 8, Kampala Declaration (2011)

⁶⁵ The instruments referred to are the Charter of the United Nations 1945, Security Council Resolution 1325, the Universal Declaration of Human Rights 1948, Convention on the Prevention and Punishment of the Crime of Genocide 1948, Convention on the Elimination of All Forms of Discrimination Against Women 1979, General Recommendation 19 on Violence Against Women, Convention on the Rights of the Children 1989, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children 2000, the African Charter on Human and Peoples' Rights 1981, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa 2003.

1. Victim/survivor-centred: the special SGBV court, session or procedures need to adopt a victim-centred approach to its work. This means appreciating victims of sexual offenses as important participants in all stages of the process. As such, the victim should be kept informed of the progress of the case and role in the criminal proceedings and advised of her rights including the rights to prompt redress, privacy, safety from the alleged perpetrator and others, and to be heard. Sexual offenses are very traumatic personal experiences. The victim has a right to be supported – the appropriate support being influenced by the nature of the victim (age, disability etc.). The criminal justice has a responsibility to adopt procedures that either eliminate or significantly reduce re-traumatisation of the victim. In the context of the right of the accused to examine witnesses and challenge adverse evidence, the defence’s exercise of this must also be exercised in accordance with State obligations to protect the rights of victims and witnesses, particularly in sexual violence cases.⁶⁶ Fast-tracking sexual offenses through investigation, prosecution and trial is just one aspect of the victim-centred approach.
2. Offender accountability: The enactment of a law that criminalises sexual violence and imposes stiff penalties is only the first step in complying with the ICGLR Protocol. “In violence against women cases, the criminal justice system needs to shift the focus away from questioning the credibility of victims to enhancing evidence-gathering and case-building and ensuring consistency in investigation, prosecution and punishment.”⁶⁷ It is essential that police criminal investigators conduct thorough investigations and preserve the evidence collected. Prosecutors have a duty to work with the investigating officers to ensure that evidence gaps are addressed before commencement of trial. The Protocol on SGBV is clear in its objectives – addressing impunity. The criminal justice system needs to convey the message that perpetrators of sexual crime will be effectively prosecuted and on conviction receive a punishment that reflects the seriousness of the offence.
3. Comprehensive, coordinated and multidisciplinary approach: The objective of coordination is to provide an efficient criminal justice response that is victim-centred and addresses impunity. Coordination allows the judge, survivor, prosecutor, defence and social worker to work towards a common purpose – the delivery of justice, efficiently, with no delays, and in an empowering environment. Judicial leadership,

⁶⁶ International Commission of Jurists (ICJ) (2015), *Sexual and Gender Based Violence, Fair Trial Rights and the Rights of Victims Challenges in Using Law and Justice Systems Faced by Women Human Rights Defenders*, ICJ, Geneva, 6, <https://www.icj.org/africa-sexual-and-gender-based-violence-fair-trial-rights-and-the-rights-of-victims/>

⁶⁷ *Supra*, UNODC at 26

comprehensive training for all stakeholders and commitment to regular evaluation and system improvement are critical for effective coordination.⁶⁸

4. Specialized expertise: Professionals in the criminal justice system are highly qualified in their respective areas of work. However, the prosecution and trial of sexual violence offenders calls for additional specialised knowledge and skills that are often not taught at universities and police training colleges. It challenges deeply held gender biases and stereotypes. Recognising the importance of specialised expertise, the ICGLR member countries established the Regional Training Facility (ICGLR-RTF) to support member countries in developing the necessary expertise. Commitment 8 of the Kampala Declaration calls on member countries to deploy gender sensitive officers to the special sexual offenses courts/mechanisms established to fast-track SGBV cases. In addition to regular training for judicial, prosecution and police, member countries may establish specialised units in the judiciary, prosecution service and Police.

5. Adequate resources: Member countries need to allocate adequate resources to ensure country-wide coverage and victim accessibility of the special courts. For the special courts/mechanisms to effectively handle sexual violence crime in a gender responsive manner, they require adequate resources in its broadest sense. Adequate and well trained personnel, facilities that provide space for ensuring the safety of the victim/survivor and prevention of re-traumatisation and a multi-disciplinary approach. South Africa has determined, for example, that minimum facilities for SGBV courts should include the following:⁶⁹
 - a) A designated courtroom equipped with CCTV and sound equipment and/or one-way glass;
 - b) A special room from which the victim will testify, which must have minimal furniture and decoration;
 - c) A private waiting room and/or play area for victims and their families, which must be informally arranged;
 - d) Victim support services;
 - e) Specialist interpreters trained in child development and those working with the mentally disabled.

⁶⁸ Rebecca Thomforde-Hauser and Juli Ana Grant (2010), *Sex Offense Courts: Supporting Victim and Community Safety Through Collaboration*, Center for Court Innovation, New York, 4 https://www.courtinnovation.org/sites/default/files/Sex_Offense_Courts.pdf .

⁶⁹ Liesl Pretorius (2018), 5 years on: Are sexual offences courts working?, <https://citypress.news24.com/News/are-sexual-offences-courts-working-20181126>

Challenges and recommendations

Some challenges were identified in the effort to establish special mechanisms for fast-tracking sexual offence cases:

- a) In some countries (Uganda, DRC, Republic of Congo, Tanzania) provisions on sexual offences are scattered in various legislations, which makes it difficult to adopt common procedures, approaches and remedies for the victims. There is need for a comprehensive law on sexual offences. In Uganda, the Sexual Offences Bill is not yet passed by Parliament.
- b) For many countries, the establishment of special courts, sessions and procedures has been ad hoc with no specific enabling legislation, without which there is no budgetary provision for the facilities and training required to establish and operationalise the special mechanisms envisaged in commitment 8 of the Kampala Declaration. Judicial officers and prosecutors in most countries also noted that protection orders are civil remedies that cannot be issued in criminal courts without an enabling law. It would defeat the intentions of the Commitment 8 if victims were required to file applications in another court where delays and expenses are inevitable. Only Kenya and Zambia had the enabling law for issuance of protection orders during sexual offences trials. There is a need for a law specifically on the establishment of special courts, sessions and procedures for efficient, effective and expedient prosecution and trial of sexual offences.
- c) Due to fear of stigma, social ostracism and further violence, victims frequently withdraw complaints or refuse to cooperate with the prosecutors which leads to case dismissal. Insistence by some courts on corroborating witnesses is another challenge. It was agreed, during the experts' workshops, that if the victim is believable and is consistent in her story, a conviction is possible. What is needed is for the judge/magistrate to "caution" her/himself. Corroboration can be established from other circumstantial evidence. It was also agreed that cautionary rule, based on gender bias and stereotyping women as liars, is no longer good law and there are judicial precedents to guide courts on the matter.
- d) There are funding and logistics challenges including inadequate funding to ensure witness availability, specialised facilities and technology. Some governments have no or limited labs for forensic evidence including DNA. It was suggested that the focus should not be on new funding but how each country uses existing resources nationally, and within the region, to start implementation. It was suggested, for instance, that the ICGLR secretariat could encourage countries to cooperate in the use of forensic laboratories. It was also suggested that the Burundi model of utilising existing court structures and personnel by designating a weekly schedule when the court is handling sexual offences only may reduce expenses and lead to the training of all criminal justice personnel across the country.
- e) While there is progress in fast-tracking GBV cases in the courts of first instance, there is no time-frame for appeal. Delays may be as long as 2 years or more, negating the

efforts towards justice for both victims and alleged perpetrators. It is a priority that once a case is concluded, the record is prepared and sent to the High court for sentencing; and where an appeal is lodged, this is prioritised.

- f) While the majority of sexual offences cases involve female victims, increasingly boys and men are suffering sexual violence. The socio-legal challenges in terms of stigma, fear of further violence apply. Existing laws do not adequately focus on male victims of sexual crimes.

PART II

Proposed model legislation for special mechanisms to fast track SGBV cases

Rationale for a legal framework

The criminal justice system has an important role in the prevention and suppression of sexual offenses and in ensuring both procedural and substantive justice for the victim. The ICGLR Protocol on the Prevention and Suppression of Sexual Violence against Women and Children and the Kampala Declaration (2011) is founded on this tenet.

It is as important for the criminal justice system to establish culpability or innocence of the accused as it is to ensure that the process and end results are responsive to the victim's interests. For the victim, justice is not served just by the conviction and sentencing, but by a whole range of other factors including the extent of the victim's involvement, personal and family safety, and measures put in place to manage trauma and social stigma. The duration of the investigation and trial, as well as the gender sensitivity and responsiveness of judicial officers, prosecution officials and social workers involved in the case are critically important aspects of justice for the victim, as well as for the deterrent impact of the law. The objectives of the criminal justice system should be to ensure the victim's safety while holding the perpetrator accountable for his actions and to send a clear message to society that violence against women will not be tolerated.⁷⁰

“An effective criminal justice system prioritises victim safety and offender accountability. It includes the opportunity to access redress for the violence in a timely manner, the avoidance of re-victimisation and the enforcement of legal remedies, including appropriate punishment for the perpetrators.”

ICGLR member countries have identified the absence of a specific law on the establishment of special courts, sessions and procedures for fast-tracking the prosecution and trial of sexual offences and the adoption of a victim-friendly approach. They requested the ICGLR-RTF to develop a model legislation that would guide member countries and facilitate a regional harmonised approach.

The model law (Annex 2) developed under this assignment is to support the efforts of member countries to accelerate the implementation of Commitment 8 in the Kampala Declaration (2011), and the Kinshasa Final Communique of the Ministers responsible for Justice and for Gender in 2012.

⁷⁰ UNODC (2010), Handbook on Effective Prosecution Response to Violence against Women and Girls, Criminal Justice Series, p. 26

The model law is informed by:

1. The Protocol on the Prevention and Suppression of Sexual Violence Against Women and Children, and the Model Legislation on the Prevention and Suppression of Sexual Violence against Women and Children annexed to the Protocol
2. The Kampala Declaration (2011)
3. The Kinshasa Final Communique
4. Commitments of member countries in various regional and global human rights instruments referred to in the preamble and Article 2 of the Protocol.
5. Good practices from African countries

The model law covers the establishment of special courts and their functions, the issuance of various orders for the protection of victims of sexual violence and for the management of sexual offenders. It also provides for special procedures, forensic evidence, collaboration within the criminal justice system, and the issuance of guidelines for criminal investigation and prosecution officers.

The text of the model law is annexed.

PART III ANNEXES

Annex 1: Questionnaire on good practices

Regional Training Facility
on Prevention and
Suppression of Sexual and
Gender Based Violence in
the Great Lakes Region



Centre Régional de Formation
sur la Prévention et
Suppression des Violence
Sexuelles Basées sur le Genre
dans la Région Des Grands
Lacs

QUESTIONNAIRE ON SPECIAL COURTS (Res. 8, Kampala Declaration 2011)

Background

The ICGLR Protocol on the Prevention and Suppression of Sexual Violence Against Women and Children (hereinafter referred to as the Protocol) seeks to address the high prevalence and widespread incidence of sexual violence in the Great Lakes Region. Its objectives include addressing impunity and establishing a legal framework under which Member States undertake to prosecute and punish the perpetrators of crimes of sexual violence. In December 2011, a Special Heads of States Summit of the ICGLR was convened in Kampala, Uganda, to discuss the unabated high prevalence of SGBV in the region and the impunity with which the crimes were being committed. The Summit expressed concern that SGBV remained pervasive despite “...the existence of institutional, policy and legal frameworks for the prevention of SGBV and the punishment of perpetrators”. In the outcome document (the Kampala Declaration), ICGLR member states agree to take specific actions towards the prevention of SGBV, ending impunity for SGBV, as well as providing support to victims/survivors. The ICGLR Heads of State and Government **committed to direct concerned ministries to establish and strengthen special courts, sessions and procedures with the aim of fast tracking SGBV cases in the police and the judiciary. They committed to provide special courts, sessions and procedures with adequate financing, facilities and gender sensitive officers.** The envisaged special courts/sessions or procedures are generally set up to speed up case management and to provide an environment conducive for efficient handling of SGBV cases, while guaranteeing the right to a fair trial to the parties involved.

Purpose of the questionnaire

The ICGLR-RTF is in the process of compiling good practices in the implementation of Commitment 8 of the Kampala Declaration on special courts. This questionnaire is prepared by the ICGLR-RTF as a tool for ICGLR member countries to contribute to this exercise by sharing information on the progress made.

Name and Designation of the respondent.....
Country

A. Establishment of special courts

1. Has your government established any of the following mechanisms, with the purpose of fast-tracking SGBV cases?
 - i. special courts (Tick one) Yes No
 - ii. Special sessions (Tick one) Yes No
 - iii. Special procedures (Tick one) Yes No

2. When was the mechanism established?

- i. special courts (insert date)
- ii. Special sessions (insert date)
- iii. Special procedures (insert date)

3. At what level within the judiciary hierarchy is the court/session/procedure (e.g. high court, magistrates court, quasi-judicial tribunal)

- i. special courts
- ii. Special sessions
- iii. Special procedures

4. What is the geographical coverage of the special court/session/procedure [e.g. country-wide, number of districts (list them)]?

- i. special courts
- ii. Special sessions
- iii. Special procedures

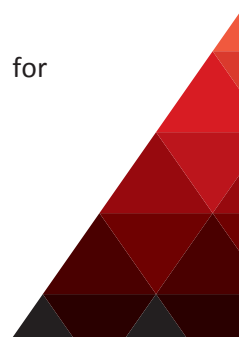
5. How was the special mechanism established? (tick as appropriate)

- i. special courts
 - a. By new or amended legislation.....
 - b. By an order of the Minister of Justice
 - c. By an order of the Chief Justice or head of the Judiciary
 - d. Other (specify)
- ii. Special sessions
 - a. By new or amended legislation.....
 - b. By an order of the Minister of Justice
 - c. By an order of the Chief Justice or head of the Judiciary
 - d. Other (specify)
- iii. Special procedures
 - a. By new or amended legislation.....
 - b. By an order of the Minister of Justice
 - c. By an order of the Chief Justice or Head of the Judiciary
 - d. Other (specify)

Please attach a copy of the legislation or order

B: Capacity building

6. Did designated judicial officers receive any special training as part of the preparations for launching the special court/session/procedure? Yes No



7. If yes, please explain briefly the topics of the training (attach a copy of the programme or report if possible
8. Did the designated prosecutors receive any special training as part of the preparations for launching the special court/session/procedure? Yes No
9. If yes, please explain briefly the topics of the training (attach a copy of the programme or report if possible
.....
.....
10. Did any other actors in the criminal justice system participate in the training e.g. Police? If yes, please list them

C. Operations and impact

11. When did the special mechanism become operational?
 - i. Special courts (Insert date)
 - ii. Special sessions (Insert date)
 - iii. Special procedures (Insert date)
 12. How many SGBV cases has the court/session/procedure handled and in what period?.....
 - i. Special courts
 - ii. Special sessions.....
 - iii. Special procedures
 13. How many of these have been completed?.....
 14. How many resulted in convictions?
 15. What is the average duration of each case?
 16. What was the average duration of SGBV cases prior to the establishment of the special court/session/procedure?
 17. Please briefly explain the positive changes arising from the establishment of the special court/session/procedure
-
-
-

D. Challenges

18. What challenges (if any) are the special court/session/procedure currently facing?
.....
.....
.....

THANK YOU FOR YOUR PARTICIPATION

ANNEX 2:

THE MODEL LEGISLATION ON THE ESTABLISHMENT OF SPECIAL COURTS AND OTHER MECHANISMS TO FAST-TRACK THE TRIAL OF SEXUAL VIOLENCE AGAINST WOMEN AND CHILDREN⁷¹

Preamble

We, Ministers responsible for gender and justice in the member states of the International Conference on the Great Lakes Region;

Recalling that the Protocol on the Prevention and Suppression of Sexual and Gender-Based Violence against Women and Children in the Great Lakes Region was adopted on 30th November, 2006 with an annex on the Model Legislation on the prevention and suppression of Sexual violence against women and children;

Cognizant of article 11 of the Pact on Security, Stability and Development For the Great Lakes Region 2006 as amended in 2012, that requires the Member States to undertake, in accordance with the Protocol on the Prevention and Suppression of Violence against Women and Children, to combat sexual violence against women and children through preventing, criminalizing and punishing acts of sexual violence, both in times of peace and in times of war, in accordance with national laws and international criminal law;

Noting the recommendations of the Goma Declaration on eradicating Sexual Violence and ending impunity in the Great Lakes Region; member states to ensure that during the trial of SGBV cases, criminal procedure guarantees effective prosecution, confidentiality, closed court proceedings and protection of victims and witnesses;

Reaffirming our commitment to establish and strengthen special courts, sessions and procedures in order to fast-track Sexual and Gender Based Violence cases in the police and the judiciary under Commitment 8 of the Declaration of the Heads of State and Government of the Member States of the International Conference on the Great Lakes Region adopted and signed on 15th December, 2011(the Kampala Declaration 2011);

Recalling the commitment of the ministers responsible for Justice and Gender to establish and strengthen special courts and to provide progress reports as contained in the final communique of the High-level Consultation of Ministers responsible for Justice and Gender on the Kampala Declaration on Sexual and Gender based violence held in Kinshasa on 12th July 2012;

Conscious of the need to adopt a model legislation to guide member states in developing the appropriate legal instruments for the establishment and operationalization of special courts to try sexual violence offences in their respective criminal justice systems;

⁷¹ Final Draft of 2nd December, 2019 which was adopted by Ministers of Justice and Gender at the High Level Meeting on 27 November 2019 in Brazzaville, Republic of Congo.

Aware that an effective criminal justice system response to sexual and gender-based violence requires collaboration among the Judiciary, prosecutors, investigators, defence counsel and probation and welfare officials;

Having received and considered the final communique of the High-level consultation of Ministers responsible for Justice and gender on the Kampala Declaration on sexual and gender-based violence held in Brazzaville on 27th November, 2019;

Convinced that the adoption of a model law to establish and strengthen special courts and other mechanism in order to fast track sexual and gender based violence cases in the police and the judiciary is a facilitating tool for improved access to justice and protection of victims and survivors of sexual and gender based violence in line with article 6 of the International Conference on the Great Lakes Region protocol (2006);

Do hereby adopt the Model legislation on the Establishment of Special Courts and other Mechanisms to fast-track Sexual Violence against Women and Children as follows:-

ARRANGEMENT OF SECTIONS

Section

1. Interpretation
2. The object this modal law
3. Designation of special courts
4. Functions of special courts
5. Protective orders
6. Treatment orders
7. Sexual violence offender register
8. Access to the register
9. Coordination and collaboration
10. Procedure adopted by the special court
11. Evidence of medical or forensic nature
12. Powers of the competent Authority
13. Guidelines for investigations
14. Guidelines for prosecution
15. Prohibitions
16. Vulnerable witnesses
17. Monitoring and reporting

1. Interpretation

In this Act, unless the context otherwise requires “competent Authority” means an officer responsible for the administration of the Judiciary in the member state;

“intermediary” means a person authorized by a special court, on account of his or her expertise or experience, to give evidence on behalf of a vulnerable witness and may include a parent, relative, psychologist, counsellor, guardian, children’s officer, probation and welfare officer or social worker;

“investigating Authority” means an agency responsible for investigating criminal cases;

“prosecuting Authority” means an agency responsible for the prosecution of criminal cases in any court with criminal jurisdiction;

“treatment” includes medical diagnosis, counselling and social support services;

“sexual violence” means an act which violates the sexual autonomy and bodily integrity of women and children under international criminal law, including-

- (a) rape;
- (b) sexual assault;
- (c) grievous bodily harm;
- (d) assault or mutilation of female reproductive organs;
- (e) sexual slavery;
- (f) enforced prostitution;
- (g) forced pregnancy;
- (h) enforced sterilization;
- (i) harmful practices;
- (j) sexual exploitation or the coercion of women and children to perform domestic chores or to provide sexual comfort;
- (k) trafficking in, and smuggling of, women and children for sexual slavery or exploitation;
- (l) enslavement by the exercise of any or all of the powers attaching to the right of ownership over women; including the exercise of such power in the course of trafficking in women and children;
- (m) forced abortions or forced pregnancies of women and girl children arising from the unlawful confinement of a woman or girl child forcibly made pregnant, with the intent of affecting the composition of identity of any population or carrying out other grave violations of international law;
- (n) infection of women and children with sexually transmitted diseases, including HIV/AIDS; and
- (o) any other act or form of sexual violence of comparable gravity.;

“gender-based violence” includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty that are directed against a woman because she is a woman or that affects women disproportionately;

“special court” includes divisions, circuits, tribunals and sessions designated by the competent Authority of a member state for purposes of conducting trials of sexual offences;

“victim support services” includes counselling, specialised medical treatment referrals, rehabilitation, testifying in camera or chambers and related services.

2. The object of this model law

The object of this model law is to provide a guiding legal framework for member states to enact national legislation to:

- (a) provide a legal framework to operationalize Commitment 8 of the Kampala Declaration 2011 under which the Heads of State and government committed to direct concerned ministries to establish and strengthen special courts, sessions and procedures in order to fast-track sexual and gender based violence cases in the police and the judiciary as a means to end impunity for sexual and gender based violence, among others;
- (b) provide for the designation of special courts to give effect to the Protocol on the Prevention and Suppression of Sexual Violence against Women and Children, 2006;
- (c) provide for the procedures and measures for fast-tracking the prosecution and hearing of sexual offences; and
- (d) provide for the development of guidelines for judicial officers, prosecutors, investigating officers and medical personnel in handling sexual offences to ensure proper management of sexual offences.

3. Designation of special courts

- (1) The competent Authority shall designate a special court in every geographical jurisdiction, to fast-track the hearing and disposal of sexual violence cases.
- (2) The special court designated by the competent Authority shall be a competent court with jurisdiction to try sexual offences.
- (3) The competent Authority shall-
 - (a) assign adequate and well-trained personnel who are gender responsive to the special court;
 - (b) provide training, orientation and motivation to equip the personnel assigned to a special court with skills necessary for the proper functioning of the special court; and
 - (c) equip the special court with adequate and gender responsive special facilities;
- (4) The special facilities referred to in subsection (2)(c) may include-
 - f) a visual - audio link for vulnerable victims;
 - g) a room from which the victim will testify, which shall be arranged in a manner that ensures victim safety and prevention of re-traumatization of the victim;
 - h) a private waiting area for victims and their families;
 - i) victim support services;
 - j) specialist interpreters who are gender responsive; and
 - k) a child friendly environment, in the case of child victims.

4. Functions of special courts

- (1) The special court shall -
 - (a) manage sexual violence offences trials with a consistent and gender responsive approach;
 - (b) fast-track sexual offences trials and dispose of the cases in a timely manner;
 - (c) issue protective orders or directives in favour of the victim, witness or a family member, as the court deems appropriate;
 - (d) advise the victim or survivor of their rights during the hearing; and
 - (e) operate in an environment that ensures the safety of the victim and prevents or reduces re-traumatization of the victim or survivor.

- (2) The special court shall in the performance of its functions shall adhere to the principles of natural justice.

5. Protective orders

- (1) A special court may, if it considers it appropriate, make protective orders for the victims of sexual violence, families of victims of sexual offences and vulnerable witnesses.

- (2) The protective order may include-
 - (a) an order directing the perpetrator to stay away from the premises or place where the victim resides or any part of the premises, if the prohibition is in the best interest of the victim;

 - (b) an order directing the perpetrator to pay maintenance in respect of the victim's needs or the needs of any child or dependent of the perpetrator in the case of sexual violence in the domestic setting;

 - (c) an order for temporary custody of any child or dependent of the perpetrator to any person or institution and regulate rights of access by the perpetrator to the child or dependent;

 - (d) an order directing the perpetrator to afford the victim or any child or dependent of the victim, access to their place of residence and use of the facilities associated with it; or

 - (e) make any other order the special court may consider appropriate.

6. Treatment orders.

- (1) A special court may, at any time at the request of a victim of sexual offence or an intermediary, grant an order for the treatment of a victim of sexual offence.

- (2) Notwithstanding the provisions of sub-section (1), a special court, may upon conviction of a person having committed a sexual offence and if satisfied that the convicted person is dependent on or has the propensity to misuse alcohol, any drug or is suffering from any other disorder including the mindset that treats women as

sex objects, make an order for treatment of the convicted person, in addition to any sentence, including a sentence of imprisonment which is not suspended.

- (3) A treatment order issued under this section shall specify a public hospital or institution where the treatment shall take place.
- (4) The expenses incurred for the treatment of any person convicted of an offence under this section or a victim of a sexual offence, as the case may be, shall be borne by the State.
- (5) All medical records relating to treatment under this section may be used as evidence before any court with regard to any offence under this Act.

7. Sexual violence offender register

- (1) The special courts shall establish and maintain a sexual violence offender Register.
- (2) The Register shall consist of-
 - (a) the particulars of the offender;
 - (b) passport photograph and a set of fingerprints of the offender;
 - (c) physical address of the place of residence and the place of work;
 - (d) the offence with which the offender was convicted;
 - (e) the date of conviction and the sentence imposed;
 - (f) the sentence entered on appeal if applicable;
 - (g) the age of the victim of the sexual offence;
 - (h) the relationship between the convict and the victim, if any, including information as to whether there was a position of trust;
 - (i) brief particulars of the circumstances under which the offences was committed; and
 - (j) any other information, which, in the opinion of the special court, requires to be kept.
- (3) Where a convicted offender changes the physical address referred to in section (2) (c), the offender shall notify the special court that convicted him or her of the change of address within fourteen days after the change of address.

8. Access to the register

- (1) A person who wishes to access the Register shall apply in writing to the special court for permission to access the register.
- (2) The register shall be accessed during working days and hours or any other day as the special court may determine.
- (3) Notwithstanding subsection (1) the court shall at all times ensure access of the register by the following—
 - (a) judicial officers;
 - (b) advocates involved in criminal proceedings to which information kept in the Register has a bearing;

- (c) probation and social welfare officers;
- (d) children officers;
- (e) state counsel and prosecutors;
- (f) police investigators;
- (g) the prisons department; and
- (h) other relevant agencies which, in the opinion of the competent authority, may require such information.

(4) The special court shall not allow access to the Register where the special court has reason to believe that the information is intended to be used in a prejudicial manner.

9. Coordination and collaboration

- (1) The competent Authority shall require each special court to establish a mechanism for coordination and collaboration among -
- (a) judicial officers assigned to special courts;
 - (b) prosecutors handling sexual violence offenses;
 - (c) investigators handling sexual violence complaints;
 - (d) survivors or victims of sexual violence
 - (e) the family of the survivor or victim of the sexual violence, where the survivor or victim is a person with disability, a child or has suffered trauma;
 - (f) recovery centres;
 - (g) defence counsel;
 - (h) prisons authorities, or detention centres; and
 - (i) public officers responsible for probation and welfare of the victims.
- (2) The coordination and collaboration shall support the special court to ensure-
- (a) efficient delivery of justice;
 - (b) respect for the rights of the victim or survivor of sexual violence, and for the accused person; and
 - (c) an environment that is friendly to the victim throughout the trial.

10. Procedure adopted by the special court

- (1) The special court shall adopt special procedures in hearing and determining sexual violence offences.
- (2) The special procedures may relate to-
- (a) witness protection;
 - (b) appearance of witnesses;
 - (c) use of forensic evidence;
 - (d) expert evidence;
 - (e) admissibility and relevancy of evidence;
 - (f) handling of a child and other vulnerable victims; and
 - (g) trial procedures.

11. Evidence of medical or forensic nature

- (1) A person may apply to the special court to direct that an appropriate sample be taken from the accused person charged with a sexual offence, for the purpose of forensic and other scientific testing in order to gather evidence and to ascertain whether or not the accused person committed an offence.
- (2) The sample taken from an accused person under subsection (1) shall be stored at an appropriate place until the trial is concluded and if the accused person is convicted, order that the sample be stored in a databank for dangerous sexual offenders; where the accused person is acquitted, order that the sample or samples be destroyed.
- (3) The dangerous sexual offender's databank referred to in subsection (2) shall contain such particulars as may be determined by the competent authority.
- (4) A person making an application for a sample to be taken under subsection (1) shall, in consultation with a medical practitioner, specify the nature of the sample which may include-
 - (a) blood;
 - (b) urine; or
 - (c) other tissue or substance.

12. Powers of the competent Authority

- (1) The competent Authority shall exercise the following powers-
 - (a) designate a senior judicial officer as a person in charge of a designated special court;
 - (b) issue practice directions, guidelines or rules, as the case may be, on any matter relating to the operations of special courts;
 - (c) conduct a regular monitoring and appraisal of the performance of special courts; and
 - (d) issue practice directions, guidelines or rules on the issuance of protective orders, compensations, damages or reparations to the victims or survivors of sexual violence.
- (2) The guidelines shall provide for the management of the coordination and collaboration mechanism established in section 9.

13. Guidelines for investigations

- (1) The investigating Authority shall develop and issue guidelines for effective and gender responsive investigation of sexual offences.

- (2) The investigating authority shall cause the investigating officers of sexual violence offences to be equipped with skills, knowledge, equipment and facilities for carrying out investigations.
- (3) The guidelines shall include a requirement that all officers investigating sexual violence cases shall effectively participate in the coordination and collaboration mechanism established in section 9.

14. Guidelines for prosecution

- (1) The Prosecuting Authority shall develop and issue guidelines for effective and gender responsive of sexual offences.
- (2) The guidelines shall include a requirement that the prosecutors of sexual offences shall participate in the mechanism for coordination and collaboration established in section 9.

15. Prohibitions

- (1) Criminal proceedings relating to sexual offences shall not be subjected to-
 - (a) plea bargaining;
 - (b) mediation; or
 - (c) amnesty.
- (2) Evidence relating to marital or sexual history of the victim or generally the character of the victim as a defence for the accused shall not be admissible in a special court.
- (3) The provisions relating to limitation of time as a bar to instituting criminal proceedings under a statute of limitations shall not apply to sexual offences.

16. Vulnerable witnesses

- (1) A special court, may declare a witness, other than the accused, a vulnerable witness if such witness is -
 - (a) the alleged victim in the proceedings;
 - (b) a child; or
 - (c) a person with mental disabilities.
- (2) The special court may, on its own initiative or on request of the prosecution or any witness other than an accused, declare any such witness, a vulnerable witness if in the court's opinion he or she is likely to be vulnerable on account of -
 - (a) age;
 - (b) intellectual, psychological or physical impairment;
 - (c) trauma;
 - (d) cultural differences;
 - (e) the possibility of intimidation;

- (f) the relationship of the witness to any party to the proceedings;
 - (g) the nature of the subject matter of the evidence; or
 - (h) any other factor the court considers relevant.
- (3) The special court may, if it is in doubt as to whether a witness should be declared a vulnerable witness, summon an intermediary to appear before the court and advise the court on the vulnerability of such witness.
- (4) Where a witness has been declared vulnerable, the court shall, direct that such witness be protected by one or more of the following measures -
- (a) allowing such witness to give evidence under the protective cover of a witness protection box, under pseudo names or through audio-video link;
 - (b) directing that the witness shall give evidence through an intermediary;
 - (c) directing that the proceedings may not take place in open court;
 - (d) prohibiting the publication of the identity of the complainant or of the complainant's family, including the publication of information that may lead to the identification of the complainant or the complainant's family; or
 - (e) any other measure which the court deems just and appropriate.

17. Monitoring and reporting

- (1) A person in charge of a special court shall:
- (a) establish a case management system for purposes of tracking the disposal of sexual violence offences; and
 - (b) submit a progress report on the sexual violence cases filed and disposed of in that special court, to the competent Authority, on a monthly basis.
- (2) The competent Authority shall upon receipt of the progress report submit the report to the Ministers responsible for gender and for justice.
- (3) The competent Authority shall issue guidelines to special courts on the format of progress reports.



