



**Working Group's Report on the Gender Lens
to the UN Guiding Principles on Business and
Human Rights
Submission on Uganda, October 2018**

"The world owes no man a living but rather gives every man an opportunity to make a living" That is the dignity of labour."

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Specific Questions/Issues

1. In what ways do women experience the impact of business-related human rights abuses differently and disproportionately? Please provide concrete examples in the context of both generic and sector- or region-specific experiences of women.

In Uganda, women face challenges such as unequal pay, limited opportunities and exposure to violence especially when they work in the night or away from home. Most women are engaged in informal sector business activities where there is no pre-set pay scale, which exacerbates the gender-created income gap. Domestic work has been feminised. The likelihood of women employed as domestic servants or workers being exposed to sexual harassment and other forms of violence or even being paid less for more work is higher than for men. The discrimination is systemic as young girls are expected to provide labour as babysitters and domestic workers which exposes them to exploitation and abuse. Enactment of domestic violence legislation is welcome but enforcement remains wanting as most offences remain charged under the *Penal Code Act*.

The right to work, provided for under Article 40, *Constitution of the Republic of Uganda, 1995* is undermined by women being denied opportunities. Some employers will not employ pregnant women or place women in managerial positions. Patriarchal attitudes and stereotypes including beliefs that women are docile and therefore less likely to agitate for better pay, benefits and working conditions influence employment decisions.

Uganda has been identified as a source, transit, and destination country for trafficking women. Reportedly, the dangers are exacerbated by the limited ability of the government to protect women who seek employment abroad as domestic workers and security personnel. Resultantly, the women face dangers associated with human trafficking, including sexual exploitation, underpay, enslavement, forced labour, among others. The Office to Monitor and Combat Trafficking in Persons- 2018 Trafficking in Persons Report places Uganda on Tier 2 for demonstrating increasing efforts by investigating, prosecuting, and achieving convictions in more cases, identifying and repatriating more trafficking victims, and increasing law enforcement training.

While the *Uganda Citizenship and Immigration Control Act* does not expressly state so, married women who seek to include a spouse's name when applying for a passport are required to provide proof of marriage.

The law does not provide equally for inheritance of property, especially for a female surviving spouse and female children. Uganda has taken measures to protect matrimonial and family property from being used as collateral when borrowing. Under the *Land Act* and the *Mortgage Act*, spousal consent is a mandatory requirement before use of matrimonial and family property in transactions. However, there are challenges when it comes to many families in cohabitation (not recognised as marriage) as the women's consent would be

irrelevant. Cohabitation is. Where the partners are illiterate or semi illiterate, their spouses often taken advantage of them and coercion is also possible.

The law does not provide for valuation of non-monetary contributions of women which serves to undermine the contribution of women to the national economy.

Although under the *Employment Act*, maternity leave was increased from 45 days to 60 days, most beneficiaries consider the time to be inadequate as the child will not have passed major milestones.

The liberalized economic policies have seen an increase of foreign business owners in many sectors. However, cases of sexual violence have been reported involving foreigners abusing female employees.

2. Please share any good practices on how to deal with increased marginalisation or vulnerabilities faced by women due to intersectionality, feminisation of work, informal economy, and conflicts.

There is more awareness raising and projection of women in a more positive way in their involvement in the public and private sector in Uganda and increased focus on gender mainstreaming at all levels of governance, including in the business sector. Examples are evident in the provision of micro credit and financing for women, and training and capacity building for women entrepreneurs. The Uganda Women Entrepreneurs Association Limited has spearheaded the transformation of the landscape that gives women in business a voice and it assists and provides the necessary support and guidance to women in business and to advocate for favourable policies.

The Operation Wealth Creation and the Youth Livelihood Fund have enabled women groups to access low interest capital to establish businesses although there are challenges due to politicization of the initiatives.

The Finance Trust Bank Uganda (formerly Uganda Women's Finance Trust Ltd) was established and is managed by women to provide access to credit at low interest rates for women. More banks are needed as its coverage is limited.

Enforcement of the *Employment Act 2006*, which prohibits forced labour, discrimination and sexual harassment in employment has helped promote good employment practices and to caution potential perpetrators. The Industrial Court is now fully operational with fulltime Judges and Registrars and it conducts circuited sessions countrywide.

The Equal Opportunities Commission was established by law and it has spearheaded the development and implementation of equal opportunity policies.

The promotion of ICT to reduce the information gap and provide more women with opportunities to transact, apply for jobs and transfer money has increased the participation of women in the social and economic space. The Government

introduced an over the top ("OTT") Tax effective 1st July 2018. The impact of the imposition of OTT on women is yet to be evaluated.

The Gender in Education Sector ~~Policy aims~~ **Policy aims** to provide equal access to education for both girls and boys. The National Strategy for Girls Education in Uganda is an effort to promote girl's education aimed at creating equality and equity in the education sector.

While enrolment of females in educational institutions has increased, retention remains the issue. Approximately 14% of boys of primary school age are out of school compared to 13% of girls of the same age. Nearly 30% of female youth of secondary school age are out of school compared to 21% of male youth of the same age. Affirmative action in the education sector premised in the National Gender Policy has seen an increase in levels of girls' enrolment and graduation in tertiary institutions.

Workplaces have established day care centres to enable working mothers nurse and tend to their children. Parliament of Uganda took the lead on this.

Tackling harmful traditional practices (widow inheritance, Female Genital Mutilation and Child, Early and Forced Marriage) through awareness raising, law reform and prosecution, which expose women to violence and reduce their power to negotiate in situations has resulted in gains.

Through charitable organisations, religious entities, alumni associations and other structures, men and women in key positions have taken on roles as mentors of young women.

Demystifying science, technology, engineering and mathematics subjects that have been traditionally seen as male domains has seen more women launch business empires in food preservation, natural beauty products and herbal remedies.

Adult education programmes for instance, Literacy Adult Basic Education, promote basic literacy and numeracy of especially rural women enables them access basic information in health, agriculture and assist their children learn.

Provision of sanitary towels to girls in some schools and training by organisations in the making of reusable pads has facilitated girls' full participation.

Development of a gender sensitive curriculum has seen to the development of textbooks and other learning material accentuating the role of the girls and women in society.

Forum for Women Education Uganda chapter have been at the forefront of promoting the rights of women in the education sector; sensitising and training teachers in gender responsive teaching and learning practices, advocacy for girl education using mass media and providing scholarship and bursary opportunities for bright but disadvantaged students.

3. How to address sexual harassment and sexual or physical violence suffered by women in the business-related context, including at the workplace, in supply chains and in surrounding communities? Please share any good practices which have proved to be effective in dealing with sexual harassment and violence against women.

Awareness raising is critical to ensure that perpetrators know the consequence of their acts and victims can speak up. This has reduced the likelihood of women being heckled and touched or undressed in public.

Prosecution of perpetrators or offenders sends a strong message that sexual harassment and sexual or physical violence are not to be tolerated. Perpetrators are exposed to both the administrative and criminal processes. For cases involving underage girls, the perpetrator is charged with aggravated defilement and faces stiffer penalties. Many workplaces have established Sexual Harassment Policies as required by law to offer guidance to the victims and raise awareness. This will help raise awareness, promote accountability and bring about behavioural change.

While naming and shaming perpetrators has been done mostly in very controversial tabloids, other reputable media outlets have exposed cases in which employers have sexually harassed or even subjected women to physical violence, resulting in prosecution or interventions by the Labour department. Uganda lacks a Sexual Offenders register hence many perpetrators retain positions of power unabated.

In the military and police forces, training female personnel should be aware of and in turn know to how to deal with and respond to instances of sexual harassment; creation of a directorate to specifically deal with women matters Directorate of Women Affairs; and appointing Intelligence Officers whose role is to detect and report matters of sexual harassment will make a difference.

4. Which State laws and policies or social, cultural and religious norms continue to impede women's integration into economic activities and public life generally?

As a relic of its colonial past, Uganda has a pluralistic legal regime, arising from a co-mix of a colonially structured state and a plethora of pre-colonial ethnic communities. The onset of colonial administration contributed to further lowering and sustaining women at the bottom of the power structure, including in the economic and public life. Resultantly, several norms and practices, that range from structural, institutional, cultural to psychological, all contribute to hampering women's full participation in public and private life.

The increase in the number of women in policy and decision making positions has not necessarily translated into the much desired reforms.

Given that women have limited inheritance rights, they lack the most available collateral—land, so as to gain access to credit in financial institutions which limits their borrowing capacity.

Culturally, public and politics as well as the high income opportunities suffer from masculinisation. Professions in the hard and physical sciences have a lower uptake of women due to norming. While the law states otherwise, full and meaningful participation of women in the mining, security and transport sectors is restricted by employers and family members (heads of households) on the perception that women not being able to bear the physical demands of the jobs or out of concern of the ‘dangers’ that women will be exposed to at work.

While the law does not designate ‘Head of household’ or require wives to obey their husbands, social, religious and cultural norms vest head of household powers indiscriminately on males regardless of capacity to do so or agreement to do otherwise.

Widow inheritance remains one of the harmful traditional practices that affects women who then lose their rights to property if they resist participation in levirate marriages.

Seclusion of women during the menstrual period hampers the participation of women in the economy. In 2012, it was reported that around 57% of Uganda girls missed school annually due to their inability to manage menstruation.

In Islam, iddah/ iddat is the period a woman must observe after the death of her spouse or after a divorce, during which she may not marry another man so to ensure that the male parent of any offspring produced after the cessation of a nikah (marriage) would be known impedes Muslim women from engaging in economic activities and public life freely.

The government does not meet the minimum standards in several key areas to counter human trafficking. Insufficient funding for victim protection, failure to employ systematic procedures to refer or assist victims and to institutionalize anti-trafficking training among law enforcement and front-line officials and the persistent misclassification of cases and poor investigations hinder government efforts.

The impact of the Supreme Court ruling in *Fred Ntambala vs Uganda* that the cautionary rule on corroboration in cases of sexual offences is discriminatory is yet to be seen. Statistically, most sexual abuse takes place in secrecy and hence this places a very high burden on the prosecution to prove the cases. It compels most victims not to report and to seek resignation or transfer services elsewhere.

5. Are there any good practices of integrating a gender perspective into States' economic sphere (e.g., state-owned enterprises, public procurement agencies, trade missions, export credit agencies, privatisation of public services, public-private partnerships, and trade and investment agreements)?

Development of gender equality policies for public procurement will go a long way in enhancing the position of women in the economy.

Gender mainstreaming in all activities right from planning/budgeting to monitoring and evaluation will integrate gender perspectives.

Awareness raising on the need for women to participate more in the business sphere and access to credit financing is critical.

The use of affirmative action positively for instance vacancy announcements now encourages more female applicants. Making appointments on the basis of promoting equal opportunity and appointing or electing female leaders will have a positive impact. It is evident in appointments to significant positions, including those vetted at Cabinet level or the Appointments Committee at the Parliament of Uganda.

More women being seconded for training abroad in military colleges for exposure and for foreign peace missions and military observations missions.

Most office environments are open spaces not only to promote equality but most importantly to ensure that sexual predators are denied a closed door space likely to be used to abuse and sexually exploit female employees.

6. How could policy coherence be improved between different government ministries or departments dealing with women issues and business-related matters?

Ensuring actual mainstreaming of gender at the highest level by promoting gender and equal opportunity.

Demand for statistics on gender diversity and accountability.

Stakeholder engagement in the form of national consensus building and accountability fora.

7. What is the extent to which businesses currently apply a gender lens in conducting human rights due diligence, including social or environmental impact assessment?

Institutionalisation of women-of-the-year awards is making a difference. In May 2018, the inaugural awards of Women 4 Women, spearheaded by influential

women in Uganda, including ambassadors, heads of mission, directors and leaders, rewarded women who have made exceptional and positive contribution in the different fields of society.

Environmental Impact Assessment Regulations demand for impact of gender to be assessed.

- 8. Are there any good practices of business enterprises adopting a gender perspective in making human rights policy commitments, addressing the gender wage gap and under-representation of women in boards and senior positions, or involving affected women in meaningful consultations and remediation processes?**

Appointment of women leaders in board positions and politics.

In the military, a Directorate of Women Affairs, headed by female military officers, who account to the Joint Chief of Staff and the Chief of personnel and administration, was created to specifically deal with issues affecting female personnel. At every meeting, female personnel should have an issue to raise about their experiences in their daily work

Representation of the army in Parliament must have at least one female officer, although currently they are two out of ten.

The Women Entrepreneurs Award by the Private Sector Foundation and Uganda Manufacturers Association are encouraging and rewarding women entrepreneurs.

Advocacy by FIDA (Uganda), Uganda Women's Network and the UWONET, National Association of Women Judges and other advocacy groups are consulted to recommend members for various appointments for instance into the judiciary and on various boards respectively.

- 9. What is the role of businesses in dealing with domestic laws, policies and societal practices which are discriminatory to women?**

Businesses could support efforts at advocacy spearheaded by FIDA (Uganda), the Uganda Women's Network and the National Association of Women Judges, aimed at reform of gender discriminative laws.

Funding media and other programmes, projects that are for fighting against discrimination.

Sponsoring selected girl children from especially upcountry and rural areas for education.

The business communities can come together and organise or fund awareness-raising workshops to educate women in their business entities.

Educating the men on discrimination.

Engaging Parliament and Ministries, Departments and Agencies with draft policies and model laws.

10. How could media and advertising industries fight against gender stereotyping and disempowerment of women?

The media and advertising industry can adopt measures that include: building consensus on how females in the media and advertising industry are presented; and whether females are portrayed respectfully, depicted inappropriately or seen as positive role models for the viewing women.

By developing standards aimed at repackaging the messages sent out that tend to promote gender stereotypes, e.g. always portraying women in the kitchen or washing clothes and men in positions of power which is evident in advertisements, movies, plays etc by raising awareness of high-achieving women demystifying cultural taboos such as the banishment of girls during their menses and promoting behavioural change through advocacy.

Electronic media can have in place educative, yet entertaining children's programmes addressing gender issues such as 'Sara the girl child' that was aired in the 90s.

Promoting women leadership in the industry especially on the executive boards of media and advertising entities.

Exposing bad practices including naming and shaming culprits can be done lawfully and responsibly through investigative journalism by preparing documentaries. Care should be taken not to re-victimise, especially where perpetrators are in positions of power and influence.

11. What additional or specific barriers do women (women human rights defenders) face in accessing effective remedies for business-related human rights abuses?

Funding challenges for advocacy especially in the media as the cost of advertising is prohibitive at organizational level.

Fear of retaliation especially at family and community level and the persisting culture of silence.

Being in a position of unequal bargaining power in relationships both in the public and private spheres of life.

Poverty and the need for employment for victims and perpetrators.

Ignorance of rights.

Social and cultural norms that promote women being placed in subservient roles.

High costs of litigation.

Limited provision of childcare facilities at the workplaces in government, civil society and corporate sector

The large informal sector in Uganda, where women are mostly employed has led to a weak labour union. Where the labour unions exist, they are presumed to be co-opted into the governments of the day.

Case backlog in the judicial system means that disposal is low and justice delayed is justice denied.

The adversarial justice system which promotes the notion of ‘winner takes all’ is not user friendly to many vulnerable women.

12. How could all types of remedial mechanisms, processes and outcomes be made more gender-sensitive?

Promoting judicial diversity to have more women involved in the administration of justice.

To redesign the justice system into a less adversarial with less formalism and technicalities.

Promote gender awareness in the remedial mechanisms.

Make legal aid services available.

13. How to overcome power imbalances and discriminatory practices that might undermine the effectiveness of remedies obtained by women?

Awareness raising at all various socio-political forums such as social events and political gatherings.

Promote public interest litigation.

Imposing sanctions for discriminatory practices.

Provide legal aid.

Promote girl education through monitoring of enrolment and.

Bring cultural, customary and religious leaders on board and have them address negative social practices that undermine gender equality

Enact locally contextualised legislation such as the Small Claims Procedures would promote access to justice.

14. Please provide any additional comments, suggestions or information which you think may be relevant for the Working Group's forthcoming report on the gender lens to the UNGPs.

Businesses should be encouraged to introduce flexi-hours and telecommuting to allow more women to take advantage of more job opportunities.

The National Accounts System of the United Nations needs to be re-defined to include un-paid domestic work based on the measure used in the hospitality industry, care work and in schools and hospitals.

LEGAL RESEARCH CONSORTIUM (LRC)

Profile

LRC is a full service cross border legal research consortium incorporated in Kampala, Uganda three years ago, but with offices worldwide.

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The team at LRC has engaged in legal research, reporting and publication; conducted consultancies and other research engagements; published legal journals, papers, monographs, magazines, periodicals; developed learning materials for the legal profession; and engaged in capacity building, inter alia.

The geographical range in which LRC team members have practiced include Africa, Europe, North America, Asia, Pacific and the Caribbean regions.

Areas of practice: Thematically, the practice covers rule of law, governance, strengthening institutions, access to justice, public health, education, and communication for development.

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