

**JOINT SUBMISSION BY THE WOMEN RIGHTS CLUSTER FORUGANDA TO BE
CONSIDERED AT THE TWELVETH SESSION OF THE HRC BY
NATIONAL ASSOCIATION OF WOMEN'S ORGANIZATIONS IN UGANDA.**

1.0 Introduction

1. The women's rights cluster is of the view that empowering women is developing a nation. This report is a joint collaboration of the women rights cluster in Uganda comprised of Bahai Faith, Hope after Rape, Uganda Women's Network, Action for Development, Uganda Association of Women Lawyers, Uganda Media Women's Association, and the Centre for Domestic Violence.
2. Prevention, Isis Women's International Cross Cultural Exchange, National Association of Women's Organizations in Uganda, Disabled Women's Network and Resources Organization in Uganda, East African Sub-regional Support Initiative for Advancement of Women.
3. There is an increasing acceptance of women's rights within Uganda's policymaking framework. Uganda's Constitution recognizes that Women's Rights should be mainstreamed in all national priority areas of work: electoral democracy, right to health, recognition and promotion of people living with disabilities. The basic rights of women have been spelled out in successive international legal instruments that Uganda has ratified. This report outlines issues of women rights in Uganda.

1.1 International treaties ratified by Uganda in relation to the promotion and protection of women's rights

- The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966
 - The International Covenant on Civil and Political Rights (ICCPR), 1966
 - The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979
 - The International Convention on the Rights of Migrant Workers and All Members of their Families (ICRMW), 1990
 - The Convention on the Rights of Persons with Disability (CRPD), 2006
 - The International Convention for the Protection of All Persons from Enforced Disappearances (ICPED), 2006
 - Uganda has ratified the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa
 - The Maputo Protocol, 2003.
4. Based on the above, Uganda has a fairly good record of ratification and accession to international and regional human rights treaties; it is party to the two Covenants forming part of the International Bill of Rights and has ratified the majority of the other core UN human rights treaties. Uganda has also participated in the adoption of, and endorsed, several of the UN declarations relevant to the promotion and protection women's rights. However, Uganda has not yet ratified CEDAW Optional Protocol allowing for individual complaints.

5. Uganda has not discharged its obligation of reporting under certain international conventions and treaties ratified over twenty years such as the ICESCR. However, Uganda reported to the Committee on the Elimination of Discrimination against women, 47th session in October 2010.

Recommendations

- Uganda should fully implement the Maputo Protocol on the Rights of Women in Africa
- Implement all recommendations issued by the CEDAW committee, in October 2010

1.2 National legal obligations

6. It should be noted, the extent to which a country has discharged its human rights obligations as enshrined in the international instruments is only judged by the extent to which domestic laws, programmes and policies have been modified to give effect to the international standards. The following are legal provisions that mandate the protection of women rights in Uganda;
 - The 1995, Uganda Constitution, Chapter 4 is devoted to the protection and promotion of fundamental and other human rights and freedoms.
 - There are also provisions in the national objectives and directive principles of state policy that promote and protect human rights even though they do not expressly place the state under a legal obligation to guarantee the rights.
 - The Equal Opportunities Commission Act, 2008
 - The Female Genital Mutilation (FGM) Act, 2010
 - The Marriage and Divorce Bill, 2010, not enacted yet.
 - The Anti-Trafficking in Persons Act, 2008, which prescribes penalties from 15-years to life imprisonment.
 - Succession Act, 1906
7. The GoU has begun to create mechanisms to operationalize its international and Constitutional obligations, through the National Gender Policy (1997) and its National Action Plan on Women 1999. However, much remains to be done to take forward activities to implement gender equality in Uganda's legal framework. In addition, Uganda has yet to enact legislation which would address key social issues that impact on gender relations and on women's position in society and home.

Recommendations

- Expeditiously enact the Marriage and Divorce Bill, the Sexual Offences Bill and the HIV/AIDS Prevention and Control Bill:
- Raise the awareness of legislators about the need to give priority attention to legal reforms in order to achieve de jure equality for women and compliance with the State party's international treaty obligations; and
- Continue to increase support for law reform through partnerships and collaboration with religious and community leaders, lawyers, judges, unions, civil society organizations and women's non-governmental organizations.

1.3 Issues of women rights in Uganda

1.3.1 Economic Social and Cultural Rights

8. Like many African constitutions, Uganda's Constitution does not protect all socio-economic rights as part of its Bill of Rights. These rights are, however, protected mainly as Directive Principles of state policy, not contained in the operative part of the Constitution. The Ugandan courts are yet to do this. However, besides these principles the Constitution protects some socio-economic rights in the Bill of Rights, education is one example of this. The Constitution guarantees the right of everyone to education; this right is guaranteed to adults and women alike.¹
9. Uganda Constitution 1995 Article 33 states: Women shall be accorded full and equal dignity of the person with men; the State shall provide the facilities and opportunities necessary to enhance the welfare of women to enable them realize their full potential and advancement; the State shall protect women and their rights, taking into account their unique status and natural maternal functions in society; women shall have the right to equal treatment with men and that right shall include equal opportunities in political, economic and social activities; without prejudice to article 32 of this constitution, women shall have the right to affirmative action for the purpose of redressing the imbalances created by history, tradition or custom; laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status, are prohibited by this constitution.
10. While the Government of Uganda has made progress with regards to the domestication and adoption of International Labour Organization (ILO) conventions, codes and standards as well as the enactment of national laws in the area of labour rights. Several challenges still exist in domesticating them and ensuring that women enjoy these rights. Key among the challenges is that the labour laws enacted in 2006 are yet to be fully operationalized. Further there are inadequate regulatory, implementation and monitoring mechanisms for ensuring compliance and the respect of women's rights, especially in the private sector.
11. In its commitment to attend to gender and women's interests in the PRDP, Isis-WICCE and the women's movement instituted the 'Women's Task Force for a Gender Responsive PRDP²'. Despite this effort, the PRDP has fallen short of addressing women's interests and makes hardly any reference to the different situations for women and the existence of numerous patterns of female vulnerabilities.
12. In addition, macro-economic policies and stability have been achieved at the expense of horizontal and vertical inequalities in Ugandan society³. The pre-occupation with macroeconomic stability and investment competitiveness has relegated social welfare, social security, and human development issues to the backyard of policy and official thinking. As such, Uganda has no robust social protection policy and programmes that would be of benefit to women. This therefore implies that while there has been increasing focus on macroeconomic stability, paradoxically women's poverty and the gap between the rich and the poor amongst women has further widened.
13. Despite the substantial economic and social responsibilities of women in Uganda, women's roles are clearly subordinate to those of men. Women shoulder the primary responsibilities for childcare and subsistence cultivation. It is also true that women are the

¹ Article 30

² <http://www.isis.or.ug/home>

³ FOWODE. Equal by right the Uganda women's agenda 2010 - 2016

poorest of the poor, what has been termed the "feminization of poverty", thereby highlighting the significance of the gender dimension of poverty.

1.2.1.1 Access and ownership of land and property

14. Uganda is signatory to a number of UN conventions that proscribe against women in access and ownership of land and other property rights such as the Convention on the Elimination of all Forms of Discrimination against Women adopted in 1979; the Global Platform for Action emanating from the World Conference on Women in Beijing in 1995; and the Habitat Agenda adopted at the Habitat II conference in Istanbul in 1996.
15. With the exception of the 1995 Constitution, the subordinate laws that regulate the distribution, management, and ownership of property during marriage, upon divorce, and death of a spouse are discriminatory of women. Where the relevant statutory laws are protective of women's rights to property, their implementation is hindered by customary law practices, socialization, and the generally weak economic capacity of many women in the country.
16. The Uganda Constitution and Land Policy outlaws any discrimination against women concerning property acquisition and ownership. The Land policy in particular pledges to reform all property laws, integrate women in land decision making, promote women's inheritance of land, among others, as some of the ways to guarantee women's full and equal access, use and ownership of land.
17. Although several laws have recently been enacted to improve the situation of women, their implementation is hindered by traditions and deeply entrenched patriarchal attitudes. While in other related legislations such as the Succession Act a widow is entitled to only 15% of the estate, 75% to the children, 9% to dependants and 1% to the customary heir, in case of death of male spouse intestate⁴. The allocation of 15% to the surviving wife in intestate succession effectively discriminates against women⁵. Moreover, in a polygamous marriage all surviving widows have to share the 15% of the estate. Besides these weaknesses, the Act does not cater for cohabiting wives.
18. Ugandan women confront a male-dominated power structure that upholds and entrenches male authority in the home⁶. Because of the patriarchal nature of the various ethnic communities in Uganda, it has been difficult to implement some of the above laws in real practice. Only a small fraction of women have managed to own land in their own right, estimated nationally at 16%⁷. Some of these rights have been gained through purchase and very rarely through inheritance from parents or husbands.⁸ Hence women are of

⁴ Succession Act 1906, cap 139.

⁵ Lemu (2008), Fighting the wrong battles? Towards a new paradigm in the struggle for women's land rights in Uganda, December 2008

⁶ http://www.carnegiecouncil.org/resources/publications/dialogue/2_10/articles/1046.html

⁷ MoGL&SD (2007) The Uganda Gender Policy 2007

⁸ Ms. Lorna Juliet Amutojo. Gender Dimensions in Women's Property Rights: The Case of Uganda. A Paper presented at the World Congress on Rural Sociology, Norway, <http://www.irsa-world.org/prior/XI/papers/4-1.pdf>

deprived means to create stable and sustainable livelihoods while their societal responsibilities and obligations of production and reproduction are curtailed.

19. The other weakness that has made some of these measures less effective is women's lack of information and knowledge about legislations that grant them land rights in families while others lack the means to seek redress in case of infringements. This has been exacerbated by the land conflicts that have become sporadic in the country⁹.

Recommendations

- Registration and titling of family/clan land should be emphasized.
- The government should be proactive about improving customary land rights
- The National Land Policy should fully reflect and embrace women's right to equality in access, ownership and control of land,
- The State should work translate the National Land Policy into indigenous languages and engage community leaders to disseminate it broadly
- There is need to ease women's access to credit facilities or training them in relevant skills to engage in economic activities as a way of gradually addressing women's land rights
- Government should intensify the implementation of gender sensitive poverty reduction and development programmes in rural and urban areas, with special attention to the minority groups like the Batwa.

1.3.1.2 Social discrimination and negative cultural practices

20. The 1995 Uganda Constitution protected a wide range of human rights including women's rights to equality and freedom from discrimination. Article 33(6) of the Constitution prohibited 'laws, customs or traditions which are against the dignity, welfare or interest of women'. However, customary laws and practices have continued to be in force largely due to the lack of political will to confront issues of inequality and discrimination in a holistic and comprehensive manner.
21. The 2010 Equal Opportunities Act Article 32 provides for affirmative action in favour of "groups marginalized on the basis of gender, age, disability or any other reasons created by history. Article 33 (1) elaborates on women's rights: women shall be accorded full and equal dignity of the person with men. The state is also enjoined to provide the facilities and opportunities necessary to enhance the welfare of women to enable them realize their full potential. The government has been reluctant to translate the constitutional spirit into appropriate laws and policies for promotion of gender equality and women's empowerment.
22. Ugandan laws protect the girl child and the minimum legal age of marriage is 18 years. However, marriages are frequently arranged for minors, especially in rural areas. It is estimated that 32% of girls between 15 and 19 years of age are married, divorced or widowed. This leaves women in such relationships with no protection in the event of dissolution of the union.
23. While Uganda has ratified and domesticated all major treaties protecting women's rights, the successful protection of these rights have been hampered by some cultural and

⁹ World Bank (2008), "Northern Uganda Land Study: Analysis of Post Conflict Land Policy and Land Administration: A Survey of IDP Return and Resettlement Issues and Lesson: Acholi and Lango Regions" February, 2008

traditional practices. Discriminatory attitudes and practices to women and girls such as female genital mutilation by some communities: mainly the Sabinyi people in Eastern Uganda, and other forms of abuse, including rape, acts of betrothal and trafficking into forced marriages, once in a while come to light.¹⁰

24. Another issue of great concern is the situation of disabled and aged women who face widespread abuse, harassment, discrimination and social exclusion. Although several laws have recently been enacted to improve the situation of women, their implementation is hindered by traditions and deeply entrenched patriarchal attitudes worsened by years of armed conflict in the northern parts of the country. In addition, there is discrimination along sexual orientation and gender identity.

Recommendations

- The state should popularize the CEDAW so that it is sufficiently known and applied by all branches of government and the judiciary as a framework for all laws, and policies on gender equality and achievement of women.

Access to justice

25. Access to justice relates to whether or not individuals, groups and communities realize de facto justice from the enforcement of the law, as well as the quality of justice meted out by the delivery system. Women in Uganda often face legal discrimination and restrictions that inhibit their participation in many spheres of life. Constitutional and legislative guarantees of women's rights are not always implemented; moreover religion and customary laws that discriminate against women are often allowed to override such legislation¹¹. This also results from inadequate information on their rights and laws protecting them, social pressure, cost of procedures and lack of training of law enforcement personnel on women's rights.

26. The breakdown of justice in conflict affected areas, juvenile justice constraints and the slow pace of the justice systems, in terms of investigation and court proceedings has promoted the culture of impunity against women in Uganda¹². The justice personnel lack the requisite skills, knowledge and competences needed to address the unique violations that women face. Many affected women are also not supported to overcome the cultural and institutional challenges in their quest for justice.

27. On the other hand unequal power relations and a patriarchal legal regime have resulted in the denial of basic rights for millions of women in the country. Several laws and policies, themselves rooted in patriarchy, are grossly inadequate in addressing gender based human rights violations. Many women unable to access the formal justice system, approach the informal system of clan leaders, religious leaders, or local council officials in the village to resolve their issues¹³. However, these systems often entrench gender discrimination, with women facing further injustice. Often, the goals of dispute resolution are to preserve family harmony or maintain custom, instead of enforcing the written law.

¹⁰ See 'Girls sold in Katakwi, says MP' *New Vision Newspaper* 2 July 2006 available at www.newvision.co.ug/D/8/12/507250;

www.simba.fm/index.php?option=content&task=view&id=7450&Itemid=2

¹¹ Centre for Reproductive Health and FIDA (U): Supplementary Report on Uganda to CEDAW, 2010

¹² Ibid

¹³ Ibid

Recommendations

- Government should take active responsibility for ensuring access to justice by women
- There should be necessary reforms in the justice institutions and the legal regime, in order to enhance women's access to justice.

1.3.1.3 Violence against women

28. The 2006, Domestic Violence Act aims to punish perpetrators of domestic violence. Local councils are given a mandate to try cases of domestic violence; fines are set for perpetrators; the law penalizes a partner in a domestic relationship who injures or endangers the health of the other; and it is illegal to deny a partner the economic or financial resources to which they are entitled. This is a great step in the fight against domestic violence in Uganda. However, unacceptable high number of Ugandan women (more than 78 per cent)¹⁴ continue to experience domestic violence, mostly at the hands of men. The Police Crime Report for 2009 shows a climb in reported cases of death resulting from domestic violence, from 137 in 2008 to 165 in 2009.
29. Due to the ever increasing rates of actual and perceived violence in the public and private spheres and in post conflict areas, women in Uganda have experienced trauma and mental health illnesses that impact, on their general well-being. However, the government of Uganda has paid little attention to psychosocial needs of women in areas formerly affected armed conflicts such as Northern Uganda.

Recommendations

- The state should adopt the regulation for implementation of the Domestic Violence Act, and develop multi-sectoral action plan to combat violence against women.
- Government should enact a comprehensive law, criminalizing all forms of sexual violence and abuse (rape, defilement).
- Government should continue to fully involve women in the peace building, reconciliation, rehabilitation and recovery processes in the context of the PRDP.
- Government should protect communities, women and girls in IDP camps from sexual and gender based violence and abuse. The perpetrators of such acts must be punished.
- Government should continue and increase its awareness raising and education efforts targeted at both men and women to completely eliminate FGM.
- Government should develop programmes of action relating to prostitution and the introduction of legislation to ensure the prosecution of, and stronger penalties for, exploitation of women engaged in prostitution
- There is need for information and training on the anti-trafficking legislation for the judiciary, law enforcement officials, border guards and social workers in all parts of Uganda.

1.4 Civil and political rights

30. The Ugandan Constitution provides unique opportunities for women to enjoy civil and political rights. The Local Governments Act of 1997 provides for the operationalisation of decentralization and local governance with objectives of “establishing a democratic,

¹⁴ <http://allafrica.com/stories/201004160338.html>

political and 'gender sensitive' administrative set up in local government". On the basis of this principle, Section 78 (b) allows one woman district representative in Parliament while Section 180 (b) ensures that one third of the members of each local government council be women. Both concessions were achieved through a strong women's lobby and support of gender sensitive men during the Constituent Assembly debates.

31. Since 1986, women have had the opportunity to participate in politics and governance through the policy of Affirmative Action and the principle of gender balance¹⁵, both enshrined in the National Constitution of 1995. Indeed, these two principles have increased the percentages of women in politics to the tune of 32.8 percent in parliament, 30 percent in local government councils and between 20 to 30 percent in cabinet, as well as judicial and constitutional bodies. The composition of district councils according to the Local Government Act, 1997, includes women councilors directly forming one third of the council, one female youth representative, and one female representing person with disabilities.
32. Despite the positive legal and policy provisions, law reform protecting women's rights has not been successful. The constitutional presence of affirmative action in favour of women's political participation and decision making has not effectively transformed the political and public structures, the achievements are still in theory and the real test of what women have achieved. Consequently, women's solidarity in the struggle for gender equality is at most times compromised.
33. Uganda ranks high in terms of Women political participation in Africa both at the Parliamentary and Local Government levels. The NRM government has tried to eliminate discrimination against women in official policy and practice. However, women are in decision-making positions without having influence on the decisions of the local government councils. They are in power but without power, or rather they are serving power. Their participation has not had the desired impact on policy and legislation: to make them gender-responsive so as to enhance their equality and empowerment.
34. Culturally, women are not perceived to have a role to play in politics. They are expected to be home-makers and to stay in their homes. This being the case, women are frequently marginalized within their own political parties, and leaders often choose not to provide financial and moral support for women candidates. The societal attitude towards women undermines their confidence to come out and engage in politics. Likewise, the stereotyping that women are not meant to be in politics prevents women from electing fellow women to these positions of power.
35. Generally, ignorance and lack of education is a very big constraint to women's empowerment within the local government structures. Women do not enjoy similar access to education or training as men. Lack of education and skills undermines women's confidence to offer themselves as candidates. Even those who dare and find themselves in governance positions cannot debate effectively because of the inability to read and understand the documents, such as policy budget statements,

Recommendations

¹⁵ The Venro Project on the Africa-EU Partnership. Prospects for Africa Europe's Policies: Local Power and Women's Rights – Gender Perspectives on Decentralization Processes, Workshop of African and European Civil Society Organisations in Bonn, November 2009, http://www.venro.org/fileadmin/redaktion_afrikas_perspektive/publikationen/Projekt-Publikationen/AP_Gender_Boschuere_Webversion.pdf

- Uganda should take all necessary measures to ensure that the right of women to participate in political and public life and to be represented be effectively implemented.
- The government should pursue sustained policies aimed at promotion of women's full and equal participation in decision making as a democratic requirement in public and political life.
- National and local governments should expand quotas and reservations for women in all institutions of decentralized governance, including local bureaucracies, and implement mechanisms to ensure women's active and effective presence in leadership roles
- The long-awaited Equal Opportunities Commission in Uganda should be established to come up with deliberate programmes to deal with gender issues.
- Political parties should deliberately promote gender-inclusive internal democracy through quotas or other mechanism and promote women in key decision-making positions
- Introduce mechanisms to facilitate women's effective political participation, such as quorum rules requiring a minimum presence of women in decision-making sessions. This will boost their participation in the democratic process at the local level.
- Women's leadership should be fostered and valued in political and non-political spheres

1.5 Access to education

36. The Government of Uganda has invested significant resources to promote education. The Universal Primary Education (UPE) initiated in 1997 has significantly narrowed the gender enrollment gap, girls and boys have equal access to education in law, and they are represented almost equally in lower grades. However, girl child dropout rates are significantly higher than those of boys. Only 42% of girls in Uganda complete their primary education compared to 55% of boys due to financial constraints, family responsibilities, illness, early marriages and pregnancies¹⁶.
37. In Uganda, the proportion of girls in higher school grades remains low, partly due to the fact that families traditionally favor boys when financially supporting child education. According to estimates in 2007, only 66 percent of females are literate compared with 82 percent of males. Hence, Lack of education by majority of women in Uganda has been a major obstacle to women taking a more active role.
38. In addition to the above, gender stereotypes and instilling of gender roles through educational materials that disregard the other positive roles that women play, beyond reproduction and domestic labour still lack in Uganda's education curriculum. Sexuality and gender education is still very limited which affects the teachers and learners ability to critique harmful social and traditional practices and to understand how the power relationships between men and women, boys and girls, impact on gender, sexuality and sexual relations.

Recommendation

- Strengthen the monitoring of progress, for women and girls in the implementation of educational policies and programmes
- Both central and local government should promote the education of girls and adult literacy for women.

¹⁶ Ministry of Education: Annual Report, 2009

- Review the Affirmative Action Policy in the education sector, to promote the enrolment of girls in Teacher Training Colleges and Polytechnics
- Enforcement of laws and regulations that encourage girl's enrolment and retention in schools, while addressing barriers to their education such as: sexual harassment, FGM, early marriages and the lack of sanitary towels.

1.6 Health rights

39. The National Health Policy and Health Sector Strategic Plan put emphasis on equity of access to health care especially for the most vulnerable including women and the poor¹⁷. In 2009, the government of Uganda launched a Road Map aimed at reducing maternal mortality. Though the government has adopted a number of policy measures to ensure the realization of the right to health by women and expectant mothers, access to health services is still limited. The maternal mortality rates remain very high at 435 women out of 100,000 lose their lives while giving birth; while 76 out of 1000 new mothers lose their infants in their first weeks of life¹⁸.
40. Uganda continues to have reproductive indicators that are amongst the worst in the world with over 6,000 women dying from preventable and treatable pregnancy and child-birth complications. The health care delivery system has been highly dependent on both external funding and special initiatives confined to geographical areas, population groups or health interventions. Uganda's health indicators are generally low for all social categories and worse for women. About 16 women in Uganda die every day from pregnancy and childbirth related complications many of which are preventable. Teenage pregnancy estimated at 25 percent in 2006, is amongst the highest in sub-Saharan Africa and significantly contributes to the overall maternal mortality rate.
41. All the above constraints have been compounded by corruption, which has become systematic and widespread. This has also affected provision of basic health services especially in the delivery of drugs, the absenteeism of staff and service providers, as well as poor terms and conditions of service, which lead to low motivation amongst medical staff.

Recommendations

- There should be efforts to improve the health care system in Uganda.
- Increased funding to ensure functional and accessible health services, as well as improved remuneration of medical personnel.
- Support and operationalization of the Public Private Partnerships (PPP) in health care service provision.

¹⁷ DISH 2007.

¹⁸ Uganda Bureau of Statistics, 2010