



Gender Briefing
UGANDA

SIHA NETWORK GENDER BRIEFING I UGANDA

The aim of this **Gender Briefing** is to examine four countries that have, over the past decade, passed and adopted gender-progressive legislation and policies. The four countries are Sudan, Somalia, Ethiopia and Uganda. Against an inventory of the existing, recent gender policy and legal progress made in each of these countries, this brief will present a short analysis covering:

- a. A general review of the social and political context in which the gender laws and policies are being implemented (broad contextual analysis) in each country.
- b. An overview of the existing laws/policies that have direct or indirect implications for gender equity in each country.
- c. For each country, a brief background of the major issues facing women's rights and gender activists. The brief shall focus on issues of VAWG, informal sector employment, women's political participation, and finally, marriage and succession.
- d. A structural analysis per country of (a), (b) and (c) above – highlighting and summarizing the major factors deepening the gap between laws/policies and women's lived realities. This brief will look at policies and laws against actual practices.
- e. This brief will highlight the women's movement situation in each country employing the SIHA community activism guide.

1. BACKGROUND: SOCIAL AND POLITICAL CONTEXT OF GENDER ACTIVISM IN UGANDA

Despite a history of political upheaval and violent conflicts, Uganda has enjoyed relative peace and stability since 2006 due to the reinstatement of multi-party democracy, a strong constitution that protects women's human rights, and an end to two decades of conflict in Northern Uganda. Though still below the 7.2% target set in the first National Development Plan, economic growth averaged 5.5% between 2010/11 and 2013/14. The number of people living in poverty fell from 56% in 1992 to 24.5% in 2011, and further fell to 19.7% in 2013. However, economic growth has been uneven, as has its impact on poverty, as shown by the persistence of significant regional disparities, notwithstanding an overall improvement in the Gini coefficient measuring inequality from 0.426 in 2009/10 to 0.395 in 2012/13 (UBOS 2014 b). Overall poverty is lower but significant regional disparities persist. While Uganda has made impressive gains in reducing the overall level of poverty, these have been limited to central and western regions, and marked regional disparities persist. Poverty rates remain high and relatively stagnant for the Eastern and Northern regions. This has been attributed in part to conflicts that engulfed those regions for much of the 1980s and 1990s. Nevertheless, poverty in East Central (Busoga) and the rest of the Eastern region remains entrenched, even though these areas have been largely peaceful over the last 30 years. Rural areas lag behind, especially in terms of employment and human development outcomes. Karamoja sub-region is the most economically disadvantaged area. 65% of its population lives below the poverty line. Ranking 110 out of 148 countries assessed, Uganda has a high gender inequality index (0.517) as measured by maternal mortality, adolescent fertility rates, and empowerment and economic activity.¹

- ▶ UNDP's (2015) gender assessment identifies several underlying or systemic issues that are mutually reinforcing, and that have a defining influence on the state of gender equality in Uganda.
- ▶ Law vs. Practice: There is a disconnect between Uganda's very positive legal framework and the lack of effective implementation or enforcement of gender-positive laws. This means that women's legal status is precarious, their capacity as economic agents is limited, and their rights are not effectively guaranteed.
- ▶ Rapid Population Growth: Uganda's population is growing at a rapid rate and has a high total fertility, high dependency ratios, and a significant "youth bulge." This means that Uganda's demographic dynamics will negatively affect the ability of the country to meet its ambitious goals, set out in its Vision 20140 statement, of becoming a middle-income country.
- ▶ Socio-Cultural Norms and Patriarchal Attitudes: Attitudes, beliefs and practices that serve to exclude women are still deeply entrenched throughout the country. This means that unbalanced power relations between men and women

¹ UNDP (2015), "Uganda Country Gender Assessment," available online at: <file:///Users/user/Downloads/UNDPUG2016%20-UNDP%20Uganda%20-%20Country%20Gender%20Assessment.pdf>

continue to have a negative impact on women's agency, their human capital development, and their ability to contribute equitably to Uganda's growth and prosperity.

- ▶ Persistence of Sexual and Gender-Based Violence: The country suffers from a persistently high level of sexual and gender-based violence. This means that Ugandan society pays a high price with respect to lost workdays and lost economic capacity, over and above the severe detrimental effects on families and the society at large.
- ▶ The “overburdening” of women persists: Many women now have an active role in the economy but are still disproportionately burdened with most of the unpaid “care” work in the household, including child and elder care as well as provisioning of food, fuel, and water. This means that women are more labour-constrained than men and face trade-offs among competing uses of time.²

The government of Uganda has acknowledged that gender equality and women's rights are essential components of sustainable development. The government has established national gender mechanisms and has revised its legal and policy framework to address gender inequality and violations of women's rights.³ The national gender mechanisms include the following:

- ▶ Ministry of Gender, Labour and Social Development (MGLSD)
- ▶ Equal Opportunities Commission (EOC)
- ▶ Uganda Women's Parliamentarians Association (UWOPA)
- ▶ Department of Gender, Culture and Community Development – within MGLSD
- ▶ Department of Gender and Women's Affairs – within MGLSD
- ▶ Women in Development Division – within MGLSD
- ▶ National Women's Council
- ▶ Directorate of Gender and Mass Mobilization – within the National Resistance Movement's Secretariat
- ▶ National Gender Forum
- ▶ Minister of State for Gender and Cultural Affairs

The constitution of Uganda recognizes the rights of women and it promotes and protects social justice and equality for all Ugandans. Specific articles in the constitution address the active participation of citizens in governance at all levels, gender balance and fair representation of marginalized groups. Although the Constitution has positive provisions, the laws in Uganda still discriminate against women and girls on matters of inheritance, marriage and divorce and property ownership. An Equal Opportunities Commission (EOC) has recently been established. Women's political representation in Parliament and at local council level is around 30%. The public presence of women is related directly to affirmative action policies. Affirmative action measures have also been applied to education and

² Ibid.

³ <http://interactions.eldis.org/unpaid-care-work/country-profiles/uganda/social-economic-and-political-context-uganda>

politics.⁴ In addition, Uganda is party to three key regional/international organizations that are central to women's human rights: The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol, 2010), the United Nations Security Council Resolution 1325 on "Women, Conflict, Peace and Security (2003) and the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW, 1985).

⁴ Ibid.

2. MAJOR ISSUES IMPACTING GENDER EQUITY AND WOMEN'S HUMAN RIGHTS

2.1. *Women in the informal economy*

The informal sector is the fastest growing sector in Uganda, accounting for over 50% of GDP, up from 43% in 2002. Up to 80% of the labor force works in the informal economy.⁵ A new study has highlighted that the region's informal sector consists mostly of street vendors and shopkeepers who make up more than half of the city's employment base. The report states that this group is not primarily motivated by a desire to dodge taxes or regulations nor are they best looked at as entrepreneurs ready and able to grow businesses but rather, most turn to street trading because they have no other choice. Greater Kampala's informal sector is largely a by-product of poverty and a lack of accessible formal employment. The study's other findings concerning people and businesses in Kampala's informal sector are:

- i. They are young – 43% of business owners in the informal sector and more than half of their employees are under the age of 29
- ii. Many are women – 66% of business owners and most of the people they employ are women
- iii. Location matters – 84% of informal businesses sell to customers located within a 30-minute walking radius
- iv. They are not big job creators – only 3 percent of firms employ more than five people, and only 18 percent of firms have the potential to expand. By and large, the sector is dominated by people who are self-employed.
- v. Most of the businesses are too small to owe business income tax and are unlikely to grow to that level.⁶

In relation to the scale and circumstances under which women in the informal economy work, the issues that present the greatest challenge to their human rights relate to the extreme forms of harassment including sexual harassment, violence, and intimidation that they regularly face in the course of their work. According to one study, most women interviewed reported that dealing with the Kampala City Council Authority (KCCA) was agonizingly difficult especially for women. Many women complained of harassment by city council officials who came to inspect business premises. Women also argued that too many increasingly costly licenses are required in order to do business. The police have been complicit in the wanton eviction and regular arrests of women considered to be unlawfully selling on the street.

Women entrepreneurs also face excessive harassment especially from officials who are not gender sensitive. Their solicitations are not only off-putting, but also a humiliating and uncomfortable experience for the women. Most customs officials demand to be “paid” or

⁵ UBOS, 2004

⁶ Citiscope (2017), “Data from Kampala shed new light on informal workers,” available online at: <http://citiscope.org/story/2017/data-kampala-shed-new-light-informal-workers>

rather bribed in order that businesses are cleared, at a price determined by the officials.⁷ Traders also report that KCCA officers regularly beat them and confiscate their goods.⁸

Harassment of street vendors is also motivated by rivalry and competition among shop owners. In 2016, Kampala Capital City Authority's operation to evict vendors from the city streets "restoration of trade order and sanity" was implemented by KCCA, Police and Uganda Peoples Defense Forces UPDF. The evictions followed an ultimatum issued by the Kampala City Traders Association (KACITA) to rid the streets of vending activities. The authorities outlawed street vending.⁹

KCCA's repressive policies and laws regulating street vending have resulted in a risky work environment for street vendors. There have been ceaseless evictions, confiscation of goods, psychological torture and upset, pestering, detention, tension, bribery and lack of appropriate vending places. Street vendors observe that the illegality and risks of street vending in Kampala has kept them in a state of perpetual poverty and income loss because of endless confiscation of their goods by enforcement officers. To cope with this situation, many street vendors resort to borrowing money in order to sustain themselves and to pay monthly bills. Street vendors are trapped in vicious cycles of borrowing and poverty. Furthermore, street vendors have no organized associations and therefore, no means to lobby for their rights in Kampala. The absence of street vendors' labor rights and recognition as informal workers is a big obstacle and definitely undermines their working performance.¹⁰

Legal/Policy framework related to informal sector:

Since 2011, a number of by-laws and policies have been passed to run the city. These include Maintenance of Trade Order Act (Main Act), Trade Licensing Act, Public Health Act, Market Statute law, and payment of the ground rent, which are in accordance with the Ordinance Act 2006 and KCCA Act 2011. These laws were administered under a newly established KCCA by the Ugandan parliament in 2011. KCCA is the legal entity concerned with the operation of the entire city, working under the control of Ugandan Government in relation to KCCA Act 2010. Prior to the Act, Kampala city was under the administration of Kampala City Council (KCC) that was deemed incompetent for transformation and service delivery to urban dwellers. To change the structure and the situation, Ugandan parliament approved the KCCA Act in 2010 that became effective in 2011 with the aim of promoting a tidy and attractive city to both Ugandans and investors.¹¹

● The Local Government Act [The Local Governments (Kampala City) (Street Traders) Bylaws]

- ▶ The Bylaws prohibit street trading without permit with the provisions that:
 - i) No street trader shall carry on business without a permit from the town clerk.

⁷ Prince Karakire Guma (2015), "Business in the urban informal economy: barriers to women's entrepreneurship in Uganda," *Journal of African Business*, 16(3): 305-321.

⁸ Daily Monitor, "City vendors decry KCCA harassment," 15 October 2012.

⁹ URN, "Police, KCCA evict vendors from Kampala streets," <https://ugandaradionetwork.com/story/police-kcca-evict-vendors-from-kampala-streets>

¹⁰ Margaret Nakibuuka (2015), "The vulnerable livelihoods of street vendors in Uganda: A case of Kampala Central Division," MA Thesis, ISS. Available online at: file:///Users/user/Downloads/MNakibuuka_MA_2014_15_SPD.pdf

¹¹ Ibid.

ii) The form of permit to be issued to street traders shall be as set out in the First Schedule to the Bylaws.

- ▶ The Bylaws require that proper structures, kiosks or premises be provided - A holder of a permit shall be required to provide proper structures, kiosks or premises where necessary which shall be approved by the council for the purpose.
- ▶ The power to refuse the issue of any permit - The town clerk or any authorized officer may, subject to any directions from the council, refuse to issue a permit for such period and subject to such conditions and restrictions as he or she thinks fit.
- ▶ Cancellation of permit – The town clerk or any authorized officer may, in addition to any other action taken under these Bylaws, cancel any permit in the case of contravention of these Bylaws or breach of any conditions attached to the permit.
- ▶ Offences and penalties – Any person who contravenes or fails to comply with the conditions attached to the permit commits an offence and is liable on conviction to a fine not exceeding one thousand shillings or to a term of imprisonment not exceeding two months or to both.¹²

Disconnect between legal/policy framework and informal sector women's daily reality:

- a. The regulation of spaces – The need for KCCA to move informal traders to formal market spaces is a direct attack on women street vendors who are usually compelled to stay close to areas where they are more likely to get customers. The attempt to enforce policies that relocate street vendors ignores the dynamics of survival that push these women to sell on the streets.
- b. Criminalization of street vending – In relation to the above ordinances/ laws, street vending is considered illegal in Kampala. Due to this fact, women street vendors are more vulnerable to constant evictions and seizure of merchandise. Enforcers are “hunt” street vendors at night and confiscate their goods. At times, clientele are also detained for supporting the ‘criminal’ street vendors.¹³
- c. Ignorance about the law – Because they are constantly harassed, street vendors are aware of the ‘illegality’ of street vending but the majority cannot give a detailed explanation of the regulatory laws concerning street vending. It seems that most street vendors are ignorant about these laws.¹⁴
- d. Limitations of a legalist approach to the informal economy – The informal sector is comprised of small operatives who work outside the formal economy because they find the legal procedures too cumbersome to follow. Their actions do not have criminal intent nor do they wish to enter the formal economy. Most operatives are in the informal economy out of necessity and survival.

¹² The Local Governments (Kampala City) (Street Traders) Bylaws <https://www.kcca.go.ug/uploads/acts/Kampala%20Street%20Traders%20By-laws.pdf>

¹³ Nakibuuka (2015), “Vulnerable livelihoods of street vendors.”

¹⁴ Ibid.

2.2 Domestic Violence and VAW

Incidences of intimate partner and domestic violence are extremely high in Uganda. 2013 statistics from the Uganda Bureau of Statistics show that close to 70% of women between the ages of 15 and 49 who have been married at one point in their lives have experienced some form of violence at the hands of their partner.¹⁵ According to the Uganda Police Force (UPF) crime report from June 2015, the most recent available, 10,163 sexual offenses were reported of which 787 were rapes, 8,954 were statutory rapes, 308 were indecent assaults, 56 were incest, and 58 were “unnatural offenses.” Gulu District Police told the media on April 1, that they registered an average of 60 cases of statutory rape a month, with most cases involving girls younger than 14. According to the Uganda Association of Women Lawyers (FIDA), few cases involving rape and statutory rape were brought to trial and completed. This is, in part, due to societal factors. Parents, husbands, local leaders, religious leaders, police, prosecutors, and sometimes courts pressured victims to settle cases out of court. According to FIDA, these settlements often left perpetrators unpunished and discouraged other victims from seeking redress. According to the 2011 Demographic and Health Survey (DHS), which the government conducts every five years, at least 27 percent of girls and women between the ages of 15 and 49 experienced some form of domestic violence in 2010. The same survey found at least 56 percent of married women reported some form of domestic violence. According to a representative from the UPF’s Child and Family Protection Unit, victims often did not report domestic violence because society generally does not consider it a crime, and police officers often do not consider it a serious offense.¹⁶

An accompanying and equally serious problem associated with domestic violence and gendered violence is the criminalization and imprisonment of female victims of abuse. An important study in Uganda investigated whether Ugandan law and legal institutions protect women sufficiently. The study asks whether Ugandan laws are sensitive to the needs of women, or whether they relegate women to an inferior socio-economic status and thus ‘force’ women to resort to crime as a means of fighting legitimized inequality and oppression. In this regard, the study investigated the effects of family and property laws on women’s position and status to find out whether these laws create social situations in which women may be driven to violent behavior within the family. Furthermore, it analyzed the extent to which Ugandan laws apply different legal categories according to gender, and how women fare in the criminal justice system.¹⁷

The cases studied show the cyclical nature of domestic violence. For instance, women interviewed in prison for murder of their spouses justified their actions either on grounds of self-defense or at least as a reaction to a provocative act by the victim. This was especially common among women who killed men and more specifically those who killed their husbands. The majority of these women reported a history of extreme physical abuse at the hands of their husbands. They stated that their own violent behavior was a reaction to physical abuse inflicted by their husbands. The law may not consider their acts as self-defense, but the women believed they acted in self-preservation. Information available from court records indicates that the homicides by women often occurred in circumstances where the women’s acts were either in self-defense or a reaction to provocation.¹⁸

¹⁵ Nyangoma Patience, *An analysis of domestic violence problem in Uganda*, <https://jocom.mak.ac.ug/news/analysis-domestic-violence-problem-uganda>

¹⁶ U.S. State Department, *2016 Country Reports on Human Rights Practices* - <https://www.state.gov/j/drl/rls/hrrpt/2016/af/265314.htm>

¹⁷ Lillian Tibatemwa-Ekirikubinza (1999), *Women’s Violent Crime in Uganda: More Sinned against than Sinning*, Kampala: Fountain Publishers, pp.7-8.

¹⁸ Ibid.

Legal/policy framework covering domestic violence and VAW:

Although some key bills that are critical in the fight against gendered violence and domestic violence namely The Sexual Offences Bill and The Marriage and Divorce Bill remain in draft form, Uganda has passed a raft of significant laws and policies that address the issue of gendered violence:

- **The Domestic Violence Act, No. 17 of 2010**

- ▶ Put in place stringent protections against domestic violence. It defines domestic violence broadly to include physical, sexual, emotional, verbal, psychological, and economic abuse of a victim or anyone related to him/her.
- ▶ Domestic Violence Act no. 2 further explains that harassing, harming, injuring or endangering the victim or anyone related to the victim for the purpose of coercing them into complying with any “unlawful demand for any property or valuable security” are also considered as domestic violence.

- **Prohibition of Female Genital Mutilation Act**

- ▶ De-localization of the practice across the Kenyan border has developed, while other harmful traditional practices in Uganda remain prevalent, including early and forced marriage, abduction of girls, “widow inheritance” and “wife sharing”. A concerted government action towards eliminating these practices is required.¹⁹

- **Penal Code Amendment Act, 2007**

- ▶ Chapter XIV of the Penal Code (Offences against Morality) addresses issues of rape, indecent assault, defilement of underage girls, prostitution, incest, unnatural relations, abortion alongside other issues deemed as offensive.

- **Kawempe by-law on domestic violence, 2007**

- ▶ The bylaw is the first to be passed in Uganda that addresses domestic violence. It makes it possible to impose a fine on or demand compensation from a perpetrator of domestic violence.
- ▶ The bylaw also provides for a fine to be imposed on anyone who “abuses or physically hurts” a community member or authority figure who intervenes or comes to the aid of a victim.

Disconnect between existing laws/policies and practice:

- a. There are some significant, unaddressed difficulties that prevent access to justice for women victims of violence including the costs associated with the complaint process. Other obstacles include the adoption of required implementing regulations and the allocation of an adequate budget.²⁰

¹⁹ FIDH, “Women’s Rights in Uganda: Gaps between Policy and Practice, <https://www.fidh.org/IMG/pdf/uganda582afinal.pdf>

²⁰ Nyangoma Patience, An analysis of domestic violence problem in Uganda, <https://jocom.mak.ac.ug/news/analysis-domestic-violence-problem-uganda>

Marital rape is not recognized under the Penal Code since consent to marriage is interpreted as consent to sexual activity under customary law. Domestic violence including marital rape may only be handled under the lesser criminal charge of assault. An assault charge carries a lower maximum sentence of up to five years imprisonment and does not deal with other forms of domestic violence including sexual and psychological violence.²¹

- b. The Penal Code is limited by some of its own provisions that potentially contradict other existing frameworks for gender non-discrimination and can leave women vulnerable to the law. For example, by including prostitution and abortion in The Penal Code's raft of "offences against morality", it offers little or no protection to women and girls who engage in sex work for survival and who may require abortion services as a result of rape.
- c. With regards to the criminalization of female victims of domestic violence, even though the majority of the women were convicted of manslaughter – an indication that the courts too, sometimes considered the homicides to have been provoked by the victims – a ruling of manslaughter is evidence that the law/courts did not consider the women's acts as self-defense since self-defense should lead to acquittal.²²

2.3 *Women's political participation*

Affirmative action, provided for under the Constitution and the law, has made it possible for women to be represented in Parliament in significant numbers. Due to an increase in the number of constituencies approved by parliament in August 2015, the statutory number of directly elected members increased from 238 to 30 and that of women representatives increased in the current parliament to 122 up from 112. However, in the 2016 elections, there were only 290 directly elected seats and only 112 women representative seats. Numbers will change pending the creation of new districts.²³ This high number of women in politics puts Uganda among the top 20 countries in terms of women's parliamentary representation. Unfortunately, by using patronage politics, the National Resistance Movement (NRM) has managed to capture the women's movement as a voting bloc, effectively disregarding pluralism and manipulating affirmative action to work as a tool for controlling women in politics. In this way, the competitive dynamic of a pluralist system is unavailable to Ugandan women. Ugandan women have not been able to use the rules and representative systems within well-institutionalized parties to press for equitable inclusion at all levels.²⁴ Furthermore, due to affirmative action, the relationship between women MPs and women's networks outside parliament can be described as tenuous at best.²⁵ That said, the Ugandan situation offers an important lesson: although women can benefit enormously from direct presidential patronage, they will not succeed in promoting a gender equity agenda unless they have ensured a presence for themselves as legitimate competitors for the popular vote. Women must also ensure that their policies are taken seriously as legitimate matters for public debate.

²¹ <https://www.justice.gov/sites/default/files/eoir/legacy/2013/11/07/UGA102881.E.pdf>

²² Lillian Tibatemwa-Ekirikubinza (1999), *Women's Violent Crime in Uganda: More Sinned against than Sinning*, p. 40.

²³ Inter Parliamentary Union, http://archive.ipu.org/parline/reports/2329_E.htm

²⁴ Goetz, Anne Marie. "The Problem with Patronage: Constraints on Women's Political Effectiveness in Uganda." In *No Shortcuts to Power: African Women in Politics and Policy Making*, edited by Anne Marie Goetz and Shireen Hassim. London: Zed Books, 2003.

²⁵ Tamale, Sylvia (1996), *When Hens Begin to Crow: Gender and Parliamentary Politics in Uganda*. UK: Westview Press.

In Uganda's Public Service sector, Men hold 67 percent of jobs while women hold only 33 percent. The Uganda Gender Policy (UGP) of 2007 states that women constitute 17.4 percent of permanent secretaries and heads of departments/divisions in the civil service whereas men account for 82.6 percent. In local government, chief administrative officers (CAOs) and municipality town clerks (MTCs) are key positions. Since there are fewer CAOs to fill all the 111 district positions, many CAOs serve in an acting capacity but are substantively appointed as deputy chief administrative officers (DCAOs). Ministry of Local Government (MOLG) data for 2011 and 2012 shows that women constitute only 8 percent of the CAOs and 13 percent of the DCAOs, a proportion that is far below the national average in the entire Public Service sector. At municipality town clerk level, the percentage of women decreased from 34 percent to 9 percent, thereby lowering overall percentages of women in local government positions from 15 percent in 2011 to 9 percent in 2012. The top positions in local governments, as in central government and in education, are therefore, dominated by men. Uganda's Public Service has both occupational segregation, where particular sectors or types of work such as nursing, secretarial and clerical jobs are female-dominated, as well as hierarchical segregation, where men dominate the top positions and women the lower ones. As such, Uganda's public administration is structured along gender lines, where men dominate certain jobs and sectors and women are concentrated in sectors that require lesser skills and are care-related, such as secretarial or nursing.²⁶

Within the National Constitution and other key legislations and policies, Uganda has many gender-sensitive provisions relating to local government, employment and education. For elected representation, affirmative action provisions have significantly increased the presence of elected women in both local councils and in the national parliament. However, with regard to gender equality in the public administration, Uganda has yet to explicitly extend the provisions for affirmative action from the legislature to the executive, the judiciary and to the entire public administration.

Legal/Policy framework:

The major laws relating to women's political participation in Uganda include the following:

- **MPS Gender Mainstreaming Guidelines of 2011**

- ▶ Are a key advance in terms of making the public administration policy less gender-blind
- ▶ It will be important to support and follow the progress and uptake in specific ministries and local administrations.

- **The National Equal Opportunities Policy**

- ▶ Promotes the elimination of inequality on the basis of sex as well as promotes affirmative action policy.

- **Equal Opportunities Commission Act of 2007**

- ▶ Mandated to 'monitor and promote measures designed to enhance the equalization of opportunities and improvement in the quality of life and status of all peoples, including marginalized groups on the basis of gender, age (elderly,

²⁶ UNDP, "Gender Equality and Women's Empowerment in Public Administration: Uganda Case Study, <http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Women-s%20Empowerment/UgandaFinal%20-%20HiRes.pdf>

youth, children) disability or any other reason created by history, tradition or custom for the purpose of redressing imbalances which exist against them'. Women are well represented on the Committee.

- **Presidential and Parliamentary Elections Acts**

- ▶ Under Article 78(1) of the Constitution, the parliament must consist of 1 female representative from all 112 districts in Uganda. Furthermore, under Article 8 of the Parliamentary Elections Act 2005, of the 10 representatives of the Uganda People's Defense Forces, 2 must be women; of the 5 youth representatives, 1 must be a woman; of the 5 representatives of persons with disabilities, 1 must be a woman; and of the 5 representatives of workers, 1 must be a woman.

Disconnect between legal/policy framework and realities of women in politics:

- a. Affirmative action consolidating negative gender attitudes – While the affirmative action policy was meant to enhance women's participation in elective politics by ensuring that there is a woman representative for each district in the country, the report notes that male contestants and their supporters have used it as a tool for false propaganda. The message relayed to the electorate is that women have reserved seats and thus they should not vie for direct positions so as to reduce the competition for male contestants.
- b. Issues that keep women out of competitive politics at local and national levels are not addressed in the existing laws. For instance, many female candidates and voters experience intimidation and violence during elections. Obviously, this greatly discourages some qualified women from participating in politics. In addition, traditional structures and cultural constraints that limit women's public life are also not addressed in the existing laws.
- c. The amended Presidential Election Act has been found to downplay women's participation in elections. This act increased the nomination fees for presidential candidates from 8 million to 20 million Uganda shillings, and removed the provision of a vehicle and the contribution of 20 million Uganda shillings to candidates' campaigns. Such changes have dramatically reduced and rendered inadequate the resources available for female candidates.²⁷
- d. Patronage politics – Perhaps due to the perception that political parties sponsor women candidates, many suffer constraints related to campaign funding. The existing laws that legislate for equal opportunities do not consider the differential access that woman and men have with regards to funds for political campaigns.
- e. Recruitment, appointment, promotion and allowances in the Public Service sector are based on merit and gender-neutral criteria. At first glance, this fact may appear positive but there is an underlying lack of awareness of how policies affect women and men differently. For example, a man may be hired for a job over a worthy female candidate simply because the assumption still exist in Uganda that a man is the main breadwinner in a family. In this way, women may be inadvertently disadvantaged compared to men.²⁸

²⁷ Make Every Woman Count, "Uganda: 2016 Presidential Elections," <http://www.makeeverywomancount.org/index.php/tools/political-participation-a-election-monitoring/2016-elections-monitoring/10045-uganda-presidential-elections-2016>

²⁸ Ibid.

- f. The national gender machinery has limited capacity and resources – The Ministry of Gender, Labor and Social Development (MGLSD) lacks the technical and financial resources to address the enormous task in its mandate. Gender focal points in government institutions need strengthening and their Terms of Reference do not systematically include the internal staffing dimension.

2.4 Marriage and Succession

Different marriages in Uganda are governed by different pieces of legislation. For example, church or civil marriages are governed by The Marriage Act (1904), Muslim marriages are governed by the Marriage and Divorce of Mohammedans Act (1906) and Hindu marriages are governed by the Hindu Marriage and Divorce Act (1961). All three Acts are in the process of being amended. Customary marriages are governed by the Customary Marriage (Registration) Act (1973). Customary marriage is the most popular and common form of marriage in Uganda because it is recognized across different cultures, it is cheap and its dissolution is negotiable. In 1995, Uganda enacted a new constitution. During the making of the constitution, many delegates argued that marriage, inheritance (succession) and divorce laws were discriminatory against women and were therefore, unconstitutional. The new Constitution provided for the right to equality between women and men and also between people of different races and religions.²⁹

In Ugandan society, divorce is not an easily acceptable solution to broken marriages and for many women it is clear that society will not protect them. Females are constantly reminded that society only respects women as wives and mothers and hence, it is their duty to ensure that they remain married. Women's options in this regard are constrained by social and cultural conditions and circumstances. For instance, customary marriages are normally dissolved when the parents of the wife refund the bride wealth to the husband. The courts have taken cognizance of this custom. In civil marriages in which bride price has exchanged hands, the husband is entitled to a refund of the bride price upon divorce. On many occasions, the father or other relations of the wife will have already spent the bride price and may not be in a position to refund the money when the wife desires to leave the marriage. As such, both civil and customary aspects of marriage hold women at ransom.³⁰

Many women remain married and endure domestic abuse because they feel trapped (the "economic trap") by their very low socioeconomic status. For many women, their only source of survival is to till land that belongs to their husbands. Exiting the marriage would mean losing access to land and a major source of livelihood for these women and their children.

Relevant legal/policy framework:

- **The Divorce Act, 2004**

- ▶ Ugandan law recognizes divorce and separation as solutions to conflict-ridden marriages. Cruelty and adultery are some of the grounds on which a woman can petition the court for divorce in a civil marriage.

²⁹ Mujuzi, Jamil Ddamulira, "The Ugandan Customary Marriage (Registration) Act: A Comment," *Journal of Third World Studies*;

³⁰ Lillian Tibatemwa-Ekirikubinza (1999), *Women's Violent Crime in Uganda: More Sinned against than Sinning*, p. 82.

- **Customary Marriage (Registration) Act, 1973**

- ▶ The law only recognizes customary marriages if they are registered. The Customary Marriage Registration Act requires that customary marriages be registered within six months. A couple seeking a certificate must produce witnesses to the customary marriage, letters of parental consent and passport photographs.

- **The Marriage and Divorce Bill (pending)**

- ▶ This Bill intends to consolidate the numerous marriage laws presently used in Uganda into a unified legislative guideline for marriage and its dissolution. The wide range of marriages and laws handled by the Uganda Registration Services Bureau means that it does not have a centralized list of all the marriages that have taken place in Uganda.
- ▶ The proposed Marriage and Divorce Bill fixes the minimum legal age of marriage for both sexes at 18, grants women the right to choose their spouse, the right to divorce spouses for cruelty and prohibits the practice of “widow inheritance”.
- ▶ It also defines matrimonial property, provides for equitable distribution of property in case of divorce and recognizes some property rights for partners that cohabit.
- ▶ However, the Bill does not apply to Muslim marriages, nor does it prohibit polygamy or payment of the “bride price”.
- ▶ Reforms to discriminatory provisions of the Succession Act, preventing women from receiving inheritance, have not yet been submitted to parliament.

Disconnect between laws and practice:

- a. Whereas inability/unwillingness by the woman’s parents to refund bride wealth may make it impossible for her to divorce under customary practice and law, the Divorce Act requires different, gender-based grounds for divorce. The Act does not recognize ‘irretrievable breakdown of a marriage’ as grounds for divorce and a person seeking dissolution of his/her marriage must prove the existence of specified circumstances.³¹
- b. Adultery by a wife is by itself, inadequate grounds for a court to grant the husband a divorce. A wife cannot divorce an adulterous husband who has not, in addition to adultery, deserted her, been cruel to her, committed bigamy or had an incestuous relationship. In treating the sexes differently and giving men more freedom, the legislators have been passive followers of trends in the Ugandan social order. The law thereby sanctions inequality between men and women.³²
- c. The various laws on marriage discriminate on the basis of race and religion. The laws do not recognize or provide for marriage of any person who is African but is not Christian and who does not wish to marry under customary law.

³¹ Lillian Tibatemwa-Ekirikubinza (1999), *Women’s Violent Crime in Uganda: More Sinned against than Sinning*, p. 95.

³² *Ibid.*

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