



Gender Transformation & Empowerment

KNOWING YOUR RIGHTS IS YOUR PROTECTION



A SIMPLE HANDBOOK ON UNDERSTANDING WOMEN'S RIGHTS

2015

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ABBREVIATIONS

UDHR	Universal Declaration of Human Rights
CEDAW	Convention on the Elimination of all forms of Discrimination against Women
ICCPR	International Covenant on Civil and Political Rights.
ICESCR	International Covenant on Economic, Social and Cultural Rights
UWONET	Uganda Women's Network.
FIDA-U	Association of Women Lawyers in Uganda
The Constitution	The Constitution of the Republic of Uganda 1995

PREFACE

Human rights are those rights that naturally belong to every individual whether one is a man or woman, girl or boy, infant or elder. Human rights are given by God just because one is a human being. All human beings—regardless of their age, sex, race, colour, language, religion, national origin, class, or political opinion are entitled to these rights.

Human rights are the basic standards for every person to realize their human dignity. Although Uganda is signatory to the Universal Declaration of Human Rights and has a National Constitution that provides for these rights, many women continue to be denied most of their basic rights.

The Universal Declaration of Human Rights (UDHR) was a milestone in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10th December 1948, as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected. The UDHR declaration sets down the basic principles at the very heart of the human rights movement. It has enabled remarkable progress in human rights, inspiring international human rights standards, laws and institutions that have improved the lives of many around the world.

Women's rights are the rights and entitlements claimed for women and girls worldwide. They differ from broader notions of human rights through claims of an inherent historical and traditional bias against the exercise of rights by women and girls in favour of men and boys. Issues commonly associated with women's rights include, though not limited to the right: to bodily integrity and autonomy; to vote to hold public office; to work; to fair wages or equal pay; to own property; to education; and to have marital or parental rights.

UWONET envisions a Ugandan society free of all forms of gender based discrimination, where all women—mothers, daughters, sisters, grandmothers—

realize their full worth as human beings. Where women have access to adequate food and clean water, are not discriminated in their workplace, are equal partners in decision making, have access and control over economic resources amongst others. Most importantly, UWONET would like to see that all Ugandan women are free from all forms of violence and feel safe in their homes.

In order to achieve these aspirations there is need for effective human rights education for all Ugandans. This will go a long way in changing people's values and attitudes towards women across Uganda.

As Eleanor Roosevelt, the Chairperson of the United Nations Human Rights Commission in 1948 said,

“In the small places close to home...so close and so small that they cannot be seen on maps of the world...unless these rights have meaning there, they have little meaning anywhere”

UWONET hopes that this handbook will be used as a tool to help Ugandans especially at the community/grassroots level understand the basic rights that women are entitled to. It will be used to sensitize and educate communities especially all women of Uganda regardless of where they are or what they do.

Increasing awareness and knowledge of basic human rights and especially women's rights is invaluable in making it clear that achieving gender equality and preventing violations of these rights is a national obligation.

Rita H. Aciro Lakor

Executive Director

INTRODUCTION

1. Background

Uganda Women's Network (UWONET) is an advocacy and lobby coalition of national women's organizations, institutions and individuals. UWONET was formed in Kampala, Uganda in 1993. UWONET's mission is to promote and enhance networking and collective action with the untied goal of working towards the transformation of the unequal gender relations in Uganda. The aim of the network is to influence policies, laws structures and attitudes to address the needs of women as well as that of men, leading to the ultimate achievement of gender equity and equality.

UWONET recognizes that the realization of gender equality is an arena that is slow to change and to a large extent is still dictated by the traditional male dominance in society. If the position of women in society is to be improved, all women need to be sensitized about their own basic human rights so that they can make a difference in the structure of laws and policies in this country.

Uganda has enacted and passed national laws, policies and ratified numerous international human rights instruments calling for gender equality a greater stride towards engendering laws in the country. The Constitution of Uganda is one of the most progressive in Africa with regards to promotion and protection of women's rights. The laws and policies passed in Uganda are intended to help citizens achieve the concept of equality in their day to day lives. Although commendable efforts have been made, Uganda is unfortunately a long way from achieving the promises and aspirations of equality stated in the ratified instruments and national laws and policies.

Uganda is mainstreaming gender, which involves deliberate actions to ensure that experiences, expectations, needs and concerns of men and women are integrated in policy formulations, decision making, planning, budgeting, monitoring and evaluation of policies and programmes. The Lack of access to, and control over resources by women in Uganda is a recurrent cause of gender inequality

across the region. The difficulty women have in realizing their basic human rights substantially limits the opportunities women would otherwise have in society. Injustice and violations of women's human rights occurs in their everyday lives despite having a very gender sensitive and progressive Constitution of the Republic of Uganda, 1995.

2. Purpose of the Handbook

UWONET was formed in 1993 to among other things advocate for women's rights in Uganda. The handbook on Women's Rights, seeks to highlight the basic human rights that are entitled to women in various areas of their day to day activities.

The handbook is aimed at informing women on their entitlement to justice under the international and national legislation. It raises awareness that there is a universal standard of life that all humans are entitled to regardless of whether they are male or female.

Since human rights education is currently not part of the national curricula, UWONET intends to educate women and the community at large about women's natural rights so that they are able to demand for what is due to them and thus end the widespread violations against women in private and public spheres of life.

3. Structure of the Handbook

The handbook on women's rights contains four Sections which lay out the human rights standards for women in the following thematic areas:

- Economic and Social Rights
- Civil and Political Rights
- Health Rights (Reproductive rights)
- Rights accorded to Women with Disabilities

Each Section briefly discusses the background and relevant issues related to each thematic human rights area. It further gives an explanation of the rights given to every woman and highlights the various instruments that provide for the protection of their rights. All Ugandans have a right to enjoy civil and political freedom, as well as their social, economic and cultural rights.

SECTION ONE:

Economic and Social Rights

Economic and social rights form a large body of general human rights that are intended to safeguard human dignity and freedom for all. These rights are sometimes referred to as livelihood rights due to their importance in the role they play in our day to day lives. They apply equally to both men and women without discrimination to race, color, sex, language, religion, political or other opinion. Economic and social rights are provided for by national, regional and international laws.

In this Section, the handbook explains some of the economic and social rights accruing to women. These rights are: property rights, the right to education; the right to work; the right to water and a healthy environment; the right to adequate food; the right to housing; the right to culture; Gender Based Violence (GBV); GBV referral pathway and domestic relations.

According to CEDAW, it states that Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

1.1. Women's property rights

This Section intends to sustain a healthy debate on women and land issue. It seeks to sensitize Ugandans especially women on their land rights and also increase women's control and access over land to foster sustainable development.

Uganda's population is projected at approximately 33 million, with 51% being women. Land is one of Uganda's most important resources that is predominantly used by women. However women only own 16–21% of the land. Many women are denied their human rights to access, own, control or inherit land and property simply because of their sex. This has direct implications on women's productivity and consequently on the country's development.

The Land Act (1998) was passed to create a system of tenure, ownership, and administration of land. The Amendment of this Act in 2004 made several improvements to protect women's rights to ownership of property. According to Section 39a of the Land (Amendment) Act 2004 a written consent of both legally married spouses is required in any transactions of family property.

Compared to other African countries, the women's movement in Uganda has been very active in challenging customary land tenure practices. The national land policy has undergone country wide consultations so that it addresses the gaps in the customary tenure system which the Land Act did not address.

1.2. Basic Land and Property Rights

- Women in Uganda have equal rights to access, own, and control land.
- Women have also got equal rights to adequate housing and property ownership.
- According to Article 26 of the Constitution every person has a right to own property either individually or in association with others. This means women can acquire and own land or any other property in their own right as well as with others.
- International laws state that no one shall be arbitrarily deprived of property. Everyone has a right to equal protection and recognition of their property without discrimination.
- Women have a right to access agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land, agrarian reform and land resettlement schemes.

Facts about Women's Land Rights

- Uganda's Constitution outlaws cultures, customs and traditions which are against the dignity, welfare, interest or which undermine their status.
- Women in the urban areas are increasingly able to survive outside of land unlike the rural woman.
- Women's land rights are a rural and household, peasant-farming issue that is defined within the agricultural economy.

Attitudes that still prevent women from enjoying their land rights

- The Land (Amendment) Act 2004 applies to married people, yet a good number of women in Uganda are cohabiting but assume they are married.
- Land and property are appropriated to men as “bread winner” even in circumstances where it is the wives actually sustain the families.

“They chased my mother and us from our house when our father died, the clan members said there is nothing that belongs to us, we had to move away to another place” Kam Sopiyan orphan narrates.

- There are assertions that the issue of women's land rights is an elitist issue and does not necessarily originate from the real felt needs of the rural woman, which is not true.
- In many customs, women and girls do not have the right to inherit land from their husbands or fathers. It is only under rare circumstances that a woman will inherit land from her parents. This usually applies if the parents are educated and have no sons.

Badru Tidamulala—Baisesanga clan head says: “The girl child has been so much mistreated. When a parent gives birth to only a girl, it is not considered important. If there is property to be inherited by the girls, people hurry up the burial so that they can distribute the property”.

- Studies indicate that most men believe there is no need for women to be involved in any land transactions.¹

One man in Hoima remarked. “Why on earth would a woman want her name on a land title unless she is planning to leave her husband”

- In Kabale a man with only daughters is regarded by society and by himself as being childless.

A story is told of a man with a lot of property who had only girls. When he died, in his will he left all his property to the church. Nothing was given to any of his daughters which was regarded as normal by the rest of the community.

1.3. What needs to be done to Protect Women's Land Rights

Parliament needs to pass the Marriage and Divorce Bill that is currently on the Parliament's agenda. The Bill seeks to highlight Article 31(1) of the Constitution of Uganda which states that “men and women are entitled to equal rights in

¹ Women and land rights in Uganda by Evelyn Nyakoojo—consultant ; EASSI; 2002

marriage and at its dissolution.” If the Bill is passed it will greatly improve women’s property and land rights.

Protection Women’s Land and Property Rights under the Proposed Bill

- It upholds the right of both parties to have joint or separate property.
- It provides for married persons’ rights to property in marriage and at the end of a marriage.
- It provides for cohabitantes or people living together without being legally married to make property agreements with regards to property acquired in that union. This is very important for women in Uganda because in many instances, men stay with women for many years during which they acquire property and then leave the older women and get married to younger women leaving the older women with nothing. The Bill does not recognize co-habitation as a form of marriage.

Distribution of Matrimonial Property

In situations where a marriage fails, court may distribute the property acquired in that marriage among the husband and wife. However a number of things have to be taken into consideration and these include:

1. The length of the marriage—how long has the couple been married.
2. The age of the spouses—how old is the couple
3. The contribution of each spouse to the property in question
4. The economic circumstances of each spouse at the time of dissolving the marriage
5. Financial performance of each of the partners

1.4. The Right to Education

Education is passing knowledge, skills and values from one generation to another. According to Uganda’s laws girls and boys have equal access to education. However, the proportion of girls in secondary and institutional level remains very low. Only 53 percent of females are literate compared to 61 percent of males.

Education of children and particularly the girl child will help women have a better life and be free from the negative challenges around them. A small investment in a girl’s education reaps enormous rewards for an entire society. As the common saying goes, *“Educating a girl is educating a nation.”*

This handbook lays out the rights, duties and responsibilities of parents, communities and all the other stakeholders in ensuring that all children and in this case the girl child access education.

The Maputo protocol states that parties shall take all appropriate measures to eliminate all forms of discrimination against women and guarantee equal opportunity and access in the sphere of education and training.

It also states that parties shall take positive action; to promote literacy among women, promote education and training for women at all levels in all disciplines particularly in the field of science and technology.

Do women have a right to education and who gives them that right?

- Basic education is a natural right to being human equally for women and men.
- Every person has a right to education as provided under Article 30 of the Uganda Constitution 1995, Beijing Plat Form for Action and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) amongst others.
- Uganda has to meet international obligations by taking all necessary measures to eliminate discrimination against women in order to ensure equality with men in education.
- Universal Primary Education and Universal Secondary Education have been introduced in Uganda.
- Women have the same opportunities to access grants and scholarships for education.

Reasons for the low school enrollment of girls and school girl dropouts

Despite the many enabling laws at the different levels, girls and women are still faced with a number of challenges and these include amongst others;

- “Many families traditionally favorboys when making financially related educational decisions²”according to Antonia Harsh a teacher in one of the Institutes at District level.
- High levels of school dropouts caused by the inability of parents to afford school fees and the demand forchild labor in rural areas.

² AFROL Gender Profiles: Uganda. AFROL is a news agency and is among the leading independent news providers covering the African continent in English language, and the leading provider in Spanish language.



- Early marriage and teenage pregnancies.
- Discrimination against the girl child. Girls and boys are not treated equally and are not given the same opportunity with regard to education.
- There is a belief in some families that a family with only girls is childless and therefore no need to invest in girl children.

Important to note that as much as Government may put in place very good policies, if families do not change their attitude towards girl child education, very little may be achieved. Every family therefore has the responsibility to support completion of education by the girl child.

1.5. Right to Work

Every person has the right to work in Uganda; however a child below the age of 12 years is not allowed to carry out any form of work.³ The laws of Uganda and international laws provide for the promotion of rights of women at work. All the rights to work that accrue to women are the same as those for men, with the exception of those rights related to their reproductive roles, for example the rights to maternity leave.

³ Section 32(1) Employment Act 2006

Women in Uganda need to understand that the government has put in place laws to protect and promote their rights to work. It is the community's and individuals responsibility to demand for these rights at their places of work.

CEDAW points out that Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- *The right to work as an inalienable right of all human beings*
- *The right to employment opportunities including same application procedures and selection criteria.*
- *The right to free choice of profession and employment, right to promotion, job security and all benefits.*
- *The right to equal remuneration including benefits and equal treatment in respect to work.*
- *The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction*

Women's rights at work

- The right to equal employment opportunities and free choice of profession.
- The right to work under satisfactory, safe and healthy conditions with no discrimination based on sex, race, nationality, social origin, political opinion or age among others.



- The right to receive equal payment for equal work without discrimination.
- The right to rest, in form of annual leave, and sick leave and maternity leave. According to Section 56 of the Employment Act “as a consequence of pregnancy, a female employee has the right to a period of sixty working days on full wages after child birth or miscarriage”
- The right to return to the job one held before the maternity leave and on favorable terms.
- The right to reasonable working hours, which are 48 hours per week according to the Employment Act states.
- The right to compensation for any personal injury from an accident arising out and in course of her employment.
- The right not to be sexually harassed

Article 13 of the Maputo protocol talks about Economic and Social Welfare Rights and it states that parties shall adopt and enforce legislative and other measures to guarantee women equal opportunities in work and career advancement and other economic opportunities.

What counts as discrimination?

Mistreating, denying a benefit or given special favors to a person on grounds such as: race, color, sex, religion, political affiliation, tribe, social origin and HIV status or disability amongst others.

What is sexual harassment?

Sexual harassment is defined by law and includes; direct requests, preferential treatment and direct or indirect threats for sex.

Where can one go to seek redress in case of the above?

The office of the Labor Officer has been established to handle complaints arising in work environment/place. The officer has powers to hear, investigate and dispose of complaints. The Labor officer also has powers to make the necessary orders for disposal of complaints. He or she may institute civil or criminal proceedings before the Industrial Court, depending on each case.

1.6. The Right to Water and a Healthy Environment

Women are the primary users of water. They fetch water for use in their households; transport it home and store it. They are responsible for household chores such as cooking, cleaning, washing dishes and clothes, and bathing

children. They are also responsible for household hygiene including cleaning of toilets and provision of basic sanitation

However, 54% of the population in Uganda has limited access to safe water. Access to clean and safe water is defined as percentage of people within 1.5 km (rural) and 0.2 km (urban) of an improved water source. In most areas there are no nearby water sources and the women have to travel long distances in search of water.

Uganda has put in place several policies and laws to protect women's rights to water and a healthy environment. Once these policies are implemented women in Uganda will have improved living conditions and better access to clean and safe water. It is therefore everybody's right and responsibility to demand for accountability and protection of water sources.

The right to water and a healthy environment entitles every woman to:

- sufficient safe and clean water
- physical access to water
- affordable water for personal and domestic use
- adequate systems of supply and storage of safe water
- proper standards for disposal of toxic waste

The Maputo protocol Article 18 states that: women have a right to live in a healthy and sustainable environment. All parties shall take appropriate measures to ensure greater participation of women in the planning, management and preservation of the environment and the sustainable use of natural resources

What the government should do to promote provision of clean water and healthy environment:

- Have greater participation of women in planning, management and preservation of the environment and sustainable use of natural resources at all levels.
- Facilitate the development of women's indigenous knowledge systems.
- Enforce standards for storage, transportation and disposal of toxic waste.

1.7. Right to Adequate Food

The right to adequate food guarantees all people, without discrimination access food to and its enjoyment. This right includes having adequate systems of supply and storage to ensure food security.

The state of Uganda Population report (2007) indicates that 31% of the projected population of 28.4 million still lives in extreme poverty and face hunger. This exposes vulnerable communities, particularly women, children and the aged to situations of food insecurity.

Women and girls face severe food insecurity because they have to take care of large families. In situations of food scarcity, the females provide food to the rest of the family before taking care of their personal needs.

We all need to realize that if the right to adequate food is not met; empowerment, social accountability and development are affected. Communities must therefore stand up and take action against hunger by effectively utilizing the available resources to produce adequate food.

It is stipulated in the Maputo protocol Article 15 Right to food Security that parties shall ensure that women have the right to nutritious and adequate food. In this regard, they shall take appropriate measures to:

- *Provide women with access to clean drinking water, sources of domestic fuel, land and means of producing nutritious food.*
- *Establish adequate systems of supply and storage to ensure food security.*

Factors hindering women's enjoyment of the right to adequate food

- Uganda has for several years experienced violent armed conflict that have affected people's enjoyment to the right to food due to the limited or no capacity for food production.
- Women provide 80% of Uganda's agricultural labor force and they own only 16–21% of land. This low share of land ownership has direct implications on women's productivity and consequently on the right to adequate food and food security.
- There are cultures and traditions in Uganda which deny women the right to certain foods for example eggs and chicken which are good for everybody's health especially mothers.

- In most rural areas food is sold off at higher market value leaving the families food insecure.
- Women do not determine how the proceeds got from the sale of food actually benefit the family in either buying more and better quality of food or otherwise.

1.8. Right to Culture

Culture refers to the customs, beliefs, art, music and all the other products of human thought made by a particular group of people at a particular time in a particular community. International Organizations all over the world define culture as an important right, but its meaning is yet to be developed since different communities practice different cultures.

The Rights to Culture

- Every person has a right to belong to, enjoy, practice, profess, maintain and promote any culture, cultural institution, language, tradition, creed or religion in community with others.
- It is everyone's right to take part in cultural life and encourage international co-operation in science and culture.
- States have the right and obligation to enhance the participation of women in the formulation of cultural policy at all levels.

Right to Positive Culture Context, Article 17 of the Maputo protocol states that:

- *Women shall have right to live in a positive culture context and to participate at all levels in the determination of cultural policies.*
- *Parties shall take all appropriate measures to enhance the participation of women in the formulation of cultural policies at all levels*

Note: As much as culture is important and everyone has a right to enjoy, practice, profess, the Ugandan Constitution 1995 under article 33 prohibits any culture or custom that is harmful to women. (Where harmful means undermines, endangers lives of women) as null and void.

1.9. Gender Based Violence and Women's Rights

Gender Based Violence (GBV) in all its forms is a serious problem for women and children in Uganda. This Section attempts to remind all women of their rights to personal integrity, dignity, liberty and their right most importantly to

have a zero tolerance towards any form of violence directed towards them. It highlights the various international instruments and sections of the national legislation that protect women against violence.

The forms of GBV include: physical Violence, emotional/psychological violence, economic violence, sexual violence and social violence. Examples of these include slapping, pushing, hitting, emotional torture, bullying, abusing, early and forced marriages, defilement, rape, indecent assault and negative traditional and cultural practices including wife inheritance and female genital mutilation.

While violence affects both men and women, women are more vulnerable because very few seek help for such violent acts. Men therefore, take advantage of such situations to continuously abuse women. In a national survey 59.6% of women had experienced physical violence since the age of 15 compared to 53% of men. It is also common to find that rural women experience higher violence rates than their urban counterparts. Government and women need to realize their rights and responsibilities and have the perpetrators brought to book.

Types of violence in Uganda

1. **Domestic Violence** or intimate partner violence is very common in Uganda and mainly happens in the home on a daily basis. It manifests as battering, corporal punishment such as canning, slapping, kicking and domestic violence.
2. **Sexual violence** manifests in many forms like as early sex, Rape, marital rape, defilement (or sexual abuse of children), Sexual harassment, such as sexual proposition, Assault of girls by boys, especially when girls refuse sexual or love advances, Body touching, Sexual and suggestive language, Early and unwanted pregnancy, Early marriage, Abortion and prostitution.
3. **Emotional and Psychological Violence:** these manifests as derogatory or negative language in relation to one's physical appearance, sexual ability and intellectual ability. This kind of violence could be seen in the discrimination between girls and boys, Women and men; cultural beliefs or negative attitude towards women and girls' education, Parental neglect, Drug or alcohol abuse, Poor sanitation, Pornography or use of obscene language.

Facts Women should know about GBV

- *Violence against women results in multiple negative health social and economic implications for their development.*
- *Over 80% of abusers of women are male family partners.*
- *50.4% of women abusers are current husbands or partners*
- *17.9% of women abusers are former husbands or partners,*
- *12% of women abusers are stepfathers or fathers, mothers or stepmothers*
- *13.2% are sisters*
- *11.1% are brothers.*

Protection against GBV

Uganda is a signatory to numerous international and regional treaties that:

- **Protect the right to human dignity**—Every woman has the right to dignity as a human being and to the recognition and protection of her human rights. She shall have the right to respect as a person and to the development of her personality.
- **Protect every woman's entitlement to integrity and security** of persons and not to be subjected to cruel treatment or subject to any form of violence.
- **Seek to eliminate all harmful practices against women**—Uganda's Constitution prohibits all laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status.
- Oblige Uganda to:
 - a. identify the causes of violence;
 - b. adopt legislative administrative and social measures to prevent and punish all forms of violence against women
 - c. and implement budgetary allocations to do the above for example social awareness, peace education and programmes for the rehabilitation of victims

What is the Uganda government doing to protect women against GBV

- *The Constitution protects every person's personal safety and personal liberty. These provisions apply equally to men and women.*
- *Article 44 of the Constitution ensures that no person shall be subjected to any form of torture or inhumane, cruel or degrading treatment.*
- *All cultures or customs against the dignity, welfare or interest of women are prohibited by the constitution.*
- *The Domestic Violence Act 2010 gives women and men provides protection and relief for victims of domestic violence together with punishment of perpetrators.*

GBV referral pathway: In case of Domestic Violence Seek help from,

- The Elders
- The Local Council Courts
- Religious Leaders
- The police.
- Formal courts to obtain a protection order through filing an application to a Magistrates Court.

What is a Protection Order?

A protection order restrains a person from harassing or threatening another person or from contacting or approaching them.

The Role and Duties of Police Officers

When victims of GBV report their cases as a means of seeking justice from the police:

- They advise victims about safe shelters;
- Ensure a medical examination takes place immediately after the offence for evidence;
- Advise the victim to record a statement
- Have the statement taken by a Police Officer, preferably of the same sex.
- Advise people about the legal options;
- Provide a Protection Order for the victim against the offender

What is the relationship between GBV and Violence?

- Many people with HIV fear to tell their positive status because of expected violence and blame from their partner
- If a person is HIV positive and has a violent partner, it is very difficult to negotiate for safe sex or abstinence, putting them at a risk of more violence
- A person with HIV can be subjected to unfairly abuse and mental torture by their partners
- Females who have been raped and defiled may be exposed to HIV
- Some men with HIV have had revenge sex and infected many female.
- Forced sex without condoms increases the risks of HIV transmission

1.10.1. Domestic Relations

This Section examines the various provisions relating to women's rights within marriage, upon separation and on divorce. These rights are contained in a number of international and national laws and policies. The existing marriage laws have got several gaps that need to be addressed in order to safeguard the rights of women. For example the current laws are silent on some of the women's rights, like property rights in a marriage and the age of marriage. These need to be harmonized and UWONET continues to advocate for the enactment of the Marriage and Divorce Bill which was formerly known as the Domestic Relations Bill or the DRB.

Much as there are national laws in place that protect and provide for women's rights in marriage, these rights are not realized by the majority of women because of the customary practices, socialization and the generally weak economic capacity of many women. Ignorance and lack of information also prevents most women from enjoying these rights. Women are often blamed for failed marriages.

In the Maputo protocol, it is stipulated that parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that;

- *No marriage shall take place without the free and full consent of both parties.*
- *The minimum age of marriage for women shall be 18.*
- *Monogamy is encouraged as the preferred form of marriage.*
- *A married woman shall have a right to maintain her maiden name.*

What is marriage?

- Marriage is defined as “the voluntary union for life of a man and woman to the exclusion of all the others.”
- It is a social union between individuals that creates kinship.
- It is an institution in which interpersonal relationships, usually intimate and sexual, are acknowledged in a variety of ways, depending on the culture or subculture in which it is found.
- The ceremony that marks its beginning is usually called a wedding.

It's noted in CEDAW that shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- *The same right to enter into marriage;*
- *The same right freely to choose a spouse and to enter into marriage only with their free and full consent;*

Requirements for Women and Men to marry

1. If each of them has attained the age of 18 years and above.
2. There is free consent of the man and woman intending to marry.
3. When notices of the woman and man's intention to marry have been made.
4. Where the place to marry for example, marriage registrar, church or mosque or any other place of worship is a licensed place and the celebrant is licensed to carry out the marriage.

Prohibited Marriages

1. Where the man and woman are related to each other, father and daughter; mother and son; brother and sister; cousin; aunt; uncle or belonging to the same clan.
2. Either party is of unsound mind or mentally disturbed.
3. Either spouse at the time of the marriage has or has had an existing marriage; except in the case of customary marriages
4. The consent of either party to the marriage was obtained through force, duress or fraud.
5. Where the parties are of the same sex.
6. When the parties are below 18 years.

1.10.2. Who is Married, Recognized marriages and Procedures in Uganda

It is important to ask this question because very many people in Uganda are cohabiting and yet they and everyone in the society assumes they are married. The question can be answered by the legal framework which states the various forms of marriages in Uganda.

1. The marriages include civil marriage, customary marriage, church marriage, Hindu marriages, Bahai marriages and Islamic marriages.
2. Every marriage shall be recorded in writing and registered in order to be legally considered.

Marital Rights of Women and Men's Rights in a Marriage

- The constitution requires all persons to be equal before the law in all spheres of life
- Women and men have equal rights in marriage.
- Every person has the right to own property either individually or in association with others during a marriage.
- The husband and wife shall by mutual agreement, choose their place of residence
- A married woman has the choice to maintain her maiden name, retain her nationality or acquire her husband's nationality
- A woman has the right to conjugal rights. This right means the right which a husband and wife have to each other's comfort and affection.
- A woman together with her husband has the right to decide freely and responsibly the number and spacing of their children.
- Women as well as men have the same rights and responsibilities as parents, in matters relating to children. In all cases the interests of the children take the top position.

1.10.3. Women's Rights at Divorce or Dissolution of a Marriage

The Divorce Act is the current law governing all dissolutions of marriage in Uganda. A petition for divorce shall be granted if the court finds that the petitioner has not been an accessory to or has not connived, condoned or colluded in the petition. Divorce may be given on any of the grounds below:

Grounds a woman petition can use to apply for divorce

- If her husband has changed his religion
- If her husband has gone through a form of marriage with another woman
- Where the husband has been guilty of incestuous adultery
- Where the husband has committed bigamy with adultery
- Where husband is married to her and committing adultery coupled with cruelty.
- Where the husband has committed adultery coupled with desertion, without reasonable excuse for two years or more.

Article 7 of the Maputo protocol: Separation, Divorce and Annulment of Marriage also states that parties shall enact appropriate legislation to ensure that women and men enjoy the same rights in case of separation, divorce or annulment of marriage. In this regard, they shall ensure that:

1. *Separation, divorce or annulment of marriage shall be effected by judicial order*
2. *Women and men shall have the same rights to seek separation, divorce or annulment of marriage.*
 - *When can a woman petition to have her marriage declared null and void?*
 - *Where the husband was permanently impotent at the time of the marriage;*
 - *Where the man and woman are related whether natural or legal, or in of the same clan;*
 - *Where either the man and woman was a lunatic or idiot at the time of the marriage;*
 - *Where the former husband or wife of either party was living at the time of the marriage, and the marriage with the previous husband or wife was then in force*
 - *Where the consent of either party to the marriage was obtained by force or fraud.*

Cases when Court may Deny Divorce

- *Where the court finds out that the wife has during the marriage been guilty of adultery*
- *Where the wife has delayed in presenting the petition*
- *Where the wife has willfully separated herself from her husband before the adultery complained about*
- *Where the wife has willfully neglected her husband before the adultery.*

Separation in Marriage

Divorce is the permanent ending or termination of marriage and only applies to legally recognized marriages while separation is the temporary situation where a husband or wife stays away from the other for a given period. The husband and wife may agree on the period of separation or may be ordered by court on request of one of the spouses. The separation ordered by court is referred to as judicial separation

What does Separation Mean?

Separation only suspends certain rights of the husband and the wife such as

- *The right to live together*
- *The right to have sexual intercourse*
- *Spouses are considered unmarried for purposes of all contracts, wrongs and injuries.*
- *Her separated husband shall not be liable to pay for her maintenance unless alimony or allowance has been ordered for the wife.*

What is inheritance?

Inheritance law is called SUCCESSION. When a person dies they leave a successor (people who will acquire their property). In Uganda, the Succession Act provides the law on how to deal with the matters of the dead person (the deceased).

"A widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it.

Women and men shall have a right to inherit, in equitable shares, their parents' properties" says Article 21 Right to Inheritance of the Maputo protocol.

The Matrimonial Home

This automatically belongs to the surviving spouse if the testator was married. Any children below the 21 years are entitled to live this house. This home and the belongings inside it used by the family are not distributed in a will.

If a man had two or more wives and they were both living in the same house, the surviving wives are allowed to stay in the house. Where the wives were staying separately each in her home, after the death each one will stay in that home with all the properties inside it.

What are the different types of succession?

TESTATE: When the dead person has left a will. This person is called a Testator and their will gives their wishes of who should be given their property and belongings and how their affairs should be handled after their death.

In the Maputo protocol Article 20 Widow's Rights, it is stated that parties shall enjoy all human rights through the implementation of the following provisions.

- *That widows are not subject to inhuman, humiliating or degrading treatment.*
- *That the widow shall automatically become the guardian and custodian of her children, after the death of her husband, unless this is contrary to interest and welfare of the children.*
- *That a widow shall have the right to remarry, and in that event, to marry the person of her choice.*

What is a will?

A will is a written document made when a person is alive explaining what should be done with their property and affairs after he or she dies.

Who can make a will?

Anyone over 21 years of age who is of sound mind can make a will. This means they must do it of their own free will and not be forced by somebody else, or be too ill or drunk to understand what it says.

How should a will look like?

- Date the will is made
- Signature or thumbprint of testator (Person making the will)

- Signature or thumbprint of 2 or more persons who witness the signing of the will together at the same time (They do not need to know what is inside the will and should not be people who will benefit from).

Some of the must in a will

- The name, age, tribe, place of birth, place of origin of parent and residential address which identify the person making the will (Testator).
- The names and date of birth of children from inside and outside the marriage.
- Date when the will is made.
- Names and relationship of people who to be given specific gifts in the will.
- Statement of all property including their size and location.

(Note: This list is not exhaustive it therefore important to note the important aspects of a valid will).

Why is it important to make a will?

- It spell out the person making the will wants for their succession
- It explains how property and belongings are to be given out and handled
- It protects those who have legal rights to succession
- It provides for guardian for children
- It names the person to carry out the distribution of estate who is most suitable for this duty and keeping to the state wishes
- Monies and items owed to the testator and his/her family can be collected by the executor
- People receive what they are entitled to according to the wishes of the deceased
- The paternity of any children is made clear
- It is legal evidence which can be used in Court
- The pat

SECTION 2: Civil and Political Rights

There are numerous international, regional and national legal provisions in place to enforce and protect civil and political rights for all people regardless of gender. In recent years Uganda has registered some progress in the area of political equality in the national laws and policies. Much as there has been some advancement in women's participation in the political processes, there is still need for more education and sensitization in order to ensure increased involvement of women. Uganda's Constitution emphasizes equality between women and men. It is therefore very important for Government to implement gender sensitive legislation and national policies that will enable women's political, social and economic empowerment. This can be achieved by having increased women's education and effective representation in government and politics.

CEDAW elaborates that parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

2.1 Women's Civil and Political Rights

- Women have a right to participate in the politics and decision making processes of their country on equal footing with men.
- Article 29 of the constitution provides that everyone shall have the right to freedom of expression, movement, assembly and association; this shall include freedom to seek and impart information and ideas of all kinds.

- Everyone has a right to self determination and to freely determine their political status, adopt a political system through free and fair elections.
- Women have the right to a fair and public hearing established by law regardless of gender. According to Article 28 of Uganda's constitution a person is presumed innocent until proven guilty.

It is stipulated in the Maputo protocol Article 9 that parties shall take positive action to promote participative governance and equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that:

- *Women participate equally without any discrimination in all forms of elections*
- *Women are represented equally at all levels with men in all electoral processes*
- *Women are equal partners with men at all levels of development and implementation of state policies and development programmes.*
- *Every person has the right to freedom of thought, conscience and religion.*
- *Every person has the right to form a political party and any other political organization. Article 29 of the constitution states that "every person shall have the right to form or join political and other civic organizations."*
- *It is the duty of every citizen of Uganda above 18 years to register as a voter for public elections and exercise this right.*



SECTION 3: Health Rights

This Section seeks to educate women on their rights and responsibility to health with the hope of achieving Millennium Development goal 5: on Improving Maternal Mortality. Maternal Mortality (Maternal death) is the death of a woman while pregnant or when giving birth.

Health is a state of complete physical, mental and social–well–being in all matters related to bodily and mental functions. In Uganda 71% of the population has access to medical services; this means that approximately 25,000 persons per doctor.

Everyone is entitled to the enjoyment of the highest attainable standard of physical and mental health. The African Protocol on Women’s Rights is specific “all rights of health to women must be respected and promoted.” There is enough evidence to show that investing in women’s health and rights is one of the best investments in the development of any country.

It is a universally acknowledged fact that poor health indicators of a country can be directly attributed to gender inequality and gender rights differences in the delivery of healthcare. Therefore it is vital that gender mainstreaming be implemented in the health sector in order for women to fully realize their rights. It is also important that the women of Uganda be informed about their specific health rights at both the national and international level.

3.1. Reproductive health

Women have more specialized health needs arising from their reproductive role. Across the world, over 500,000 women and girls die of complications related to pregnancy and child birth. In Uganda the maternal mortality ratio is 435 deaths per every 100,000 live births. This rate is unacceptably too high.

It is stipulated in the Maputo protocol Article 14 that parties shall ensure that the right to health of women, including sexual and reproductive health is respected and promoted, this includes

- *The right to control their fertility*
- *The right to decide whether to have children, no. and spacing of children.*
- *The right to self protection and to be protected against STDs, HIV/ AIDS*
- *The right to be informed on ones health status and on the health status of one's partner, particularly if affected with STDs in accordance with internally recognized standards and best practices*

Mothers and children die during pregnancy, at delivery after child birth because of

- Ignorance of women and girls about their health rights and health needs.
- The limited ability of the woman and her close relatives to make a decision to seek health care services.
- Some cultural practices restrict women from seeking health care.
- The inability of pregnant women with labor complications to access available health services when need arises as a result of the long distances to health facilities, poor roads and communication, inadequate transport or money to pay for it.
- The delay in receiving appropriate care at the health facilities.
- Lack of preparedness of the medical personnel to respond to obstetric and new born emergencies, which is critical to the survival of the mother and the new born.
- Lack adequate skilled attendants, equipment and drugs for appropriate care during pregnancy and after child birth in several health facilities particularly health center II and II.

In CEDAW, it is stated that parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

It adds that parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation

Rights entitled to women regarding their reproductive health

- The right to family-planning, counseling, pre-natal care, and post-natal care
- The right to safe delivery
- The right to treatment of reproductive tract infections and other reproductive health conditions
- The right to availability of services regarding HIV/AIDS, breast cancer and infertility
- Women have the right to petition where there have been sanctions or dismissal on the grounds of pregnancy or maternity leave
- The rights to maternity leave which shall be sixty working days.⁴ Women are entitled to pay without loss of other benefits while on maternity leave.
- The right to access healthcare services equally between men and women.
- Abandonment of female genital mutilation (FGM) and other negative cultural practices

It also stated in Article 14 of the Maputo protocol that parties should take appropriate measures to:

- *Provide adequate, affordable and accessible health services, including information, education and communication programmes to women especially those in rural areas.*
- *Establish and strengthen existing pre-natal, delivery and post-natal health and nutritional services for women during pregnancy and while they are breast-feeding.*
- *Protect the reproductive rights of women by authorizing medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus.*

3.2. Sexual Health and the HIV/AIDS Pandemic

Women have been identified as the most vulnerable to HIV/AIDS, representing 59% of those infected and affected the disease. AIDS affects women at personal, social and economic levels. Although the nation rate of AIDS infection is reported to be decreasing as a result of Uganda's comprehensive and timely campaign against the AIDS epidemic⁵ many women are still at risk of contracting the

⁴ Section 56(1) Employment Act

⁵ Uganda's widespread "ABC" prevention formula—standing for Abstinence, Be Faithful and use Condoms has been widely accredited with lowering the nation's HIV/AIDS infection rate

disease. We must always remember that despite Uganda's success story combating the epidemic, AIDS is still a killer disease across the country.

The Challenges Faced by Women as a Result of HIV/AIDS

- Because of the women's vulnerable situation in society, they are too afraid or less able to negotiate safe sex.
- The AIDS prevalence rates are 10% higher among married young people than among their single female counterparts² because men demand for their conjugal rights (usually unsafe sex) putting women at risk.
- Certain cultural practices such as the inheritance of women, early marriages, sexual violence, property grabbing of the widow perpetrates the incidents of AIDS.
- Difficulties related to treatment and management of the disease put women at more risk of contracting AIDS.
- The AIDS related stigma and discrimination which is visible at all levels of society from families and local communities to the government prevent women from seeking medical services.
- ARV's cannot be accessed by the women due to long distances to the health units.
- Limited awareness of the availability of the drugs that prolong the lives of people infected with AIDS Anti-Retro Virals (ARVs).
- Some husbands deny their wives access to and ARVs

SECTION 4:

Rights for Women with Disabilities

Women with disabilities are an extremely vulnerable group of people in the Ugandan society. Women with disabilities are entitled to enjoy equal rights and all the benefits that enable them to live independently with dignity. There are various existing international instruments, national laws, policies and mechanisms in place that deal with the promotion and protection of the human rights of women with disabilities.

Women with disabilities can and would like to play an equal role in Ugandan society. In order for this to become a reality and for women with disabilities to realize their independence and dignity; there is need to sensitize and educate the public and Persons with Disabilities (PWDs) on basic human rights that are available to them.

Under the Special Protection of Women with Disabilities Article 23 of the Maputo protocol, it is stated that parties undertake to;

- *Ensure the protection of women with disabilities and take specific measures commensurate with their physical, economic and social needs to facilitate their access to employment, professional and vocational training as well as their participation in decision making.*
- *Ensure the right of women with disabilities to freedom from violence, including sexual abuse, discrimination based on disability and the right to be treated with dignity.*

4.1 Challenges facing Women with Disabilities

- Women with disabilities face a triple stigmatization and discrimination because of the disability, being female and being poor.
- Majority of disabled women have no independent means of livelihood and are therefore completely dependent on others for their existence
- They face extreme conditions of poverty
- They face limited access to education

- Their concerns are unknown and their rights, more often than not, are unrealized.
- Studies indicate that in Uganda, 50% of women with disabilities will be sexually assaulted at a rate two times greater than non-disabled women.
- Able bodied men impregnate disabled women and leave them to fend for themselves and their children.

Rights of Persons with Disabilities

- *PWDs have a right to an adequate standard of living for the health and well-being of themselves and their family.*
- *They have a right to security in the event of disability.*
- *They have a right to dignity*
- *The constitution in Article 35 prohibits discrimination against all people with disabilities.*
- *The Persons with Disabilities Act, 2006 makes provisions for the right to enjoyment of equal opportunities.*
- *The right to a tax reduction of 15% to private employers (not disabled) who employ ten or more persons with disabilities either as regular employees, apprentice or learner on a full time basis.*
- *The right to representation of disabled persons in public sphere, at Local Council levels and parliament. Five seats in Parliament are reserved for representatives of persons with disabilities.*
- *According to the Workmen's compensation Act, workers are entitled to compensation by employers when injured or disabled through industrial accidents or at the work place.*
- *The right to equitable access to education and training*

CONCLUSION

Human rights information for women plays a pivotal role in expanding women's choices, opportunities and autonomy. In an effort to promote holistic development there is need to rethink the investment that is being done to enhance the potential and productivity of more than half of Uganda's population. It is therefore necessary to strengthen the ability of girls and women to make their own decisions and enjoy equal opportunities as their male counterparts. Thus this handbook is a tool that is intended to help women understand their basic rights they are entitled to enjoy by virtue of being human beings.

In brief, the Maputo protocol highlights a number of women rights in Africa as shown above and a lot more others including the right to dignity, the right to life, integrity and security of the person, the elimination of harmful practices, access to justices and equal protection before the law, right to peace, protection of women in armed conflict, right to adequate housing, right to sustainable development, special protection of elderly women, special protection of women in distress.

The protocol also shows Articles of implementation and monitoring, interpretation, signature, ratification and accession, entry into force, amendment and revision.

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SIMPLIFIED PROVISIONS OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Article 1: Definition of discrimination

For the purposes of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2: State obligations to eliminate discrimination

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women.

Article 3: The development and advancement of women.

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men

Article 4: The acceleration of equality between men and women.

Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards, these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

Article 5: Combatting stereotyping

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6: Suppression of the Exploitation of Women

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

Article 7: Political and public life

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Article 8: Equal representation in Government

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Article 9: Nationality

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall

automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

Article 10: Education

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women i.e. The same conditions for career and vocational guidance, Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality, The same opportunities to benefit from scholarships and other study grants, The same opportunities for access to programs of continuing education.

Article 11: Employment

States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular, The right to work as an inalienable right of all human being, right to the same employment opportunities, right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

Article 12: Equality and access to appropriate health care

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13: Economic and social benefits

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure,

on a basis of equality of men and women, the same rights, in particular, The right to family benefits, right to bank loans, mortgages and other forms of financial credit, right to participate in recreational activities, sports and all aspects of cultural life.

Article 14: The rural women

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.
2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women that they participate in and benefit from rural development and, in particular, shall ensure to such women the right, participate in the elaboration and implementation of development planning at all levels, have access to adequate health care facilities, including information, counseling and services in family planning, benefit directly from social security programs

Article 15: Equality of men and women before the law

1. States Parties shall accord to women equality with men before the law.
2. State Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

Article 16: Equality in marriage and family life

States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: The same right to enter into marriage, right to freely choose a spouse and to enter into marriage only with their free and full consent, same rights and responsibilities during marriage and at its dissolution, same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children;

THE SIMPLIFIED PROVISIONS OF THE MAPUTO PROTOCOL

Article 1: Definitions

For the purpose of the present Protocol, “African Charter” means the African Charter on Human and Peoples’ Rights and “African Commission” means the African Commission on Human and Peoples’ Rights.

Article 2: Elimination of Discrimination against Women

States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures. In this regard they shall: include in their national constitutions and other legislative instruments the principle of equality between women and men and ensure its effective application, enact and effectively, integrate gender perspectives in their policy decisions

Article 3: Right to Dignity

Every woman shall have the right to dignity inherent in a human being and to the recognition and protection of her human and legal rights.

Article 4: The Rights to Life, Integrity and Security of the Person

Every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited.

Article 5: Elimination of Harmful Practices

States Parties shall prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognized international standards.

Article 6: Marriage

States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that: no marriage shall take place without the free and full consent of both parties, the minimum age of marriage for women shall be 18 years, monogamy is encouraged as the preferred form of marriage

and that the rights of women in marriage and family, including in polygamous marital relationships are promoted and protected.

Article 7: Separation, Divorce and Annulment of Marriage

States Parties shall enact appropriate legislation to ensure that women and men enjoy the same rights in case of separation, divorce or annulment of marriage.

Article 8: Access to Justice and Equal Protection before the Law

Women and men are equal before the law and shall have the right to equal protection and benefit of the law. States Parties shall take all appropriate measures to ensure, effective access by women to judicial and legal services, including legal aid.

Article 9: Right to Participation in the Political and Decision-Making Process

States Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that women participate without any discrimination in all elections, women are represented equally at all levels with men in all electoral processes.

Article 10: Right to Peace

Women have the right to a peaceful existence and the right to participate in the promotion and maintenance of peace.

Article 11: Protection of Women in Armed Conflicts

States Parties undertake to respect and ensure respect for the rules of international humanitarian law applicable in armed conflict situations, which affect the population, particularly women.

Article 12: Right to Education and Training

States Parties shall take all appropriate measures to: eliminate all forms of discrimination against women and guarantee equal opportunity and access in the sphere of Education and training, eliminate all stereotypes in textbooks, syllabuses and the Media, that perpetuate such discrimination, protect women, especially the girl-child from all forms of abuse, including sexual harassment in schools and other educational institutions and provide for sanctions against the perpetrators of such practices.

Article 13: Economic and Social Welfare Rights

States Parties shall adopt and enforce legislative and other measures to guarantee women equal opportunities in work and career advancement and other economic opportunities. In this respect, they shall: promote equality of access to employment, promote the right to equal remuneration for jobs of equal value for women and men;

Article 14: Health and Reproductive Rights

States Parties shall ensure that the right to health of women, including sexual and reproductive health is respected and promoted: This includes: the right to control their fertility, the right to decide whether to have children, the number of children and the spacing of children, the right to choose any method of contraception, the right to self-protection and to be protected against sexually transmitted infections, including HIV/AIDS;

Article 15: Right to Food Security

States Parties shall ensure that women have the right to nutritious and adequate food. In this regard, they shall take appropriate measures to: provide women with access to clean drinking water, sources of domestic fuel, land, and the means of producing nutritious food, establish adequate systems of supply and storage to ensure food security.

Article 16: Right to Adequate Housing

Women shall have the right to equal access to housing and to acceptable living conditions in a healthy environment. To ensure this right, States Parties shall grant to women, whatever their marital status, access to adequate housing.

Article 17: Right to Positive Cultural Context

Women shall have the right to live in a positive cultural context and to participate at all levels in the determination of cultural policies.

Article 18: Right to a Healthy and Sustainable Environment

1. Women shall have the right to live in a healthy and sustainable environment
2. States Parties shall take all appropriate measures to: ensure greater participation of women in the planning, management and preservation of the environment and the Sustainable use of natural resources at all levels, promote research and investment in new and renewable energy sources and appropriate technologies, including information technologies and facilitate women's access to, and participation in their control.

Article 19: Right to Sustainable Development

Women shall have the right to fully enjoy their right to sustainable development. In this connection, the States Parties shall take all appropriate measures to introduce the gender perspective in the national development planning procedures.

Article 20: Widows' Rights

States Parties shall take appropriate legal measures to ensure that widows enjoy all human rights through the implementation of the following provisions, that widows are not subjected to inhuman, humiliating or degrading treatment, that a widow shall automatically become the guardian and custodian of her children, after the death of her husband, unless this is contrary to the interests and the welfare of the children, that a widow shall have the right to remarry, and in that event, to marry the person of her choice.

Article 21: Right to Inheritance

A widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it. Women and men shall have the right to inherit, in equitable Shares, their parents' properties

Article 22: Special Protection of Elderly Women

The States Parties undertake to: provide protection to elderly women and take specific Measures commensurate with their physical, economic and social needs as well as their access to employment and professional training ensure the right of elderly women to freedom from violence, including sexual abuse, discrimination based on age and the right to be treated with dignity.

Article 23: Special Protection of Women with Disabilities

The States Parties undertake to: ensure the protection of women with disabilities and take Specific measures commensurate with their physical, economic and social needs to facilitate their access to employment, professional and vocational training as well as their participation in decision-making, ensure the right of women with disabilities to freedom from violence, including sexual abuse, discrimination based on disability and the right to be treated with dignity.

Article 24: Special Protection of Women in Distress

The States Parties undertake to: ensure the protection of poor women and women heads of families including women from marginalized population groups and provide an environment suitable to their condition and their special physical,

economic and social Needs, ensure the right of pregnant or nursing women or women in detention by providing them with an environment which is suitable to their condition and be treated with dignity.

Article 25: Remedies

States Parties shall undertake to: provide for appropriate remedies to any woman whose rights or freedoms, as herein recognized, have been violated, ensure that such remedies are determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by law.

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Notes

With support from:



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