

Yale Human Rights and Development Journal

Volume 4

Issue 1 *Yale Human Rights and Development Journal*

Article 8

2-18-2014

Making Women's Land Rights a Reality in Uganda: Advocacy for Co-Ownership by Spouses

Jacqueline Asiimwe

Follow this and additional works at: <http://digitalcommons.law.yale.edu/yhrdlj>



Part of the [Human Rights Law Commons](#)

Recommended Citation

Asiimwe, Jacqueline (2001) "Making Women's Land Rights a Reality in Uganda: Advocacy for Co-Ownership by Spouses," *Yale Human Rights and Development Journal*: Vol. 4: Iss. 1, Article 8.

Available at: <http://digitalcommons.law.yale.edu/yhrdlj/vol4/iss1/8>

This Article is brought to you for free and open access by Yale Law School Legal Scholarship Repository. It has been accepted for inclusion in Yale Human Rights and Development Journal by an authorized administrator of Yale Law School Legal Scholarship Repository. For more information, please contact julian.aiken@yale.edu.

Practitioner's Note

Making Women's Land Rights a Reality in Uganda: Advocacy for Co-Ownership by Spouses

Jacqueline Asiimwet

There is a human face to the problem of women and land reform in Uganda. The following stories are typical of the plight of women in many rural areas of Uganda and indicate why women's land rights are high on the agenda of the women's movement in Uganda.

My name is **Agote Mary**. I am 30 years old. I am a wife of Akia Akosheri. We stay in Angodi village, Kachango Parish, Gogonya sub-county. I got married when I was 16 years old. My husband is a shopkeeper and I am a housewife. He paid 5 heads of cattle when he was going to marry me. We had been peaceful until my husband decided to bring another wife whom he cohabited with from 1996. . . . [H]e chased me out of the home. He wants my father to pay back the five heads of cattle so that he can marry the new wife. We bought land together. I contributed by digging on other peoples [sic] land for money, but now since he has chased me away, I cannot get anything. He also refused me to go with my children and every time they come to see me he beats them. I have reported him to the District Probation Officer, but he has done nothing because he and my husband . . . are former

† The author, a native of Uganda, obtained her law degree from Makerere University in Kampala, Uganda, and received her L.L.M. from Georgetown University Law Center in Washington, DC. Ms. Asiimwe has advocated for women's rights in Uganda for the past five years through her work for the Uganda Women's Network, Action for Development, and the Ugandan Association of Women Lawyers (FIDA-U).

schoolmates.¹

My name is **Tabisa Kirya**. My husband was known as Masaba Paskali. He was the only son of his father. He gave me and my co-wife land on which to farm. My co-wife has six children and I have three children—two boys and one girl. When my husband died eight years ago, a man from my husband's clan, whom my husband had had land disputes with, started disturbing me by farming on the land that belongs to my children and I. I have been to different LC (Local Council courts) for assistance and the case has been in court since 1995. The LCs minimize me and hardly do anything meaningful to assist me. In the meantime, my neighbor has taken me to Gogonyo police post 7 times and at one time I placed in custody for four days. Another time he arranged for me to be arrested by police from Pallisa who came to arrest me with a gun. At that time I spent seven days in a police cell. The man has done so many things which include planting maize in my garden of cassava and beans. He has brought his goats to graze in my garden and at the end of the day I have no food to feed my family. At one time he burnt my property at night when I had gone to my co-wife's home. Another time he came to beat me up but I made such an alarm that my neighbors came and rescued me. He also once came at me with a *panga* [an ax] and a stick to harm me. I know the man does all this to me in order to chase me away from the land.²

The case has gone to the Parish Land Committee and to court but up to now nothing has been done. The magistrate came one day to see the land in dispute but went back without meeting the witnesses from my side. He only stopped at the home of my neighbor with whom I have the dispute. It seems the courts need money before they can do anything.³

In 1998, Uganda enacted a Land Act, which was supposed to address historical gender imbalances in land ownership and herald a new era of women's rights. Substantial work went into lobbying not only for women's land rights in general, but specifically for a clause in the Land Act that

1. JACQUELINE ASIIMWE & EVELYN NYAKOOJO, INCLUDED YET EXCLUDED: A STUDY OF WOMEN'S LAND RIGHTS IN THE DISTRICTS OF PALLISA AND KAPCHORWA 17-18 (forthcoming July 2001) (on file with Uganda Land Alliance).

2. *Id.* at 23.

3. By this, the widow meant that the local magistrate had to be bribed before she could receive justice.

would allow spouses to co-own family property. However, when the Land Act was passed the co-ownership clause was missing, despite its having been discussed and approved of by members of parliament.⁴ Women felt and still feel betrayed, but they did not and have not stood back.

This Note looks at the different strategies that women's rights activists have used to keep the co-ownership debate high on the public agenda from 1998 to the present. As I write this Note, the "war" for equal land rights is not yet over, but small battles have been won. The issue of women and land has become a hot topic, thanks in large part to the advocacy by women and non-governmental organizations (NGOs) promoting women's rights in Uganda.

The first part of the Note gives a general overview of women and land in Uganda and the importance of land as a means of production. The second part analyzes those portions of the Land Act of 1998 that deal with women and land and explains the idea of co-ownership. It also outlines the human rights and development arguments used to situate and demand women's land rights. The third part looks at the major advocacy strategies used to date, and the final part looks critically at why activists have failed to make headway with regard to co-ownership and provides some suggestions for a way forward.

I. A BRIEF OVERVIEW OF WOMEN AND LAND IN UGANDA

Women form approximately 1/2 of the world's population, perform 2/3 of the world's working hours, and generate 1/2 of the world's agricultural production.⁵ In Africa, women do 85% of the agricultural production and processing. Yet women worldwide earn only 1/10 of the world's income and possess only 1/100 of the world's property.⁶ In the East African sub-region, as in many other parts of Africa, women are the primary cultivators. In Uganda, women own only 7% of the land, leaving 93% with access to land only through a male relation, usually a father, husband or son.⁷

Most land in Uganda is held under customary tenure⁸ and is regulated

4. See note 37, *infra*.

5. JENNIFER OKUMU WENGI, *WEEDING THE MILLET FIELD: WOMEN'S LAW AND GRASSROOTS JUSTICE IN UGANDA* 42 (1997). See also World Bank, 2000 World Development Indicators 20 (2000) (Table 1.3 "Gender Differences" states that women constitute 49.6% of the world's population), <http://www.worldbank.org/data/wdi/pdfs/tab1_3.pdf>.

6. OKUMU WENGI, *supra* note 5, at 42; see also World Bank, Africa Region Findings: Gender, Growth, and Poverty Reduction No. 129 (Feb. 1999) ("African women perform about 90 percent of the work of processing food crops and providing household water and fuelwood, 80 percent of the work of food storage and transport from farm to village, 90 percent of the work of hoeing and weeding, and 60 percent of the work of harvesting and marketing."), at <<http://www.worldbank.org/afr/findings/english/find129.htm>>.

7. MINISTRY OF GENDER, LABOUR AND SOCIAL DEVELOPMENT, REPUBLIC OF UGANDA, *THE NATIONAL ACTION PLAN ON WOMEN* 5 (1999).

8. Customary tenure is defined by the Land Act as the "system of land tenure regulated by customary rules which are limited in operation to a particular description or class of persons." The Land Act, Act. 16 § 2 (July 2, 1998) (Uganda). See also § 4 (defining

by customary law.⁹ Though statutory law does not bar women from owning property, the reality within which they live effectively denies them this right.¹⁰ There are many socio-cultural practices that discriminate against women, discouraging women from owning land or sanctioning them for it. Foremost among these is the high value placed on marriage. Ugandan women are socialized to perceive marriage as a principal life goal and their ownership of land as incompatible with a happy marriage.¹¹ Owning land brings power, and the fact of women having power disturbs social order, stability, and tranquility.¹² Many Ugandans, mostly men, have argued that women who own land are "big headed" and the only way to restore them to their proper size is to take away their land.¹³

Certain customary practices, like the giving of bride wealth¹⁴ and polygamy, reduce women's security on land¹⁵ which is another way in which women are effectively denied their right to land.¹⁶ Bride wealth is increasingly viewed as making a woman the husband's property, nullifying any claims she might have to land and transferring her property rights to her husband.¹⁷ Even gifts to the wife and property she acquires individually are viewed as belonging to the husband. Upon customary divorce,¹⁸ wives are usually sent away from the home with no property at

customary tenure for purposes of §28 Rights of Women).

9. Uganda is made up of 56 tribes each with its own customary practices and "rules/laws." Customary law was introduced in tandem with British common and statutory law in the colonial era as a tool for colonizing and pacifying the colonized people. For a general comment on customary law, see ELIZABETH SCHMIDT, PEASANTS, TRADERS, AND WIVES: SHONA WOMEN IN THE HISTORY OF ZIMBABWE, 1870-1939 107-09 (1992) and Alice Armstrong et al., *Uncovering Reality: Excavating Women's Rights in African Family Law*, 7 INT'L J.L. & THE FAMILY 314, 324-28 (1993).

10. The socio-economic position of women in general and their inability to access the economy has hindered women's owning land. More women in Uganda are illiterate than men (55.1% of women compared to 36.5% of men). The total primary school enrollment is 45% for girls and 55% for boys, and it decreases to 35% at the university level. Poverty data show that female-headed households (which are on the increase) are poorer than male-headed households. MINISTRY OF GENDER & DEVELOPMENT, REPUBLIC OF UGANDA, WOMEN AND MEN IN UGANDA: FACTS AND FIGURES 31-40 (1998).

11. Irene Ovonji Odida, Land Law Reform: Challenges and Opportunities for Securing Women's Land Rights in Uganda (Feb. 18, 1999), at <<http://bdsn.parallelweb.net/land/Ugirene.htm>>.

12. Attitudes such as these are often expressed in the media, see, for example, Ssemujju Ibrahim Nganda, *Families Must Be Built on Love Not Laws*, THE MONITOR NEWSPAPER, Sept. 5, 2000, <http://www.monitor.co.ug/news.php3?record_number=23&show=gender>.

13. ASIIMWE & NYAKOOJO, *supra* note 1, at 24.

14. Bride wealth is the institution through which a man pays some property in return for the right or privilege to marry a woman.

15. By "security on land," I mean the certainty that land is one's own, one can use it as she wishes, and can freely make decisions regarding its sale, use, and bequeathal.

16. See MINISTRY OF FIN., PLANNING, AND ECON. DEV., UGANDA PARTICIPATORY POVERTY ASSESSMENT REPORT: LEARNING FROM THE POOR 56 (2000).

17. "Women are perceived as property because among the Iteso [a tribe in Uganda] once bride price is paid for a woman, she and her offspring are her husband's belongings. As one key informant commented: 'I bought her, so whatever she has is mine. She does not own anything.'" OKUMU WENGE, *supra* note 6, at 53.

18. Most customary divorce in Uganda, especially where bride wealth is given, consists of the return of the bride wealth by the woman's family to that of the man. This

all.¹⁹ In polygamy, land may be utilized jointly by several wives who therefore have difficulty claiming individual contribution or ownership.²⁰

According to custom, females marry into the clans of their husband. In rural communities, the clan will allocate customary land to the man upon his marriage.²¹ The matrimonial home is usually built on customary land and is regarded as the husband's property until he dies, at which time ownership reverts to the clan. Because customary rules systematically exclude females from the clan or communal entity, they also exclude females from ownership of land.²² Moreover, since women are seen as belonging to neither their families nor marital clans, they are denied by both sources the opportunity to own land. As a result, they are alienated from land ownership from childhood to widowhood.²³

Women's attempts to control, transact, and own property, especially land, are resisted and sanctioned by the community and the clan as misbehavior.²⁴ In part, this is due to the society's intolerance for women who breach social norms. A woman who purchases land is seen as having "sinister" intentions, using the land to run away from her marital home or as a place to "entertain" other men. Gaining power through land ownership is deemed deviant, because only "improper" women are not satisfied with what their husbands or other male relatives can provide them. "Proper" women take whatever is given to them with gratitude and teach their daughters to do the same.

Land in Uganda is normally passed on through inheritance, traditionally through the male line from father to son. Traditional patrilineal descent remains especially dominant in the rural areas of Uganda, and is characterized by male control of decision-making about who will inherit and administer the estate, and preference for male over female heirs. Indeed, sons or other males (e.g., male clansmates) normally inherit any substantial property.²⁵ This is true even though the customary heir of a female is another female.²⁶

Daughters inherit land only in exceptional circumstances, when there

marks the dissolution of the marriage.

19. MINISTRY OF FIN., PLANNING, AND ECON. DEV., *supra* note 15, at 57.

20. UGANDA WOMEN'S NETWORK, *WOMEN AND LAND RIGHTS IN UGANDA: A DOCUMENTATION OF WOMEN'S VIEWS AND SUGGESTIONS ON LAND ISSUES IN UGANDA AND THE PROPOSED LAND BILL 9* (October, 1997).

21. Different ethnographies point to the fact that land was allocated to young men at maturity, i.e. when they declared themselves ready to marry. Hence it was the presentation of, or the taking of a wife that facilitated a man's access to land. Abby Justine Nalwanga Sebina-Zziwa, *The Paradox of Tradition: Gender, Land and Inheritance Rights Among the Baganda* 28 (1998) (unpublished Ph.D. dissertation, University of Copenhagen) (on file with the Makerere University Library).

22. Very often women do not "belong" anywhere. As girls in their father's homes they are regarded as being in transit to their husband's homes, and when they marry, they are considered outsiders (because they come from a different clan) and do not share in the clan decision making. See, e.g., SCHMIDT, *supra* note 10, at 16-19.

23. Ovonji Odida, *supra* note 11.

24. *Id.*

25. See generally OKUMU WENGI, *supra* note 5, at 49-82.

26. Ovonji Odida, *supra* note 11.

is no suitable male heir or when the father dies intestate. Where women do inherit land, they typically receive only a fraction of their brothers' shares and often have to share a single parcel with other female heirs. Women are regarded as being unable to own property in their own right, and as mere trustees for male kin.²⁷ Because of this common perception, on the death of a wife there is usually no property distributed as it is assumed to belong to the widower.

There is conflict between statutory and customary law.²⁸ Statutory law provides greater protection for women, allowing for female inheritance and land ownership. Although it trumps customary law in theory, statutory law is less utilized in practice. This is especially true in rural communities, where ignorance of statutory law is compounded by high illiteracy rates and inaccessible courts. Thus even where widows may have the statutory right to administer the estate, access to and control of customary land is severely limited.

It is against this backdrop that the women of Uganda have felt the need to advocate for women's rights to land.

II. THE 1998 LAND ACT

A. Overview of the Act

In 1998 Uganda enacted a Land Act pursuant to Article 237 (9) of the Constitution, which required Parliament to have a Land Act in place by July of that year.²⁹ The purpose of the Land Act is to provide a system for

27. *Id.* at 43.

28. As a consequence of colonial rule, Uganda has dual legal systems of customary and statutory law. This plurality continues to characterize a range of legal areas, including laws relating to land ownership and inheritance. Since customary law is not codified, men are able to manipulate it to suit their desires and have used it to justify the distinctions and/or discrimination between men and women. Statutory law, supposedly progressive because gender neutral, is little applied in practice.

29. The process of land reform leading to the enactment of the Land Act in 1998 began with the commissioning of a study of land tenure and agricultural development in 1989. The study was recommended by the Agricultural Policy Committee, which is comprised of four permanent secretaries from the Ministries of Agriculture, Finance, Trade and Industry and Natural Resources, and undertaken by the Makerere Institute of Social Research in collaboration with the Land Tenure Center of the University of Wisconsin under the auspices of the Ugandan Ministry of Planning and Economic Development. The main purpose of the study was to analyze the land tenure system operating in Uganda and make policy recommendations for improvement. In 1990, a technical committee consisting of nine people was set up to convert the recommendations of the 1989 study into new legislation. The technical committee carried out a survey to assess public opinion about the prevailing law. Following the study, the committee drafted a Tenure and Control of Land Law and an accompanying memorandum explaining the need for the proposed law.

The proposed bill was presented to the National Executive Committee, which instructed the technical committee to carry out further public consultations. After polling another 1,459 people from around the country, a second Land Law was drafted in 1993. When the new Constitution established land ownership rights for citizens of Uganda in 1995, the technical

the tenure, ownership, and management of land, and to improve the delivery of land services to the population by decentralizing land administration.³⁰ During the period leading up to the passing of the Land Act, women's rights activists lobbied Parliament for the inclusion of women-friendly provisions in the Act.³¹ The impetus to raise women's concerns arose in part from the Constitution itself, which is a progressive and gender-sensitive document that recognizes women's rights generally and the rights of all Ugandan citizens to land ownership.³² The women-friendly provisions incorporated in the Land Act include the following:

- Section 40 requires the prior written consent of both spouses in transactions involving family holdings, defined as land on which the family ordinarily resides and from which they derive sustenance.³³
- Section 28 prohibits decisions affecting customary land that deny women access to ownership, occupation or use of any land, as well as decisions that impose conditions violating constitutional provisions protecting women.³⁴
- The Act requires land management bodies and institutions to have female representation. The Uganda Land Commission must include at least one female among its five members, one-third of the membership of the District Land Boards must be female, and land committees at the parish level must have at least one female among

committee reconvened to incorporate the constitutional changes into the proposed law. By 1996, they had drafted the Land Tenure and Control of Land Bill of 1996. The 1996 bill then underwent at least five drafts before it was passed in July 1998. Rose Mwebaze, *Land Reform in Uganda* (August, 1999) (unpublished manuscript, on file with the Uganda Land Alliance).

30. The Land Act, Act 16, preamble (July 2, 1998) (Uganda).

31. For a discussion of the proposals put forward by women's rights activists as well as the lobbying process, see Ovonji Odida, *supra* note 11.

32. Women's organizations were active in the entire process leading up to the adoption of the 1995 Constitution. The Government's Ministry of Women in Development worked with women's organizations in 1991 to coordinate a nationwide discussion of the Constitution during its drafting. The results of these discussions were sent in a memorandum to the Constitutional Commission. Among other things, the Ministry's memorandum dealt with issues of particular concern to women, including elimination of discrimination on the basis of sex, which involves the repeal of marriage, divorce, inheritance, and property laws that discriminate against women. The Constitution was discussed by an elected Constituent Assembly of which women formed eighteen percent. Most of the women participated in a Women's Caucus, a non-partisan organization aimed at building consensus among women delegates on issues related particularly to women's concerns. The Women's Caucus lobbied sympathetic male Constituent Assembly members, held seminars and other functions to improve the lobbying, campaigning and presentation skills of its members, collaborated with women's NGOs, and ran a Gender Information Center that provided support to women delegates in debating the constitution. See generally AILI MARI TRIPP, *WOMEN AND POLITICS IN UGANDA* 77-78 (2000).

33. The Land Act, Act 16, § 40 (July 2, 1998) (Uganda).

34. The Land Act, § 28.

their four members.³⁵

- Under Section 17 (4) (b) at least one-third of the members of the Communal Land Management Association must be female. These Associations are corporate bodies which may be formed under the Land Act by any group of persons on any land for any purpose connected with communal land ownership and management of land.³⁶

Progressive as these sections may *seem* in so far as they relate to women and land, the provision that women's rights activists proposed—and which was passed by Parliament but was “missing” in the final draft of the Act³⁷—was the co-ownership clause. In order to address the problem of women's lack of ownership of land, women's rights and human rights groups had proposed co-ownership of land between spouses.

The basic principle behind co-ownership is the equal ownership by a husband and wife of the land on which the family's principle place of residence rests, or from which the family derives its principle source of income or sustenance. This conception in no way precludes either spouse from individually owning land. Rather, co-ownership addresses the imbalance in property ownership between the sexes, and the resulting power imbalance of many marital relationships. Proponents believe that co-ownership would increase women's decision-making power in the smallest unit of society (i.e., the family), and that it would improve family livelihoods as women would be more willing to invest their labor, time, and resources in land that they own.

B. Why the Co-Ownership Clause Anyway?

1. The Human Rights Law Concern

The women's land rights campaign was one way of imploring the Government to fulfill its obligations under international and domestic human rights instruments. First, Uganda has an obligation under international human rights law to address the plight of women under the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).³⁸ The CEDAW calls for various policies implicated in

35. See Articles 48 (4), 58 (4), 66(2) of the Land Act 1998.

36. The Land Act, § 17 (4)(b).

37. Hon. Miria Matembe, who made the motion to include the co-ownership clause, has explained that the clause did not appear in the final Act due to some technical problem related to the public address system in Parliament.

38. Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, art. 5, 1249 U.N.T.S. 12 (entered into force Sept. 3, 1981)[hereinafter CEDAW]. Uganda signed the CEDAW on July 30, 1980 and ratified it on July 22, 1985. *Status of Ratifications of the Principle Human Rights Treaties as of March 28, 2001* at 9, U.N. High

the issue of women and land rights, including the prohibition of discrimination on the basis of sex,³⁹ the duty to modify social and cultural patterns of conduct with a view to eliminating practices based on stereotyped roles for the sexes,⁴⁰ and the obligation to implement affirmative action as a tool to combat discrimination.⁴¹

Closer to home, Uganda's newly promulgated Constitution of 1995 provides for the rights of individuals to own property,⁴² and for affirmative action policies to address social and historical imbalances which have victimized women in relation to land.⁴³ Further, it prohibits all customs, laws, and cultural practices which are against the dignity, welfare, or interest of women, or which undermine their status.⁴⁴ Finally, the Constitution contains a non-discrimination clause that guarantees, in theory if not in practice, the women of Uganda the same rights to land as men.

2. The Development Concern

Achieving sustainable development requires addressing inequality between men and women in the distribution of resources such as land. Since Uganda is an agricultural economy, land is the major productive asset for both the nation and the majority of households. Over 50% of Uganda's GDP and almost all export earnings come from the agricultural sector, which produces cash crops for exports, food for subsistence and sale, and raw materials for local and foreign industries. Agriculture in Uganda takes place largely on smallholder farms that depend on family labor, provided mainly by women and children.⁴⁵ Women supply 70% of Uganda's agricultural labor and 60% of labor for cash crops such as coffee, cotton, and tea.⁴⁶

Lack of ownership of land by women retards development and contributes to poverty. Because land in most families belongs to the man, many women do not have security of tenure, her tenure depending on the (male) access giver. Most women have little control over household decision-making, particularly in relation to economic activities such as what crops to grow on the farm, how to use the income accrued from the sale of the family crops, and any transaction regarding the land.⁴⁷

By facilitating women's access to the means of production, co-ownership of family holdings can be a strategic tool for poverty reduction.

Commissioner for Human Rights (Mar. 28, 2001), at <<http://www.unhchr.ch/pdf/report>>.

39. CEDAW, *supra* note 38, at art. 2.

40. *Id.* at art. 5.

41. *Id.* at art. 4.

42. UGANDA CONST. art. 26.

43. *Id.* at art. 32(1).

44. *Id.* at art. 33(6).

45. PARADIGM CONSULT AND POLICY ANALYSIS AND ADVOCACY CENTER, CO-OWNERSHIP OF LAND BY SPOUSES 22 (2000).

46. *Id.*

47. *Id.* at 25.

In particular, co-ownership would promote women's participation in decisions about the use of land and income accrued from crops. It would also provide security of tenure, which would create incentives for women to improve and invest in land use and development. As landowners, women would be able to access credit, enabling them to further develop the land and acquire economic independence. These improvements in land use and investments in developing land have the potential in Uganda to increase agricultural productivity and GDP, and improve conditions for environmentally sustainable farming practices.⁴⁸

3. The Equity Concern

Simply by their sheer contribution to the economy of Uganda and of the household, women have a right to co-own land with their husbands. The women's movement calls this the "sweat equity" argument—that is, time spent by women producing food for families and for export, as well as doing household chores and looking after children, the aged, and the sick, should be recognized and justly compensated.⁴⁹

III. ADVOCACY STRATEGIES

Women's rights activists and women's rights groups have continued to lobby for the inclusion of the co-ownership clause in the present Land Act. They have employed several strategies, including the following:

A. Networking

Under the leadership of two main umbrella groups, the Uganda Women's Network (UWONET) and the Uganda Land Alliance (ULA), several sectors of the women's movement have combined their expertise and resources to pressure Parliament to pass the co-ownership clause. Through networking, the two groups have been able to set up meetings with key policy-makers, and have organized public forums to discuss the matter.⁵⁰ One major outcome of the collaboration was the realization that the co-ownership clause alone would have little effect if family laws remained discriminatory against women. Since co-ownership was intended to raise the stakes of women in the home, legislation governing domestic relations needed to be passed to further cement women's rights.⁵¹

48. *Id.* at 26.

49. Dora Kanabahita, one of the leading women's rights activists in Uganda, formulated this argument.

50. UGANDA WOMEN'S NETWORK, 1999 ANNUAL REPORT: CREATING A CHANGE FOR A BETTER FUTURE 5 (2000).

51. This legislation took form in the Domestic Relations Bill, which provides for widow inheritance, recognizes the property rights of both spouses in a marriage, honors the non-monetary contribution of spouses to matrimonial property, attempts to regulate polygamy, requires a husband to ensure that each wife have her own separate property, and

The struggle around advocacy for the co-ownership clause has galvanized Ugandan women in ways they had not anticipated. They are learning to work together and to respond to issues in a more timely and aggressive way—leaving nothing to chance. There is now among women's rights activists constant grouping and regrouping, analyzing, strategizing, and sharing of information, all of which is vital for successful advocacy.

B. Threatening a Boycott of the Referendum 2000

In 2000 the government of Uganda held a referendum on political systems, as provided for under the Constitution of Uganda.⁵² Because women's rights activists knew that the government had a large stake in this exercise, they decided to threaten to boycott the referendum, and to encourage women in the rural areas to do likewise, unless their concern about the co-ownership issue was taken seriously.⁵³ This threat came after the government failed to live up to its promises to revisit the issue of co-ownership. Instead of addressing the women's concerns in good faith, the Cabinet proposed that the co-ownership clause be placed in the Domestic Relations Bill—a move that women's rights groups viewed as a delaying tactic. The threat to boycott the referendum indeed compelled the government to meet with women's rights activists, even if only to tell them not to threaten or blackmail government, and instead to be grateful for all that the government had done for women. The boycott threat was one of the more radical and overtly political tactics of the movement, and the government reaction demonstrated that women's rights activists *could* use their political leverage as voters to make the government respond.⁵⁴

C. Public Mourning

Another strategy employed by the women's movement was mourning—which in Africa signifies great loss, especially when it is done publicly. Uganda has celebrated International Women's Day as a public holiday since 1987. In the year 2000, the women's movement declared it a day of mourning rather than celebration.⁵⁵ Women were to mourn the loss of the co-ownership clause. Through the women members of Parliament of Rukungiri District, women's rights activists in Kampala mobilized

regulates the amount of bride wealth. DRAFT DOMESTIC RELATIONS BILL § 15, 4, 61(b), 29(b), 19.

52. UGANDA CONST. art. 271(3).

53. Jennifer Bakyawa, *Women Threaten to Vote Against Movement Over Land*, THE MONITOR, Feb. 22, 2000.

54. The main drawback was that the threatened boycott came just three months short of the referendum exercise. With already limited resources, women's organizations were left with too little time to mobilize women voters for a protest vote.

55. International Women's Day celebrations often consist of a national event at which different women's groups from around the country congregate to celebrate the day. The venue for the national celebrations is chosen by the Ministry of Gender, and the President attends as guest of honor.

grassroots women in the Rukungiri district, where the national celebrations were to take place. Thousands of women attended the March 8th occasion, carrying big, bold placards and banners demanding the right to own land. Women were encouraged to wear black, the official color of mourning. With funding from the Netherlands Development Organizations (SNV), UWONET made black t-shirts with women's rights slogans on them, which were handed out to the women who attended the Women's Day mourning. Their message was so strong and clear that His Excellency, the President of Uganda, dedicated a considerable amount of time during his speech to address the issue of women and land. As evidenced by the President's response, the advocacy strategy of mourning worked to make women's dissatisfaction known at a national level and in a public space.

D. Information, Education and Communication (IEC)

IEC materials were aimed to educate politicians, the press, and the public in Uganda about the arguments for the co-ownership clause. Several women's organizations produced posters, pamphlets, and booklets detailing the importance of women owning land.⁵⁶ These were widely distributed at meetings and at seminars sponsored by various NGOs. The Land Alliance also produced a documentary film to capture the plight of women within the current system of land ownership. The film was an appeal to the emotions, a vivid depiction of the injustice and discrimination faced by women. It was aired on national television.

E. Legal Education

As noted earlier, women face discrimination in part because they lack knowledge of their legal rights. To address this problem, women's groups such as the Uganda Association of Women Lawyers (FIDA (U)), Action For Development (ACFODE) and Uganda Land Alliance conduct legal education as part of their activities. Their attempts have spread the message of the co-ownership clause to rural areas where it has galvanized popular support. The activists have targeted women in rural areas on a village-to-village basis, one district at a time. In February of 2000, Uganda Land Alliance opened the first Land Information centers in the Kibaale District of southwestern Uganda.⁵⁷ The purpose of the centers is to provide rural people with information about their land rights and to raise their consciousness about the need for women to own land.

56. See, e.g., UGANDA LAND ALLIANCE, CO-OWNERSHIP OF LAND BY SPOUSES (2000).

57. Jacqueline Asimwe (with input from Georgina Kugonza), *Land Rights Centers in Uganda: Information and Intervention for both Urban and Rural Disadvantaged*, SHELTER AND SETTLEMENTS NEWS/ NEWSLETTER NO. 3 (Shelter & Settlement Alternatives, Kampala, Uganda), July 2000, at 1.

F. Wining and Dining

Since Parliament holds the power to change legislation, women's rights activists of the Uganda Land Alliance have convened working lunches with members of Parliament, and their caucuses and working groups. For example, the Alliance met with the Committee on Lands and Natural Resources—the group responsible for discussing the co-ownership clause, the Women Parliamentarians' Association, and the Young Parliamentarians' Association. Each group was chosen with a view to its power and place in politics. The women's rights activists packaged the co-ownership message according to each group's particular interests and sensibilities. In addition, activists with personal connections to key members of Parliament have lobbied parliamentarians informally. Finally, women have been encouraged to approach their area members of Parliament (MPs) as voters and people with a stake in how the MP represents their interests. This constant targeting of members of Parliament on both the public and private fronts has successfully managed to keep discussion on co-ownership alive.

G. Media Strategy

Electronic and print media have been extensively employed to educate the general public about the co-ownership clause. At times, women's rights NGOs have had to pay for advertising space to carry their message about co-ownership.⁵⁸ On other occasions, the information has been conveyed through journalistic articles. Women's rights activists have used popular radio talk shows as a forum for discussion about the efficacy of the co-ownership clause. These activists have also monitored the media to help shape campaign messages, which will counter popular fears about the co-ownership clause—for example, the belief that women would use marriage as a means of self-enrichment if the co-ownership legislation passed.

H. International Lobbying

Another advocacy strategy employed by women's rights activists has been international lobbying. The domestic NGO Forum for Women in Democracy (FOWODE) made contact with the international NGO Equality Now to share with them information regarding the Ugandan struggle for women's land rights. Equality Now then sent out an Action Alert recommending that its allies and partners around the world write to the President of Uganda, the Speaker of Parliament, the Minister of Lands and the Chairperson of the Parliamentary Committee on Water Land and

58. The Uganda Media Women Association, for example, sponsors a pullout in the well-known New Vision newspaper, where it has often carried messages promoting women's land rights.

Environment, calling upon them to publicly support the co-ownership clause and to ensure its swift passage.⁵⁹ It is hoped that internationalization of a domestic issue will put pressure on the Ugandan government to make good on its promises to women. The Government prides itself on being one of the most gender-sensitive in Africa, and is thus perceived as potentially responsive to this shaming technique. The Action Alerts taint the public image of the National Resistance Movement (the current party in power), increasing international scrutiny of the situation of women's land rights, and encouraging a reaction from the Government. Where possible, the women's movement has also encouraged international donors to pressure the Government to deal with the co-ownership clause.⁶⁰

I. Public Hearing on Women and Land

To humanize the suffering and discrimination of women in the area of land rights, Uganda Land Alliance held a public hearing where six rural women testified about their experiences. The hearing, organized for the benefit of parliamentarians responsible for drafting legislation, united members of Parliament with members of civil society, including rural and urban women from several regions of Uganda. Together they discussed the issue of co-ownership, with the goal of reaching a consensus. The public hearing was unique, because it offered politicians and the public the opportunity to hear rural women articulate the need for co-ownership. The impact of hearing about their daily experiences in their own words was very strong. By the end of the meeting, many male MPs were calling for the co-ownership clause to be passed. However, such appeals to emotions are usually short lived, as evidenced by the failure of the male MPs to follow-up on their promise to ask the Minister of Lands to bring the co-ownership clause to Parliament for discussion.

J. People's Manifesto

Women's groups took advantage of the recent presidential elections held on March 12, 2001 to demand that the candidates make known their vision for women's rights in Uganda, especially regarding women's land rights. UWONET produced a document called the "People's Manifesto," which detailed the issues that civil society wanted the candidates to address.⁶¹ In the Manifesto, women reiterated that in order for there be

59. *Uganda: Exclusion of Women from Land Ownership—The "Lost Clause"*, WOMEN'S ACTION 17.1 (Equality Now, New York, N.Y.) Aug. 2000.

60. For example, during a donors conference held in Kampala, Uganda in March 2000, the author, then Chairperson of the Land Alliance, was asked by donors to provide them with information regarding the co-ownership clause so that they could raise the issue in discussions with the government. See also Sheila Kulubya, *Americans Lobby Government on Land Co-ownership*, THE MONITOR, Sept. 29, 2000, at <<http://www.monitor.co.ug>>.

61. See UGANDA WOMEN'S NETWORK, THE PEOPLE'S MANIFESTO (2000).

meaningful development in the country, the practice of preventing women from owning land, and discrimination against women generally, cannot continue.⁶² The document was circulated not only to the presidential candidates, but also to the public. Women's rights activists encouraged the public to attend the candidates' campaign rallies, and to ask specific questions about their views on women's rights issues. The manifesto will also be used to challenge potential candidates in the upcoming parliamentary elections in June 2001.

K. Think Tank

At the close of 2000, women right's activists under the auspices of Law and Advocacy for Women in Uganda (LAW-U) held a one-day "Think Tank" in order to evaluate advocacy efforts used in the struggle for the co-ownership clause. Through discussion at the Think Tank, they also hoped to map out a clear advocacy strategy for 2001. The advocates stressed how they could take advantage of the upcoming election year to 1) challenge presidential and parliamentary candidates to discuss the candidates' agendas on gender equity, 2) launch a women's "get out the vote" campaign, and 3) encourage women to run for political office, thereby increasing their foothold in political/public spaces and potentially influencing laws and policies that favor women.⁶³ The women's rights activists at the Think Tank further pledged their support to candidates who are clearly committed to women's rights issues.⁶⁴

IV. CURRENT OBSTACLES AND A WAY FORWARD

Despite the hard work by women's rights activists toward the inclusion of the co-ownership clause in the Land Act, several obstacles remain in realizing the aim of these advocacy efforts. The primary obstacles include⁶⁵ the fact that politics and the political machinery in Uganda remain in the male domain. Indeed, many male legislators view the co-ownership clause as purely a "women's concern," which does not elicit their interest. Because women hold a subordinate position in society, issues concerning them tend to appear low on the priority list of legislative business. Men in control of the political process manage women's political demands based on a shrewd calculation of whether women present a genuine challenge or not. The ability of male lawmakers to deliberately stall the debate on the co-ownership clause without effective reprisal points both to the power of male interests and to the lack of political leverage of

62. *Id.* at 12-13

63. LAW AND ADVOCACY FOR WOMEN IN UGANDA, CALL FOR ACTION ON WOMEN'S RIGHTS THINK TANK 12-13 (Dec. 19, 2000).

64. *Id.* at 13.

65. This "list" of obstacles is by no means exhaustive. The reasons cited are but a few of the myriad and complex reasons why the gender lobby has not made headway in the advocacy for women's land rights.

the women's rights lobby. In the present case the government has calculated that the cost of stalling the debate on co-ownership is negligible. Thus, women's rights issues are repeatedly overlooked as the government deals with more "important" political issues such as elections.⁶⁶

The women's rights lobby's lack of political leverage stems from the general negative vision of feminism in Uganda, the limited grassroots support for the women's rights movement, and the want of male backing for the issue of women's land rights. In Uganda, like in most African countries, any action on behalf of women—whether or not it is inspired by Western feminism—is tarred with negative connotations of imperialism and aping of the West by disgruntled, money-seeking, elitist city women. The women's movement in Uganda has often been accused of being out of touch with rural women's lives and interests. Compounding this problem is the movement's limited ability to reach the bulk of women who live in the rural areas, due to insufficient economic resources and inadequate infrastructure in rural areas. Moreover, there are very few men brave enough to publicly support the women's rights cause, and their invisibility serves to ghettoize the concerns raised by women's rights activists.

There is also frustration among women's rights activists with regard to female legislators. Some key women politicians such as the Vice President and the Minister of Labor and Community Development have actively opposed or at least stalled the legislative agenda pushed by the women's rights movement.⁶⁷ Even when women parliamentarians do not directly oppose the women's rights agenda, they are reluctant to do anything that would constitute a betrayal of the government brought them into a power.⁶⁸ This kind of attitude often causes tension between a women's rights movement that wants to be aggressive and women politicians who would rather be passive.⁶⁹ The state of affairs is disheartening, given the fact that the women's rights movement relies on women politicians to push for women's concerns in the parliament.

Furthermore, the nature of the rights sought by women who demand co-ownership is viewed as problematic. Women's land rights issues go to the root of discrimination against women and the base of patriarchal power. It is not surprising then that efforts by women's rights activists meet with such resistance. Moreover, women's land rights seek to recognize women's autonomy and individuality, creating further tension with traditional Ugandan values. The notion of individuality goes against

66. Uganda has recently held presidential elections (Mar. 12, 2001) and is soon to hold parliamentary elections; in 2002 it will hold local council elections. These elections will continue to overshadow women's land rights issues.

67. Milton Olupot, *Kazibwe Raps Uganda Land Alliance*, THE NEW VISION, December 7, 2000; Asumani Nakendo, *Women Irk Nava on Land*, THE NEW VISION, Mar. 11, 2000.

68. One woman MP is noted to have said, "I feel that we as women MPs do not need to be aggressive because we have already been invited to the table . . . now that [the] government has invited us to the table I think we should now be women and remain women and we will be heard even if we don't shout." SYLVIA TAMALE, *WHEN HENS BEGIN TO CROW: GENDER AND PARLIAMENTARY POLITICS IN UGANDA* 104 (1999).

69. *Id.* at 81.

the grain of the cherished communal principle in African society. In traditional African society, the individual is not autonomous, nor does she possess rights above and beyond those of the rest of society. An individual's place in society is fixed by a defined role or status in a greater whole, be it the family, clan, tribe, or community. The emphasis is on duties rather than rights, mutual obligations rather than individual advancement. Accordingly, when the women's movement advocates for women's rights, which are already considered Western and individualistic, it is accused of elevating women over and above family or society.

Despite the above-mentioned obstacles to achieving passage of the co-ownership clause, activists have not given up the struggle. Women's rights advocates are constantly reviewing their strategies with a view towards reaching a larger audience with their message of change. To give an example, the Uganda Land Alliance recently held a strategic planning workshop on co-ownership, where they discussed methods to advance the debate. The group embraced several suggestions which will be key to achieving their ultimate goal: devising new ways of lobbying members of Parliament, actively recruiting male allies to join the cause, extending public dialogues to rural areas in order to expand participation, and conducting and using research to demystify the myths surrounding co-ownership and women's ownership rights.⁷⁰

70. STRATEGIC PLANNING WORKSHOP ON CO-OWNERSHIP OF LAND, REPORT 4 (2001).

