

REFLECTIONS ON THE CONTRIBUTION OF GEORGETOWN'S INTERNATIONAL WOMEN'S HUMAN RIGHTS CLINIC TO ADVANCING THE PROTECTION OF WOMEN'S HUMAN RIGHTS IN UGANDA & TANZANIA

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INTRODUCTION

For a long time, Tanzanian and Ugandan women have decried the lack of protection of their inheritance rights. This failure to protect women's rights occurs irrespective of whether the women are seeking to inherit as daughters or as widows. Women's rights advocates in the two countries have joined ranks to advocate for more protective laws for women who suffer human rights violations at the hands of their family members, their in-laws, communities and even at the hands of state officials. Despite these efforts, the protection of women's rights to inheritance has continued to be weak in Uganda and indeed in many African countries.

It was therefore befitting that the International Women's Human Rights Clinic, working with its partner NGOs in Uganda and Tanzania, LAW-Uganda and WLAC¹ respectively, agreed to focus its fact-finding work in this area.

I. MY PARTICIPATION IN THE CLINIC'S HUMAN RIGHTS FACT FINDING WORK

I had the opportunity to participate in these Human Rights Fact finding missions in Tanzania and Uganda in 2002 and 2004 respectively. My participation with the Clinic began during the preparatory stage at the Georgetown University Law Center where, among others, I participated as a resource person on Ugandan statutory law and African customary law and practice. These sessions gave the students better insights into African clan and family structures, the concept of clan land, court structures, as well as the prevailing social and economic conditions prevailing in Uganda, etc.

Additionally, I participated in role-playing potential interviewees—such as a widow, a religious leader and a cultural leader—during the students' preparations for the interviews, and in giving the students feedback both on substantive legal issues as well as in those areas which required more sensitivity and caution, while conducting interviews. Role-playing these potential interviewees and giving feedback increased the students' insights

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1. These acronyms refer to Law and Advocacy for Women—Uganda (LAW-U) and the Women's Legal Aid Centre (WLAC) in Tanzania.

into the issues they were investigating and also prepared the students for the actual in-country interviews.

The other role I played was in supporting the logistical preparations prior to travel, and in particular, working as part of the Clinic's advance team that drew up the Program, identified interviewees and their contacts and fixed appointments.

During the one-week fact finding mission, I supervised a team of two students to conduct a total of twenty-five interviews in five days. I was very impressed with the student's mastery of the local law, as well as their resilience and determination to accomplish the task they had set out to do. This confirmed the high level of preparation by the students during the classroom sessions and ensured that every aspect of the national law and the international instruments had been covered prior to undertaking the trip.

Finally, the last area where I had input was in reviewing the student-prepared reports and recommendations for succession law reform in Uganda. As a practicing attorney and women's rights' activist, I was able to provide additional insight into the proposals made, particularly after taking into account their feasibility and other relevant factors pertinent to the Ugandan legal system and the prevailing social and economic situation.

II. DISTINGUISHING FEATURES OF THE INTERNATIONAL WOMEN'S HUMAN RIGHT CLINIC AND BENEFITS OF ITS HUMAN RIGHT FACT FINDING WORK

There are two major features of the International Women's Human Rights Clinic, which distinguish it from the usual law clinics offered by many University law schools. The first one is the international character of its focus of work. Although the Clinic is based at the Georgetown law school, its focus has been on advancing the human rights of women in African countries, who are thousands of miles away, and for whom the realization of the right to equality with men in practically all spheres of life, and to the equal protection of the law, remains a distant dream.

The second feature is the primary focus and reliance on international human rights standards and comparative national experiences to study, review and eventually propose legislative and judicial interventions to long standing human rights issues facing African women, such as women's lack of inheritance rights, polygamy, HIV/AIDS, marital rape, etc. This in-depth study of the legal systems as well as the on-ground fact finding helps to expose not only the inadequacies in the existing legal systems in the country of study, but also the rhetoric of purported compliance with human rights obligations, usually found in government reports filed with the human rights monitoring committees set up under the various human rights instruments. The Clinic's fact-finding work has therefore contributed to a better understanding and documentation of the nature and dynamics of gender discrimination in several African countries and provided several benefits, which are discussed here below.

A. INCREASING OUR UNDERSTANDING OF THE NATURE AND DYNAMICS OF GENDER DISCRIMINATION IN AFRICA

It is more than five decades since the international community first pronounced itself on equality and non-discrimination for all, irrespective of, among other things, one's sex. In 1979, with the adoption of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),² the international community laid out in very unequivocal terms the rights of women in all fields, ranging from the political arena to the family.

Despite the existence and ratification of this instrument, as well as the ratification of many other international human rights instruments by a great number of African countries and the promulgation of national constitutions, which recognize gender equality, laws that facially discriminate against women still exist on the statute books of Uganda and indeed many Africa countries. While there is usually an outcry and general knowledge in-country about these discriminatory laws, customs, or practices, there is usually not a very good understanding, let alone consensus, on the actual nature or form this discrimination takes. There is therefore no doubt that the Clinic's fact finding work and the subsequent in-depth analytic reports produced by the Clinic have helped to increase our understanding of the nature and dynamics of gender discrimination and the role played by the laws in perpetuating discrimination against women in the countries studied. This understanding will certainly feed into the advocacy work for legal reform.

B. 'HEARING IT FROM THE "HORSES" MOUTH': PUTTING A FACE TO VICTIMS OF DISCRIMINATION

Women's rights activists in Uganda have frequently been accused of advocating for legal reforms that do not address the lived realities of their rural-based fellow women. They are accused of promoting western agendas under the guise of "empowering women" or seeking gender equality. For example, a writer in one of Uganda's local newspapers recently warned Ugandan women to "beware of ideologies disguised as feminism." He argued that "whereas a lot needs to be done in the quest to achieve equality for all gender, this honest struggle should not be hijacked by certain ideological mindsets whose sole purpose is to promote certain ideologies."³

Women's human rights activists in Uganda have also noted with concern that "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" and that this association of demand for legal reforms that guarantee gender equality with western feminism, negatively impacts on

2. Convention on the Elimination of All Forms of Discrimination Against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981.

3. J. Kabukyu, *Beware of Ideologies Disguised as Feminism*, DAILY MONITOR, Mar. 21, 2006, at 11.

their effective lobbying of government officials.⁴

It is also not unusual to find articles in journals in which the authors writing on women's rights violations make statements such as: "African women do not own land," or that domestic violence is very common, etc. Opponents of women's rights have often seized on such statements to hit back at advocates of legal reform and pose the rhetorical question, "which women did you talk to?" or "which women are you speaking for?"

Unfounded as these claims are, women rights activists find themselves in a difficult position—unable to successfully rebut these allegations due to failure or inability to document many of these human rights violations faced by a cross section of women, particularly those living in rural areas where access to justice is lowest.

Frequently, this inability to effectively document such human rights violations is not due to lack of expertise, but more due to lack of resources and time. Many women rights' activists working in Uganda and probably in many other African countries usually find themselves swamped with work and competing demands. They do not have the luxury or the option to specialize because in the majority of cases they are dealing with emergencies—more or less firefighting, trying to secure the basic rights for their clients in a legal system which either offers minimal or no protection to victims of human rights violations and where those who are charged with the responsibility of enforcing these rights, such as the police, are not keen to do so. These women rights activists and the NGOs with which the Clinic works usually find themselves at "the battle frontline" of protecting women's human rights—either representing a widow and her infant children who have either been evicted or who are facing eminent eviction from their matrimonial home at the hands of her in-laws, or securing custody and maintenance for a mother whose breastfeeding infant has been grabbed and taken away by her father without her consent, following a marital disagreement, etc.

This is where the contribution of the International Women's Human Rights Clinic becomes of critical importance. By going into the country with a team of students and supervisors devoted to fact-finding and documenting not only the experiences of women who have faced human rights violations, but also the experiences of those working in the legal system and seeking justice for these women—such people as the lawyers working in the partner NGOs, those in private practice, the police, members of the Judiciary, community and religious leaders—the Clinic fills two critical needs of partner NGOs. First, it helps to document women's human rights violations. During the one-week of fact-finding exercise, four Clinic students working on one project are able to conduct fifty interviews, a substantial number of which are with women who have faced various forms of discrimination. These interviews help in putting a "face to victims of discrimination" by ensuring that we "hear it from the horses' mouths."

4. See Jackie Asiiimwe, *Making Women's Land Rights a Reality in Uganda: Advocacy for Co-Ownership by Spouses*, 4 YALE HUM. RTS. & DEV. L.J. 171, 186 (2001).

For example, I recall interviewing with my team a Moslem widow in one of the suburbs of Kampala, Uganda who narrated her ordeal of how she had lost all her property following the death of her husband. The family members had distributed their "beddings" and sold off one local breed cow they owned and divided the proceeds among young and old children of the deceased and other relatives, without taking into account the rights of the widow and her young children. At the time of the interview, she was destitute, as she had neither beddings nor even milk to feed her very young children. The biggest shock for me was that this was happening at the back door of my village home, where I was born. While such cases are not uncommon, very few get documented systematically in reports that can be used for either advocacy for legal reform or for strategic litigation to challenge the discriminatory laws in Uganda.

Secondly, the Clinic helps in documenting key stakeholders' views on how the discriminatory existing laws operate, and their views on proposed legal reforms that would be required to repeal these discriminatory laws and to bring them in line with constitutions and the international human rights instruments that guarantee gender equality.

The Clinic's work therefore helps the partner NGOs and those who are involved in advocacy and legal reform efforts to undertake evidence-based advocacy, through the reports that are prepared.

C. PROMOTING NORTH-SOUTH COOPERATION IN ADVOCACY FOR THE PROTECTION OF WOMEN'S RIGHTS

It is also important to note that the benefits of the Clinic's fact-finding work go beyond the partner NGOs and countries with which it collaborates. The Clinic exposes its students not only to the laws of the countries studied but also gives them an opportunity to visit and interact in-country with a cross section of lawyers and other key stakeholders. In so doing, the Clinic contributes in promoting North-South cooperation in advocacy for the protection of women's rights.

CONCLUSION

It was a learning and enriching experience for me to work with the Clinic on these two projects just as I believe it was for the students who participated in the fact finding. But most importantly of all is the product of these fact-finding missions. I have no doubt that the reports and particularly the proposals for legal reform produced by the Clinic will go a long way in contributing to advocacy efforts and to the protection of women's human rights in Uganda, Tanzania and other countries where gender equality is not yet realized.

Certainly, Law Reform Commissions, Parliamentarians, Human Rights NGOs, activists and all those who are interested in or working for the reform of these discriminatory laws, will continue to find the reports extremely useful and an invaluable resource as they strive to strengthen the national and international protection of women's human rights in these countries.