

# Pursuit of an Effective Remedy for Victims of abuse and violations

Information Dissemination Media Breakfast Meeting

# Starting Point:

- ▶ The right to access judicial remedies is guaranteed in most international, regional human rights instruments and national Constitutions
- ▶ *Ubi ius ibi remedium* [Latin] - for the violation of every right, there must be a remedy.
- ▶ Rights and Freedoms are meaningless if there are no consequences for their violations
- ▶ For a remedy to be adequate, it should be accessible, affordable, timely and effective. The remedies should be simple and urgent.
- ▶ Section 9 of the Human Rights (Enforcement) Act, 2019 - where a competent court determines that a right has been violated, it shall issue orders it considers appropriate including compensation; restitution; rehabilitation; and satisfaction.

- ... affected people need to be able to seek redress through effective judicial and non-judicial grievance mechanisms.

# What is a remedy?

- **Means by which a right is enforced or the violation of a right is prevented, redressed, or compensated.**

# What is a remedy mechanism?

- ... a natural or established process by which a right is enforced or the violation of a right is prevented, redressed, or compensated.

# Legal basis of “The right to an effective remedy”

- “Every one has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by the law.” Art 8: UDHR ; Art 2(3): ICCPR; Art 14(1) CAT; Art 6 CERD; Art 2 CEDAW
- **Constitution of Uganda Art 50. Enforcement of rights and freedoms by courts.** (1) Any person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a competent court for redress which may include compensation.
- **Human Rights (Enforcement) Act, 2019, Sec 2** - a competent court means a High Court or magistrate’s court

# Legal basis of “The right to an effective remedy”

- **Constitution of Uganda Art 50 (2).** Any person or organisation may bring an action against the violation of another person’s or group’s human rights.
- **Human Rights (Enforcement) Act, 2019, Sec 3(1) (a)-(d)** Court proceeding may be instituted by a person acting on behalf of another person who can’t act in their own name; a person acting as a member of, or in the interest of a group or class of persons; a person acting in public interest; an association acting in the interest of one or more of its members

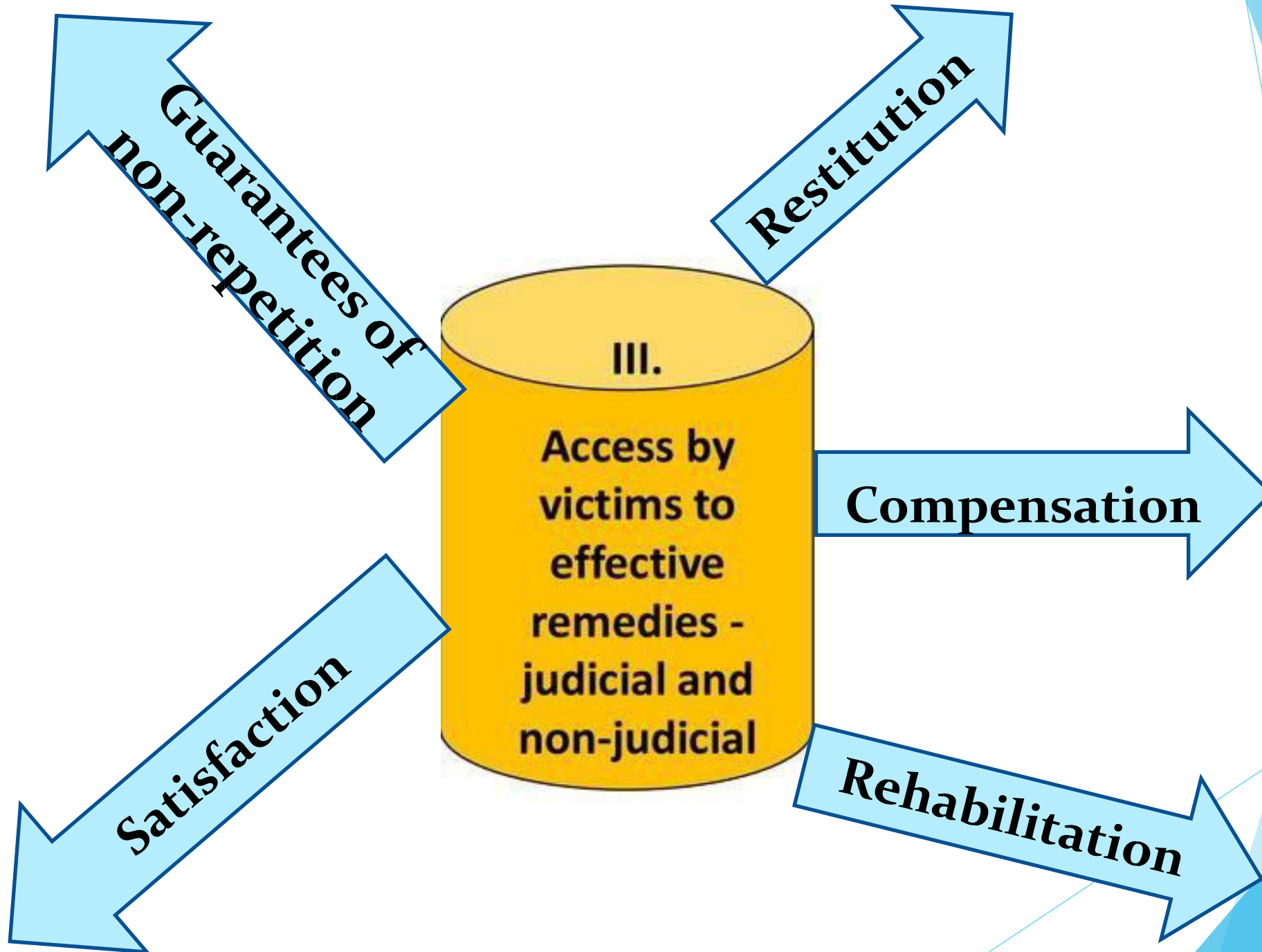
## Face of an effective remedy

- ✓ ... it must lead to the cessation (**end**) of the violation

&

- ✓ it must lead to “**full and effective reparation...**”





# The mechanism must be:

- a) **Legitimate:** enabling trust from the stakeholder groups
- b) **Accessible:** being known to all stakeholder groups
- c) **Predictable:** providing a clear and known procedure with an indicative time frame
- d) **Equitable:** reasonable access to sources of information, advice and expertise
- e) **Transparent:** keeping parties to a grievance informed about its progress,
- f) **Rights-compatible:** ensuring that outcomes and remedies accord with internationally recognized human rights;
- g) A source of **continuous learning**
- h) Based on **engagement and dialogue**