

# Addressing Violence Against Women & Girls using Traditional justice mechanisms

Lessons from  
the Alur &  
Karamojong

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This documentation is part of a broader intervention by to illustrate cultural resources that contribute to ending Violence Against Women and Girls and promote Sexual Reproductive Health Rights and Access to Justice in Uganda, with particular focus on Karamoja, Alur, Acholi, Busoga, Tooro and Buganda.

# EXECUTIVE SUMMARY

Over the past three decades, efforts to prevent violence against women and girls (VAWG) have resulted in extensive national and international legal frameworks and policies that bring gender equality to the fore of the development discourse. These efforts have not, however, eradicated the violation of women and girls' rights which remains a serious challenge in Uganda. Studies undertaken to examine positive and negative aspects of culture that contribute to the continued oppression of women reveal that there are persistent negative cultural practices that promote the violation of women's rights but there are also positive aspects of culture that promote the empowerment of women that have not been sufficiently explored and utilised, albeit with challenges in the face of the influences of modernity, Western education and some religions (CCFU, 2021)

With support from EU-UN Spotlight Initiative to Eliminate Violence Against Women and Girls and the Embassy of Sweden, the Cross-Cultural Foundation of Uganda (CCFU) deepened its research quest to establish culture's contribution to women's empowerment and wellbeing. A study that examined the cultural factors that cause VAWG, promote sexual and reproductive health rights, and support women and girls' access to justice in Uganda was carried out in the 6 cultural communities of Alur, Acholi, Buganda, Busoga, Karamoja and Tooro. These studies revealed that for women and girls to fully exercise their rights, there should access to justice. CCFU therefore commissioned a study of traditional justice mechanisms in Karamoja and Alur as an initial step towards better appreciating the

context within which it promotes or inhibits access to justice for women and girls. This study covers such mechanisms in the two cultural communities of Alur (focusing on the *ajaa* [truth telling]) and Karamoja (focusing on the *etem* [household/family meetings]), *ekokwa* (community meetings) and *akiriket* (sacred space of worship).

The purpose of this study is to gain an understanding of specific cultural resources that can address VAWG and their access to justice. The main objectives are to describe and outline the extent to which the traditional justice mechanisms mitigate VAWG and promote access to justice for girls and women. The cultural practices, principles, and values associated with these mechanisms are also captured to illustrate how pervasive and embedded these mechanisms are in the cultural lives of these communities.

Given that the traditional justice mechanisms do not operate in isolation, linkages between these mechanisms and the formal justice system are also examined.

The findings of this study target the leadership of the respective cultural communities, judicial policy makers and programme implementers, as well as development partners working in these regions and in the field of social justice, with the aim of enhancing their understanding and appreciation of the role of traditional justice mechanisms in the promotion of access to justice for women.

This qualitative study applied a range of participatory research tools to establish rapport with the respondents given the

sensitivity of the subject, especially for women and girls affected by violence. Key respondents were cultural leaders (elders, chiefs, clan leaders) women, youth (girls and boys), government officials at district level, representatives from civil society organisations and individual resource persons.

The findings of this study reveal that the traditional justice mechanisms are still relevant and address cases of violence against women and girls. As noted by the Police officers in the Police Family Units, Community Development Officers, Probation Officers and development partners in the two regions, these traditional justice mechanisms are recognised as suitable for handling non-capital offenses such as land disputes, witchcraft, clan clashes, adultery, incest, widow and property inheritance, and physical assault while capital offenses are handled by the Police and courts of law.

In both regions, there are linkages between the traditional justice mechanisms and the formal justice systems. In Alur, the interlinkages between the formal justice system and traditional justice mechanisms are more prominent than in Karamoja where cases that have not been resolved by the *ekokwa* are referred to the Police or where victims report directly to the LC-I or Police rather than being referred through the traditional justice mechanisms. Without defined referral mechanisms between the formal and traditional justice systems, follow up and conclusive redress of injustice is a challenge.

Recommendations made included the need to better understand the cultural context and perceptions with reference to the value attached to women and girls and the concept of violence in order to establish

possible synergies and controversies in the campaign to prevent violence against women and girls. Strengthening traditional knowledge systems was underscored in respect to transmitting cultural values of truth and mutual respect which were noted as a foundation to positive outlook to protecting women and girls from violence. The role of cultural leaders is essential for transmitting valuable cultural knowledge and the effective delivery of justice, and therefore their conduct and competence to play this role was raised as a concern. Recommendations for capacity building, the development of a code of conduct for cultural leaders and elders and establishing byelaws to strengthen the *ka oi / ka dipu / dhu mac* (fireplace) as well as the *ekeno* and *aperit* were made by respondents.

While avenues for redress in the formal and traditional justice systems were identified, respondents noted the costs attached to accessing justice as a hindrance. In Alur in particular, respondents appealed to cultural leaders to review the “price” of justice that hinders women and girls’ access to justice. In both regions, respondents appealed to the leaders in formal justice system to avoid partial treatment of those who are less resourced.

It was noted that some cases slip through the legal safety net due to a lack of evidence and witnesses and respondents recommended the empowerment of women and girls to report cases of violence and strengthen social collective action by re-inventing existing cultural spaces. In addition, strengthening community agents and establishing whistle blowers in the community could bring to the fore cases that could go unattended.

The influence of Christianity, education and the exercise of women and children's rights were identified as factors that are diluting the effectiveness and appeal of traditional justice mechanisms, evidenced in changes in the performance of *ajaa* (using the Bible) and changing attitudes of the youth towards elders and the *etem/ekaal* and *ekokwa*. Cultural and religious leaders were urged to collaborate, dialogue and use existing spaces to jointly promote values of truth, respect and peaceful coexistence.

Building the capacity of elders in the *ekokwa* and *ajaa* to address issues of violence against women and girl, including the capacity of elderly women was recommended to ensure that these cases are effectively managed.

In conclusion, the traditional justice mechanisms of the *ajaa*, *etem/ekaal*, *ekokwa* and *akiriket* are relevant and provide alternative and holistic avenue for justice for women and girls in Alur and

Karamoja regions. Through mediation, cleansing and reconciliation, they provide the spiritual and social closure that women and girls who are violated need to restore their dignity and to be reintegrated in society without being stigmatized. There are however, factors internal and external to the traditional justice mechanisms that reduce their effectiveness in delivering fair and timely justice for women and girls, and if not addressed, the communities and especially women and girls will opt for other non-traditional mechanisms, rendering them less relevant. Interventions of capacity building and sensitization on the prevention of violence against women and girls should target men and boys and should be intensified to support a mindset shift on the value of women and girls. Finally, further studies need to be undertaken to explore the "thin lines" in perceptions and the causal relations between different cultural practices that perpetuate violence especially in Karamoja.

# CHAPTER ONE: INTRODUCTION

Extensive national and international legal frameworks and policies have been adopted to promote gender equality but, despite the presence of State agencies and of gender activists responsible for addressing VAWG and promoting human rights, the violation of women and girls' rights remains a serious challenge in Uganda. Such violence hinders the realisation and the achievement of sustainable development goals on gender equality and the empowerment of women and girls. Harmful social norms, attitudes, behaviours and practices – particularly discriminatory gender norms and inequitable power relations between women and men – lead to violence against women and girls and undermine sexual reproductive health rights. In Uganda, most communities maintain patriarchal social systems, and cultural values, beliefs and practices that often reinforce the privilege of men and their roles over those of women. Current studies have however revealed that there are communities in Uganda that have culturally defined rights that promote the empowerment of women, albeit with challenges in the face of the generic influences of modernity, Western education and some religions (CCFU 2020).

Over the past six years, CCFU has been engaged in implementing programmes to better understand the link between culture and gender, specifically focusing on the contribution of positive aspects of culture promoting the rights of women and girls in Uganda. In 2016, CCFU thus initiated a research study to establish the existence of culturally defined rights as prescribed by Acholi culture. These findings revealed

that culture provides for women's right to access land, food security, and to protection against violence, among others.

With support from the EU-UN Women Spotlight Initiative, CCFU scaled up its research interventions. Through the "Culture for Her" project which aims at harnessing the use of positive cultural resources to end Violence Against Women and Girls (VAWG), to promote Sexual and Reproductive Health and Rights (SRHR) and to afford women and girls access to justice in Uganda, CCFU launched a study in the 6 cultural communities of Alur, Acholi, Buganda, Busoga, Karamoja and Tooro.

The project, implemented in partnership with the Ministry of Gender Labour and Social Development (MGLSD), UN Women and the respective cultural institutions, sought to explore whether culture is the missing link in promoting women and girls' rights. The findings revealed that there are cultural resources that provide alternatives to addressing development challenges. Some of these cultural resources were common to all the 6 cultural communities while others were distinctive to specific ones. Some of the cultural practices and principles were still functional and popularly utilised while some had been overtaken by modernity, religion and education and had become irrelevant. The outcomes of all this research work formed the basis of capacity building as well as policy advocacy activities to contextualise and contest controversial issues associated with culture in the draft 2017 Marriage and Divorce Bill.



In the course of this research, it was noted that for women and girls to fully exercise their rights, the avenues through which they access justice needed to be further examined. While various traditional justice mechanisms exist in the different cultural communities, their functionality and effectiveness in specifically addressing VAWG was yet to be explored.

## Research exercise

### Purpose of the study

Following the research initiatives carried out by the Foundation, six traditional justice mechanisms were identified in the cultural communities of Karamoja, Alur, Tooro, Busoga Acholi and Buganda. This document presents the findings on traditional justice mechanisms namely the *ekokwa*, *etem* and *akiriket* in Karamoja, and *ajaa* (truth telling) in Alur.

### Objectives of the Study

The objectives of this study have been to:

- i) Document traditional justice mechanisms, namely the *ajaa* (Alur), the *ekokwa*, *etem* and *akiriket* (Karamoja).
- ii) Examine the extent to which the *ajaa*, and *ekokwa*, *etem* and *akiriket* address violence against women and girls and promote their access to justice.
- iii) Identify and describe cultural practices, principles, and values that are linked or reinforced the selected traditional justice mechanisms.
- iii) Assess the linkages between the traditional justice mechanisms and the formal justice system.

### Scope of the study

The study took place within the 2 cultural communities of Alur and Karamoja. For each cultural community, three locations were selected to illustrate experiences of women and girls in rural and urban communities although in some cases the distinction was marginal.

## Methodology

This study required the application of a range of participatory research tools to establish rapport given the sensitivity of the subject, especially for affected women and girls, and to engage the diverse categories of respondents effectively. Focus group discussions were used for groups of women, girls, boys and men; community dialogues were used for groups of mixed gender and generations; while semi-structured interviews were used for individual cultural resource persons. To facilitate a safe and confidential environment, in Focus Group Discussions (FGD) respondents were categorised according to their age groups, gender and social responsibilities. Key informant interviews were used for cultural leaders, government officials and civil society representatives. Case studies were used to generate information from individual victims of violence and the relevance of the traditional justice mechanisms in addressing their concerns. Communication was in the local language and the tools applied encouraged free dialogue and information exchange among respondents in the peri-urban and urban areas.

## Constraints and limitations

The main constraints in this study were time, research fatigue and insecurity in Karamoja. While the field work in each location provided an opportunity to generate the sufficient information about the selected traditional justice mechanisms, the geographical scope was limited to three locations in each region due to limited time. Given the sensitivity of subject of violence against women and girls, more time would have enabled the researchers build rapport with the women and girls in order to delve deeper into the dynamics of different gender relations and gain an in-depth understanding of their perspectives on violence and access to justice. The subject of violence against women and girls, especially in Karamoja has been considerably researched, but with cultural norms and practices being reported as being oppressive to women and girls. Insecurity in Karamoja at the time of the field research limited the research locations from which diverse perspectives could have been drawn.

## Validity of the study

This study builds on work previously carried out by CCFU and previous interactions and programmes in both regions. This enhanced the credibility of the study and trust of respondents to speak plainly. In spite of the constraints and limitations, the study involved a diversity of stakeholders in both regions and the continued inquiry into

the positive aspects of culture reaffirmed the objective to use culture to address cultural concerns. The local coordinators / translators identified by the Foundation provided valuable advice on appropriate and safe locations for the research and provided support and insights to manage expectations and engagement with the respondents.

## Ethical issues

The research was informed by ethical standards and principles that included informed consent, respect for anonymity and intellectual property.

## Structure of the report

This study is divided into four chapters. Under each chapter, information about the two cultural communities of the Alur and the Karamojong are outlined. Chapter One presents a general introduction, research objectives, methodology and literature review. Chapter Two presents the findings of the study in line with the study objectives. It defines the selected traditional justice mechanisms, and highlights their ability to address VAWG, indicating any changes and other cultural resources that reinforce them. Findings on the interlinkage between the formal at different levels and the traditional justice systems are also highlighted. In Chapter Four, conclusions and recommendations arising from both study areas are presented.

# CHAPTER TWO: LITERATURE REVIEW

This section outlines a brief literature review of legal provisions and traditional justice and the cultures of the Alur and the Karamoja as well as their respective demographics, culture, governance systems and traditional justice systems.

## Legal provisions and traditional justice

LAPSNET (2015) defines access to justice as ‘a process which enables people to claim and obtain justice remedies through formal or informal institutions of justice, and in conformity with human rights standards.’ The 2011 audit of the Justice, Law and Order Sector revealed that women have limited access to justice due to, among other factors, the inadequate capacity of the judiciary to deliver gender-sensitive justice to the general population, and more specifically to women (Judiciary, 2016).

The Constitution of Uganda (1995) provides for the right to a fair hearing, the right to a free and fair process and the right to access justice and in a timely manner. The National Legal Aid Policy 2012, which seeks to provide free legal services to the poor and vulnerable (many of whom are women and children) through mediation conciliation and arbitration, recognises the need for communities to access alternative dispute resolution instead of the courts, which may include traditional, faith-based and other dispute resolution mechanisms. While the Constitution of Uganda (Art.246) states that “*a traditional leader or cultural leader shall not have or exercise any administrative, legislative or executive powers of Government or local government*” (Art.246-3f), the Institution of Traditional or Cultural Act, 2011 (Part

VI:16(1)), stipulates that “*any conflict or dispute within the traditional or cultural institution or within the community shall be handled by a council of elders or clan leaders or a representative body chosen and approved by the community, in accordance with the traditions, customs and norms of dispute or conflict resolution pertaining to that community*”. The Institution of Traditional or Cultural Leaders Act, 2011 (Part VI:16(2)) further stipulates that “*where the community fails to resolve the conflict or dispute the matter shall be referred to the court.*” While these legal instruments recognise the need for alternative dispute resolution mechanisms, the role of the cultural leaders in resolving disputes and referral to the court, there is no specific policy or mechanism that guides the relationship or interlinkage between the formal and traditional justice systems. According to CCFU (2020), cultural leaders have nevertheless informally supported communities to resolve disputes, especially within families and clans.

Various authors recognise the relevance of customary justice practices. Quinn (2014) states that in Uganda “*customary practices remain a valued mechanism through which justice is sought in many parts of the country*’. Kane, Oloka-Onyango, and Tejan-Cole (2005), concurred noting that customary law has many valuable features: they are flexible, speedy, accessible, inexpensive, they evolve as communities evolve and provide communities with a sense of ownership. The language used in customary tribunals tends to be the language of the parties involved. Procedures tend to be simple and clear. Mediation and restorative justice help

rebuild community relations, as opposed to the formal judiciary which is largely adversarial. Kaye *et al.* (2005) state that cultural practices such as the “utilisation of family and kinship networks” could help reduce gendered violence, while Miller & Haverkort (2006), underscore spirituality as an essential bedrock of any African culture and knowledge system and this makes it remarkably different from many other cultural contexts. Jjuuko (2018) observes that a starting point to engage customary law courts is to appreciate their philosophies, world views, knowledge systems and values that underpin them and thus determine areas of possible collaboration and interaction.

While traditional justice systems are relevant and contribute to access to justice for communities that are unable or unwilling to utilise the formal justice systems, a number of weaknesses were observed. Carmona and Donald (2015) note that while restorative justice is important, caution is however warranted. Quite often, the effectiveness of the customary systems is significantly weakened by the lack of mediation skills and knowledge regarding the conduct of adversarial proceedings. Just as in the formal systems, they may be susceptible to corruption and abuse of power by excluding women, minorities and disadvantaged groups. While Khadiagala and others find the justice system in Uganda prejudicial to the poor because it is highly monetised (Khadiagala 2001; LAPSNET 2015). Anying (2019) points out other weaknesses in the cultural institutions’ leadership that include credibility and lack of legal recognition of their role in dispensing justice, since their decisions are still subject to a Magistrates ruling in a formal court.

## The people and their traditional justice systems

### 1. The Alur cultural community

Alur culture has inherent practices for dispensing justice to women and girls (Southall, 1970). Chiefs play an important role in the justice system (jalu.com 2003) with oath-taking as an important part of the judicial process. Traditionally, if one lies under the oath, the consequence is dire, not only to the individual concerned, but also to that individual’s family and lineage. Cursing is still practiced and feared, as an LC5 vice-chairman, Okwir Amula, noted in 2003: “In Alur culture people believe that if cursed by traditional leaders, you suffer the consequences (Southall, 1970)”. (CCFU, 2020)

Honesty and transparency are key values of the Alur philosophy of *kura matira* which is the total sum of the values of moral and behavioural uprightness ascribed to by the Alur people. *Kura matira* is an ancient philosophy that is grounded in the principles of humanness, community, caring or stewardship and good conduct. This general worldview influences the values, principles and delivery of justice amongst the Alur. In Ker Kwonga Panyimur Chiefdom, Chief Charles Ombidi for instance emphasises truth-telling and accountability as an indispensable part of their leadership and justice dispensation processes. (CCFU, 2020).

### 2. The Karamoja cultural community

The Karamojong are organised in villages (collection of homesteads called manyattas) that have a common court area (*ekitoe/etem*) through which all the

villagers subscribe to social cohesion and to a common identity of their area. The justice system is a progressive process commencing with meetings right from the family level at *ekenol aperit* (fire places for grooming girls and boys, respectively); clan and community level (*ekokwa*) and the supreme elders' council (*akiriket*). In principle, this approach is highly consultative, evidence based, participatory, gradual and aimed at creating reconciliation and rehabilitation among the affected parties (Apaloryonokodos, Apakaetokos, and Adingili 2019). In the Akiriket, the elders have the powers to curse the perpetrator, should the perpetrator fail to apologise (Novelli: 1999) and if the elder who spelt the curse dies before revoking it, his clans-mates can revoke it (Pellerino: 1973) (CCFU 2020)

Although women in Karamoja do not participate in the Akiriket, a women-only space, the *akiwor* provides women with status, solidarity, the right to perform certain traditional ceremonies, and where some cases of violence may be addressed. Thus, women have power in their own way (Mkutu, 2008). A study conducted by Care International however reports that women and girls are still vulnerable to poverty and deprivation and they face the highest risk of discrimination and social exclusion due to cultural biases and attitudes, as well as cattle rustling which disproportionately affects women and girls.

The Karamojong do not have a centralised authority and decision-making structure, but are traditionally led by councils of elders which are predominantly male. Traditional justice institutions such as

the *akiriket*, or sacred assembly, consist of elders. The elders' orders are then carried out by the *karachuna*, or male youth (Mutengesa and Hendrickson, 2008:55). The Council of Elders consists of 3 hereditary generational age-sets in the leadership hierarchy: the mountain (*Nyimoru*); the gazelles (*Ngigete*); and the rats (*Ngidoi*). While Karamojong culture has proved extraordinarily resilient and resistant to external change, today a social break-down is experienced, where the elders no longer wield the power they used to have and where the traditional communal culture has been severely degraded (Branch, 2014). Guns have also changed the dynamics within families, according to Oxfam's 2002 report, as sons with weapons are less likely to obey their parents, who in the past have provided a controlling influence (Oxfam, 2001:32). The youth have little opportunity to learn about their history or culture, even when there are efforts to revive the traditional justice mechanisms (Branch, 2014).



*Young girls after ekeno session with their grandmother in Rupa, Moroto*

# CHAPTER THREE: FINDINGS

This chapter describes the traditional justice mechanisms associated with the Alur and Karamoja cultures. It illustrates how these mechanisms are understood and manifested in the lives of the respective communities, with particular focus on addressing cases of VAWG. The first section focuses on the *ajaa* (truth telling) which is experienced as a value, a principle and a practice amongst the Alur community in Uganda, while the second section focuses on the *etem*, *ekokwa* and *akiriket* practised among the Karamojong.

During the research, the purpose and periodicity of the *akiriket* (held only a few times in a year) was found to be inappropriate to address cases of VAWG and is therefore not discussed in detail in the following chapters of this study.

## Ajaa of the Alur community in Uganda



*An elder embracing the Ajaa tree during a land dispute resolution in Panyimur, Pakwach district*

### **Ajaa as a value, a principle and a traditional justice practice**

*Ajaa* (truth telling) is the first commandment of the Alur forefathers. It was given by Rubanga Nyakacwiya (Giver and sustainer of life)<sup>1</sup>. The *ajaa* is a personal oath premised on the principle of truth which is pronounced in private or in public and binds one's ancestors as part of the oath. The *ajaa* is understood in three ways: first, as a value of truth which manifests itself in an oath accompanied by a curse upon the person who utters falsehood. The value of truth is often used to inform relations and decisions made at a personal and interpersonal level. Secondly, the *ajaa* is used as a principle of truth applied by complainants, witnesses participating in and committee members presiding over a dispute resolution process. The *ajaa* informs the conduct of all people involved in the community hearings. Third, the *ajaa* may be understood as a truth telling practice or court that involves the organisation of a series of hearings, public pronouncements of oaths and the consequences of truth telling or lying under oath. The *ajaa* may be concluded with a ritual of forgiveness and reconciliation, or await the judgement of the ancestral spirits that were evoked when taking the oaths. If one lied under oath, it was and still is believed that the consequence is death.

As a value, the *ajaa* is transmitted from one generation to the next through cultural education. In the past, the youth gathered at the *ka oi / ka dipu* (fireplace) and were taught to tell the truth and to respect people. A group of young men in Parombo

<sup>1</sup> Key Informant Interview (KII) with Rwoth Opoka Joseph Olei IV the chief of Palei chiefdom, Zombo Town Council, held in Nebbi on 2<sup>nd</sup> April 2022

chiefdom<sup>2</sup> for instance said that they learnt about the *ajaa* from their paternal uncles, during the sessions at the *ka oi*, and from their elder brothers and fathers. In Ocego chiefdom<sup>3</sup>, the youth learnt about culture at the *dhu mac* (fire place) – when they saw an elder putting out a goat skin, pots and a calabash they knew it was time for cultural education. Children are taught to tell the truth and can be heard making oaths amongst themselves saying: “If I have lied, let lightning strike me!” or “if I have lied, let a scorpion sting me or a snake bite me!” If one saw lightning, a scorpion or a snake and is guilty, he or she would quickly spit on his or her chest, and admit that: “I lied, but please let it not happen to me!” to avoid the curse coming to pass. Children are also taught to seek forgiveness for wrongdoing.

As a principle, the elders in Parombo<sup>4</sup> said, “A good person or citizen is one who follows the principles of the *ajaa*. If you do good, you will enjoy the benefits of the *ajaa*, but if you do not follow the *ajaa*, you will experience misfortunes that will affect the entire family.” The positive outcomes of following the principle of *ajaa* (truth) which bring pride and happiness are referred to as *lubu ajaa*. Elderly women in Ocego stated that, “While the *ajaa* is not accepted by all [due to differences in religious affiliation], it cannot become extinct because it is a personal oath of truth that one lives by.”

The *ajaa* as a practice or mechanism, involves a series of public hearings of a complainant, a defendant and witnesses before a traditional justice committee of elders, often chaired by a chief or

clan head. At community level, the *ajaa* committee is predominantly male, however at family and interpersonal levels, depending on the nature of the issue, the *ajaa* (truth telling oath and public hearing) could be done in the presence of a group of women or family members. A wide range of cases may be brought before the elders, including land disputes, witchcraft, and family- and marriage-related conflicts. Below is an account of the *ajaa* process/hearing which applies to all public hearings and is informed by the value and principle of truth, including cases of violence against women and girls.

Once a report or complaint is made to the elders or chief, a community court is organised and the concerned parties are invited to the hearing. According to Rwoth Opoka Joseph Olei IV<sup>5</sup>, the elder who conducts the *ajaa* hearing must be an honest person. An 8-10-member committee of elders preside over the hearing. Once the complainant and defendant consent to the *ajaa*, they sit barefoot in the centre of the gathering with their legs outstretched (not crossed) because it is believed that they may hide charms in crossed legs to influence and confuse the elders on the committee. The elders introduce the issue, make reference to previous cases and the consequences of lying during the truth telling oath. Each one will take an oath, preceded by reciting his/her ancestral lineage (up to 5 generations) holding the truth telling tree. A truth telling tree, selected by the elders is usually a mature tree under which people normally gather. It is believed that spirits and departed ancestors reside in trees and therefore by holding the tree, one is communicating with the spirits of his or her ancestry. For this reason, people will not take this oath lightly. It is usually at the point of holding the tree that

<sup>2</sup> Focus Group Discussion (FGD) with 15 young men in Parombo chiefdom held on 31<sup>st</sup> March 2022

<sup>3</sup> Focus Group Discussion (FGD) with elderly women in Thatha village, Ocego chiefdom, Nebbi municipality on 1<sup>st</sup> April 2022

<sup>4</sup> Focus Group Discussion (FGD) with 12 elders (only one woman) held at the Chiefdom of Parombo, on 31<sup>st</sup> March 2022

<sup>5</sup> KII with Rwoth Opoka Joseph Olei IV the chief of Palei chiefdom, Zombo Town Council, held in Nebbi on 2<sup>nd</sup> April 2022

some individuals withdraw from taking the oath and admit their guilt. The statements of each party are recorded and read out aloud for confirmation and signed by the conflicting parties who then name their witnesses for subsequent hearings<sup>6</sup>. The *ajaa* may be concluded with a ritual of forgiveness and reconciliation or left to the judgement of the ancestral spirits.

In different parts of the Alur region, different instruments and process are used for the truth telling process. In Panyimur and Parombo chiefdoms, the oath is taken holding a designated tree. The selection of a tree is because it is a neutral witness. In Panyimur, besides the truth telling (tamarind) tree in the chief's compound, a four-bladed spear (tong) and the walking sticks of past chiefs are held to make an oath. In Nebbi (Ocego chiefdom<sup>7</sup>), the oath is taken while holding an elder's stick, rather than the tree. Here the *ajaa* involves the use of a black pot from the Madi people, which is placed in the centre of a gathering of men, women, elders and children. The conflicting parties take the oath and point the tips of their spears into the black pot filled with water, signifying that the conflict has been resolved and that they can live in peace. As a reconciliation ritual, the elders spit in the pot of water, and using the *olwetho* (branch from an indigenous tree), sprinkle this water as a blessing on the conflicting parties, sending them back in peace.

The traditional committees are not paid a fee or remuneration for organising the *ajaa*, however a provision is made to feed the traditional committee. One or both conflicting parties bear the cost of food items (including a goat or chicken) and money for transport for the committee members. The individual who loses the

case refunds the winner. In cases that involve a minor, the required items are provided by the parents or relatives.

## The *Etem/Ekaal*, *Ekokwo* and *Akiriket* of the Karamojong communities in Uganda

### *Etem /Ekaal*

The *etem*, which is also referred to as *ekaal*, is a family space for nurturing good conduct, correcting bad behaviour and resolving family disputes. Maxwell Ojawa<sup>8</sup> noted that the *etem/ekaal* is a small gathering within a manyatta (homestead) or several manyattas which may occur on a daily basis to deal with conflicts associated with alcoholism, polygamy, land wrangles, elopement, and adultery. It mainly consists of the immediate and extended families and can involve 10 or more relatives. The head of the manyatta convenes the *etem/ekaal*, and family members gather to listen and contribute to resolving the problem. In some cases, people beyond the *eree* (boundaries of the manyatta) of the home will be involved, depending on the nature of the case. According to elderly women in Lotome, the mothers and fathers play important roles in the *etem/ekaal*, in educating, cautioning and mentoring the youth and dictating decisions.<sup>9</sup> Many youths consider this grooming as very useful to avoid problems in the future.

Sometimes an issue maybe raised at the *ekeno* or *aperit* (fireplaces for cultural education for girls and boys, respectively) and if it is not handled conclusively at the individual family level, the issue is forwarded to the *etem/ekaal*. According to

<sup>6</sup> Observation during an *ajaa* meeting to resolve a land dispute in Panyimur chiefdom

<sup>7</sup> FGD with elderly women in Thatha village, Ocego chiefdom, Nebbi municipality held on 1<sup>st</sup> April 2022

<sup>8</sup> KII with Maxwell Ojawa (Education sector) Moroto on 28<sup>th</sup> April 2022

<sup>9</sup> KII with the Chairperson, Karamoja Elders Association (KEA), Moroto interviewed on 29<sup>th</sup> April 2022



the youth<sup>10</sup> the *etem/ekaal* is a good place to settle family disputes between mother and father, and parents and children. It provides a space for the youth to speak out, as one young girl asserted, “You cannot die in silence if there is something serious torturing you like physical assault or rape. You mention it in the *ekaal*”

At family level, issues of inheritance and distribution of property are often a cause of violence against widows. When discussions within the family fail, the issues are presented to the *etem/ekaal*. Most respondents affirmed that the *etem/ekaal* is useful because the source of a problem and the culprits involved are easily identified. This mechanism is designed to address and prevent issues from escalating beyond control. If individuals are not satisfied with the decisions taken at the *etem/ekaal*, the issue is then forwarded to the *ekokwa*.

### The Ekokwa



*Elderly men during ekokwa in Tapac sub-county, Moroto district*

The *ekokwa* is a community meeting space that handles diverse issues, and is not specifically focused on women’s concerns. Most of the issues are forwarded

from the *etem/ekaal* and include theft, conflicts over pasture, water for cattle, matters of physical violence, adultery, polygamy, and rape among others. These meetings are convened by elders and involve men, women and the youth. The public hearing is inclusive as it permits even passers-by to make contributions to discussions. In the *ekokwa*, conflicting parties are brought together and have an opportunity to hear all sides of a dispute<sup>11</sup>. The decisions taken in the *ekokwa* are informed by Karamojong cultural values and principles and enforced by the *ameto*, an enforcement mechanism, explained below. According to the elderly male respondents, “during the *ekokwa*, people combine brains and come up with positive outcomes for all. People are encouraged not to sit back and suffer when they have problem. Discussions of an issue, judgement, public shaming, punishment and compensation are all conducted in public.

While attendance in the *ekokwa* is open to all members of the community, their participation in the deliberations is restricted. For instance, women tend to sit aside from the meeting and may join the meeting, but often only speak if they have a case to answer. Women do not play any leadership roles in the *ekokwa*. According to the young mothers in Tapach and the young men in Lotome, while the youth may attend the *ekokwa*, they are also expected to sit quietly, listen and observe, unless one has committed an offense and is asked to tell their side of the story. The youth noted that when there are family conflicts among children or parents, and they fail to resolve them at *etem/ekaal* level, the issues are presented to the *ekokwa* where the process is clear. There is no payment besides the requirement

<sup>10</sup> FGD with young girls with children in Tapac on 27<sup>th</sup> April 2022.

<sup>11</sup> Key information interview with Helen Akol at Matang on 28<sup>th</sup> April 2022

to prepare the local beer Respondents noted that every community organises their respective ekokwa and this makes it accessible to all.

### Akiriket



*Elderly men discussing the value of akiriket in Lotome sub county in Moroto*

According to elderly male respondents in Tapac, Lotome, Matang, the *akiriket* is a sacred meeting space for male elders and spiritual leaders who sit in a cow horn circle<sup>12</sup> (a sitting arrangement according to seniority and initiation). The *akiriket* is a strictly male-dominated space for initiated and uninitiated men, and here the men present the needs of women and their families. At the *akiriket*, rituals for worship, cleansing, thanksgiving, appeasing the spirits and dealing with suspected witches among others, are performed. The rituals performed usually address issues that affect the entire clan such as drought, famine or pandemics. In some instances, however, difficult cases forwarded from the ekokwa such as overdue penalties, penalties for adultery, individual concerns of lack of success in life<sup>13</sup>, unruly and disrespectful children are also handled. Individuals seeking counselling can consult the spirits about family or individual misfortunes such as barrenness, sterility

<sup>12</sup> KII with Chairperson, Karamoja Elders Association (KEA) held in Moroto on 29<sup>th</sup> April 2022.

<sup>13</sup> FGD with male elders in Tapach on 27<sup>th</sup> April 2022

and consistent poverty in the family. The rituals performed at the *akiriket* often involve slaughtering a bull alongside rituals of blessing or cursing as the case may be<sup>14</sup>. Usually, there is no judgement or punishment meted out at the *akiriket*.

Although the *akiriket* exists for the good of the entire community, it is not open to all, as only elderly men and those in the inner circle of the meetings participate actively in this sacred space. According to the young male respondents, after initiation they are permitted to attend the *akiriket*, however they are expected to listen and observe, but not to speak. Besides the wives of initiated men who are called upon to cook, serve and eat some of the sacrificial meat, women do not play any role in the *akiriket*. According to elderly women respondents in Moroto, women suggest issues that they would like their husbands to present to the *akiriket*. The *akiriket* is carried out only a few times in a year and therefore is not suitable for urgent cases or daily household conflicts that require timely access to justice, which is the case with most acts of violence against women and girls.

### Other cultural principles and values associated with the traditional justice systems

Most cultural practices are not enacted in isolation but are supported by other cultural practices, principles and values. The *ajaa* and the *etem/ekaa* and ekokwa are supported by cultural education, cleansing and reconciliation, spiritual and ancestral linkages and enforcing discipline (mainly in Karamoja), which are presented below.

<sup>14</sup> KII with Maxwell Ojauu (Education sector) held in Moroto on 28<sup>th</sup> April 2022.

## 1. Cultural education amongst the youth



*A young woman during mentorship before marriage*

In Alur, the *ajaa* (truth telling) as a value is instilled in the youth at an early age. The practice of cultural education and the transmission of moral values are usually done around the fireplace called *Ka oi*, *Ka dipu* or *Lieu*, which introduces and orients the youth to appreciate the need to tell the truth and ask for forgiveness. Similarly, in Karamoja cultural education and orientation also takes place at an early age. The transmission of cultural knowledge and skills is however relayed separately to girls (*ekeno*) and to boys (*aperit*). The *ekeno* is a space for cultural education for girls which often takes place around the fireplace after the evening meal, while cooking and milking the cows at family level. Girls are taught how to wrestle, protect themselves from men who attempt to rape them (in courtship and by strangers) by locking their legs. The *aperit* is a space where young boys and men are similarly nurtured. They are taught about cattle keeping, and about family relations, courtship, dowry and marriage. At the *aperit*, a boy informs his family of his intentions to engage a girl and the parents prepare to support him in relating with the girl's family. His intentions and any related disputes are presented to the *etem lekaal*.

## 2. Cleansing and reconciliation

In cases of pregnancy before marriage, infidelity, adultery, incest and defilement as well as adultery – breaking up a home (*Turo ot*) by a brother-in-law, depending on the remorsefulness of offenders, rituals for forgiveness, cleansing and blessing are performed. Amongst the Alur, forgiveness and cleansing are thus important aspects of the *ajaa*. Elders in Parombo<sup>15</sup> noted that a guilty person can ask for forgiveness and request for the *ajaa* to be cancelled (*tharo ajaa*), after paying a fine. Forgiveness “*camo aroo*” is usually accompanied by an offering of a sacrificial animal, such as 1 goat or 1 cow and 4 goats that are equivalent to a cow, (depending on the offense). These animals are slaughtered and eaten by the people gathered for the hearing of the offense. The water used for washing hands is used to cleanse the individual using the *olwetho* (branch /leaves of a tree used to sprinkle water as a blessing). The offender is then counselled by the elders. The guilty person may be cursed and it is believed that the consequences will be felt by his or her children. If, however, the children are aware of the curse, they can ask for forgiveness “*kwayo kisa*” on behalf of their parents. These rituals are also performed to establish the paternity of a pregnancy, and avert violence and shame once the father of the child accepts the pregnancy. The *okiro* or *kiir* (sacrificial goat) is slaughtered and a mixture of the goat's blood and faecal matter are sprinkled around the granaries and the homestead using *olwetho* to prevent the recurrence of such early pregnancies, and ward off misfortunes that may befall the family. This ritual then marks the beginning of the traditional marriage of the couple. *Okiro* also applies to a woman who has committed adultery.

<sup>15</sup> FGD with 12 elders (only one woman) held at the Chiefdom of Parombo, on 31<sup>st</sup> March 2022

### 3. Spiritual and ancestral linkages

Linking truth telling and the ultimate space for justice to spirituality and ancestry is common for both cultural communities of the Alur and Karamojong. Cursing among the Karamojong and Alur are often the last resort to addressing difficult perpetrators of crimes. Amongst the Alur communities, the *abila* is at the heart of the Alur's spirituality and provides a space through which the presence of the ancestors is recognised and celebrated. The *abila* is a male spirit that resides in a shrine which represents a connection with a family or community's ancestry. During the truth telling oath, invoking the spirits of one's ancestors is connected through the *abila*. A shrine is constructed for the *abila* by a well-respected high priest of the clan, assisted by elders and brothers of the same rank and kinship as well as by elderly women. "Dark spirits" that may also be evoked when one is taking a self-oath, such as *Jok Anyodu / Jok Odude* and *Jok Pincol* also referred to as *Binga pa Rubanga* (the dark moment for the creator). Annually a spiritual event is held around the *Abila*, including the *jok matar* (the female spirit – wife to *abila*) and *kidi mir agek ayo* (3 spiritual stones at a junction) during which girls and boys are blessed to have a good marriage and fortune in all their endeavours. During these events spiritual food is prepared and people and the land is blessed. Once the *abila* is established, all members of that family have the power to evoke the spirits as they make an oath (*ajaa*). Today, however the shrines are disappearing in homes although they provide the spiritual

foundation of the *ajaa* and the protection of the family.

In Karamoja, the *akiriket* is a spiritual space where elderly men (initiated and non-initiated) gather for worship, cleansing, appeasing the spirits and thanksgiving. The community go to the shrines at the *akiriket* to seek redress for difficult communal and individual cases that have not been resolved in the *ekokwa*. However, unlike the *abila* which is open to all members of the family, the *akiriket* is exclusively for men, and therefore less likely to directly address violation against women and girls - unless this is perceived as a communal concern.

### 4. Enforcement of discipline

The *ameto* is a traditional mechanism designed to instil discipline and ensure the instructions from the *ekokwa* or the *akiriket* are respected and enforced. It consists of young men who round up culprits and administer punishment as instructed by the elders at the *ekokwa* or the *akiriket*. According to respondents, the *ameto* is an effective mechanism for ensuring discipline in the community, including caning, where necessary. If all failed, and the individual continues the offensive acts and refuses to be disciplined, he is cursed at the *akiriket*. These days, however, *ameto* is not so commonly practised because offenders run to the Police claiming physical assault, and this has caused fear in enforcing this cultural practice.

## Ability of traditional justice mechanisms to address violence against women and girls

In Alur and Karamoja, women and girls are faced with several forms of violence which are addressed using the traditional justice mechanisms of the *ajaa* and the *ekokwa* respectively. In Alur, the *ajaa* handles cases of witchcraft, disputes over widow and property inheritance, polygamy and adultery, uncertain paternity; physical assault and neglect. While in Karamoja, the *ekokwa* handles cases of courtship rape<sup>16</sup>, early marriage, incest, widow and property inheritance, polygamy and adultery and physical assault. Witchcraft and uncertain paternity were not raised as issues of concern in Karamoja, while courtship rape and child marriage were not highlighted as challenges in Alur communities. In both regions, capital offenses such as rape, defilement, child marriage and incest are known to be capital offenses that are ideally handled by the State and often referred to the Police.

### 1. Witchcraft – false accusation and banishment

In Karamoja, most respondents only referred to witchcraft as something to look out for and avoid when reviewing the background of a future husband or wife. Instead, poisoning of children by stepmothers, rather than witchcraft, was highlighted as an issue causing tension and violence, especially in polygamous marriages. In Alur region, however,

<sup>16</sup> Courtship rape is a traditional engagement practice among the Karamojong which involves abduction of a girl, wrestling between the girl and a boy/man, ending in forceful intercourse. The girl is usually taken to the boy/man's house and only returns to her home 2-3 days later. The men in her family will confiscate cows from the boy/man's kraal as a fine and dowry. This is the beginning of a traditional marriage process.

witchcraft emerged as key source of violence against women, especially widows. The traditional justice mechanism often dealt such cases due to its competence in handling the supernatural. The *ajaa* (value of truth) is used by an individual to swear innocence, while the *ajaa* (practice and principle) is used in a public hearing to take a final decision on the case. In Ocego<sup>17</sup>, if a woman is accused of witchcraft and denies this, she would be subjected to the *ajaa* and *kakukwir* which is a ritual performed to determine if a woman is a witch, authorised only by the chief, in the presence of a witchdoctor (*ajoga*) and the community. The seeds of kwir (a tree) and a goat and herbs are used in this ritual which includes sprinkle herbs over hot coal, following the saying “*Agwata matek mac kaku re*” - a hard calabash can only be broken by fire. According to Rwoth Opoka Olei<sup>18</sup>, if the seeds burst or crackle, the woman is innocent but if they burn silently, she is guilty and may be banished from the community and if absolved, cleansing and reconciliation ritual restore her harmonious stay in the community.

Sometimes women accused of witchcraft take personal oaths that exonerate them. In Nebbi, the Coordinator of the Women's Protection Centre<sup>19</sup> supported by ActionAid Uganda<sup>20</sup> asserted that “witchcraft is very common amongst the Alur people who consult traditional healers and chiefs for various reasons. It is common for elderly women and widows to be accused of practicing witchcraft. Even today, if confirmed a witch, one is banished 300kms away from the community and warned not

<sup>17</sup> FGD with elderly women in Thatha village, Ocego chiefdom, Nebbi municipality held on 1<sup>st</sup> April 2022

<sup>18</sup> KII with Rwoth Opoka Joseph Olei IV the chief of Palei chiefdom, Zombo Town Council, held in Nebbi on 2<sup>nd</sup> April 2022

<sup>19</sup> KII Grace Maditkwo, Coordinator of the Nebbi Women's GBV shelter supported by ActionAid Uganda (Women Won't Wait campaign), held on 1<sup>st</sup> April 2022 in Nebbi

<sup>20</sup> ActionAid Uganda supports a Women Protection Centre in Nebbi under the Women Won't Wait (WWW) campaign

to return or be killed.” A couple of women respondents attested to being accused of practicing witchcraft in both cases they women chose to use the *ajaa* to swear their innocence in public, sacrificing the lives of her children if they lied and, in both cases, they were proved innocent and reconciled with the community because of the *ajaa*.

Sometimes the accusations of witchcraft are motivated by a desire by in-laws to acquire property or marry the widow. According to the Coordinator of the Women’s Protection Centre, women are often accused of being witches but usually it is with a hidden intention of taking their land or disorganising progressive families. The accusers are also subjected to the *ajaa* as narrated by Rwoth Opar Edward Jalcebo<sup>21</sup> who explained how four men in Raguka village who accused a widow of being a witch failed to take the oath to confirm this accusation, and it was found that indeed she was innocent and they had planned to take her land. Respondents cited other widows accused of practising witchcraft because they refused to be inherited by their in-laws who wanted to acquire their land. These two victims were referred to ActionAid Uganda (Nebbi), for resolution and sensitization on the legal position of women’s rights, widow inheritance, violence against women and girls and women’s access to land.

## 2. Polygamy, adultery and violence

In both regions, violence against women and girls is triggered by multiple sexual relations. Among the Alur, adultery is a common cause of violence in homes and the *ajaa* is applied to restore relationships. From the onset of a marriage, couples are encouraged to voluntarily tell each

other, in confidence, the truth about past relationships to avert conflicts that can escalate into violence. According to Atimango Joan<sup>22</sup>, “if one has been promiscuous before marriage, using the *ajaa*, s/he must declare previous relationships and whether children were born from these relationships. If s/he lies, their union may result in still births or their children may die.”

### Case study 1 – Polygamy and violence – Zombo - Alur

Diana (not her real name) is 35 years old and has been a 2<sup>nd</sup> wife since 2008. She lives in Zombo and shares her experience.

“I experienced many wrangles with my co-wife and at first these were settled by our in-laws. I am saved and attend the Full Gospel Church. I took my husband to church to try and get help for his violent acts but all in vain. In 2017, I could not tolerate the physical violence and abuse and went back to my home. I reported to the Probation Office and we were both called and advised against violence. I had left my three children with him but later when I learnt that my co-wife was mistreating them so I returned to his home. My husband then caused a meeting of uncles, aunties, brothers and sisters to harmonise our relationship once and for all. The *ajaa* hearing was held and we both told our truth. My husband brought a goat and swore never to beat me again as we held each other’s hands. We reconciled and went home together. He then bought a piece of land which separated me from his first wife. Unfortunately, he died in 2021, but we were peaceful. The *ajaa* was very useful because after we took the oath there was no more beating from 2017 until his death.”

<sup>21</sup> KII with Rwoth Opar Edward Jalcebo, Angal-Thibei Chiefdom on 31<sup>st</sup> March 2022. He is 83 years old, a clan leader, retired teacher and the former Deputy Prime Minister of Alur Kingdom.

<sup>22</sup> Group discussion held with elderly men, women, girls in Panyimur Chief’s palace, 30<sup>th</sup> March 2022

In Karamoja, elderly male respondents in Lotome, and young men and young mothers in Tapac, identified polygamy as a major source of violence against women and girls which they attributed to the inability of a man to manage and provide for all his wives and children equally. Wife neglect is common in polygamous marriages where a man favours the young and new wife over the older ones. Violence is also caused by unfair treatment of the wives and children and if a wife protests, she is accused of being quarrelsome and the husband neglects her and her child, and denies her conjugal rights. Young mothers married into polygamous unions in Karamoja, stated that they often have wrangles with their co-wives. These are usually resolved at the *etem / ekaal* within their families and in-laws, and if these cases are successfully resolved, the issues are not forwarded to the *ekokwa*.

According to some respondents, wife battering and poisoning is common in polygamous marriages and disputes of this nature are often brought before the *ekokwa*. The elderly women in Tapac noted that in polygamous marriages, there are wrangles between co-wives and the husband, although some try to coexist peacefully. A co-wife may “throw fire and curse her co-wife saying that she will eat faeces” [meaning that someone will die] and the co-wife’s child will get sick or die. In such circumstances, the insulted wife complains to the husband and the case is taken to the *ekokwa*, however in the absence of proof and willing witnesses, the mother of the dead child/children accepts her fate – there is no case to report to the traditional or formal justice systems.

### Case study 2 – Polygamy and violence – Tapac - Karamoja

Betty [not her real name], a 32-year-old mother of two living in Tapac, Karamoja

narrates how she lost two children in a polygamous marriage.

I left my two children at home in the presence of their stepmother only to return and find both my children dead with no obvious cause. This case was presented to the *ekokwa*, but without evidence, nothing much was done. Bereaved, I opted to leave the home and my marriage. I felt there was no justice. I know of other women who have attempted to poison their own children and husband to escape from the violence and torment of polygamous marriages. These cases are presented to the *ekokwa* and sometimes religious leaders, relatives and community members convened to discuss how to avert the spirit of killing and a cleansing ceremony may be organised using a sacrificial goat.

Adultery is considered a taboo amongst the Karamojong and a source of violence. According to elders in the different research locations in Karamoja, adultery is considered a serious offense. It is often first discussed at the *etem/ekaal*, and if not resolved, it is referred to the *ekokwa*. It is a bad omen for the families of the man and woman involved and requires cleansing. If a man is caught in the act, the *ekokwa* is called and people gather to hear the case. The adulterer is charged 60 cattle for this offence. The adulterous wife may remain with her husband if he forgives her. Such a man is considered cursed and a cleansing ritual is performed at the *akiriket*. The adulterer and adulteress are not allowed to come out of the house where the act occurred until the sacrificial goat / ram is slaughtered on behalf of the women and dung smeared and sprinkled on the people to cleanse them of the curse. In case the act of adultery involves violence, the adulterer is also responsible for the medical treatment of the woman.

The husband may choose to keep or send away his adulterous wife. A woman found guilty of adultery is expected to produce 40 litres of local beer (*kwete*) for those gathered at the *ekokwa* hearing. Usually, in cases of adultery, the woman is blamed more than the man.

### 3. Gender-based violence and neglect

It is common for violence against women and girls in a home to be sparked off by alcoholism, child neglect and irresponsibility on the part of a spouse. In Zombo, some of the elderly women interviewed remarked that, over time, married couples can grow to distrust and even dislike each other due to infidelity and this can lead to gender-based violence, neglect and eventual breakup of the home. The *ajaa* is used to provide a neutral space for the couple to tell their truth and reconcile where possible, as illustrated in the following case supported by the Zombo Probation Office.

#### **Case study 3 - Violence and neglect – Zombo – Alur**

Rosabell (not her real name) a 31-year-old, a mother of 4 children living in Zombo narrates her experience of violence and neglect.

"I am married to a man who is not working. He does not dig or earn from any other activities. I offer cheap labour and do petty trade in the village so that I can get some money to look after my children. I do all the work in the home and yet when he returns home, he expects to find food. It is a difficult life, especially when the father of my children is alive but does not help. After drinking alcohol, he becomes violent, and once after a serious fight with him, I decided to go to the in-laws who caused

a family meeting. Using the *ajaa*, each of us had an opportunity to tell the truth. We were encouraged to reconcile but I decided to go to my parents' home but later returned to him. After, I returned, the *ajaa* meeting was held again, and through this meeting the violence stopped. The decision taken at the *ajaa* gave me access the land of my husband. He does not still help, even when I or our four children are ill, but at least using the land, I am able to cultivate food for my children.

In Karamoja, negligence is a common complaint where a man has 4-5 wives or even more wives, and sexual weakness on his part may lead to adultery. Once a man discovers a case of adultery, he may choose to neglect her, deny her conjugal rights or chase her away. When a man leaves a woman there is no refund of dowry because he initiated the separation. If, however, a woman leaves a marriage, the cows paid for dowry must be refunded, and as a result women tend to remain in abusive marriages because their families are in a position to refund their dowry. Within the manyatta (traditional collection of homesteads) women often gather to discuss the "cause of noise" [violence] at night. This could be due to physical assault or forced sex with a woman. They would ask the affected woman what the problem is and find out if she is in courtship with the man responsible for the violence. If she says she is not, the issue is taken to the *ekaal* and if this fails, it is forwarded to the *ekokwa*. If the issues are not resolved, the case is then forwarded to the Local Council -I and women's rights organisations such as FIDA and MIFUMI.

### 4. Incest and defilement

In both Alur and Karamoja cases of incest and defilement were reported as common forms of violence that affect girls physically



and psychologically, and expose them to the risk of early pregnancy and contracting diseases such as HIV/AIDS and other sexually transmitted diseases. Among the Alur, intra-clan marriages are prohibited and considered incest, while incest within a family is an abomination. When incest between a brother and a sister or a father and a daughter is suspected, the individuals are subjected to the *ajaa*. If the individuals concerned accept this offense, a traditional cleansing ritual is performed to cleanse the family of this curse. The two individuals will climb on the top of the roof of a thatched hut and slaughter a goat from there. They will be caned by relatives and a pot is placed upside down on the apex of the thatched roof as a sign of the shameful incestuous act that occurred in that home. Often a fine of a cow (which goes to the girl's family) and 4 goats (distributed among the girls of the home, women, young men and elders) is demanded.

According to the elderly women met in Lotome and elderly men in Tapach in Karamoja, early marriages and defilement used to be common cases, and in the past and presently, such cases are reported at the *etem/ekaal* and if not resolved they are forwarded to the *ekokwa*. Defilement and incest are also considered shameful and when called before the *ekokwa*, the guilty man is fined a bull and local beer (*kwete*). Respondents mentioned oaths / truth telling rituals in respect to incest followed by making a small hole in the back of the hut to signify the incestuous act and the defiled girl is taken away from the man. In the *ekokwa*, compensation of cattle and corporal punishment are pronounced by the elders. Once a decision has been taken at the *ekokwa*, the issue is not likely to be reported to the Police. These days the role of the *ekokwa* is reducing as cases of rape and defilement which are

capital offenses are now handled by the Local Council -I who forwards the cases to the Police. In the event that the Police delays to respond, matters are taken to NGOs.

#### **Case study 4 - Incest in the absence of the Ekeno – in Matany - Karamoja**

Jennifer (not her real name) is a 65-year-old widow with 7 children – including two daughters aged 45 and 43. She met her husband after school and started a family but did not know that they were related. The mother and father of her husband were cousins of her parents. This situation arose because there was no *ekeno* [fireplace for cultural education for girls], the family had relocated to Lotome, away from their home area when her father got a teaching job. She did not visit home for many years and was disconnected from her relatives.

Jennifer recalls that “this was a very conflicting situation and the elders shed tears because we (the cousins) had already bore a child. The families called an *ekaal* meeting and put our child in the centre. There was too much confusion as to what should be done. Both our parents blamed the other for not informing us that we were related. The final decision was to allow us to continue with this relationship, but made us promise to stay together. After some years, however, my husband became a successful businessman, and influenced by his peers, he acquired several wives without consulting me. He became violent with me, and the matter was handled at the *ekaal*. Unfortunately, my husband has passed away.”

## 5. Conflicts arising from uncertain paternity

Denial and uncertainty about the paternity of a child born or unborn are common causes of conflict and violence against women and girls. In Karamoja this issue did not arise as a concern. Elderly women respondents said they would wait to see the resemblance of the growing child to determine its paternity.

In Alur communities however, uncertain paternity was identified as a common cause of tension and violence. According to the Probation Officers in Nebbi and Zombo, over the past couple of years, the number of child mothers has increased at an alarming rate. In Nebbi, a group of young mothers<sup>23</sup> said the *ajaa* was used to resolve cases of denial of paternity. The identified boys / men were subjected to the *ajaa* and if found responsible, charged to care of the mother and pregnancy. If a man/ boy denied a pregnancy, the young mothers reported that they took self-oaths, accompanied by curses such as: “he will always impregnate girls and not settle down” or “he may marry but will not have any more children,” and according to some of them, this has come to pass. Young men in Parombo<sup>24</sup> claimed that they deny impregnating a girl who has multiple partners or if the girl is very young. They asserted that the *ajaa* is good because it provides a basis for judgement in situations that are not clear. They however claimed that nowadays, girls as young as 9 -10 years have already started menstruating and this increases their risk of pregnancy.

<sup>23</sup> FGD with child mothers in Oryang Cell – Village, Nebbi, interviewed on 31<sup>st</sup> March 2022. All the mothers had babies below 3 years, and were all below the age of 21 years, some being primary and secondary school dropouts.

<sup>24</sup> FGD with young men in Parombo chiefdom held on 31<sup>st</sup> March 2022

In Alur, in case of uncertain paternity, both the man and woman calls upon their peers to witness their truth telling oath, the *ajaa* and each is asked to declare if s/he is in an extramarital relationship. A woman would typically swear: “If truly I am your wife and this is your child, may I deliver peacefully; but if it is not yours, may I have difficulties and fail to deliver this child.” A ritual using a broken pot with hot coal, sprinkled with millet grains is performed. If the millet bursts on the hot coal the person is telling the truth, if it burns without bursting the person is lying. It is believed that the child of the sex of the one who lied will die. It is also believed that mothers who lie will suffer long labour pains until, using the *ajaa*, they declare the true paternity of the child. In some cases, a delivery is safe but the new born child refuses to suckle or is sickly, and it is believed that such a child will not improve until the mother declares the true father. The *ajaa* is also used for reconciliation, as the father eventually take responsibility for their child.

## Changes in the traditional justice mechanisms and their effectiveness

Over time, aspects of the traditional justice mechanisms in Alur and Karamoja have changed due to the cost of accessing traditional justice, the influence of Christianity, questioned cultural leadership, the influence of women and children’s statutory rights, concepts of punishment and reconciliation, and the relevance of the traditional justice mechanisms themselves. In this section, respondents explain how these changes have affected the effectiveness and to some extent the relevance of the traditional justice mechanisms.

## 1. The cost of accessing traditional justice

In Alur and Karamoja, respondents noted that the cost of accessing justice in both the traditional and formal justice systems is a hinderance for women and girls. In Alur, according to elderly female respondents in Ocego, in the past the *ajaa* was a communal event. All homes (including those of the conflicting people) would bring food together to feed people at the *ajaa* meeting and this united people. Today, attaching a material provision to engaging cultural leaders in the *ajaa* has affected access to justice. Young men in Parombo observed that “poverty is weakening the *ajaa* as some elders have become money minded and do not value the truth. They are commercialising our culture!” While the young mothers interviewed said they would not consider approaching a chief or clan leader for the *ajaa* practice because “he is too big and cannot be concerned with such a minor issue as a teenage pregnancy. In any case, he will ask for a goat or a chicken for the elders to sit, which we do not have”. The coordinator of the Women’s Protection Centre, Nebbi<sup>25</sup> also concurred that the cost of bringing the elders together to preside over the *ajaa* is expensive. Sergeant Otto Ben Francis<sup>26</sup> noted that today, poor people may fail to produce the required items and fail to attend the *ajaa* meeting not out of guilt, but inability to provide the requirements. In his/her absence judgement may be made in favour of the “wealthy/capable” party. Similar sentiments were expressed by respondents in Karamoja, but they emphasised costs associated with

<sup>25</sup> Key Informant Interview with Grace Maditkwo., Coordinator of the Nebbi Women’s Protection Centre supported by ActionAid Uganda (Women Won’t Wait campaign), held on 1<sup>st</sup> April 2022 in Nebbi

<sup>26</sup> Sergeant Otto Ben Francis, Child/Family Protection Unit – Nebbi Police Station interviewed on 31<sup>st</sup> March 2022 in Nebbi

reporting cases to the Police, avoiding arrest or paying for bail by the accused. Thus, for women and girls who generally do not own assets of significant monetary value, reporting and following up cases in the formal and traditional justice systems presents a challenge.

## 2. The influence of Christianity

Prior to the influence of Christianity, all members of the Alur community voluntarily took the oath while, holding a sacred tree or item depending on the cultural context. The elders in Parombo asserted that the “*ajaa* is truth” and was embraced by all. It is the same truth that is promoted in the Bible when Jesus said: “I am The Way, the Truth and the Life” (John 14:6) and therefore it is not evil. When taking the oath (*ajaa*) one swears: “If I have lied, I should die!” or “if I am lying, let the dawn not shine on me!” It is your own mouth that will curse you. The oath is not only meaningful, but grave. Rwoth Opar noted that religion is eroding cultural values. Some Christians may accept to participate in an *ajaa* justice process but will insist on using a Bible to take the oath. Some elderly respondents asserted that the Bible lacks the ancestral connection that usually compels people to tell the truth: “The Bible, unlike the truth-telling tree, is not rooted and connected to the graves of our ancestors.” Some people claim to be saved and yet they are the culprits. They use the Bible to hide their evil intentions and take comfort in knowing that the repercussions of their actions will not be felt immediately. Fr. Emmanuel Ocokuru, a key respondent in Nebbi, concurred that the *ajaa* is founded on the principles of justice and truth and therefore bears no contradiction with Christian values. The *ajaa* draws on cultural knowledge and ancestry that people stand by and which compels them to be truthful. In the past,

the use of herbs was part of the truth telling process and the penalty for telling lies was death. Today, people tend to avoid the traditional oath under the pretext of being Christians, but in reality, they fear the consequences of lying when taking the *ajaa*. Fr Ocokuru admitted that Christianity is not deeply engrained in the consciences of the people and therefore one can swear using the Bible and still tell lies. There is a perception that God does not act immediately, He is a merciful and forgives sinners, unlike the *ajaa* oath where the sinners are punished for not telling the truth. Fr. Emmanuel however noted that the co-relation made between the self-oath/curse and the consequence of death is not scientifically proven. In Karamoja the *akiriket* plays a central role as the final stage of justice, which is at the core of the spirituality of the people. The issues of a clash or controversy between the *etem/ ekaal* and *ekokwa* with Christianity did not arise.

### 3. Questioned cultural leadership

According to some respondents, these days some elders do not command respect because they do not respect themselves as they have taken to drinking alcohol. This, coupled with poor conduct, weakens their moral authority to command respect and makes them shy away from the ancestral spirits. Abdu Uchaki<sup>27</sup> underscored the need to groom leaders to have a strong value of *ajaa* so that there is no tolerance for dishonesty and corruption in whichever court – formal or non-formal - since both systems emphasize honesty and truth.

<sup>27</sup> Key Informant Interview with Abdu Uchaki, a member of an elders committee of the Aja to resolve a land dispute in Panyimur, held on 30<sup>th</sup> March 2022

Respondents noted that some clan heads also do not practice *ajaa* in their own homes and therefore lack the authority to judge others using the truth telling principle. Communities are losing many elders, and without them the transmission of valuable cultural information will be impossible.

In Karamoja, young male respondents in Lotome noted that the parents and elders who preside over the *etem/ ekaal* and *ekokwa*, are sometimes perpetrators of violence against women and girls. By accepting dowry even before a girl has given her consent, parents and elders are compromised and cannot proceed with cases that are reported. If the elder chairing the meeting is compromised or guilty of similar violations against women or girls, the decisions he takes are often biased. In Lotome, when the youth ask for information about their lineage and family relations so that they can avoid incest, the elders ask them to buy snuff and alcohol before they can share this information, thus commercialising their knowledge.

### 4. The influence of women's and children's statutory rights

In Karamoja, several elderly respondents protested against the introduction of rights that are interfering with their ability to manage the youth and restore harmony in the community. Traditionally if one has committed an offense the penalty and compensation are prescribed and known by all. Once compensation is paid, harmony is restored. But sometimes the outcomes of the court are not fair and further magnify a problem. For instance, "if a man is arrested for 9 months, his family

will suffer in the village. They will probably have to sell a number of bulls to pay for bail. So how does prison life appease the offended and compensate for the loss? When the culprit returns from prison, he will still have to pay the penalty of cows as prescribed by our culture for reconciliation and harmony to prevail.” In Alur while there are NGOs raising awareness about rights and prevention of violence against women and girls, respondents did not mention rights as an influence on the *ajaa*, instead the cultural leaders are recognized as partners, evidenced by referral of some cases and their involvement in mediation. Compensation for loss of money or resources in a dispute is part of the *ajaa* traditional justice mechanism, however emphasis is not placed on specific numbers of cattle or goats as is the case in Karamoja but value of the loss made.

### 5. Reducing relevance of the traditional justice mechanisms

The operations of formal justice systems are changing the central position of the *etem/ekaal*, the *ekokwa* and the *ajaa*, as individuals make personal choices to take their issues to the LC-I, Police and human rights-focused development partners. In Karamojong, cases of rape, defilement and incest were handled by the *etem/ekaal* and *ekokwa*, but today these are considered capital offenses handled by the Police, although there are still some cases handled by the *ekokwa*, and it is only when these fail that they are forwarded to the Police. Traditional engagement of a woman in Karamoja was initiated by courtship rape, after which the families of the boy and girl, through the *etem/ekaal*, organised the subsequent traditional requirements to conclude the marriage.

Today, however, traditional engagement / courtship rape is considered rape – a criminal and capital offense. There is no distinction between traditional courtship rape and rape by a stranger or person who has no marital intentions. This, in effect, reduces the relevance of the *etem/ekaal* and *ekokwa* in such matters, although victims still insist on undergoing cultural cleansing and reconciliation which is done through these traditional justice mechanisms.

## Linkages between traditional and formal justice

In this section, linkages between traditional and formal justice mechanisms are examined. As explained in the literature review, the right to a fair hearing, the need for alternative dispute resolution mechanisms, referral and the role of the cultural leaders in resolving disputes, are recognized in the 1995 Constitution of Uganda, the National Legal Aid Policy 2019 and the Institution of Traditional or Cultural Leaders Act 2011, however there is no specific policy or mechanism that guides the relationship or interlinkage between the formal and traditional justice systems. Nevertheless, in both the Alur and Karamoja regions, these linkages exist but vary in how consistently and deliberately referrals are made.

In both regions, respondents noted that capital offenses are the preserve of the Police. In Alur, referral from the *ajaa* to the Police for capital offenses was deliberate and clearly explained by the law enforcers as well as the cultural leaders. In Karamoja,

sometimes attempts were made to deal with capital offenses in the *ekokwa* first, and if this failed, then the cases would be forwarded to the Police. On their part, the Police in Nebbi acknowledged that they referred cases of land disputes, witchcraft and incest to the traditional justice system, while in Karamoja, referrals by the Police to the traditional justice mechanism were not common. In both regions, if a victim(s) or offended party(ies) was dissatisfied with the outcomes of the decisions taken by the traditional justice mechanisms, they had the liberty to seek redress from the Local Council-I offices, the Police, and the Probation Office. The Police in both regions tended to refer cases of violence against women and girls to women protection shelters such as MIFUMI (Karamoja) and ActionAid Uganda (Nebbi) for social and material support. FIDA and Legal Aid (Karamoja) handled criminal cases in collaboration with the Police, however at the time of reintegration and reconciliation elders and cultural leaders were involved in the mediation.

## The Police Child and Family Protection Units and the Criminal Courts

According to Sergeant Otto Ben Francis in Nebbi, the Family Unit emphasises reconciliation between individuals and families and often prefers to give community dispute resolution mechanisms the first opportunity to handle cases peacefully. He noted that cases of rape, defilement and incest (considered aggravated defilement,) are capital criminal offenses which are handled by the Police and the Criminal and High Courts of Uganda. Peter Okiria<sup>28</sup> similarly noted that, while capital

<sup>28</sup> Peter Okiria, Nebbi District Community Development

effectiveness of the *etem/ekaal* and *ekokwa* as people are opting to report directly to the Police instead of resolving the issues at family level.

In Karamoja, women also hesitate to report physical assault or other forms of violence to the Police by their husbands, because the husband may then sell the only cow(s) the family has to pay for a bribe to avoid being arrested or to pay for bail. It is also likely that the woman will be beaten when he returns. In a focus group discussion with young mothers, they confirmed that the LC-I and Police get involved in physical assault cases and may detain the accused man, but then the wife(ves) come and ask for his release. Sometimes the man is released and cautioned not to repeat the act.

In Moroto, the Child and Family Protection Unit receives a diversity of cases ranging from physical and sexual violence which are rampant in both rural and urban areas; to negligence and denial of rights<sup>30</sup>. Abuse originates from disputes over land as an economic resource, inheritance of property and widows, denial of conjugal rights, abduction and human trafficking for sex; and forced and early marriage, among others. Sexual violence cases are reported to the Police, forwarded to Court and the culprits are imprisoned or cautioned, depending on the severity of a case. It is rare for the elders to report cases to the Police although some of them have attended community policing meetings. According to elderly men in Lotome, if a rape case is presented at the *ekokwa* level and the culprit refuses to meet the penalty, which is often caning and slaughtering of a bull, he is then referred to the Police. The Police however are not known to

<sup>30</sup> KII with Lokut Raphael Nyanga and Amulen Sarah (Child and Family Protection Unit, Moroto) on 26<sup>th</sup> April

offenses are the preserve of the Police, the Government of Uganda recognises the contribution of the traditional justice system in conflict resolution at community level. Okiria confirmed that most communities in Nebbi have confidence in the traditional system, to the extent that, even after judgement has been passed in the formal courts, they go back to the traditional justice system for the cases to be concluded with reconciliation. Pimer Colleens<sup>29</sup> noted that the traditional justice system underscores restoration of social relations and conserving culture. In Nebbi, the outcomes of the *ajaa* are quick and the parties' consciences are freed - leading to reconciliation.

Women and girls who are dissatisfied with the traditional justice mechanisms may report cases of violence to the Police but often do not see them through to a conclusion for various reasons. In Alur, according to Peter Okiria, in Nebbi women report cases of battering to the Police, but once a man is arrested the woman comes back to ask for his release because he is the breadwinner. Sergeant Otto similarly recalled the case of a man who was arrested for physically assaulting a woman, but she refused to proceed with the legal process claiming that she "*I just wanted the Police to pull his ears and send him back home.*" In such instances, the victim signs a withdrawal statement indicating why she is not willing to proceed. A representative from the Police may attend the traditional reconciliatory meeting to witness the final decision taken. Some respondents were of the view that human rights-focused organisations and government have impacted on the

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Officer interviewed on 31<sup>st</sup> March 2022 in Nebbi

<sup>29</sup> Key Informant Interview with Pimer Colleens, the Senior Probation and Social Welfare officer, Zombo held on 1<sup>st</sup> April 2022 in Zombo

refer cases to the *ekokwa*. Young mothers interviewed in Tapac said that the only way to access justice in cases of defilement and forced early marriage is from the Police who arrest the parents and the old man (intended husband). This is because in the *etem/ekaal* the parents are decision makers and in the *ekokwa*, the elders may support the decision of the parents or the intended old husband.

In both regions, it was noted that cases reported to Police the complainant will have to part with some money at the different desks for his/her case to be handled in a timely manner and yet women and girls often do not have the resources to report a case they cannot sustain. In Alur and Karamoja, men own livestock and property and therefore have access to the resources to bribe their way out of an arrest or pay for bail. While this may secure the man's release, this loss of family assets or finances will be blamed on the violated woman, who may be subjected to further violence. In Alur, people tend to fear the Police as an institution, and deterred by the unofficially and undefined payments to be made, women and girls opt for the *ajaa* where the requirements are clearly defined.

## Unreported Cases

Some cases however are deliberately not reported to the Police. Lokut Raphael Nyanga and Amulen Sarah of the Police Family Unit in Moroto observed that in rape and defilement cases, there is a tendency for community members to negotiate outside the station and in the end the witnesses do not turn up, but if NGOs and other institutions are involved, they tend to follow up cases.

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The communities fear the Police and are not always open about the true situation, especially regarding courtship rape (although this is a dying practice). Because courtship rape and rape as a one-off act with no intention of a continued relationship are labelled as the same offence, there is a tendency not to report courtship rape for fear of the consequences of a capital offense. In the event that a boy/man rapes a girl/woman with the intention of initiating a traditional marriage, as is the norm in Karamojong culture, the families are in agreement, they will negotiate and dowry will be paid before the man is arrested.

The young men in Lotome, noted that many boys do not perceive their actions as a violation of the girls' rights, but rather as the enactment of courtship rape which is a part of their cultural practice. However, if a girl has not been in courtship with the boy/man who rapes her, and she does not want him as a husband, she or her family may report to the LCI and the Police. Girls have also been known to escape to the church (Sisters of Charity) or a women's shelter (MIFUMI supported by UN Women) who eventually report to the Police. The young mothers in Tapac nevertheless reiterated that although it is not so common these days, rape cases occur and are handled by the elders. If a man admires a girl and rapes her, before the Police investigates, the man is summoned to the *ekokwa* and instructed to slaughter a bull as a punishment and, if he complies, a cleansing ritual is performed and the case is not reported to the Police.

Incest and adultery are also cases that are potential sources of violence that are not commonly reported to the Police. In a Focus Group Discussion with elderly men in Tapac, they lamented how incest which is a taboo is not being effectively handled by the Police. They observed that "rights" as introduced by development partners are not holistic enough to address all aspects of cultural life. Today, children do not listen to their parents, emphasising their rights and taking decisions independently. Due to their lack of knowledge about their family lineages, it is now common to find incest amongst cousins and nothing is done about it. When cases are reported to the Police, they will demand "*kitu kidogo*" (a bribe) and the culprit can get away with the offense. Yet if the Police is absent or not near the community, the *ekokwa* is available - it will sit and the culprit will be caned and the family cleansed of this taboo.

## The District Community Development Offices (Probation Offices)

Pimer Colleens<sup>31</sup>, noted that the cultural norms and values of the Alur are still quite strong: even after a case has been handled by the Probation Officer, the aggrieved party still feels the need for cultural engagement of the oath, forgiveness, and cleansing. She remarked that cases of witchcraft, incest, and defilement are

<sup>31</sup> KII with Pimer Colleens, Senior Probation and Social Welfare officer, Zombo on 1<sup>st</sup> April 2022



sometimes handled by both the formal and traditional justice systems, although the formal justice system takes precedence. According to her, the Probation Office however lacks the expertise to handle cases where the community requires traditional rituals to be performed and refers them to the traditional justice court. For instance, identifying a witch and deducing evidence of this fact is often referred to the cultural leaders who are perceived as competent in addressing cases of the supernatural using the *ajaa* and *kakukwir*. A few individuals who have been proven guilty of practicing witchcraft and banished from the community by the traditional justice mechanism, have sought redress and mediation from the District Community Development Office (Probation Office). In another incident, a man defiled a 3-year-old girl and while he was convicted under the formal justice system, a cleansing ritual was performed to maintain relations and harmony within the community.

There are cases of rape and incest which slip through both the formal and traditional justice systems, and when these are eventually reported, it is too late and evidence has been overtaken by time. In one incident in Alur, a father raped and impregnated his own daughter. The case was not reported or subjected to the *ajaa* or to the Police. Due to the victim's poor psychological state and academic performance, the teachers became concerned, investigated the case and reported it to the Probation Office. In the absence of willing witnesses and evidence,

the case could not proceed. Peter Okiria confirmed that where there is no one to report or witness a case, the hands of law enforcers are tied. Pimer Colleens<sup>32</sup> concurred, noting that some legal cases have been lost because families conceal information and only come for help when negotiations in the traditional justice court have failed, by which time (in the case of rape or defilement) evidence has been lost and the girl may have given birth. In Karamoja, respondents did not indicate that cases of violence against women and girls were reported to the District Community Development Offices or to the Probation office in Moroto. The Community Development Officer however noted that her department works closely with the Karamoja Elders Association, and its members have been trained on issues of violence against women and girls. The Association is effective in mobilizing the community and conveying development messages as part of their annual activities in this regard.

## Clan leadership and elders

Cultural and clan leaders' interface with non-state and state actors in their efforts to resolve disputes in their respective localities. Opolot Zadok, of the Legal Aid Project-Moroto, a lawyer with the Uganda Law Society confirms that the elders are involved in dispute resolution because they are familiar with the history of any contested land and with the ownership of land by different families.

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In some instances, the Police refers cases of witchcraft and land disputes to the traditional justice mechanisms for resolution. In Nebbi, respondents noted that such cases are often resolved in a shorter time than taking court cases in the formal justice system. In Alur, clan conflicts over land are often referred to the *ajaa* which is able to establish the history of ownership and settle disputes using the *ajaa* self-oath and holding a truth-telling tree. Sometimes when resettling victims of violence, elders and government representatives are involved, and the chief may even be invited to the Women's Protection Centre to join the mediation and counselling sessions. In cases where community members seek to reclaim ancestral land where development has taken place, the formal courts of law, Resident District Commission's office and cultural leaders however all get involved, in line with the land policy.

According to Rwoth Opar Edward Jalcebo<sup>33</sup> widows tend to be chased from their land by in-laws because land has become a tradable commodity that brothers-in-law seek to acquire and sell. Often widows fear to go to clan leaders although the few who reported in Parombo and Angal (Alur) have been assisted. A few respondents also noted that some cultural leaders are easily bribed to relax the traditional rules and therefore do not take the actions prescribed by their own traditional justice system to protect women.

Ayiorwoth Yerusa further noted that while the traditional justice system can be effective, some cultural leaders are inexperienced, indecisive, involved in

wrong doing and therefore do not have the moral authority to guide, correct or advise the community. In one instance, one of the chiefs banished a woman who was wrongly accused of witchcraft. He wrote a letter evicting her from the community but when her husband got to know this, he reported the matter to the Police. The Rwoth (chief) was arrested but eventually released from jail on bail. Unfortunately, the accused died mysteriously after refusing to undergo a cleansing ritual. The children were advised to produce 4 goats for a cleansing ritual for their family, which they did and this matter was concluded.

According to the Coordinator<sup>34</sup>, ActionAid Uganda – Nebbi Women's Shelter, some cultural leaders are easily bribed to relax the traditional rules and therefore do not take the actions prescribed by their own traditional justice system, while others are accused of fronting their self-interests and manipulating the justice process. Although some people are moving away from the *ajaa* practice, partly because of the conduct of the elders, it still remains an important part of the Alur communities' culture.

## The Local Council - 1 offices

Usually, the first call for redress in the formal justice system for cases of rape or defilement is the Local Council 1 (LC1)'s office. The office of the LC1 in Moroto receives cases of rape defilement, incest, and denial of land user rights. The LC1 said his office often involves elders in resolving conflicts, although land disputes

<sup>33</sup> Key Informant Interview with Rwoth Opar Edward Jal Kyego (Angal) in Parombo chiefdom on 31<sup>st</sup> March 2022. He is 83 years old, a clan leader, retired teacher and the former Deputy Prime Minister of Alur Kingdom.

<sup>34</sup> KII Grace Maditkwo, Coordinator of the Nebbi Women's Protection Centre supported by ActionAid Uganda (Women Won't Wait campaign), held on 1<sup>st</sup> April 2022 in Nebbi

with violence, rape and defilement (with witnesses) are referred to the Police, the Hospital and to the Uganda Law Society (Moroto). In Alur however the role of the LC1 was not emphasised but rather the Probation Office and the Police Child and Family Protection Unit.

In Karamoja, according to the young mothers interviewed in Tapac, if a girl is defiled and the case is reported to the LC1, it is often forwarded to the Police. The girl goes or is taken to the health centre for treatment against contracting HIV/AIDS and the criminal case proceeds. If the Police does not intervene, the girl is forced into marriage by her parents. One respondent however observed that defilement cases in Karamoja tend to “die” because, when taken to the Police, the offender bribes his way out, and when there are no witnesses – there is no case. Usually when information is generated by the LC1, the case is forwarded to the Police, however if the Police delays to respond, matters may be taken to NGOs such as FIDA or MIFUMI who are respected and respond quickly. In addition, the Police sometimes requires payment to resolve issues, without which they rarely follow-up cases<sup>35</sup>.

Young mothers in polygamous marriages reported that they have many wrangles and experience violence with their co-wives. In such cases, the co-wives, husband, in-laws and parents of those involved would be summoned for *ekokwa*. Sometimes the man is the cause of the violence because of his unfair treatment of the older wives, and favouring the new wife. Depending on the severity of the problem, the LC1 Chairman and Police are also requested to join the meeting. In other instances, the abused woman reports to FIDA, accusing

the man of neglect of mother and children, and sometimes this reduces the wrangles.

## Legal aid and human rights-focused organisations

Opolot Zado, of the Legal Aid Project-Moroto, said the Legal Aid Project handles cases ranging from rape, forced marriage, defilement, land and inheritance issues and provides legal aid assistance, in partnership with MIFUMI and FIDA. Zado observed that some development partners have not taken the time to listen to clan heads or even attend clan courts to appreciate how traditional justice is delivered and yet during mediation in family matters (divorce, marital issues which are a cause of violence against women and girls) and land disputes, parties often ask to go to the *ekokwa* for redress so that these issues can be settled conclusively. Once resolutions are made at the *ekokwa*, the elders are expected to give a report back but often there is no feedback and no follow-up. Sometimes the offended party returns with complaints of unresolved issues. When this happens, parties lose hope and abandon cases.

According to Zadok, while efforts have been made to share information with and train elders in Karamoja on the law and women’s rights, some legal officers are still reluctant to work with the traditional justice mechanisms in the formal courts for fear of being associated with the consequences of traditional justice, which sometimes results in death, especially if one does not tell the truth. In Karamoja, the underlying aim of cultural practices that constitute VAWG, such as early/forced marriage, courtship rape and widow inheritance point to the desire to retain property within the family, restore harmony and resolve

<sup>35</sup> Key Informant Interview with Lokiris Richard Sam, LC-1 Chairman, Nakalilimen – Moroto on 26<sup>th</sup> April 2022.

land disputes. There are however other capital offenses such as murder where once compensation is made through the traditional justice system, there is no report, there are no witnesses, there is no interest from the community and therefore it is difficult to initiate and follow-up such cases. After some time, the file is closed, although it may be re-opened in the event of a complaint.

## Development partners with a focus on the prevention of gender-based violence

### MIFUMI

In both regions, women and girls who are victims of violence tend to run away from home to the Church or Gender Based Violence shelters – the youth to avoid early marriage and the older women to avoid constant physical assault. According to the LCI chairman, Nakalilimen (Moroto), with support from development partners such as Mercy Corps, MIFUMI and FIDA, informers in the community are able to identify victims and ensure cases are brought forward for redress. Sometimes information is withheld and a few cases are resolved by the elders at the *etem/ekaal* and *ekokwa* levels.

MIFUMI is an international non-government women's rights organisation based in Uganda. MIFUMI's work revolves around the protection of women and children experiencing violence and other forms of abuse. In Moroto the organisation has a shelter for women and girls who are victims of Gender Based Violence. The Police sometimes refers cases of rape, defilement, physical assault, psychological abuse, child abuse, forced marriage and

abandonment of children to MIFUMI and sometimes the victims take the initiative to come to the Centre. With support from UN Women, Office the Prime Minister, International Justice Mission and the International Rescue Committee (IRC), victims are supported with food, shelter, mosquito nets and other supplies. They are also counselled and later reconciled with their families with support from the elders. Those of school-going age are connected to sponsors for education support.

### ActionAid Uganda - Nebbi

In Nebbi, ActionAid Uganda is operating a Women's Rights Centre under the Women Won't Wait (WWW) campaign. The main objective of this programme is to increase access to safe spaces/shelter, legal, health, psychosocial services and economic opportunities for survivors of gender-based violence. These centre offers integrated gender-based violence services to women, girls as well as men and boys as secondary beneficiaries. The Centre offers temporary safe accommodation, counseling and psychosocial support, legal aid, rehabilitation and resettlement. It also makes referrals to hospital, police and courts, as the case may be and documents cases to support policy advocacy and campaigns.

According to the Women's Rights Centre Coordinator in Nebbi<sup>36</sup>, ActionAid has taken the initiative to work with cultural leaders in Nebbi, Zombo, Pakwach under their justice project. They have also built the capacity of inspirators and volunteers as part of their social movement building

<sup>36</sup> KII Grace Maditkwo, Coordinator of the Nebbi Women's Protection Centre supported by ActionAid Uganda (Women Won't Wait campaign), held on 1<sup>st</sup> April 2022 in Nebbi

and community emersion work. The coordinator asserted that mediation usually starts with the ajaa. Culturally, the Alur believe that one's oath can be a curse or blessing and if called to tell the truth using the ajaa, community members tend to be very careful and speak the truth."

The Women's Rights Centre in Nebbi receives similar cases to MIFUMI in

Karamoja, such as family disputes, physical assault, psychological abuse, child abuse and neglect and abandonment, while capital offenses such as rape, incest and defilement are handled by the Police. When resettling a victim of violence, elders and government representatives are involved, and in some cases the chiefs are invited to the shelter to join the mediation and counselling sessions.

# CHAPTER FOUR: CONCLUSIONS AND RECOMMENDATIONS

To a large extent traditional justice mechanisms such as the *ajaa*, *etem* and *ekokwa* address violence against women and girls and promote their access to justice by handling non capital offenses. In Alur and Karamoja, the *ajaa*, *etem/ekaal* and *ekokwa* handle a wide range of cases, including but not limited to rape, defilement, incest, adultery, physical assault, and widow and property inheritance. On the whole, with the exception of the *akiriket*, the other three mechanisms, *ajaa*, *etem/ekaal* and *ekokwa* are relevant and familiar spaces within which issues that concern individuals, families, clans and communities are addressed. These mechanisms are known and recognized as easily accessible spaces for traditional justice, including cases of violence against women and girls, especially for non-capital offenses.

In Alur and Karamoja, these mechanisms provide alternatives to the formal justice system by offering dispute resolution services to women and girls who are not willing or able to access the formal courts of law for various reasons. The traditional processes of justice start at family level, and if not resolved, the case is forwarded to the clan or community level, after which it may be referred to the LC1 or to the Police. This provides an opportunity for women and girls to seek redress through different avenues. In addition, besides hearing cases and pronouncing punishments and penalties, the *ajaa*, and the *ekokwa* both have elements of cleansing and reconciliation that re-establish harmony in families, clans and the community in general. The Alur emphasise cleansing rituals to restore harmony and prevent continued

occurrences of the offenses. This enables women and girls who have been victims of violence not to be stigmatised and to be reintegrated into the social family and community life, hence their insistence on cultural reconciliation even as the cases are being handled in the formal justice system.

In Alur and Karamoja, the existence and functionality of the *abila* and the *akiriket*, respectively, have the potential to influence mindsets and worldviews of men and boys to realize the need to value and protect women and girls, however this is yet to be explored. While the *akiriket* is specifically established to address communal and family spiritual concerns, it is an important space where the consciences of male elders and youth (who are perpetrators of violence) are nurtured. Given that the *akiriket* is not convened regularly it is not suitable for addressing urgent cases of violence against women and girls, however because of its importance it is critical that the spiritual leadership of the *akiriket* is engaged by development partners to appreciate the non-economic value of women and girls, and the need to protect them against violence. The engagement of spiritual leaders need not be during an *akiriket*, which is a sacred space that should be respected.

These traditional and formal justice systems are however not without challenges. These traditional justice mechanisms are spearheaded by men whose credibility and moral authority is questioned by youth and women. While they may still be considered relevant and accessible, the reduced value attached to their ability to effectively and fairly deliver

justice will result in women and youth seeking other avenues for redress. If women and girls cannot afford the price of justice in the traditional and formal justice systems, they may become resigned and not report cases or seek support from rights focused non-governmental organisations.

In spite of the weaknesses of the traditional justice mechanism as expressed by respondents, most of them were confident that these mechanisms will remain relevant. For example in Alur, respondents in Zombo, Nebbi and Panyimur said “the *ajaa* protects both women and men from habitual insults that lead to conflict and violence, it creates opportunities for forgiveness and keeps society peaceful. Without the *ajaa*, people would become very big headed and unruly and we would have many disputes. There would be no land and society would be dead!.”

Below are specific conclusions and recommendations in response to the issues that emerged in Alur and Karamoja.

### Understanding the value attached to a girl and a woman (Alur / Karamoja)

In Alur and Karamoja regions the value attached to woman or girl varies. According to responses from the different interviews, in Karamoja, a woman or girl is a potential source of wealth (cows in marriage as a fine or dowry), and in adultery, rape and in death (cows as compensation). Much emphasis is placed on the acquisition of cattle to restore peace amongst families or in the community. Although literature mentions the *akiwor* as a space for women to address their concerns, women in Karamoja generally have limited agency – individually or collectively – to address their own issues or resolve domestic conflict before they escalate. In Alur, while

compensation is part of restoring harmony in society, emphasis is also placed on cleansing female and male offenders to avert a continuation of the wrongdoing and cursing individuals who abuse a woman’s body verbally or physically reflects the respect accorded to women in Alur.

- The cultural leaders need to take the initiative to influence the mindsets of men as father figures (fathers, uncles, brothers, grandfathers) to revalue women and girls (especially in Karamoja)
- The leadership of the *ajaa* and *ekokwa* should be use these spaces to strengthen men and boys’ responsibility towards women as part of the justice proceedings
- Through the existing cultural education spaces, radio programmes and festivals boys and young men should be nurtured and supported to review violence and effects on women and girls

### Transmitting the cultural value of truth and justice

At the root of violence against women and girls are the values and principles that influence perceptions of their role and place in society. Both young and elderly respondents in Alur and Karamoja expressed an appreciation for the values of truth and justice, and expressed a desire for cultural education spaces such as the *ka oi / ka dipu / dhu mac* and the *ekeno* and *aperit* to be restored, starting at family level. Elders and fathers were urged by women and the youth to demonstrate cultural values in their daily lives so that children appreciate these values in practice and to take the initiative to train the boys against committing violence against women and girls.

- Cultural leaders and development partners should collaborate to initiate intergenerational dialogues through which positive values can be transmitted and cultural learning spaces such as the *ka oi / ka dipu / dhu mac*, and the *ekeno* and *aperit* (fire places) can be strengthened
- Through cultural events, school heritage programme, exhibitions, cultural galas as well as radio talk shows, social media - youth friendly platforms and Straight Talk, nurture the youth into responsible people capable of analysing and using their culture to prevent violence against women and girls
- Chiefs, elders (including Elders Associations) need to emphasise the importance of truth telling and justice for all, and exhibit this in their conduct and public speeches
- Chiefs, clan leaders and elders were urged to establish byelaws or regulations on the *ajaa*, *etem*, *ekeno* and *aperit*, parents are guided and ensure that cultural values of truth, discipline and self-respect are transmitted to the younger generation
- Some respondents suggested that the *ameto* should be revived and implemented alongside the law to maintain peace and order.

### Enhanced role of cultural leaders

The cultural leaders and elders are responsible for steering the traditional justice mechanisms of *ajaa* and *ekokwa* and as such, not only do they need to be seen to deliver justice impartially but also to conduct themselves in a manner that earns them respect and trust from the community, especially from women and girls in this case. The youth in Alur and Karamoja expressed a desire to have

leaders who are financially self-sufficient, not easily corruptible, who respect themselves and are not involved in gambling, drinking alcohol and committing the same offenses they are expected to pass judgement on.

- Cultural leaders need to establish minimum standards and a code of conduct for elders, to ensure that those charged to deliver justice use traditional principles of truth and impartiality
- Development partners should intensify training of leaders in the formal or non-formal justice systems on the law and rights, and how these can be harmonized in the local cultural context.

### Conflict of interest in the traditional justice system

The decision makers within the traditional justice mechanisms are sometimes compromised, impacting on their decisions and the ability of women and girls to access justice. In Karamoja, while the *etem/ekaal* was identified as the most appropriate level of traditional justice for cases of violence against women and girls, the *etem/Ekaal* is controlled by parents and guardians who are sometimes supporters of or even perpetrators of violence in cases of child marriage, courtship rape and defilement with the goal of acquiring dowry or compensation.

Similarly, in Alur, biases arise in favour of offenders who have the finances to pay for the requirements of the *ajaa* unlike their opponents. In such cases there is a conflict of interest and the woman or girl is not likely to access justice, even with the existence of vibrant *ekokwa* or *ajaa* mechanisms.

- Cultural leaders need to establish and utilise criteria for eligibility of leaders



who preside over traditional justice sessions to ensure that there is no conflict of interest (as part of their code of conduct)

- Human rights and gender focused development partners could ascertain and include information on cultural leaders' commitments in their partnership agreements and monitoring markers.

### The “price” of justice

Although the elders who preside over the *ekokwa* and the *ajaa* are not paid a fee or remuneration for their time, there are some costs attached to their services that are a hindrance to women and girls' access to justice. In the formal justice system, the unofficial costs to take forward and follow up is also a hindrance for women and girls who do not have the required resources. As such women and girls are likely to opt for the cheaper option which may not guarantee justice.

- Cultural leaders in Alur, need to review the demands for provisions that make the *ajaa* exclusive for those who have resources, by diversifying kinds of provisions and making exceptions for the vulnerable. The philosophy of *kura matira* - the values of inclusion and impartiality should inform how justice is delivered for all.
- Women and girls should seek the guidance and assistance of human rights and gender focused NGOs to support their reports and follow up of cases with the Police and the courts of law.

### Slipping through the legal net - no evidence, no witness – No case!

Both the traditional and formal justice systems require a formal report, evidence

and witnesses for a case to be effectively handled. In cases where there is no evidence or willing witnesses, capital offenses such as rape, defilement and murder (poisoning of children) may not be handled by the traditional or formal justice systems. Such cases slip through the legal safety nets and the culprits could get away without charge, depending on the victim's ability or willingness to seek other avenues for redress. This calls for NGOs to deepen their understanding of the cultural context, strengthen their reintegration approaches to ensure that women and girls are not alienated from their families and communities once cases are resolved in the formal justice system.

- Through community civic education and schools, NGOs can build the capacity and confidence of women and men, girls and boys to report violence against women and girls.
- Through the formation of women and girls' cultural associations (by re-inventing the fireplaces) - *ka oi* (Alur) and *ekeno* and *aperit* (Karamoja) – women and youth can organise themselves to access information and social support to strengthen collective social action.
- Through regular dialogue meetings, government at relevant levels should strengthen collaboration between the law enforcing agents, the development partners, the cultural leaders and community informants, to facilitate effective identification and addressing of gaps in the justice mechanisms.
- The judiciary needs to define a clear process of referral and follow up between the law enforcers, development partners and cultural leaders to ensure that all cases are conclusively handled.

## The influence of Christianity and rights on traditional justice

Several respondents identified the influence of Christianity as a source of erosion of cultural values, noting that some people insist on using a Bible to take a traditional oath in a traditional justice hearing. While some elders perceived this as a deliberate dilution of the *ajaa*, they have the authority to decide what is permissible within a cultural space and what norms guide the conduct of one who chooses to be part of a traditional practice. In Karamoja, elderly respondents identified the influence of rights as having a negative impact on the perceptions and appeal of the *etem/ekaal* or *ekokwa*. While the values of truth, respect, peace were common across religious beliefs and development aspirations, there was limited attempt to harmonize these in practice.

- To conserve the authenticity of the *ajaa*, *etem/ekaal* and *ekokwa*, the cultural leaders need to clearly define what is permissible or not in the traditional justice practice to avoid dilution.
- The cultural and religious leaders need promote religious pluralism and create opportunities for dialogue utilizing existing spaces to collaborate and sensitise communities about the values of truth, respect and peaceful co-existence

## Interlinkages between the formal and non-formal justice systems

The linkages between the traditional justice mechanisms and the formal justice systems in both regions are ad hoc, with no clear mechanisms of referral and

inconsistent documentation which does not allow for effective follow up. While the roles of cultural leaders in dispute resolution, mediation, counselling, reconciliation and cleansing is acknowledged by the community, government and development partners, this needs to be incorporated and harmonized within the legal framework and processes.

- The judiciary and development partners should design procedures and regulations to integrate traditional justice mechanisms that are based on shared values of truth, responsibility and respect.
- Government should incorporate traditional and informal justice systems and structures into the formal justice structures drawing on the traditional byelaws instituted by cultural leaders
- Cultural leaders should be supported by judicial offices to ensure consistent and appropriate documentation of cases and proceedings in the traditional justice mechanisms as references for referral and follow-up of decisions taken at the *ekokwa* and *ajaa*.

## Analysing the “thin lines” and underlying causes of violence

Understanding the community’s cultural perceptions and conceptualisation of violence is useful to identify potential synergies and controversies between the cultural worldview and human and women’s rights and religion. In Alur respondents highlighted similarities between spiritual and Christian rites, highlighting truth as a common value. In Karamoja, there are several “thin lines”

that are worth examining further in respect to better understanding the value attached to a girl or woman and the perception of violence through examining courtship rape, child marriage and defilement, incest, the causal relation between forced marriage, polygamy and adultery, and penalties / punishment and perpetuated violence, all of which result in perpetuated violence against women and girls. Due to the limited time allocated for this study, these could not be investigated:

- **Courtship rape and rape** – examining this practice as a source of violence and understanding how violence is perceived in a cultural context where it is an accepted part of a traditional marriage process that has girls and boys being taught to wrestle and where violence through wrestling and rape is anticipated and premediated. Understanding the contradiction in interpretation and controversy in reaction when a victim of rape and her parents request for the release of an accused rapist (husband-to-be) charged under Article 123 of Uganda’s Penal Code Act Chapter 120 that defines rape as “any person who has unlawful carnal knowledge of a woman or girl, without her consent has committed rape.”
- **Child marriage and defilement** – examining the value attached to the girl child as an investment in preparation for marriage and consequent dowry and how the same community would perceive defilement as an offense in the cultural context. Exploring the type of mindset change that would enhance the non-economic value of a girl child. Understanding the self-image and esteem of girls, who today, by their free will, seek out old wealthy

men to marry, without the consent of their parents and examining the intentions and implications of deliberately choosing a polygamous marriage at an early age.

- **The concept of incest** – understanding how cousins in a sexual relationship commit incest, but an old man (husband) unable to perform his conjugal duties permits his sons to have intercourse with his young wife (their stepmother) is not considered incest, would be worth investigating. Understanding the cultural logic and acceptability of one and not the other.
- **Forced marriage, polygamy and adultery** – Exploring the causal-effect relation between forced marriage, polygamy and adultery as a way of life that perpetuates violence. Understanding the social and cultural mechanisms to manage the outcomes of forced marriages, that range from infidelity, polygamous marriage wrangles, adultery, neglect, denial of conjugal rights – all of which are recipes for violence.
- **Penalties / punishment and perpetuated violence** – Examining where detention prevents or perpetuates violence in the face of loss of family assets to pay bail, loss of a family breadwinner, and possible neglect or separation with the victim once the offender, her husband is released. Understanding the double penalty given that compensation for the offense awaits if the person is to be reintegrated into the community even if he is convicted under the formal law, given that arrest and imprisonment do absolve the perpetrator from

traditional compensation for an offense.

In conclusion, the traditional justice mechanisms of the *ajaa*, *etem/ekaal*, *ekokwa* and *akiriket* are relevant and provide alternative and holistic avenue for justice for women and girls in Alur and Karamoja regions. Through mediation, cleansing and reconciliation, they provide the spiritual and social closure that women and girls who are violated need to restore their dignity and to be reintegrated in society without being stigmatized. There are however factors internal and external to the traditional mechanisms that reduce

their effectiveness in delivering fair and timely justice for women and girls and if not addressed, the communities and especially women and girls will opt for other non-traditional mechanisms, rendering them less relevant.

In contexts where women and girls are socially and economically dependent on men, the repercussions of reporting violent men to the formal justice system may be challenging. Therefore, interventions of capacity building and sensitization on the prevention of violence against women and girls should target men and boys and should be intensified to support a mindset shift on the value of women and girls.

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As part of its #CultureForHer project, the Cross-Cultural Foundation of Uganda (CCFU), supported by UN Women, the Embassy of Sweden and the EU-UN Spotlight Initiative commissioned a study to understand traditional justice mechanisms in Karamoja and Alur that address Violence Against Women & Girls & promote Sexual Reproductive Health Rights & Access to Justice.

The findings of this study reveal that the traditional justice mechanisms are still relevant and address cases of violence against women and girls.

The traditional justice mechanisms of the *ajaa*, *etem/ekaal*, *ekokwa* and *akiriket* are relevant and provide alternative and holistic avenue for justice for women and girls in Alur and Karamoja regions. Through mediation, cleansing and reconciliation, they provide the spiritual and social closure that women and girls who are violated need to restore their dignity and to be reintegrated in society without being stigmatized. There are however, factors internal and external to the traditional justice mechanisms that reduce their effectiveness in delivering fair and timely justice for women and girls.

