

## Uganda Bill Seeks to Equalize Marriage By Rachel Rinaldo

Margaret Tino is 27. She has spent the last 12 years living with a man she considers her husband. They have four children together, and live on the outskirts of Uganda's capital Kampala. Now her husband has fallen in love with another woman, and plans to sell the house, keep the money from the sale, and move in with his new lover. Already, he refuses to pay school fees or buy food for the children, because he is giving all his money to his mistress. "What really hurts most is that he neglects the family," says Margaret, angrily. "We used to be happy and share the little we had, but now the kids are so sad, especially when they don't go to school...And now what has become worse is that he beats me. He is violent."

Margaret has nowhere to go. Her sisters and brothers have their own families, so she is resolved to stay in the relationship. She just wants to be able to live in the house with her children. "After all, we are not renting, we are staying in our own house," she argues.

But under Ugandan law, Margaret is not legally married, so she has no rights to the property. She was supposed to be married to her partner, but he never paid the full bride price like he promised. The most that the Ugandan Association of Women Lawyers (FIDA), to whose legal clinic she has come today, can do for her is to protect her right to custody of the children, and perhaps nullify the sale of the land for their sake.

However, a new piece of legislation in the Ugandan parliament could change things for Margaret. The long-awaited Domestic Relations Bill recognizes cohabiting partners' joint rights to property. If passed, it would affect a great many Ugandan women in situations like that of Margaret. Annet Ttendo, FIDA's advocacy director, explains that about 80 percent of the women coming into the clinic for legal help are cohabiting.

"I actually think the bill is going to improve the status of women to a very great extent," says Ttendo. "It's going to give them more rights than these other laws and it's going to put them on an equal footing with men. I really think it's progressive for women and the nation."

Aside from recognizing rights to property in cohabiting relationships, the Domestic Relations Bill sets the minimum age for marriage at 18, makes bride price optional and forbids it from being refunded if the marriage dissolves, allows women and men the same grounds for divorce, recognizes and criminalizes spousal rape, and recognizes and defines both spouses' rights to matrimonial property. Most controversially, in a society where polygyny is common, the bill requires a man wishing to take a second wife to get consent from the first wife. The man also has to prove he is financially capable of maintaining both wives and children equally, and show he has made a provision for a separate home for the second wife.

Though Ugandan women activists began lobbying seriously for a Domestic Relations bill in the early 1990s, the idea dates back to a commission in the 1960s that recommended

new legislation on marriage and divorce. In 1998, an attempt to get the bill into parliament was killed off by opposition and controversy. Momentum built again in late 2002, when the U.N. Committee on the Elimination of Discrimination against Women asked why a Domestic Relations Bill had not been passed by the Museveni government. In August 2003, further international pressure came when Human Rights Watch published a damning and widely read report titled, "Just Die Quietly: Domestic Violence and Women's Vulnerability to HIV in Uganda." The report cited the high incidence of marital rape and domestic violence as some of the main factors contributing to the spread of HIV.

After the Cabinet passed the bill earlier this fall, President Museveni publicly stated his support for it. It is now being debated in the parliament, and is expected to pass.

At the recent opening of the new Center for Domestic Violence Prevention, member of parliament Dora Byamukama, one of the bill's strongest supporters, declared, "After 40 years of waiting, Parliament has received the Domestic Relations Bill." Byamukama called the Domestic Relations Bill "a step in the right direction," and urged supporters to thank the Museveni government.

The most consistent and vocal opposition to the bill has come from Uganda's Muslim minority. Muslim leaders complain that they were not adequately consulted during the process of the bill's formulation, and that they have not been given current drafts of the bill. But their chief concern is the legislation's provision on polygyny.

Imam Kasozi, Vice National Chairman of the Uganda Muslim Youth Assembly, said that Muslims should be allowed to use Islamic law for marriage, divorce, separation, inheritance, and guardianship. According to Kasozi, the Koran does not require consent from a first wife to marry another. "That is not Islamic at all. It says nowhere that if I want to take a second wife I have to ask my first wife. It's just not there. So whoever is proposing it is just wishfully thinking," says Kasozi. "It is nowhere in the Koran that you must put them in separate houses," he adds. Kasozi wants Muslim leaders to deal with problems that arise in Muslim marriages, rather than state courts or laws.

Kasozi also opposes making bride price optional because Islamic law requires giving a dowry to the wife.

Kasozi says he does not disagree with reforming marriage and family laws, but does not want a law that is so broad. "For me as a Muslim there are things that I know my religion tells me to do. And I must stand by them. I have no compromise on that."

Other Muslim figures echo Kasozi's apprehension. Dr. Said Karama, of the Islamic Medical Association of Uganda, thinks that Muslims will not obey the bill if they feel it contradicts the Koran. "We're the minority in Uganda, so they feel that they [non-Muslims] are making laws for themselves and they want Muslims to abide by the laws set up by the majority non-Muslims," says Dr. Karama.

Nevertheless, women activists counter that Muslim scholars were consulted in the drafting of the bill, and that the Legal Reform Committee also examined family laws in Muslim countries. They maintain that the restrictions in the Domestic Relations Bill are largely the same as the conditions laid out in the Koran. In fact, the bill already includes concessions because it doesn't outlaw polygamy or bride price, says Vat Kamatsiko of the Uganda Women's Network (UWONET), which is coordinating lobbying and advocacy for the bill. "We as women who know the implications of these things would like to see them abolished but the bill takes a compromise position because of so many different interests to accommodate."

And Ttendo insists that making bride price optional is not meant to target the Muslim community. Ttendo says that bride price is a custom that is still deeply valued and cherished by most Ugandan women, regardless of religion. It used to be a token of appreciation and a symbol to cement the new relationship. But these days instead of asking for a token gift, families are demanding more expensive things like livestock. "As time has gone on the price itself became a tag over a woman's head," says Ttendo. "It has become commercialized. The parents are demanding much more and actually it could be the reason that some men are moving into cohabitation, especially the younger ones, who cannot afford a bride price." Worse, refund of the bride price is compulsory if the marriage fails. Making it optional and not refundable will help women get out of abusive relationships, says Ttendo.

Proponents of the Domestic Relations Bill say it is important enough that they might be able to compromise further on parts of it to help bring about harmony. "Because it's not out to destroy families and to destabilize other people's faith," continues Ttendo. "It's to find a way to protect the rights of people in the marriage and how can we bring stability, whether it's Islamic polygamous unions or not."

And the family, says Kamatsikos, is the most basic unit of society. "We know that is where inequality is felt by women, especially at the grassroots, and if we can achieve equality at the family level we will have made a big difference."

The Domestic Relations Bill will not fix Margaret's troubled relationship with her partner, but if it is passed soon enough, she might get the little that she demands. "What I want is that he should not sell the home where we are living, and that he should support the children and provide food, clothing, and even education for the children," she says. She wants him to tell the other woman not to come to her home and abuse her. "But he does not have to stop the affair with her, he can continue loving her," she adds.