

# Access to Justice for women in Africa: Promising practices

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**Theme: Ensuring and strengthening access to justice for all women and girls, including by promoting inclusive and equitable legal systems, eliminating discriminatory laws, policies, and practices, and addressing structural barriers (Focus on Africa)**

## Introduction and Africa context

### 1.1 Access to Justice

Access to Justice is a fundamental human right for all.<sup>1</sup> It's also important in ensuring the enjoyment of other rights and freedoms. Effective access to justice implies several inter-linked aspects: explicit legal recognition and protection of rights; legal provision for appropriate remedies, and the procedures to be followed by those wishing to enforce the rights. Access to justice also "... entails the ability and empowerment to claim rights as legal entitlements, to seek the accountability of those who transgress them, and to turn to the law for viable protection and meaningful redress".<sup>2</sup> The Universal Declaration of Human Rights guarantees every individual's right to an effective remedy by the competent national tribunals for any violations of fundamental rights and freedoms.<sup>3</sup>

The CEDAW Committee in its General Comment No. 33 acknowledges the complex and multi-dimensional nature of the right to access to justice for women. "It encompasses justiciability, availability, accessibility, good quality, the provision of remedies for victims and the accountability of justice systems."<sup>4</sup> Women's rights must be defined and protected by law with clear procedures for enforcement. Women's

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<sup>1</sup> Art. 7-11, Universal Declaration on Human Rights; Art. 14 International Covenant on Civil and Political Rights.

<sup>2</sup> International Commission of Jurists (2013), Women's Access to Justice in Botswana: Identifying the Obstacles & Need for Change, Geneva at p. 11

<sup>3</sup> Article 8.

<sup>4</sup> CEDAW/C/GC/33 at para 1.

access to justice must not be hampered by (inter alia) physical, geographic or language barriers. The state has an obligation to establish justice institutions and ensure that they have the capacity to deliver justice without discrimination, or delay. The relevant capacity is both institutional, procedural, and technical. General Recommendation No. 35 affirms that the obligation of states parties to CEDAW extends to ensuring that victims/survivors of GBV have access to justice and to an effective remedy.<sup>5</sup>

In the cases of violence against women, the state obligation includes the provision of support to victims and survivors including financial and legal aid, shelters, psychosocial and counselling services. The state must undertake public and targeted education not only to increase awareness of rights among women, but also to counter gender bias within the justice system and the public. The justice system must provide appropriate, timely, adequate and effective remedies to women. This implies that decisions of the justice system, whether from courts, or other quasi-judicial or informal authority recognised by law must address the complaint or issue presented by any woman alleging a violation of her rights, effectively and in accordance with law, and offer appropriate and effective redress.

Women face significant challenges in accessing courts including complicated legal procedures, distances to formal justice institutions, inefficient and discriminatory judicial systems. These factors, especially for women in rural and hard to reach areas, restrict access to formal justice, with many women turning to informal systems that may be less conversant with the law.

## 1.2 The African Context

Africa is a diverse and complex region. It is characterized by plural justice systems comprising formal courts of law, formal structures with quasi-judicial functions, as well as non-formal systems including cultural and religious leaders and institutions. Some are grounded in legislative enactments, while others are anchored in customary or religious laws and practice. Legislation is largely modeled on colonial and neocolonial systems of law and are enforced through formal justice structures often far removed for most of the population. The continent is experiencing rapid urbanization, and a changing economic environment in which technology and more open competition are key features. The struggle for resources, especially access to and control of land manifests in land evictions and displacement. Africa is also experiencing armed conflicts of different levels of intensity in at least fourteen (14) countries. Additionally, there are political or community militia-like groupings contributing to high-levels of crime, and insecurity, particularly during specific phases of the electoral cycle and

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<sup>5</sup> General Recommendation No. 35 on Gender based violence (2017), CEDAW/C/GC/35, paragraph 29.

political events. Conflicts increase levels of violence targeting communities, particularly women, and forced displacement.

Climate change-related disasters are becoming more frequent and widespread regarding numbers of affected countries, and in the magnitude of their impact on communities, and countries. The World Meteorological Organisation reports extreme weather conditions on the continent, from persistent droughts to abnormally high rainfall causing loss of life, displacement, and pushing many into extreme poverty. The impacts of these disasters are often gendered, placing higher burdens on women and girls on the one hand, and exposing them to higher levels of human rights violations including gender-based violence. Unfortunately, most countries have low capacities to sustain justice systems during severe emergencies as was demonstrated during the 2020-21 COVID-19 pandemic.

Regional and national analyses often mask the significant diversity among women and girls even in a single country. Intersecting political, social, economic and environmental factors such as extreme poverty, displacement, and discrimination often result in deeper levels of marginalisation. Inclusion-centered access to justice policies, laws and programmes are necessary to ensure equal protection of the law for all women and girls.

## Achievements and promising practices

### 2.1 Regional Cooperation

Despite significant challenges including the above, African countries have developed a fairly comprehensive human rights system under the coordination of the African Union (AU). It takes cognisance of, and is complementary to, international human rights instruments including the Convention on the elimination of all forms of Discrimination against women. The centrepiece of the African system is the African Charter on Human and Peoples' Rights (Banjul Charter). Article 7 (1) (a) of the Charter guarantees the right of every individual to seek justice from courts of competent jurisdiction across the territory of the state. State parties have an obligation to ensure the elimination of all forms of discrimination against women and ensure the protection of all women's human rights and fundamental freedoms.<sup>6</sup>

To expound on the nature and extent of this state obligation, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)<sup>7</sup> obligates state parties to enact and enforce laws that prohibit all forms of discrimination against women including gender-based violence, whether the violence takes place in private or public.<sup>8</sup> The Protocol guarantees rights for all women, and to

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<sup>6</sup> Art. 18(3), African Charter on Human and Peoples' Rights.

<sup>7</sup> By July 2025 the Maputo Protocol had been ratified by Eighty-three percent (83%) of African countries,

<sup>8</sup> Article 4, Maputo Protocol.

take special measures to protect the rights of women at a higher risk of violations.<sup>9</sup> State parties undertake to take all appropriate legislative and other measures to assure all women equality before the law, and effective access to justice.<sup>10</sup> With respect older women, state parties undertake to ensure that justice institutions receive adequate training to “...effectively interpret and enforce policies and legislation to protect the rights of older persons.”<sup>11</sup> Taking cognisance of the prevalence and vulnerability of displaced persons, the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) requires state parties to take appropriate measures to ensure equal protection of the rights of displaced persons.<sup>12</sup> It is estimated that by the end of 2023 over 35 million persons lived in displacement on the African continent.<sup>13</sup> UNHCR estimates that the central and west Africa regions are host to 12.7 million people displaced either by conflict, climate, or other economic shocks.<sup>14</sup>

Gender-based violence remains pervasive. In February 2025 the African Union (AU) adopted the African Union Convention on Ending Violence against Women and Girls (CEVAWG) in February 2025. The Convention complements existing international and Africa human rights instruments, including the Maputo Protocol. Building on the UN Declaration on the Elimination of Violence Against Women (DEVAW), CEDAW General Recommendation 19 and the Maputo Protocol, the CEVAWG definition of violence against women/girls (VAWG) takes into consideration the contextual realities of the continent by acknowledging that VAWG may take place in “...in the private and public spheres, or in cyberspace, in times of peace, armed conflict, transition, post-conflict, disaster, and post-disaster situations.”<sup>15</sup> The CEVAWG details the state obligation on for the right of access to justice for victims of violence against women and girls as follows:

“States Parties shall enact and enforce national laws that ensure a victim-centred approach and effective access to justice and security for victims, including:

- a) adoption of fair and non-discriminatory procedures and rules of evidence;
- b) establishment of effective and responsive referral processes and procedural protections;
- c) effective and timely investigation, management, and hearing of cases of violence against women and girls, ensuring perpetrators are prosecuted and judgements rendered based on due process safeguards, fast-track pre-trial and trial processes, and dedicated special chambers within courts;

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<sup>9</sup> Widows, women in conflict situations, elderly women, women with disability, and women in distress including those living in extreme poverty. See also Art. 3 (1) (d) of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)

<sup>10</sup> Article 8, Maputo Protocol.

<sup>11</sup> Art. 4 (3), Protocol to the African Charter on Human and Peoples Rights on the Rights of Older Persons.

<sup>12</sup> Art. 3(1)(d).

<sup>13</sup> <https://www.internal-displacement.org/regional-reports/internal-displacement-in-africa/>

<sup>14</sup> <https://www.unhcr.org/africa/news/press-releases/unhcr-highlights-forced-displacement-trends-protection-risks-and-solutions-west>

<sup>15</sup> Art. 1, African Union Convention on Ending Violence against Women and Girls (CEVAWG).

- d) measures to protect victims, dependents, and witnesses during the criminal justice process;
- e) protection of the victim's right to privacy, taking into account the principles and standards of confidentiality, data protection, and anonymity.
- f) provision of protection, occupation, and restitution orders, and compensation or reparation to victims; and
- g) appropriate rehabilitation programmes and punishment that promote behavioural change and eliminate recidivism."<sup>16</sup>

State parties further undertake to provide supportive services, necessary for the victims to access justice, including legal services, legal aid, access to safe homes and centres, and immediate medical and psychosocial services for women and girls faced with actual or threat of violence.<sup>17</sup> As of July 2025, six AU member states<sup>18</sup> have signed the African Union Convention on Ending Violence Against Women and Girls. The CEVAWG is an important opportunity for countries to consolidate, strengthen, and expand commitment towards effective access to justice for women and girls.

At the sub-continental level, additional frameworks have contributed to the positive legal and institutional changes towards women's access to justice. Under the Protocol on the Prevention and Suppression of Sexual Violence Against Women and Children of the Intergovernmental Conference on the Great Lakes Region (ICGLR)<sup>19</sup> member states undertake to ensure that the criminal procedures for the prosecution of persons accused of sexual violence crimes are gender sensitive, considering the trauma and emotional state of the victims and survivors.<sup>20</sup> They further commit to establish and strengthen special courts, sessions, and procedures with the aim of fast tracking SGBV cases in the police and the judiciary.<sup>21</sup> The Protocol on Gender and Development adopted by the Southern African Development Community (SADC) has been critical in ensuring a harmonised approach to gender equality, the elimination of discrimination and GBV in the southern Africa region. It guarantees civil, political, economic, social and environmental rights of women. SADC member states commit to take all necessary measures "...to ensure equality in the treatment of women in judicial and quasi-judicial proceedings, or similar proceedings, including customary and traditional courts, and national reconciliation processes".<sup>22</sup> Other regions of Africa have comparable extensive treaty provisions guaranteeing women's rights including the right of equal access to justice.<sup>23</sup> The Africa regional legal framework for women's

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<sup>16</sup> Art. 12 CEVAWG

<sup>17</sup> Art. 11

<sup>18</sup> Angola, Burundi, Djibouti, the Democratic Republic of Congo, Liberia, and The Gambia

<sup>19</sup> The ICGLR member states are Angola, Burundi, Central African Republic, Republic of Congo, Democratic Republic of Congo, Kenya, Rwanda, Republic of South Sudan, Sudan, Tanzania, Uganda, and Zambia.

<sup>20</sup> Article 6 (5).

<sup>21</sup> Paragraph 8, Kampala Declaration (2011).

<sup>22</sup> Art. 7(a) SADC Protocol on Gender and Development.

<sup>23</sup> See Art. 6, ECOWAS Supplementary Act Relating to Equality of Rights Between Women and Men for Sustainable Development in the ECOWAS Region,

access to justice includes treaty and non-treaty enforcement and monitoring institutions including the African Court of Justice and Human Rights (ACJHR), and the African Commission on Human and Peoples' Rights.<sup>24</sup>

It is not intended to present an assessment of the adequacy (or otherwise) of the regional legal framework on access to justice for women in Africa. Rather the purpose is to highlight its alignment with the global human rights system, its geographic reach, with the aim of encouraging greater intentionality in exploring collaborative arrangements with the AU and its organs, including the regional economic communities (RECs).

## 2.2 Achievements and promising practices at the national level

### 2.2.1 Legislation and policies

Overall Africa has made progress in strengthening the law guaranteeing women's rights including the right of access to justice, particularly with respect to justice for victims and survivors of different forms of gender-based violence. Most countries have reformed their respective penal laws or enacted specific legislation criminalising different forms of sexual violence and imposing stiff penalties. Kenya's Sexual Offences Act (2006), for instance, criminalises a wide range sexual offences including rape, sexual assault, forced indecent acts, defilement, gang rape, 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.<sup>25</sup> There is recognition of intimate partner violence or domestic violence as a crime, and the special challenges faced by women seeking justice. The Lesotho Counter Domestic Violence Act (2022) for example provides legal establishing mechanisms for reporting and prosecuting offenders. In Botswana the Penal Code Amendment (2021) increased the sentences for rape from 10 years to life imprisonment.<sup>26</sup> The Protection from Harassment Act 17 (2011) of South Africa addresses sexual harassment including digital and cyber harassment.<sup>27</sup>

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<https://ccdg.ecowas.int/wp-content/uploads/Supplementary-Act.pdf>; See also Art 11-12 of the Arab Charter on Human Rights (ratified by Algeria, Libya, Mauritania, and Sudan).

<sup>24</sup> Regional justice institutions include the ECOWAS Court of Justice, and the East African Court of Justice (EACJ)

<sup>25</sup> Article 33, Sexual Offences Act (2006)

<sup>26</sup> Republic of Botswana (2024), Thirtieth Anniversary of the Fourth World Conference on Women and Adoption of the Beijing Declaration and Platform for Action (1995): Botswana Country Report at p. 8

<sup>27</sup> Republic of South Africa, Beijing+30 Country Report, p. 136

With improved access to technology, women in Africa are increasingly being subjected on online or technology-facilitated GBV, and some countries have enacted legislation to criminalise that pornography, cyber-bullying and cyber-stalking. Unfortunately, the legislation is in its infancy, is not informed by adequate gender analysis, and does not define the rights of victims, or the appropriate procedures to get justice.<sup>28</sup>

Legal and regulatory reforms have enhanced justiciability of women rights to own and control land and other property. The results are encouraging. In Lesotho 64% of titles issued in urban areas under the Land Act 2010 went to women.<sup>29</sup> In Namibia 41.6% of the people resettled on commercial farms under the National Resettlement Programme, during the period 2014-2019, are women.<sup>30</sup> In Rwanda 77% of female heads of households got land under the Land Tenure Regularisation.<sup>31</sup>

## Access to courts

Effective access to justice requires countries to establish courts of competent jurisdiction throughout their respective territories. Geographic challenges are a major constraint to access to justice. Most people in Africa live in the rural areas. Twenty countries have rural populations ranging from 60%-85%.<sup>32</sup> Despite economic challenges, some countries are expanding the network of justice institutions. For instance, Zimbabwe is making progress in decentralising its courts to ensure that each province has a high court, and that high population areas have magistrates courts.<sup>33</sup>

The COVID-19 pandemic presented opportunities for countries to take advantage of technology to deliver justice system during the pandemic-driven no-movement orders (lockdown). Zimbabwe established virtual courts in each of the 10 Provinces in the Country, ensuring that the justice system continued to function despite the lockdown. Other countries including Ghana,<sup>34</sup> Kenya, and Uganda which is implementing virtual courts in criminal cases, using video conferencing technology to connect courts with prisons and the judicial officers. There is anecdotal evidence that the use of technology speeds up trial, reduces costs especially in criminal trials, and has the potential in GBV cases of reducing the trauma of victims being in the same courtroom with the alleged abusers.

The introduction of e-courts and the electronic case management system is thus a long-term innovation by the government to curb challenges in accessing justice.

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<sup>28</sup> For country-by-country analysis see, The Commonwealth (2023), Addressing Online Violence Against Women and Girls in the Commonwealth Africa Region: The Role of Bystanders, Commonwealth Secretariat, London, UK, <https://www.thecommonwealth-ilibrary.org/index.php/comsec/catalog/download/1099/1097/9686?inline=1>

<sup>29</sup> Kingdom of Lesotho (2019), Lesotho Government Beijing+25 Review Report, p. 29

<sup>30</sup> Republic of Namibia (2019), Beijing+25 Namibia Country Report 2014-2019, p. 18.

<sup>31</sup> Republic of Rwanda (2019), Beijing+25 Rwanda Report, p. 25-26.

<sup>32</sup> <https://www.statista.com/statistics/1491363/rural-population-share-in-africa-by-country/>

<sup>33</sup> Republic of Zimbabwe (2024), Beijing+30 Country Report, p. 7

<sup>34</sup> <https://judicial.gov.gh/index.php/virtualcourt>

However, there are challenges. A recent study shows that legislation has lagged the operationalisation of the courts, most relying on practice orders and guidance from the chief justice or attorney general. “Out of 25 Countries with virtual courts in Africa, only 12 have comprehensive legislation...”<sup>35</sup> The technology infrastructure remains underdeveloped, and most people, especially in rural areas have no or very limited access to, and control over the technology. There is a risk of further marginalising a substantial proportion of women.

## Legal aid services

Complex justice procedures are one of the most important barrier to women’s access to justice in civil and criminal cases. It is compounded by the inability of most women to afford the services of qualified private legal practitioners. an entitlement to consult and be represented by a legal representative or other qualified persons chosen by the party at all stages of the proceedings

African countries are increasingly enacting and adopting legislation, and policies to offer basic legal aid to diverse populations including victims of SGBV, and women living in poverty. Botswana’s Legal Aid programme is designed to benefit marginalised and vulnerable citizens The programme offers free legal assistance in civil and criminal matters.<sup>36</sup> In 2023 alone the Institute of Legal Assistance and Sponsorship (IPAJ) in Mozambique is reported to have provided legal assistance to 248,226 citizens 70% of whom were women.<sup>37</sup> Zimbabwe provides legal aid services in all ten (10) provinces through the Legal Aid Directorate (LAD), and are gradually extending the services to individual districts and therefore closer to women in the communities on matters, including custody, protection orders, and divorce, among others.<sup>38</sup>

Government legal aid service is complemented by civil society organisations (CSO)-led initiatives, most of which predate the government efforts. For instance, the Uganda Association of Women Lawyers (FIDA-Uganda) has offered legal aid services to women since 1999. FIDA-Uganda is currently working in over 20 districts.<sup>39</sup> The Uganda Law society manages free legal aid clinics in at least 21 districts of Uganda. Innovatively WiLDAF-AO runs free virtual legal aid services in Côte d’Ivoire, Ghana, Senegal, and Togo.<sup>40</sup>

Most women, however, cannot access legal aid services, due to the unavailability of the services, or to the hidden costs including transport, and direct court charges for filing pleadings. As public awareness of rights increases, so does the demand for legal

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<sup>35</sup> [https://www.lawyershub.org/Digital%20Resources/Reports/virtual\\_courts\\_report.pdf](https://www.lawyershub.org/Digital%20Resources/Reports/virtual_courts_report.pdf)

<sup>36</sup> Republic of Botswana (2024), Thirtieth Anniversary of the Fourth World Conference on Women and Adoption of the Beijing Declaration and Platform for Action (1995): Botswana Country Report at p. 10

<sup>37</sup> Republic of Mozambique (2024), Beijing+30 Country Report, p. 10-11

<sup>38</sup> Republic of Zimbabwe (2024), Beijing+30 Country Report, p. 7

<sup>39</sup> <https://fidauganda.or.ug/women-rights>

<sup>40</sup> <https://wildaf-ao.org/en/easy-access-to-justice-for-women-and-girls-in-west-africa-through-digital-legal-aid-centres-cajud/>

aid. The Malawi Human Rights Commission has registered a 30% increase in women accessing legal aid services.<sup>41</sup> Unfortunately most women going through the criminal justice system as suspects or accused persons do not benefit from any of the legal aid services. A report by the United Nations Office on Drugs and Crime (UNODC) highlights the magnitude of the capacity gap in this area:<sup>42</sup>

- Malawi has 18 legal aid lawyers (out of 30 positions)—of whom 16 are junior or have fewer than five years' experience—and an average turnover of nine months.
- Mozambique has 16 paralegals and 17 legal assistants.
- In Nigeria ... only one in seven inmates awaiting trial and one in five convicted inmates in Nigeria have legal representation.
- Sierra Leone has three lawyers to provide legal aid in Freetown
- ...
- The Sudan has 10 legal aid lawyers to service Khartoum.

*Figure 1 Excerpt from UNODC Report (2011)*

The obligation of the state under international human rights law to ensure that all can benefit from a free and fair trial without any discrimination. The provision of legal aid to indigent and marginalised population is integral to that obligation. For African countries, additional guidelines were issued by the African Commission on Human and Peoples' Rights (ACHPR) to provide practical guidance on ensuring fair trial rights and access to legal aid under the African Charter on Human and Peoples' Rights<sup>43</sup> and the Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa 2004. At the global level, the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, 2013 provides additional guidance on the standards for effective legal systems in the criminal justice system. African countries, individually and collectively need to invest more in the infrastructure necessary for effective legal aid services. This is an area that requires continued international cooperation.<sup>44</sup>

## Safe spaces for victims/survivors of GBV

Women's access to justice, especially in the context of SGBV is severely hampered by gender bias within the justice institutions, and inadequate social support for victims. This is compounded by the complexity of navigating different processes in different

<sup>41</sup> Republic of Malawi (2024), Beijing+30 Country Report, p.23

<sup>42</sup> UNODC (2011), Access to Legal Aid in the criminal justice system in Africa: Survey Report p. 10

<sup>43</sup> Resolution on the Right to Fair Trial and Legal Aid in Africa - ACHPR/Res.41(XXVI)99

<sup>44</sup> E/CN.15/2007/L.16/Rev.1

locations including the police, medical forensics, and prosecutors. The CEDAW Committee has clarified that states have an obligation to: "... Establish justice access centres, such as "one stop centres", which include a range of legal and social services, in order to reduce the number of steps that a woman has to take to gain access to justice. Such centres could provide legal advice and aid, begin the legal proceedings and coordinate support services for women in areas such as violence against women, family matters, health, social security, employment, property and immigration. Such centres must be accessible to all women, including those living in poverty and/or in rural and remote areas."<sup>45</sup>

Rwanda, one of the pioneers, has operated the Isange One-Stop Centers (IOSC) since 2009. The IOSC offer free different services, legal, psycho-social, medical and safe rooms for temporary accommodation, to GBV victims under one roof. Currently, the country has 48 IOCSs across the country.<sup>46</sup> Other countries including Malawi, Mozambique, Tanzania, Uganda, Nigeria, South Africa, the Democratic Republic of Congo (DRC), Benin, and Kenya currently operate one-stop centres. Zimbabwe has established mobile one-stop centres to cater for the needs of women and girls in remote and hard to reach areas, and economically depressed urban settlements.<sup>47</sup> Egypt has established 12 "safe women" units in university hospitals and specialised medical units and forensic clinics to ensure appropriate and adequate response to SGBV cases.<sup>48</sup> The centres endeavour to adopt a survivor-centered approach towards enhancing access to justice for SGBV victims and survivors, albeit with varying levels of coverage and effectiveness.

### 2.2.5 Adequate remedies

The Maputo Protocol reaffirms the obligation of the state parties to provide appropriate and effective remedies.<sup>49</sup> This section only highlights two aspects: expedited trial and conclusion of SGBV cases, and the possibility of compensation to victims.

#### a) Speedy and gender sensitive trials

In 2011 member states of the ICGLR made a commitment to establish and strengthen special courts, sessions, and procedures with the aim of fast tracking SGBV cases in the police and the judiciary.<sup>50</sup> Since then, most of the ICGLR member countries report having established some form of special courts, sessions, or procedures to ensure expedited hearing and conclusion of SGBV cases. For instance, the Kenya Judiciary has established twelve (12) specialized courts with a view to enhanced efficiency and

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<sup>45</sup> CEDAW General Comment No.33, CEDAW/C/GC/33, paragraph 17.

<sup>46</sup> Republic of Rwanda (2019), Beijing+30 Rwanda Report, p. 78.

<sup>47</sup> Republic of Zimbabwe (2024), Beijing+30 Country Report, p. 9.

<sup>48</sup> Republic of Egypt, Beijing+30 country report, p 26-27

<sup>49</sup> Art. 25, Maputo Protocol.

<sup>50</sup> Commitment 8, Kampala Declaration on ending SGBV (2011)

gender sensitivity in handling SGBV cases.<sup>51</sup> Similarly Botswana has established specialised courts to expedite the hearing of SGBV cases.<sup>52</sup> Zambia launched its first user-friendly fast track court in Kabwe Province in January 2016, and the second in Lusaka in March 2016, and currently has such courts in all its provinces.<sup>53</sup>

There are other approaches to alleviating the problem of delayed justice, to the advantage of women. Uganda for instance, established courts at the different levels of local government including at village. The Local Council Courts Act (2006) gave these quasi-judicial institutions both jurisdiction in civil and criminal matters. As civil courts they may handle (inter alia) disputes in respect of land held under customary tenure; assault or assault and battery; as well as disputes concerning marriage, marital status, separation, divorce or the parentage of children.<sup>54</sup> In Kenya on the other hand the operationalization of the Small Claims Court following the Small Claims Court (Amendment) Act, 2020 has also been instrumental in enhancing access to justice for the poor and marginalized persons in Kenya, of which most beneficiaries are women. The courts are designed to ensure simplicity of procedure, speedy resolution of cases, accessibility and services offered at low cost.<sup>55</sup>

It is important to ensure that fast track courts or other mechanisms offer comprehensive victim-centred justice informed by human rights principles. They should never be used to narrow judicial options for women. 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 used only if a specially qualified team confirms that the victim/survivor's consent is freely given.<sup>56</sup>

#### b) Special GBV Fund

Victims of SGBV incur direct and indirect costs due of the GBV. Such costs include medical expenses, transport costs to health facilities, police, courts or other informal justice provider. They also experience loss of income during days taken off work to recuperate or while in places of safety.<sup>57</sup> It is important to get a glimpse of how different countries are grappling with this aspect of the obligation to provide appropriate and effective remedies. Zambia for instance, has operationalised an Anti GBV Fund, established under the Anti GBV Act No 1 of 2011 to provide for compensation to survivors. Kenya established the Assistance Trust Fund to provide multi-level assistance to victims of trafficking in persons including rescue, screening, referrals,

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<sup>51</sup> Republic of Kenya (2024), Beijing+30 Country Report, p. 29.

<sup>52</sup> Republic of Botswana (2024), Thirtieth Anniversary of the Fourth World Conference on Women and Adoption of the Beijing Declaration and Platform for Action (1995): Botswana Country Report at p. 33

<sup>53</sup> <https://judiciaryzambia.com/wp-content/uploads/2024/05/CJ-Speech.pdf>

<sup>54</sup> Schedule 3 (Sections 9, 45(2), 46), Local Council Courts Act 2006.

<sup>55</sup> Republic of Kenya (2024), Beijing+30 Country Report, p. 29.

<sup>56</sup> Ibid, paragraph 32

<sup>57</sup> See for instance, UN Women (2022), Economic Costs Of Intimate Partner Violence Against Women In Ethiopia, [https://africa.unwomen.org/sites/default/files/2022-08/ETH\\_SummaryReport\\_v2\\_PRINT%20%28002%29.pdf](https://africa.unwomen.org/sites/default/files/2022-08/ETH_SummaryReport_v2_PRINT%20%28002%29.pdf)

legal assistance, repatriation, and economic empowerment. Kenya also has a GBV survivors' fund through a co-financing model in partnership with private sector, civil society and other stakeholders.<sup>58</sup>

South Africa launched the GBV Response Fund (GBVF) in February 2021. It's main approach is to support community-based organizations in identified, often under resourced GBV hotspots, and to undertake appropriate responses. In 2022 at least 110 CBOs and four intermediary organizations received R69 million capacity building and training support to smaller CBOs with the aim of bringing GBV service to more communities.<sup>59</sup> In 2023 Cabo Verde enacted the Statute of the Support Fund for Victims of GBV through which GBV victims can receive financial assistance for emergency medical care, basic needs, and temporary shelter. The fund is also expected to support the implementation of recovery programs, psychological and psychiatric support, education and prevention of GBV.<sup>60</sup>

Not many countries have legislation or policy frameworks for establishing, financing, and administering special GBV funds for victims. Yet the state has a duty to prevent and remedy violations of human rights, including GBV. Even where a fund exists, there are challenges including inadequate financing by governments, and the limited access by women despite the high levels of GBV. Establishing support and compensation funds falls within the state accountability. Greater advocacy in this area is necessary.

#### c) CSO collaboration

Civil society organisation play an important role in securing the right of access to justice for women. They are important actors in the provision of pro- bono legal assistance to women, including survivors of SGBV. Most of the safe temporary safe housing for SGBV victims are established and managed by CSOs. In Kenya for instance, CSOs operate 36 safe temporary shelters in 13 counties.<sup>61</sup> These complement the government-run shelters in five (5) counties.<sup>62</sup> Other areas include public legal education about women's rights, challenging societal gender discrimination, and advocating for legal reform. They offer psycho-social support to women, and engage with, including through training, different justice institutions and officers to promote gender-responsive justice systems. In the case of SGBV, and disputes involving intimate partners and family members, women victims tend to face tremendous pressure, including threats of further violence to the victim or members of the family, to not report the crime, to withdraw the complaint, or not to follow through on the judicial process for an appropriate remedy. Additionally SGBV is a traumatic

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<sup>58</sup> Republic of Kenya (2024), Beijing+30 Country Report, p. 69.

<sup>59</sup> South Africa Beijing+30 Country Report p.139.

<sup>60</sup> Cabo Verde (2024), Beijing+30 Country Report, p. 12

<sup>61</sup> Nairobi, Kisumu, Mombasa, Kwale, Samburu, Kajiado, Murang'a, Laikipia, Kiambu, Nyeri, Meru, Machakos, and Makueni; Kenya Beijing+30 Country Report, p.69

<sup>62</sup> West Pokot, Bungoma, Vihiga, Meru, Makueni and Migori

experience for the victim CSOs provide frontline social support network to victims, and encourage close family members to be supportive.

Unfortunately, CSOs operations are hampered by decreasing financing, and an increasing non-supportive policy and regulatory environment. These challenges if not addressed will continue to deny women access to the only support they have as they try to navigate complex formal legal and judicial processes.

## Challenges

Barriers to women's access to justice are complex, multidimension and intersecting. As was found by the International Development Law Organization (IDLO) the barriers occur throughout the different stages of the justice chain and include legal, social, economic, environmental, and cultural aspects.<sup>63</sup> This section of the paper is restricted to outlining the barriers/challenges identified by African countries as negatively impacting on their respective, and collective capacities, as duty bearers, to assure women the right of access to justice.

### Inadequate gender responsiveness in the justice system

Implicit gender bias is common at the different stages of the justice system, including at the point of reporting a crime, investigations, and during actual trial. Countries are responding to this challenge through various strategies. Training of the police, prosecution services, and judicial officers in human rights, and gender responsive justice is ranges from ad hoc initiatives to more institutionalised programmes. Kenya and Uganda for instance have judicial training institute (JTI) that offer regular training workshops to magistrates and judges with the aim of reducing gender bias in judicial decision-making. For such training to be effective, countries need to adopt a continuing learning approach and provide opportunities for justice-sector-wide interactions. The ICGLR Regional Training Facility (RTF) on SGBV is a good model. It provides highly interactive training programmes that bring together judicial officers, police, investigators, medical examiners, social workers involved in delivering justice in SGBV cases.<sup>64</sup>

Countries have adopted additional tools to strengthen the capacities of judicial officers, and reduce gender bias in the judiciary. The Uganda Judiciary, with the support of UN Women and Sweden, launched the Gender Bench Book, a resource whose aim in to support judicial officer to act with gender-sensitivity, protect women's and girls' human

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<sup>63</sup> IDLO, Accessing Justice: models, strategies, and best practices on women's empowerment (Executive Summary), Vale Vaticano, Italy at p.7

<sup>64</sup> <https://www.icglr-rtf.org/>

rights, and encourage women to seek justice.<sup>65</sup> Kenya, Uganda, Tanzania and South Africa, with support from the Commonwealth, launched National SGBV bench gender books Gender Bench Book (GBB) in 2023 providing a comprehensive resource for judges, lawyers, and human rights advocates by detailing applicable laws, case precedents, and victim-friendly court procedures.<sup>66</sup> Most judiciaries have adopted gender policies.

## Deep rooted social attitudes and practices

Despite the advances made in terms of legal reforms, women's visibility and leadership, as well as public gender awareness efforts, almost all African countries report that negative social values, attitudes and practices continue to negatively impact on women's access to justice.<sup>67</sup> Socio-cultural attitudes influence the perceptions and actions of key actors in the justice system, justice seeking behaviours of the women, and the willingness of communities to either support or ostracise women's effort to access justice.

Some countries express concern of unacceptable levels of backlash against women's rights. It manifests in the form of opposition to gender-based laws and policies, attacks and crawl-backs on reproductive and sexual rights, as well as increased violence and harassment against women in private and public life.<sup>68</sup> There are increased misogynistic narratives, spread through digital technology, faith-based platforms, and other platforms challenges to women's rights in different spheres of life. Narratives around diversity and inclusion threatened to roll back gains made in terms of regional and national level gender policies.

## Inadequate funding

Inadequate funding is a perennial challenge for most government and CSO initiatives. Particularly affected are gender equality and women's rights efforts. An AU report found that gender machineries receive less than 2% of national budgets, yet they shoulder the burden of public education on gender equality and leading the fight against GBV.<sup>69</sup> Information of the proportion of budgets in the different justice institutions that is devoted to women's access is not readily available and this needs to be reversed. A quick perusal of the gender and equity compliance assessment for the national budget framework paper (NBFP) for 2025/26 by the Uganda Equal Opportunities Commission finds no focus on women's access to justice.<sup>70</sup> The

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<sup>65</sup> Republic of Uganda (2016) The Gender Bench Book: Women's Access to Justice in Uganda, <https://ulii.org/akn/ug/doc/handbook/2016-09-01/the-gender-benchbook-womens-access-to-justice-in-uganda/eng@2016-09-01/source>

<sup>66</sup> Tanzania Beijing +30 Country Report, p.17

<sup>67</sup> Beijing +30 country reports.

<sup>68</sup> See for instance, Malawi's Beijing+30 report p.30.

<sup>69</sup> [https://au.int/sites/default/files/newsevents/workingdocuments/33442-wd-executive\\_summary\\_funding\\_status\\_of\\_gender\\_machineries\\_in\\_au\\_member-states.pdf](https://au.int/sites/default/files/newsevents/workingdocuments/33442-wd-executive_summary_funding_status_of_gender_machineries_in_au_member-states.pdf)

<sup>70</sup> [https://www.eoc.go.ug/wp-content/uploads/2025/01/NBFP-Assessment-Report-FY-2025-26\\_.pdf](https://www.eoc.go.ug/wp-content/uploads/2025/01/NBFP-Assessment-Report-FY-2025-26_.pdf)

Commission is a constitutional body mandated to monitor government commitment to the elimination of discrimination, including based on gender. There is urgent need for countries and partners to increase their investment in women's access to justice.

## Recommendations

### 1. Legal and Institutional Reforms

- **Eliminate discriminatory laws:** African Fast-track the repeal of statutory, customary, and religious laws that discriminate against women, particularly in family law, inheritance, land rights, and sexual and reproductive rights.
  - **Domesticate and enforce regional instruments:** Ratify, domesticate, and implement the Maputo Protocol, the Kampala Convention, and the new AU Convention on Ending Violence against Women and Girls (CEVAWG).
  - **Specialised courts and procedures:** Establish and adequately resource special courts or chambers for sexual and gender-based violence (SGBV) to fast-track cases, ensure survivor-centered proceedings, and reduce delays.
  - **Collaboration:** Strengthen collaboration on women's access to justice, utilising the strong intergovernmental platforms at the continental and regional levels, as well as strengthening the complementarity between African institutions and the United Nations system.
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### 2. Legal Aid and Representation

- **Scale up public legal aid:** Institutionalise and adequately resource state-funded legal aid schemes accessible in all regions, particularly rural and marginalized areas. Expand the schemes to support women's access to justice in civil and criminal matters.
  - **Strengthen paralegal systems:** Recognize and regulate community-based paralegals to extend legal assistance at the grassroots level, especially where lawyers are scarce.
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### 3. Survivor-Centred Support Services

- **Expand "one-stop centres":** Scale up integrated justice access centres (legal, medical, psychosocial, temporary shelter) in both urban and rural areas.
- **Establish GBV survivor funds:** Create sustainable, state-financed funds to cover costs of medical treatment, transport, lost income, and compensation.

- **Victim/witness protection:** Institutionalise protection and privacy safeguards (e.g., safe housing, confidentiality, anonymity in proceedings).
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#### 4. Justice System Transformation

- **Gender-sensitivity training:** Institutionalise continuous training for police, prosecutors, judges, and medical officers on women's rights and SGBV, using tools like the Gender Bench Book.
  - **Reduce implicit bias:** Enforce codes of conduct and strengthen monitoring and accountability systems to prevent discriminatory behaviour by justice actors.
  - **Use of technology:** Invest in gender-responsive e-courts and virtual hearings while addressing digital divides so rural and poor women are not further excluded.
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#### 5. Societal and Structural Change

- **Public awareness campaigns:** Fund sustained national education to counter misogynistic narratives, promote women's rights, and challenge harmful norms.
  - **Community engagement:** Involve traditional, religious, and community leaders in promoting gender equality in dispute resolution while ensuring compliance with constitutional rights.
  - **Inclusion of diversity:** Ensure policies consider intersecting vulnerabilities—disability, displacement, age, poverty, minority status.
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#### 6. Financing and Accountability

- **Dedicated budget lines:** Allocate at least 2–5% of justice sector budgets specifically to gender-responsive justice and women's access to justice.
- **Strengthen monitoring and accountability:** Mandate national human rights commissions and equal opportunities bodies to monitor state compliance on women's access to justice.
- **CSO partnerships:** Provide an enabling legal and financial environment for civil society to deliver legal aid, shelters, and community-based education.