

ESID Working Paper No. 134

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***Gender equitable change and the place of informal networks in Uganda's legislative policy reforms***

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January 2020

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ISBN: 978-1-912593-44-6

## **Abstract**

Uganda has had an uneven history and experience around gender equity policy reforms, particularly, from the late 1980s and early 1990s to-date. These range from the countrywide constitutional review processes of the early 1990s, legislative activism and reforms around domestic relations, land/property rights, and women's access to public position, to mention but a few. While some of these gender reforms (commonly promoted through women's collective mobilisation) were successful, other legislative initiatives faced intense resistance. This paper compares three policy cases – the 1997 Universal Primary Education policy, the 1998 legislative reform around spousal co-ownership of land and the 2010 Domestic Violence Act. Drawing on feminist institutionalism, the paper explores how gender norms operate within institutions (both formal and informal) and how institutional processes construct, reproduce or challenge gender power dynamics in policy reforms. The paper examines the place of informal networks and raises critical questions regarding ways in which women emerge as critical actors in securing and consolidating gender change, the strategies they draw upon to negotiate resistance, and whether the nature of policy reform influences the kind of resistance and (in effect) counter-strategies used to negotiate resistance to gender change. We also assess the implications these legislative processes have for activism around gender equity reforms. Findings indicate creative ways through which women draw on informal networks and networking practices to influence gender equitable change, often revealing the micro, subtly gendered dynamics that animate success or failure of a particular policy reform. We argue that the nature of policy reform, e.g. gender status policies or doctrinal policies, determines the nature and process of policy adoption.

**Keywords:** gender equity, informal networks, doctrinal, institutions, policy reform

Ahikire, J. and Mwiine, A. A. (2020) Gender equitable change and the place of informal networks in Uganda's legislative policy reforms. ESID Working Paper No. 134. Manchester, UK: The University of Manchester. Available at [www.effective-states.org](http://www.effective-states.org)

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## **Introduction**

Uganda has had an uneven history and experience around gender equity policy reforms, especially in the late 1980s and early 1990s. For example, from 1989 to 1995, the country witnessed countrywide consultative meetings held by different actors within and outside the state to contribute towards a constitutional review process. The nationwide inclusive exercise, presided over by a new regime that had taken power through a mass guerrilla struggle, heightened optimism around the promotion of gender equity, especially through its outcome – the 1995 Constitution – which institutionalised the language of gender equality, at least in the formal sense. While this aura of optimism around gender equity motivated a series of gender equity policy reforms in the immediate aftermath of the constitutional review and beyond, the outcome of these reform processes remained unpredictable. For example, two years after the constitutional review process, women's rights activists tapped into the land reform processes of 1996 and proposed an amendment on the spousal co-ownership of land. The amendment, which sought to translate the constitutional principles of equality of women and men in Uganda, was lost in its final stages on the floor of parliament.

In the same period, President Yoweri Museveni proposed a policy reform on universal primary education (UPE) while on the 1996 presidential campaign trail. While the proposal on UPE hardly followed any formal procedures of policymaking, UPE policy was adopted and implemented through a series of ministerial and presidential directives, consequently framing the gender question inductively through the interests of national and international actors in Uganda's education sector (Ahikire and Mwiine, 2015). Ten years later, gender equity policy advocacy pushed for reforms around domestic violence (UWONET, 2013; Wang, 2013; Ahikire and Mwiine, 2015). Framing domestic violence as a sin, a criminal act according to Ugandan laws, a danger to economic development and a vice that affects women and men alike, policy activism navigated around previous patriarchal religious and political opposition that had stalled similar legislative efforts around domestic relations, to have the Domestic Violence Bill (DVB) passed into an Act of Parliament in 2010.

These uneven encounters across the three policy cases, i.e. the lost clause on the spousal co-ownership of land (1998), the UPE policy (1997) and the Domestic Violence Act (DVA) (2010), are the subject of this paper. The paper draws on these three cases to explore contexts that enable or constrain gender transformative policy change. The research question was: how does the gendered nature of power, politics and institutions influence policy reform processes? And how do informal rules, norms and practices shape the prospects for gender equitable change? Drawing on Helmke and Levitsky's (2004) framework of institutional analysis, the study moves from the mainstream comparative analysis of political institutions and processes that focus primarily on formal rules, to explore ways in which informal institutions shape even more strongly political behaviour and outcomes. The study

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adopts Helmke and Levitsky's conceptualisation of informal institutions as 'socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels' (2004: 727).

Why informal rules? Feminist debates have more often than not focused on formal institutions and only posited informal practices principally as a negation of the norm and often detrimental to women and their struggle for rights within state processes (Madsen, 2019). While informal institutions have been variably defined, ranging from location within the realm of custom to shared expectations that are hidden, sticky and resistant to change (Chappell and Waylen 2013), they have nevertheless occupied an ambivalent position in policy analysis. While due attention has been paid to questions around determinants of success and failure of gender legislation, especially relating to the strength of the women's movement at the formal level (Goetz and Jenkins 2018), emerging understanding is that formal institutions tend, and always so, to operate in the shadows of informal practices and hence have a key role to play in the shaping of politics of policy adoption. Feminist institutionalists such as Georgina Waylen (2017) alert us to the fact that while formal rules of the game and their enforcement are crucial, the informal aspects of institutions that are less visible or taken for granted by actors inside and outside of (state) structures are also central to the understanding of politics in the policy arena. In other words, informal networks and networking are key mechanisms through which information is shared and access to political and policy elites is negotiated in a wide range of contexts (Waylen 2017).

Understanding informal institutions or, more broadly, the informal posture of institutions, has great utility in terms of understanding the manner in which political power is organised and the reach for gender equitable change in this regard. This paper looks at how informal networks and practices, such as personalised forms of relationships, bureaucratic and legislative norms, clientelism, patrimonialism, bending of formal rules and backdoor deals, among other informal practices, influence gender equitable policy outcomes. In very specific ways, the analysis foregrounds the fact that the significance of informal networks and networking varies according to the nature of reforms proposed; this understanding can unravel the hidden dynamics of policy reform and in that way answer the critical question of why some reforms succeed and others fail. In the specific case of Uganda's policy arena, a nuanced appreciation of the place of informal networks in policy reform will enhance theorisation and action on gender transformative and redistributive struggles. In effect, this comparative analysis highlights the need to understand the hidden layer of informal rules and practices in policy reform processes and how these function to either hinder or facilitate social justice. This understanding becomes even more significant in the case of doctrinal policy change, especially with regard to the resistance that such a proposed change often generates.

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## **The analytical frame and method**

What is the political significance of informal rules and networks in understanding gender policy change? What conditions affect the success of, or limit, gender equity reform processes? When do informal networks and practices matter in gender equity policy reforms? We draw on Htun and Weldon's (2010) categorisation of policy to understand the extent to which different forms of policy influence are differently influenced by informal networks. In their proposition of logics of gender justice, Htun and Weldon (2010: 208) 'offer a framework to analyze cross-national variation in women's legal rights'. They point out that gender equity policy involves not one issue but many and that these issues represent the interests of different actors; and different actors have different powers that affect policy outcomes differently. They further argue that the nature of policy reform, e.g. gender status policies or doctrinal policies, determines the nature of policy adoption.

Broadly, the key divide is whether the policy is transformative or ameliorative, in the sense that, while the latter does not often challenge power relations, the former seeks to challenge the status quo. Relatedly, the extent to which informal networks matter, either in terms of facilitating factors or resistance to the policy reform, is also dependent on the potential decentring effect therein. Transformative reforms have a decentring effect which ameliorative changes do not and hence informal networks and/or practices have varying positioning in the way that they influence success or failure. The three policy cases, UPE, the Domestic Violence Act 2010 and the 1996 land amendment represent key arenas in which struggle for women's rights in Uganda, and generally in the Global South, has centred. This provides us with the opportunity to study the different kinds of networks and the different strategies and informal practices that influenced the policy agenda, and with what implications.

Following on Htun and Weldon's (2010) proposition, the UPE policy is categorised as ameliorative and a gender status policy, in as far as it aimed at enabling children from poor households – including girls and children with disabilities – access to education, but without necessarily challenging the status quo. The lost clause on the spousal co-ownership of land (1998) and DVA (2010) are categorised as transformative, in as far as they touch on male gender power structures through challenging deep-seated cultural- and religious-centered forms of inequality. Within this same category of gender transformative policies, the law on domestic violence is seen as non-doctrinal, while the clause on spousal co-ownership of land is doctrinal. Accordingly, policy issues are categorised as doctrinal not simply because they provoke religious opposition, but rather that 'the policy contradicts the explicit doctrine, codified tradition, or sacred discourse of the dominant religion or cultural group' (Htun and Weldon, 2010: 210). In effect, this paper comparatively explores the kinds of informal networks and practices that were drawn upon by different actors to promote the three policy cases and the conditions that enabled and/or constrained change. For comparative analysis, each policy will be analysed along certain key aspects, i.e. the history of the policy case, key actors and their interests, the informal mechanisms drawn upon to promote the reform, policy outcomes, and analysis on

whether informal networks and practices mattered in the reform process. This approach enables us to understand how power is gendered and how gender power relations operate to promote gender equitable policies.

The investigation used various methods. These included desk-based literature reviews that tracked the campaigns on gender equality in policy-making processes. Specific attention was paid to literature that documents and engages with the experiences of actors in the campaign for women's property rights in Uganda in the context of land reforms of the late 1990s. The paper also draws on the analysis of the Hansard to track the relevant parliamentary debates, as well as media reports that captured national conversations. A specific mapping of national print media was done and two newspapers – The New Vision and the Daily Monitor – which enjoy national coverage, were selected. In these newspapers, we traced articles that reported general issues and specifically analysed ways in which media reports were drawn upon by different actors to frame narratives and mobilise support and/or resist the reform. A key approach in the study was key informant interview conversations with actors from women's rights organisations, parliament and other state and non-state actors. These were 31 in total, with 23 participating in earlier interviews 2014 and eight in 2019 (see Appendix 1). These deep conversations helped to get to the informal aspects of these processes and revealed quite unexpected and layered dynamics, which the different actors either encountered or engineered.

### **On rising optimism for women's rights: Uganda's war aftermath and the 1995 Constitution**

Reflecting on the status of African women's movements as a whole, Tripp and others (2009: 45) note that:

'after independence, women found their organisational efforts curtailed once again, only this time the constraints came not from colonial powers but from the newly independent single-party and military regimes which increasingly limited the autonomous associational activity.'

In Uganda, Idi Amin had banned all women's organisations by 1978 and introduced the National Council of women (NCW), a semi-parastatal organisation closely monitored<sup>1</sup> by his dictatorial regime. Yet activism for gender equity remained alive, especially through informal and underground women's rights networks.

The guerrilla war in the 1980s then brought in a fresh dynamic in formal politics. It has now been well appreciated that one of the unintended consequences of war and conflict is the phenomenon of relative gender disruptions and the creation of new openings for women's engagement with the state (Tripp 2015). The Uganda case

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<sup>1</sup> Newly independent state control of women's organisations – through banning, co-opting and absorbing them; mandatory registration of autonomous associations in state-run umbrella organisations – 'effectively marginalised women's leadership and channeled women into mobilising around a narrow set of issues'.

has been well documented and key positions established are that the participation of women in the guerrilla war of the 1980s, as well as targeted engagement with the person of the president in the immediate aftermath, created a momentum of its own (Tripp 2002, Tamale, 1999, Ahikire 2017). The mass guerrilla struggle of 1981-85, led by the National Resistance Movement (NRM) through its army, the National Resistance Army (NRA), brought about a reconfiguration of the public, with a large number of women, peasants, middle class and notables alike, drawn into the armed struggle at different levels. The language of representation concerning women, the youth and people with disabilities deployed through the mobilisation in the Resistance Council system first established in war zones, and later generalised to the entire country, as a people's self-governance structure, was a turning point in the construction of women's citizenship (Ddungu, 1994, Ahikire, 2007). The end of the guerrilla war in 1986 coincided with the global feminist campaign on women's role in development, gender equality and peace at the 1985 United Nations Nairobi Forward Looking Strategies Conference in Kenya. This global event that capped the United Nations Decade for women presented a window of opportunity for making direct demands for women's citizenship and entitlements on the basis of their contribution to the struggle (Tripp, 2002; Ahikire, 2007)<sup>2</sup>.

Yet, we maintain that the war brought unintended consequences, since the gender question was never formally articulated by the National Resistance Movement/Army (NRM/A) during the war, or in the immediate aftermath. Notably, the Ten-Point Programme, which served as a manifesto of the new regime, privileged macro-political concerns, looking at how democracy would deliver a booming economy guided by a mixture of both capitalist and socialist ideologies (which would later be overtaken by a purely neoliberal agenda). The agenda hardly focused on gender equity as a primary area of concern for NRM/A, even when there are popular narratives around women's key role in the liberation struggle. As Tamale indicates, the gender question was clearly not a real, formal and legitimate position of the NRM/A (1999:17). Tamale's reflection points to the absence of a formal legitimate position on gender equity concerns in the original NRM philosophy. Nonetheless, the coming into power of the new regime in 1986 led to a new phase of optimism characterised by sector-specific and nationwide policy reforms.

Feminist scholars argue that:

'women gained greater visibility during and after war because institutional changes opened up opportunities for them to demand women's rights and representation in the context of peace talks, constitutional changes, truth and reconciliation processes and electoral reforms, ...' (Tripp and Badri, 2017: 12).

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<sup>2</sup> This paper does not detail the long history of the women's movement in Uganda, but rather scans actions and actors in relation to the policy cases in question. For detailed examination of the Uganda's women's movement trajectory, see, for example, Tripp (2002), Wang (2013) and UWONET (2013).

This argument speaks eloquently to Uganda's post 1981-85 guerrilla movement, in which we witness women's rights organisations demanding gender equity reforms and the government's response to these. Notably, the fact that the woman question became increasingly visible in the broader rhythm of the NRM regime, even when gender concerns were never part of the regime's agenda, highlights the possibility of informal deals being at the centre of gender equity policy reforms.

Insinuating an informal setting within which affirmative action for women in public politics came to the surface of the NRM political agenda, Goetz (2002) argued that the initial gender equity reforms in 1989 (see also Tamale, 1999: 17), were out of a hastily compiled list of demands by a few elite women, addressed to the person of the president. The demands were not only made directly to the person of the president, but also were made rather informally – known in public discourse as 'whispering in the ear of the president'. And perhaps this explains why they were met without much resistance. In effect, these revelations point to ways in which informal and individualistic approaches informed the gender question at the time. Personalised forms of relationship between the person of the president and different actors in policy reforms are a key pointer to patterns of clientelism and patrimonialism (Helmke and Levitsky, 2004: 729) that animate all three cases under study. In the analysis that follows, we trace the three policy cases and comparatively tease out the role of informal networks, how and when they mattered most, and the implications therein.

### **The amendment on spousal co-ownership of family land**

In the general scheme of women's rights in Uganda, the amendment of spousal co-ownership of land is referred to as a clause that 'got lost' under mysterious circumstances during the drafting of the 1998 Land Act (Matembe, 2002; Kawamara-Mishambi and Ovonji-Odida, 2003). In the constitutional review process, the question of land was the most fundamental political question to be addressed. As it were, land was the most outstanding aspect of Uganda's unfinished business, marked by incoherent governance mechanisms and historical injustices (across class gender and region) right from colonial times (Nakayi, 2015). Notably, government introduced a Land Bill in 1997, in response to Article 237 of the 1995 constitution. The constitution provided that 'Within two years after the first sitting of Parliament elected under this Constitution, Parliament shall enact a law' to provide for tenure, ownership and management of land in the country. In her book, *Gender, Politics and Constitution Making in Uganda*, Miria Matembe, a former woman MP and a commissioner on the 1989-94 constitutional review commission, alerts us to the urgency of law on land. She writes:

'One area where there were marked and major historical injustices and imbalances was the land policy. Because Uganda is mainly an agricultural country, with the majority of Ugandans dependent on the land for their very lives, land issues are obviously of critical importance ... It is clear to see that ownership and control of land is a matter of life and death for most Ugandans.



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Knowing how people felt about land, the writers of the new constitution decided that more equitable land laws should be a high priority. Based on the critical importance of land to Ugandans, but more so on the contentions emerging from different competing interests on land, the government tabled the Land Bill in 1998' (Matembe, 2002: 235).

According to proponents of the bill, as indicated by Hon Francis Ayume, minister in the Office of the President, who moved the bill on behalf of government,

'The basic principle underlying the Bill [was] that a good land tenure system should support agricultural development and overall economic development through the functioning of a land market which permits those who have rights in land to voluntarily sell their land and for producers and investors to gain access to land' (Parliament of Uganda, 1998: 4041).

The minister's remarks highlight key motives of the ruling political elites in pursuance of the Land Bill, particularly providing clarity on the security of tenure, including ownership and management of land and how these would act as a means through which to foster marketability of land and overall economic development. Consequently, concerns such as women's land rights – co-ownership of land within the context of marriage – were not highlighted as central to the debates on land.

### **Actors and interests**

The brief history of the proposed spousal co-ownership of land in the Land Amendment Bill 1998 alerts us to key actors and provides a glimpse of competing interests in the land reform. On the one hand, there were the state actors, represented by Parliament, Minister of Lands, Cabinet and the president, whose interests were towards a land law that would streamline competing forms of land ownership, and facilitate marketability of land to accordingly spur economic development. On the other hand were women's rights activists in parliament (especially women MPs, led by Miria Matembe), Uganda Land Alliance (ULA) – an umbrella group of civil society organisations advocating for justice in the land sector – and women's organisations such as Action for Development (ACFODE), Uganda Women's Network (UWONET) and Federation of Women Lawyers in Uganda. As a matter of strategy, UWONET – a women's rights network – allied with Uganda Land Alliance, a national network working on land to specifically highlight women's land rights on the national agenda. The framing was 'married women's rights to co-own part of their husband's land' (Kawamara-Mishambi and Ovonji- Odida 2003: 160). Nonetheless, women activists ensured that both lobby groups continued working together. Women activists focused on conducting research to document and amplify women's voices on land, forming partnerships with donors to fund advocacy activities, sharing research findings with government ministries, and technical committees responsible for drafting the bill, as well as with actors in the media.

However, the NGO research reports were often criticised and trivialised by cabinet and technical committees as emotionally driven, elitist and not representative of other women across the country (Kawamara-Mishambi and Ovonji-Odida, 2003; UWONET, 2013). For its part, the government strategically used space at workshops and meetings organised by women activists to frame narratives that relegated women's co-ownership of land to the family law – the pending Domestic Relations Bill (DRB) – despite the latter legislative proposals having stalled for over three decades. By relegating women's proposal on co-ownership of land to an already highly contentious DRB, political elites sought to constitute women's claim of property rights as a private household matter, rather than an economic issue, which was the dominant interest of the land law. This framing was also countered by the federation of women lawyers (FIDA-U), who argued that women's ownership of land is a development issue, whereby lack of control over resources of production like land inhibited women's ability to make decisions at the household level (UWONET, 2013: 90).

These counter-narrative strategies were popularised through the media and workshops to which key actors in land reforms were invited. One such an example is the 1997 workshop organised by two broad alliances – Uganda Women's Network and Uganda Land Alliance, hosted by Forum for Women in Democracy. In this meeting, women MPs, male MPs opposed to the amendment, ministries drafting the bill and the president were in attendance when women activists moved the suggestion of wives co-owning land. Accordingly, the proposal fronted by Miria Matembe proposed the following:

- (1.) Where land is acquired by either spouse before or during a marriage, on his or her own behalf, and where that land is not the normal abode of the family or the only main source of production supporting the family, then it will be regarded as the land of the spouse who acquired it.
- (2.) Where the land is held or acquired for the joint occupation and use of the spouses, the spouses will hold the land as joint owners and the recorder shall register the spouses accordingly.
- (3.) In the case of polygamous unions, each wife shall jointly own, with her husband, the piece of land on which she resides and works.
- (4.) In cases where wives occupy and work on the same piece of land, they shall hold the land jointly with their husbands. ...

Since the country had just concluded the 1996 presidential elections, women activists appealed to the political sentiments, arguing that the government and the NRM MPs needed to support women's concerns as a sign of appreciation for the enormous political support given to them by women in the previous election (UWONET, 2013: 90). Similar appeals to political elites to support women's efforts were also noted in parliament. Miria Matembe is recorded as follows:

**Matembe:** I sincerely hope that you are well aware that those women gave you votes to come here and think about them, to come here and defend their rights, to come here and be considerate to their problems.

**Chairman:** Hon Matembe, we have a problem of time.

**Matembe:** I am appealing for your support

**Chairman:** Okay, Hon Minister. It would help if we had a copy of the proposed amendment

**Ayume (Minister, Office of the President):** Thank you Mr Chairman. I have the benefit of having a copy of the proposed amendments, they are four of them. (Parliament of Uganda (Hansard) 1998: 4197–98)

Matembe specifically led the struggle inside parliament, to the point that the co-ownership amendment came to be known as the *Matembe clause*. Women mobilised in and outside of parliament. Matembe particularly lobbied fellow members on the floor of parliament to embrace women's joint ownership of land –

‘embrace it for your sisters, for your daughters, and for your mothers. You could forget your wife for the time being, but those people [laughter] I think you should be interested in giving them the right over land’ (Parliament of Uganda, 1998: 4098).

It is obvious that Matembe is appealing to the male constituency and predicting possible resistance that they might pose towards women's co-ownership of land. Consequently, she draws on a more pragmatic approach, appealing to men to consider women as sisters, daughters and mothers, even if they (men) were to forget their wives in the meantime.<sup>3</sup> Matembe thus draws on humour to deliver a more contentious issue of women's joint ownership of land in what is not only a male-dominated audience, but also a historically patriarchal institution of parliament (Mwiine, 2019a). We can thus understand the kind of approach that Matembe draws upon – treating women as men's appendages and the hilarious call to men to forget about their wives momentarily – as a tactic and a form of negotiation (Nnaemeka, 2004) intended to go around male resistance.

Miria Matembe had also struck an informal deal with women MPs, to the effect that if they cannot support the bill, they should not openly oppose it on the floor of parliament. In her book, *Gender, Politics and Constitution Making in Uganda*, Matembe (2002: 245) writes about a strategy of taming women's opposition to the co-ownership of land on the floor of parliament thus:

‘Let us not just keep quiet as if we are not bothered by the problem of women and land ownership. I told them, “As long as you do not oppose me on the floor, let me go in there, raise this matter and argue for it. If you cannot stand

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<sup>3</sup> This is despite the fact that women are individuals with rights and freedoms before they can be perceived as *mere* appendages of masculine relations.

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up to defend it, please don't oppose it." So, we agreed to table the amendment.'

The idea is that women MPs did not appear organised as a coalition – with Matembe and Byanyima making most of the demands on the floor of parliament, while other women were 'not strong in the same tone'. This view seems to chime with what Matembe identifies as a strategy of taming women's opposition to the co-ownership of land on the floor of parliament. Matembe's submission reveals the kind of difficulties that women MPs were facing in mobilising a common position on the nature of the amendment and timing of tabling this amendment. Nonetheless, women MPs informally agreed that no woman would oppose the amendment which Matembe was ready, not only to table, but also to personally defend. To Matembe, the failed campaign on women's joint ownership in the Land Act 1998 as *a moment of truth* (2002: 234) i.e., despite the gender equity gains registered during the constitutional review and its consequent 'gender sensitive' 1995 constitution, the process to actualise what women considered to be basic land rights for women were terribly unsuccessful. And as Mackay (2014) argues in her formulation of 'nested newness', this was a case of 'remembering the old and forgetting the new' (p. 550). Consequently, the disappearance of the co-ownership clause was helpful to the women's movement to understand the political terrain and the nature of political resistance towards gender equality efforts. This wake-up call also informed future engagements in terms of need for strong coalition building, as shall be discussed in the case advocacy on domestic violence legislation.

### **President Museveni as the face of opposition**

The strongest opposition to the clause came from the president himself. Accordingly, the president publicly 'expressed reservations about the clause. His concern was that women, if given rights over their husband's land, could be tempted to engage in what he termed as "serial monogamy" in order to build up personal holdings' (Kawamara-Mishambi and Ovonji-Odida, 2003: 161). Constructing the identity of men as owners of the land, the president thence warned that if women were granted co-ownership rights, they would hop from one man to another, in order apparently to accumulate land. The president proposed that, rather than grab men's land, women should first spend a certain amount of time in marriage as probation, before land could be co-owned by spouses. The projection of women as land grabbers, criminals whose marriages are motivated by selfish desires to amass property, especially by the person of the president, generated intense resistance to the proposed legislative reform. The president positioned himself as a benevolent guardian and protector of the cultural values that were under threat by a few elite, 'selfish women', in effect becoming the face of the opposition to the spousal co-ownership of land.

The media was one of the key battlegrounds of the competing narratives. For instance, there were notable conflicting interests and key actors promoting different lines of argument during public conversations on the Land Bill that were repeatedly reported in the print media. These mediated positions included President Museveni's

strong views on land for economic productivity, Buganda cultural interests, and women's rights to land. In the *New Vision*, 13 May 1998, just before the tabling of the Land Bill, President Museveni is quoted addressing a parliamentary workshop organised by the Forum for Women in Democracy. In his speech, the president, who had postured as the face of opposition to women's rights to land, argued:

'In my opinion, the problem of land usage in Uganda today is saddled with about six problems, which must be resolved. Now when I say problems, I talk of problems in relation to development. ... So, the main point, my main focus, is to use the land for development. For you, it is to talk about land to be used for justice, for equality. But equality in what context? In the context of backwardness? Because we can always be equal in backwardness: no problem. We can all be on the ground level and we are all equal. But what I think we should address is using land to increase productivity.'<sup>4</sup>

In the above excerpt, President Museveni clearly indicates how his agenda, as a key actor in the Land Bill, was in sharp contrast with other stakeholders, especially when he underscores what he believes land use should entail vis-à-vis 'others' – women's rights activists organised by FOWODE. Through his neoliberal economic approach, land is conceived as an economic resource, meant to enhance economic productivity, an approach that would transform Uganda from a history of deprivation and backwardness. He then constitutes demands for women's co-ownership of land as a social justice agenda, one in opposition to his own position. Women attempted to counter this narrative by arguing that protecting women's land rights was a clear development issue, on the basis that women constitute 50 percent of the population, provide 60 percent of agricultural labour and yet own less than 7 percent of the land.<sup>5</sup> However, this rather instrumentalist and watered down version of rights claiming landed in already muddled waters and could not achieve what Goetz and Jenkins (2018) refer to as the capacity to outmanoeuvre resistance culturally acceptable framing. The play of interests of powerful actors, mediated through print and other forms of media, contributed towards intense resistance to the spousal co-ownership agenda.

### **Women activists' mechanisms to negotiate resistance**

The stiff resistance evidently weakened the women's coalition and the cracks were visible to the women themselves. In an interview, a former male MP who allegedly supported women activists in the Land Bill debates, noted how women did not appear organised – with Matembe and Byanyima doing most of the demands on the floor of parliament, while other women were 'not strong in the same tone'. Nonetheless, women drew on a range of strategies to counter the resistance. As already indicated in conversations on the amendment in parliament, Matembe drew on activism to appeal especially to male MPs to support the amendment, based on

<sup>4</sup> The *New Vision* Newspaper (1998). 'What Museveni said about land', 13 May.

<sup>5</sup> Kirungi F. (1998). 'No land for women, no development', *The Daily Monitor* Newspaper, 29 June.

women's support to their candidature in the previous general election. Activism in parliament also sought to illustrate women's concerns on land as an issue that men had to prioritise, based on their relations with women as their sisters, mothers and daughters. This kind of advocacy on the floor of parliament goes against the etiquette of parliament as a legislative space.

Women activists under UWONET also organised public hearings, in which they invited and coached women from rural areas, especially communities whose MPs opposed the amendment, to share their testimonies regarding deprivation of land. Women activists also developed media campaigns to make known women's concerns on land to the public, to expose political elites opposed to the amendment, doing radio talk shows on women's land rights and print media feature stories on women and land rights. UWONET hired a journalist from the Daily Monitor, an independent newspaper that had become popular for critiquing government policies. The journalist sat in parliament, took note of debating patterns and reported on the positions and statements, especially from political elites opposed to the reform (UWONET, 2013: 94). Women activists also held daily meetings with women lobbyists to analyse the ongoing debates and prepare appropriate responses to be passed on to the pro-amendment MPs. Women activists also filled the public gallery on the day of presenting the amendment, to offer support to women MPs and counter any anti-women views.

For her part, Matembe secured the listing of the co-ownership proposal on the order paper through blackmail. In an interview, Miria Matembe told of how she held a meeting with the then speaker of parliament and warned that if the co-ownership clause was not accorded space, she would mobilise women to support Buganda Kingdom's interests of seceding from Uganda. It is because of Matembe's threats to ally with Buganda Kingdom, whose interests in land were considered controversial by the government, that the speaker accepted the tabling of the spousal co-ownership proposal.

### **Last moments of the amendment – losing the amendment: Did Informal networks matter?**

Citing the Hansard, Kawamara-Mishambi and Ovonji-Odida (2003: 161) characterise the debate on the clause as successful and make reference to the parliamentary speaker's decision to recommend re-drafting of the clause by the draftsmen, a storyline that is collaborated by Miria Matembe (2002), who tabled the amendment. They argue:

'[the] clause was unanimously accepted during the parliamentary debate and its supporters looked forward to its appearance in the Act of Parliament. However, on publication Land Act 1998, it was found that the co-ownership clause was missing' (Kawamara-Mishambi and Ovonji-Odida, 2003: 162).

These dramatic events were captured through screaming headlines in the media. The Monitor on 6 August 1998 ran a headline, 'Women amendments doctored out of Land Law', while the New Vision, on 18 August 1998, authored an article entitled 'Was it a conspiracy to omit women in the land law?' Beyond these descriptive accounts on the journey of the co-ownership clause, one reads undertones of resistance and, seemingly below the surface, systematic efforts to frustrate the passage of the clause. Notably, out of the 97 clauses in the Land Act 1998, it is only the pro-women clause that was judged as emotion-laden and framed in an unacceptable legal language. Though heckling and rowdy moments, especially against women MPs, are part of the researched institutional culture of parliament in Uganda (Mwiine, 2019a: 65), the *choreographed* rowdy moments in the house confirming the passage of the co-ownership clause, even when the mover had not yet re-introduced it, are suspect. Was this a conspiracy that the supporters of the clause were not privy to, or a mere coincidence? Importantly, the fact that the speaker of parliament agreed in chorus along with the audience – we have already passed the Matembe clause – points to his possible complicity with the implicit opposition to the co-ownership clause.

When asked whether any of the final moments of the debate in parliament raised any suspicions of conspiracy, Matembe recalled:

'Let me tell you why what you are saying could be right. Now, when we were passing it Kazibwe, the then Vice President wasn't present in the house but as I told you they had supported it so they were fearing it in case it destabilizes their relationship with Museveni but when it didn't become controversial in the house, they had supported it. Now, when we were walking out this time excited, I remember I was going down the stairs of parliament, we were going down, then I met Kazibwe coming up she said, 'But Miria they have said that you have not passed the co-ownership clause' I said no we have passed it, she said but I met people and they said it didn't pass'<sup>6</sup>.

Accordingly, the turn of events around the debate on the co-ownership clause revealed possibilities of a complex web of behind-the-scenes actions and reactions in the reform process. Matembe later indicated (in an interview) that as women activists attempted to re-table the spousal co-ownership of land with her guidance, she was appointed by President Museveni as a cabinet minister for ethics and integrity, a move that curtailed her previous radical approach towards women's land rights.

A detailed account by the women's rights activists, UWONET (2013: 96), revealed that 'President Museveni eventually admitted to having personally intervened to fight the clause'. It is such personalised behind-the-scenes practices from a dominant leader who postures as a custodian of cultural and religious values that highlights the centrality of informal norms and practices in resisting proposed reforms around women's land ownership. These and many other subtle, taken-for-granted actions

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<sup>6</sup> Interview, 27 March 2019.

and reaction from different actors in the reform process mattered a great deal, first in terms of how the amendment was framed and temporarily 'accepted' in different fora and, secondly, in terms of how its passage was strongly resisted through underhand methods.

Perhaps the intensity of mobilisation towards the amendment and the resistance it generated speak to the complex forms of power exercised by different actors. In particular, despite the outcome of the reform process, the disappearance of the co-ownership clause was helpful to the women's movement in understanding the political terrain and the nature of political resistance towards gender equality efforts that had been taken for granted in the wake of a gender sensitive constitution. This wake-up call also informed future engagements, in terms of the need for strong coalition building, as shall be discussed in the case advocacy on domestic violence legislation. The women's coalition also realised that the formal template of the policy setting is only one side of the coin. Indeed, it can be said that, in the case of the land amendment, the informal layer mattered, in as far as it was more resident in the resistance than in the pro-legislation coalition network.

### **Universal Primary Education (UPE)**

Universal Primary Education is the second policy case addressed in this paper. This case is purposively selected, based on the educational reforms that swept across the Global South. Unlike the land amendment, UPE – as a status policy –encountered limited opposition from political elites, religious and cultural leaders. It is this contrasting experience of overwhelming support from across the actors, unlike other gender equity policy reforms, which motivated the research team to explore and compare contexts under which certain gender equity reforms are accepted and promoted, while others resisted.

UPE is directly traced within the political arena as an initiative by President Yoweri Museveni on his first electoral campaign trail as he attempted to transit from a military to a civilian ruler in 1996 (Kisubi, 2008; Bantebya-Kyomuhendo and Mwiine, 2014). In the general political discourse, 1995 had marked a big leap into civilian rule and a break with the past history of military to formal constitutionalism. Accounts of UPE as a brainchild of powerful political pronouncement indicate that UPE was a flagship measure introduced under the first Poverty Eradication Action Plan in 1996-97. According to Bategeka and Okurut (2005: 2), 'In December 1996, the President announced that four children of school-going age per family would benefit from free primary education, starting from January 1997'. In this pronouncement, the president had promised Ugandans free education for four children per family, two of whom had to be girls, in case the family had them. Priority was also given to children with disabilities, to make education equitable, in order to eliminate disparities and inequalities.

The reform was accordingly aimed at reducing poverty through the development of human capital among the majority of Ugandans (RoU, 1992). It is also indicated that



the official goal of UPE was to provide basic access to quality and affordable education for all Ugandans, helping to secure the goals stated within the Education for All (EFA) campaign and the MDGs 2000. In effect, rather than view accounts on the origin of UPE as contradictory, we read them as intentional informal steps by the president to implement one of the popular education reforms as an individualised electoral promise, which enables him tap into the support of the masses on the presidential campaign trail, but also support from the global neoliberal actors on poverty reduction. This is especially so, given the UPE's objectives that leaned towards poverty reduction strategies promoted by the World Bank and International Monetary Fund. Policy review studies on the performance of UPE indicate how UPE's success in the early 2000s was attributed to government commitment and external funding.

Unlike other policy reforms that are framed, popularised and legislated upon through a predictable policy cycle, UPE policy took a unique exploratory turn. For instance, after the presidential pronouncement, the Ministry of Education and Sports came up with an education sector investment plan, and often issued circulars and guidelines to guide actors on the goals of the policy, the actors and their roles, funding modalities among others (Bategeka and Okurut, 2005). Although UPE was pronounced in December 1996, and later implemented in 1997, initial implementation guidelines were only developed in 1998, through a stakeholder consultative conference.

In its focus, the UPE programme is described as 'the provision of basic education to all Ugandan children of school going age'. The programme also guarantees access, equity, quality and relevance of primary education to all Ugandans at an affordable cost (Ministry of Education and Sports, 1998). Basic access meant the provision of a minimum level of necessary facilities and resources. In this arrangement, parents retained the responsibility of providing scholastic materials, such as exercise books, pens, uniforms, school materials and transport. Therefore, according to several officials in the Ministry of Education and Sports, the interpretation of UPE as free education was only introduced through a populist process, an informal channel towards building a political base amongst the poor.

### **Actors and interests**

Actors central to the promotion of UPE included the president, femocrats within key ministries, such as the Ministry of Education and Sports (MOES), the Ministry of Finance and Economic Development and the Ministry of Gender, Labour and Social Development, and women's NGOs, whose participation came through the implementation of the Poverty Eradication Action Plan (PEAP). Government actors were key in the implementation of presidential directives, as demonstrated through a series of ministerial circulars, often responding to concerns emerging in the course of implementation. Other actors included the donor community, such as UNICEF, the World Bank and IMF, given the policy's orientation towards providing education for poverty eradication. Across the actors, there was no visible opposition to the policy

reform, apart from the challenge to respond to the increasing demands of an overwhelming number of learners who had enrolled in the school system.

### **UPE and the gender question**

In the beginning, the policy proposed that UPE should provide for four children per family. It was left to the family to decide on who these four children should be. But because of the history of girls missing out on education, there was emphasis that two children should be boys and two should be girls. 'Where there was a child with disability in the family, she/he was supposed to be given priority.'<sup>7</sup>

The original pronouncement was largely gender blind, as it provided for four children per family. The requirement for two boys and two girls came in as a refinement of the provision and, as already noted, the difficulties in implementation resulted in open access to all children of school-going age. The presence of large numbers of girls in school created its own momentum in the same period of the post Beijing (UN Women's Conference in 1995) gender mainstreaming crusade. The gaps within the UPE implementation, such as overcrowding, limited sanitary facilities and high dropout rates, all affected the girls much more fiercely. The glaring and direct gender gaps drew various efforts of government itself, civil society and donors to address the plight of the girl child. Within the PEAP effort, direct interventions were designed to address access issues such as sanitary facilities and menstrual management.<sup>8</sup> From 2000 onwards, the curve of focus on girl child education has been in an upward direction. On the government side, there is a relatively gender focused policy environment, with a revision of the Education Sector Strategic Plan 2007-15, the Gender in Education Policy (2009) and the National Strategy for Girls Education (2000, revised in 2013). Development agencies such as UNICEF have been key allies in buttressing this curve, and women's organisations, such as the Forum for African Women Educationalists (FAWE) and Action for Development (ACFODE), have all sustained the momentum of the girl child education focus and progressively introduced more rights perspectives, raising issues of the school environment especially related to sexual abuse and the gender barriers embedded in the school curriculum.

Hence, the gender question was never a fundamental part of the UPE narrative at the beginning, but incrementally became integrated as part of the entire agenda. The 1998 guidelines on 'Policy, Roles and Responsibilities of Stakeholders in the Implementation of Universal Primary Education' identify the gender question as a critical area of concern. It is indicated, for instance, that UPE is the provision of basic education to all Ugandan children of school going age. As UPE continued on its journey for conceptual clarity, there arose issues on how UPE was to guarantee access, equity, quality and relevance of this education and the accommodation of

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<sup>7</sup> Interview with Commissioner, Basic and Secondary Education.

<sup>8</sup> The requirement for separate toilet stances for girls and boys followed the analysis that girls tended to be discouraged from attending school, due to the lack of privacy

different interests and needs of male and female learners. Yet, fundamentally, the gender question in UPE remained, but was latent until it was scaled up by donors.

The question of gender in UPE was brought on board after discussions and public dialogues with stakeholders and education funding agencies, such as UNICEF, World Bank, USAID and the European Union. When the government introduced the sector wide approach to development, this attracted international funding agencies that identified gaps in education. They indicated that there were fewer girls in schools who were remaining and completing primary education. They noted that girls were enrolling, but dropping out much earlier and not completing the primary cycle.<sup>9</sup>

On the whole, the story of UPE demonstrates ways in which the president was not essentially committed to delivering UPE as a gender equity policy. Gender was levered into the policy not by the president, who initiated the universal education idea, or through a concern with gender equity within the ruling coalition, but rather by advocates of women's rights within the policy-level coalition (CSOs, donors) that helped shape policy in education. This, plus the large push for access, helped the successful attainment of gender parity in the course of implementing UPE. There was also limited opposition to this policy initiative from traditionalists, religious leaders and politicians, as is often the case with other gender equity policy reforms. Instead, UPE enjoyed overwhelming government and donor support, perhaps because it was not promoted as a rights issue, but rather a matter of development imperatives, and there is widespread acceptance of education as a public good for all in Uganda.

### **Did informal networks matter?**

As we have noted so far, the stories of the UPE and spousal co-ownership of land differ significantly in terms of origin, networks of actors and the kinds of resistance and the negotiations around resistance to policy reform, as well as the outcome. Notably, the UPE received minimal opposition and thus required minimal forms of informal networks and practices to navigate around competing interests. Framed as a presidential promise on the campaign trail to the poor masses, especially in the rural areas, the president presented himself as an embodiment of hope for the masses – delivered through ministerial directives that characterised the implementation of UPE policy. We have also noted the form of informal practices through which households negotiated the initial four children directive, two of whom were supposed to be girls, if they existed in the family, to registering all children in schools, including the under-aged. Informal networks also mattered, though minimally with regard to how actors such as MOES and women's NGOs in the education sector gradually infused the idea of promoting girls' education in the UPE policy.

Importantly, while UPE and spousal co-ownership of land (and, as we shall see later, the Domestic Violence Bill) appear different with regards to how informal networks and practices influence the politics of policy reform, these policies tend to intersect at

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<sup>9</sup> Interview, MOES official, August 2014.

the point of their relationship with the dominant leader and the extent to which personalised power animates policy direction. They underscore the influence of clientele and patrimonialism as informal institutions in gender equity change.

### **The Domestic Violence Act 2010**

The domestic violence law came into force in 2010 as an Act of Parliament. Of the three cases examined in this paper, the Domestic Violence Bill (DVB) (2008) and the spousal co-ownership amendment received intense resistance to the reform processes, unlike UPE, which enjoyed state and non-state actors' support of its adoption and implementation. Legislative reforms on domestic violence received resistance, given the nature of the proposed reforms that challenged patriarchal power in households, especially concerns around marital rape. Nonetheless, the nature of the resistance determined the forms of formal and informal negotiations and compromises to ensure the passage of the bill.

The DVA provides for: the protection and relief of victims of domestic violence; the punishment of perpetrators; procedures and guidelines to be followed by the court in relation to the protection and compensation of victims of domestic violence; court jurisdiction; enforcement of orders made by the court; empowerment of the family and children's court to handle cases of domestic violence; and related matters. The Act provides an elaborate understanding of different forms of domestic violence, including economic, physical, sexual and emotional. At the time of legislation, DVA was the first ever successful piece of legislation on domestic relations in Uganda (Ahikire and Mwiine, 2015: 9).

The story of the law on domestic violence in Uganda is firmly rooted in a protracted women's rights campaign around domestic relations. This campaign stretches back to the 1940s and can take as its first landmark the 1959 Private Members Marriage Registration Bill, tabled by Hon. Sarah Ntiro, a member of Uganda's first parliament (the Legislative Council). Ntiro's proposed bill requested a government enquiry into the status of women generally and specifically into marriage, inheritance and family property. In 1964, a commission chaired by William Wilberforce Kalema produced a report on marriage and divorce, which gave recommendations for improving married women's rights (including over property). Enshrouded in state resistance to legislating on domestic relations, especially women's property rights in marriage, Kalema's recommendations remained unimplemented. After a decade of inaction, a Marriage and Divorce Laws Reform Project was established in 1974 within the Ministry of Justice and, by 1980, the project had produced a working document, commonly referred to as the draft Domestic Relations Bill (DRB). However, the political turmoil at the time meant that no action was taken on the document until the NRM took power in 1986. The resurfacing of the debate on domestic relations pointed to its significance, despite covert forms of resistance towards the campaign.

The debate on the Domestic Relations Bill re-surfaced in the seventh parliament in 2003, largely as a result of the optimism and momentum created by the constitutional

review process and the law reform that followed it. Notably, it was the same kind of optimism that had inspired the tabling of the lost clause on the 1998 spousal co-ownership of land. Just like the latter reform, DRB and consequently DVB came under severe attack from political elites, state bureaucrats, religious leaders and traditionalists, on several counts, including its attempt to highlight the existence of, and criminalisation of, marital rape, its naming of cohabitation as a form of marriage and its recognition of polygamous relations. The bill became one of the most dragging and highly contentious pieces of legislation, with opposition to it stemming from different political regimes, as well as traditionalists, religious leaders and individual men and women, in some cases. For example, in 2005, there was a large protest against the bill held by key religious and cultural lobby groups, including Muslim women, who organised a demonstration under their national coalition (Uganda Muslim Women Dawaa (UMWDAA)). Women's opposition to the bill caused a backlash within the women's movement, because it exposed *differences* amongst women as a social category and challenged presumptions around women's unity in pursuit of their rights within the realm of the domestic sphere.

As in the case of women's co-ownership of land amendment, the most prominent actor opposed to the DRB was the president, who took personal responsibility for withdrawing the bill from the seventh parliament, deeming it to be anti-African and elite-centred. The president criticised middle-class women for seeking to turn marriage into a business, and later issued a statement to members of parliament on the DRB1999, which read in part:

'I do not want women who pollute our women emancipation movement by introducing elements of mercenarism in marriages. Why do people get married because of property or what? ... People, especially the middle class, should marry because of love, companionship, having children in order to perpetuate humanity ... Mixing up domestic chores with property claims is stretching the argument too far ... The greatest point in all this is not to antagonise our pre-capitalist traditional societies with ultra-modern liberal ideas of the elite.'<sup>10</sup>

Projecting himself as the architect of women's emancipation in Uganda, President Museveni divided up the women's coalition by castigating some, whom he termed the *elite few*, for working hard not only to pollute other 'good' women, but also to mess up 'our women's emancipation movement'. He also postures as a custodian of traditional norms and values within the institution of marriage, as he sought to challenge women elites' efforts to 'antagonise our pre-capitalist traditional societies'. Consequently, his personal investment in opposing the bill gained ground because of the political position he occupied (as a popular head of state), but also as a traditionalist. Note that, in 1998, President Museveni had spearheaded the opposition to the spousal co-ownership of land amendment in the 1998 Land Bill, making

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<sup>10</sup> <https://www.monitor.co.ug/News/National/Museveni-writes-to-MPs-on-marriage-Bill/688334-1727076-117gh06/index.html> (accessed 25 January 2020).

himself a consistent outspoken critique of the campaign on women's rights to property.

The stiff resistance to the DRB, particularly the personal stake of the president, led to it splitting into three pieces of legislation, namely the Domestic Violence Bill, the Marriage and Divorce Bill, and the Muslim Personal Law Bill. In an interview with Tina Musuya,<sup>11</sup> executive director, of the Centre for Domestic Violence Prevention (CEDOVIP) – an organisation that co-ordinated activism around DVA – the splitting of DRB into three was animated by resistance towards the bill. She noted,

'DRB had been opposed by individual MPs, especially women from the Islamic faith. One of the women MPs suggested that split it into three – a law for Muslims, a law for Christians and one on violence. That is how we moved from DRB to DVB.'

Musuya added that what was urgent at the time was domestic violence, since Uganda Bureau of Statistics had just released a national study highlighting adverse levels of violence in homes. According to Wang (2013: 118), the splitting of the bill was intended to "[unpack] the domestic relations bill to make it less controversial and more "palatable".

The splitting of the DRB was further animated by consultations amongst women's right activists, the Uganda Law Reform Commission (ULRC), the Ministry of Justice and Constitutional Affairs and the Ministry of Gender, Labour and Social Development. The intent of splitting the DRB was to make it less controversial. Drawing on the 2006 nationwide study, which revealed high levels of domestic violence in Uganda (Uganda Bureau of Statistics, 2007), the ULRC drafted the Domestic Violence Bill in 2008. Shorn of its more controversial elements, the bill was wholly embraced by the president and consequently tabled by the Minister of Justice and Constitutional Affairs as a government Bill in 2009. The president was quoted in the media<sup>12</sup> saying that:

'By battering their wives, men are breaking the laws of Uganda which advocate for equal rights and protection of people. Therefore, we need legislation on domestic violence. I hear there is one in the pipeline, so we need to expedite it.'

It is such powerful public statements from political elites that framed the narrative on the Domestic Violence Bill.

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<sup>11</sup> Tina Musuya, executive director, Centre for Domestic Violence (CEDOVIP) (20 February, 2014).

<sup>12</sup> The Monitor, 9 March 2008.

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## **Actors and networks**

As in the previous two cases, the constant actor in the promotion of gender equity reforms has been President Museveni. Having vehemently opposed women's claim of co-ownership of family property in 1998, and later property rights in the DRB, Museveni postures himself as a champion of DVB shortly after it had been extracted from the broader DRB and trimmed of certain provisions perceived as contentious. Note that in 1998, the president argued that women's property rights should be articulated in the pending DRB, rather than the economic-oriented Land Amendment Bill.

Other key factors in the passage of law included the formation of a coalition in 2008, initiated by the Uganda Women's Network (UWONET) (UWONET, 2013) and later the Centre for Domestic Violence Prevention (CEDOVIP). This coalition included women's CSOs, rights organisations, academics, the Ministry of Gender, Labour and Social Development and the Uganda Women's Parliamentary Association (UWOPA). The coalition spearheaded the framing of ideas around the DVB, mobilising the public through workshops and peaceful demonstrations, and engaging the media to ensure that domestic violence legislation remained in the limelight (UWONET, 2013).

Commenting on one of the popular tactics that mounted pressure on the political elites, the chair of UWOPA noted how women parliamentarians mobilised masses from all rural communities in Uganda, attracted massive crowds of close to 1,000 women, who filled the parliamentary lobby, the gallery, the parliamentary gardens, advocating for the DVB. She noted, 'When you do mobilisation and attract crowds, people get scared'. The power of the masses is also pointed out by UWONET as having been instrumental in effecting transformative changes, i.e. it influenced negotiations with the ruling elites and made it possible for them to accept gender-sensitive legislations.

Women activists publicised cases of domestic violence in the mainstream media to subvert the age-old normativity of domestic violence, and the coalition collaborated with Uganda Parliamentary Forum on Media to ensure that the media was not sensational or biased and did not misrepresent facts on domestic violence. There were deliberate efforts to bring media personnel on board and involve them in all activities, including training on GBV and the DVB. To this effect, training on DVB was organised for the parliamentary press in September 2008. The training enjoined the media to, among other things: break the silence on domestic violence and expose the issues to society; go beyond reporting and focus on how to stop domestic violence; build partnerships with organisations working on domestic violence prevention; and question laws on domestic violence and their enforcement. Accordingly, women activists are credited for mobilising individually and collectively 'to push for gender equity and constitutional reforms, challenging the social normativity of violence against women' (Mwiine, 2019b: 5), consequently inscribing a

public narrative about a social issue that for a very long time was taken as the norm and acceptable.

This coalition was also able to bring a range of actors on board, including the president himself, religious leaders, male MPs and rural women. Following the controversy of the DRB and the previous waves of resistance towards campaigns on women's property rights, the coalition adopted a different discursive strategy, by framing the need for legislation not in terms of rights, but in terms of the developmentalist benefits and protection of family values. While a rights-based argument could have been the ideal context within which to promote the bill, adopting a more developmentalist/instrumentalist approach to domestic violence was more or less an informal route to negotiate around resistance to the bill. Intended to win over sceptics and, in particular, to get religious leaders onside, this discursive shift would, during the campaign, converge in unforeseen ways with events that helped accelerate the legislative process, by framing men as also being potential victims of domestic violence (Ahikire and Mwiine, 2019). The bill was tabled in June 2009 and was due for its second reading in November, when news of the murder of General Kazini by an ex-girlfriend was announced.<sup>13</sup>) The case of Kazini's death, on 10 November 2009, seemed to re-define domestic violence and to add momentum to its passage, with the DVA, or the Kazini Law, as it became known, passing into an Act of Parliament on 11 November 2009. Shortly after eulogising the late general Kazini in parliament, the bill was tabled for the third reading. The future minister for gender had this to say:

'(Gen Kazini) lived his life as a valiant soldier, but it is the way he has gone that is really hurting most of us and this brings to mind the bill which is about to come before us, the Domestic Violence Bill. I was reading in the press that when some of the neighbours heard the screams, some of them said, "No, we are not going there because this is a domestic quarrel". So, you can see, honourable colleagues, how important it is that we pass this bill. It may be able to stop some of these deadly actions that we are witnessing day-in and day-out. We should not *genderise* it and say that men should not support it or that women should support it. We should all support the bill.' (Hon. Mary Karoro Okurut, NRM, Woman Representative, Bushenyi)<sup>14</sup>

Karoro's message drew upon the unexpected gruesome murder of a male military general, apparently at the hands of his female girlfriend in a domestic brawl, to build a case for male vulnerability to domestic violence. Perhaps the framing of her message in parliament, particularly the call to men and women to rally behind the bill beyond gender differences, speaks to the forms of resistance that this and other pieces of gender equity legislation have been facing. Kazini's death provided a context within which men were conceived of as victims of domestic violence and a platform upon which male support for the bill was mobilised.

<sup>13</sup> Hansard, Wednesday, 11 November 2009.

<sup>14</sup> Hansard, 11 November 2009.



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### **Did informal networks matter?**

The passage of domestic violence law was influenced by women's rights activism that was able to read into the nature of the policy the kinds of resistance that similar rights claims had faced in the history of Uganda's women's movement, drawing upon informal networks, practices and behind-the-scene engagements to negotiate resistance. Importantly, compromise towards Museveni's traditional concerns around marital rape, cohabitation and women's property rights in the broader DRB and the choice of extracting issues of domestic violence from the Domestic Relations Bill contributed towards the passing of the DVA. In particular, the framing of violence as a development concern, one that affects women and men alike, and the informal soliciting of men to promote the bill contributed to the successful passage of the reform. By framing the law in instrumental and developmental terms and by drawing upon the support of men – in particular, the president as a dominant leader – reform activists were able to circumvent intense religious and patriarchal resistance that had stalled the passing of the proposal on women's co-ownership and the DRB. In effect, informal engagements, networking and compromises mattered both in generative (one-on-one engagements with the legislators) and retrogressive ways, especially as the bill was trimmed of its proposals on criminalising marital rape, among other contentions. Informal deals could also account for the haziness of the outcome of the law, especially as the DVA appears to be both civil and criminal, posing inherent challenges for implementation.

### **A synthesis**

Table 1 below attempts to map this comparative story of three policy cases, and the place of informal networks in each case. This comparison has critical utility in terms of determining when and at what point, beyond formal institutions, informal rules facilitate and/or hinder change aimed at promoting gender equity. In terms of genesis, the land amendment, as well as the issue on domestic violence, are clearly rooted in the women's movement, i.e. women activists in and outside of the state structures working together in varied ways across time and space. The UPE, as already noted, originated from a presidential campaign trail pronouncement, which, although it had no strong focus on women's education in the initial stages, progressively gained a critical focus on girl-child education, on the basis of the broader wave at the global level, with education defined as part of the anti-poverty agenda. The land amendment originated from the constitutional making momentum, whereby women quickly discovered that the issue of property rights was a major hurdle to women and hence saw the need to actualise this aspect, drawing on the new (gender-sensitive) constitution into which they had injected enormously their energies. The varying genesis can already indicate how and where informal rules were most critical. The UPE exhibits minimal 'deal making', except at a bureaucratic level, where the gender issues in education were to be firmly anchored within the Poverty Eradication Plan (PEAP) implementation. The domestic violence law was an outcome of a long-term process spanning the period of time from the 1940s, when it was part of the broader issue of the women's coalition on domestic relations, right up

**Table 1: Mapping gender equity policy and informal networks**

Aspects of comparison	Policy area		
	Universal Primary Education (1997)	Proposed Spousal Co-ownership of Land (1996)	Domestic Violence Act, (2010)
History/ genesis of the policy case	Education white paper of 1989 presidential pronouncement on an electoral campaign trail. International agenda on Education for All. Norms on girls' education by global women's movement and the gender mainstreaming impetus (post-Beijing conference 1995).	The constitutional review process that called for a law on land in two years after the implementation of 1995 constitution women's movement consultations across the country. Property rights had been part of women's rights activism during the colonial period.	Out of the Domestic Relations Bill, from the 1960s. The failure to pass the DRB as a whole – the idea that DRB was an omnibus.
Key actors	President; Femocrats; Donor community – UNICEF; PEAP gender team (largely a government team that drew on women's NGOs on education and the academia).	Hon. Miria Matembe; Uganda women's movement ; Women MPs; Uganda Land Alliance; President ; Technocrats in the Ministry of Lands.	Women's NGOs; Centre for Domestic Violence Prevention; Parliamentarians (UWOPA); Ministry of Justice and Constitutional Affairs; Law Reform Commission; Religious leaders; President .
Location – where things that matter happened	Cabinet; Ministry of Education – circulars and ministerial directives; Schools – increased enrolment and the attendant	Women's movement; Cabinet; Ministry of Lands; Parliament; Media.	Women's movement; Cabinet; Parliament; Ministry of Gender, Labour and Social Development; Media.

	challenges e.g. separate latrines for girls and boys, menstrual hygiene and management, etc.		
Key mechanisms used (by supporters and opponents of the policy (formal and informal))	Ministerial directives; Articulating the role of UPE in poverty eradication and long- term economic development; Mobilising donor support – World Bank, IMF, Danish International Development Agency (DANIDA); Women NGOs progressively raised rights-based arguments in education, e.g. issues around the right to education, sexual violence, menstrual hygiene and management.	Research and documenting women's experiences on land ownership; Joint workshops and consultative meetings; Mobilising testimonies from women in rural areas; Negotiating deals with the speaker and MPs from Buganda; Mapping who said what on the amendment and publicising this in the media; Internal pact (suppression of differences among women, especially in parliament); Flouting of parliamentary rules by the Speaker; The only amendment that was sent back for re-drafting ('massaging').	Coalition building amongst women organisations; Male champions; Mobilising voices of women from rural communities; Mobilising donor support; Nationwide religious campaigns against domestic violence – as a key Easter message.
Framing of the policy reform	Universal education would contribute to poverty eradication. Educate a girl child, educate a whole	The general Land Bill focused on the marketability of land and as a key resource for	The bill originally drew on a rights-based approach. But consequently, became instrumentalist (violence was bad for development).

	nation.	investment. Hence co-ownership of land was viewed as the antithesis. Co-owning land where the family derives sustenance. Women's framing was a minimalist agenda. Elite women want to grab men's land.	The economic cost of violence. Violence affects men too.
Outcomes	The Universal Primary Education programme that gradually became a policy.	Loss of the amendment from the Land Act, 1998. Lessons for women's engagement. Revealed the nature of state support for gender equality.	Passage of the law, but with little implementation mechanisms.
To what extent did informal networks and practices matter?	Minimal Informal networks mattered in including girls' education in universal access to education by the Ministry of Education.	Informal networks and practices mattered in their absence, especially in terms of how women would diffuse subtle opposition to the amendment. Amendment secured on the floor of parliament through blackmail. Lost through blackmail. Appointment of Matembe, a Minister of Ethics and Integrity, shortly after the loss of the amendment.	Informal networks and practices mattered, in both generative (one-on-one engagements with the legislators) and retrogressive ways. Lessons from past failures. Utilisation of the female Deputy Speaker – putting items on the order paper is largely informal. Watered-down version of the Act – the removal of marital rape. DVA is both civil and criminal, posing inherent challenges to implementation.

to the time that it was plucked out as a stand-alone issue in 2008. This alone demonstrates several stages of deal making below the surface, both in its promotion and in resistance to it. Indeed, the plucking of the Domestic Violence Bill from the

historically resisted Domestic Relations Bill (DRB) could be said to have been layered by 'below the surface' deals, networks and agreements largely outside of the formal rules of legislation.

Hence, in terms of the intensity of informal engagement, the domestic violence law coming onto the scene in 2008-09 – over 10 years after the promulgation of the new constitution – had drawn on lessons of past failures. As already indicated, the loss of the co-ownership clause was a moment of truth, when the women's lobby realised that the great optimism derived from the formal template in the form of a constitution was not enough to deliver such a far-reaching gender equity change as on land rights.

Furthermore, on land, the neoliberal economic approach to land reforms masked deeper inequalities in the land sector and flagged up the need for development and marketisation as the overall impetus (Manji 2003), to the extent that what women activists called insertion of women's rights clearly remained a 'bit on the side'. The mover of the Land Bill alerted parliament to the contentions and complex dynamics surrounding the land question in Uganda, i.e. that 'the interests and aspirations of all stakeholders ... are many and varied' (Parliament of Uganda, 1998: 4041) and therefore likely to conflict. He thus urged for dialogue, understanding and compromise in the legislative process. Contentions related to contested ownership, usage and management of land, e.g. landlords (owners) against tenants on the land; land owned by traditional institutions vs. individuals and government, and land owned by men vs. women and children's rights to land. These revelations point to the complex context within which the Land Bill 1998 came to the floor of parliament. The critique by women activists was that the bill was gender blind and concealed women's and children's interests within customary land tenure, but did not engage with the primacy of the neoliberal agenda. The reformist approach to women's rights notwithstanding, the argument for the explicit land rights of women in the law had enormous transformative potential. In effect, the Matembe clause sought to move the debate on women's land rights from the customary land tenure and mere *consent* to the disposal of family holdings, to a more specific and transformative question of women's joint ownership of family land.

Land as property rights and constructed as a loss to men enlisted resistance. It was clearly a reform in a doctrinal space. Questions layered in opposition were about definition, but fundamentally the proposed amendment was touching one of the core areas of male privilege and the sense of entitlement that goes with it. Indeed, this type of reform required enormous informal interaction, which was not yet resident in the women's movement. At the time, women's rights activists were still clutching at the formal template of the constitution and the public display of the president as being pro-women's rights. This is why there was an expression of shock at the opposition coming directly from the president and at the kind of subversion displayed in parliamentary procedures.

The rowdy moment through which the same amendment was lost could be understood as the other side of blackmail as an informal channel deployed to negate women's efforts in a formal space. The speaker was clearly aware of the required procedure and merely following the crowd, which shouted 'Oh we passed that already', has to be critically interrogated. In addition, and procedures aside, there exists documentation to the effect that the president admitted having intervened personally to delete the amendment (Goetz 2003: 127) – once again, another layer of informality comes to the fore.

While tabling the Land Bill for the second reading, the chair of the committee even implored the MPs: 'Let us try to keep our emotions at a minimum. Let us debate and pass a law which will strengthen the unity and amity our people' (Parliament of Uganda, 1998: 4059). He added that there must not be winners and losers and reiterated that the law on land was not about politics, which could have compelled MPs to take sides. While the chairperson was seen appealing for calm, rational judgement and attempts to mend rifts in the debates, especially on the rights of children and women in families, his utterances reveal hidden narratives – on polarities between women and men/winners and losers – and the underlying politics that informed the consultations, framing and debating of the Land Bill. In effect, unity here implies mutually congregating around the status quo – the prevailing 'sexual contract'. Also, reference to emotions was a hidden but targeted othering of women and their issues that came to be constructed as incompatible with what was regarded as the mainstream agenda on land matters.

Similarly, the domestic violence law was a watered down version of the rather doctrinal Domestic Relations Bill, which had generated stiff resistance and is still on the shelf since its redrafting in 2003. Still, the domestic violence law has transformative potential and hence, even with the dilution, enormous mobilisation engagement was injected, in order to counter resistance and get it through to adoption. Ahikire and Mwiine (2019) clearly document the intense mobilisation of women, both within and outside parliament, for adoption of the domestic violence law. Some of the strategies redeployed were around evidence building through research and bringing the rural face and voice to speak to the issue, so as to counter the accusation of women activists as pursuing elitist demands. More importantly, the women in parliament under their caucus, UWOPA, had a targeted informal engagement with male MPs at cafes and similar places. The decision that the mover of the motion should be male was also reached via an informal channel to increase legitimacy of the issue. Again, we see the deployment of Mackay's (2014) notion of nested newness in the selection of the male legislator to speak to an issue that was at the heart of the women's rights agenda at the time; this is a recreation of male privilege within the institution of parliament, in terms of legitimacy to make policy change.

Advocacy on domestic violence managed to 'unify' different categories of women and some influential men towards DVA 2010 largely through an informal layering of the

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formal legislative process. This was not the case with the earlier campaign on joint ownership of family land, which faced stiff resistance, even from women themselves.

In conclusion, the role of informal networks in the politics of policy change needs to be well located and understood, more so when it comes to issues to do with social justice in general and doctrinal women's rights in particular. We see the role as two sides of the same coin – on the one hand, as generators of hidden possibilities that facilitate the adoption of gender equitable policy and, on the other, as a total negation. The coin presents a complex web of politics that can only be deciphered through a careful reading of the interaction between the overt and covert layers of policy processes. A broad narrative that can be derived from this comparative analysis is around the critical place of the hidden layer of informal rules and practices that functions in varied ways and how its significance becomes more apparent when gender reform coalitions fail to achieve the change required. The same layer is equally important in terms of the need to counter deep-seated resistance, particularly relating to doctrinal policy change.

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## **Appendix 1: List of persons interviewed**

### **Persons interviewed in 2019**

1. Programme coordinator, Women's Leadership and Democratic Governance at Uganda Women's Network, executive director, Uganda Women's Network (UWONET).
2. Former MP Rukiga County, (6th Parliament 1996-2001) and former Minister of State for Privatisation (male).
3. Programmes director, Uganda Debt Network.
4. Former legal officer, FIDA Uganda and current chief executive officer, CivSource Africa
5. Executive director, East African Sub-regional Support Initiative EASSI, Uganda.
6. Former executive director, ISIS-Women international Cross-Cultural Exchange (Isis-WICCE), Uganda office.
7. Former programmes official, Urgent Action Fund, Nairobi office.
8. Former MP and Minister for Ethics and Integrity (female)

### **Persons interviewed in 2014/2015**

1. Senior civil servant, Ministry of Education and Sports.
2. Civil servant, Ministry of Education and Sports.
3. Civil servant, Ministry of Education and Sports.
4. Civil servant, Ministry of Gender, Labour and Social Development.
5. Senior civil servant, Ministry of Gender, Labour and Social Development.
6. Programmes officer, Ministry of Gender, Labour and Social Development.
7. Member of the Uganda Women Parliamentary Association (UWOPA).
8. Senior officer, Uganda Law Reform Commission.
9. Child and family protection officer, Uganda Police Force, Kampala.
10. Education specialist, Unicef-Uganda.
11. Senior member, Uganda Women's Network (UWONET).
12. Senior manager, Forum for Women Educationalists – Uganda Chapter.
13. Senior manager, Center for Domestic Violence Prevention (CEDOVIP), Kampala.
14. Senior manager, Uganda National NGO forum, Kampala.
15. Professor at the School of Law, Makerere University.
16. Former woman member of parliament.
17. Former member of parliament.
18. Former woman member of parliament, 8th parliament.
19. Former woman member of parliament, 5th and 8th parliaments.
20. Former member of parliament, 8th parliament (male).
21. Former district woman member of parliament, 8th parliament.
22. Former district woman member of parliament, 8th parliament.
23. Former member of parliament, 8th parliament (male).



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