

VOICES OF AFRICAN WOMEN

VOICES OF AFRICAN WOMEN

WOMEN'S RIGHTS IN GHANA,
UGANDA, AND TANZANIA

Johanna Bond

CAROLINA ACADEMIC PRESS
Durham, North Carolina

Copyright © 2005
Johanna Bond
All Rights Reserved

Library of Congress Cataloging-in-Publication Data

Bond, Johanna.

Voices of African women : women's rights in Ghana, Uganda, and
Tanzania / by Johanna Bond.

p. cm.

ISBN 0-89089-124-9

1. Women's rights--Ghana. 2. Women's rights--Uganda. 3. Women's
rights--Tanzania. I. Title.

HQ1236.5.G4B66 2004

305.42'096--dc22

2004020559

Carolina Academic Press
700 Kent Street
Durham, NC 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

*This book is dedicated to my parents, Richard and Judy Bond,
and to my husband, J.D. King.*

CONTENTS

Preface	xi
Acknowledgments	xiii
Introduction	
Overview of History and Legal Systems: Ghana, Tanzania, and Uganda, <i>Anne Daugherty Leiter</i>	xv
Chapter One Women’s Right to Participate in Public Life	3
Chapter Introduction, <i>Johanna Bond</i>	3
Legal Strategies to Increase Ugandan Women’s Access to Higher Education, <i>Dora Kanabahita Byamukama</i>	12
Women and Higher Education in Tanzania, <i>Mande Limbu</i>	28
Implementation of Affirmative Action in Tanzania’s Parliament: An Assessment of the Reserved Seats for Women, <i>Jane Magigita</i>	40
One Step Forward, Two Steps Back: The Women’s Movement and Law Reform in Uganda from 1985–2000, <i>Jacqueline Asimwe</i>	52
Judicial Activism and Gender Rights in Tanzania: The Task Ahead, <i>Regina M. Rweyemamu</i>	63
Chapter Two Violence Against Women	75
Chapter Introduction, <i>Johanna Bond</i>	75
Trokosi: Twentieth Century Female Bondage—A Ghanaian Case Study, <i>Hilary Amesika Gbedemah</i>	83
The Plight of Refugee Women: Protection from Sexual Violence in Refugee Camps—A Case Study of Tanzania, <i>Hadija Ally</i>	96
Sexual Violence Against Women in Tanzania: A Case Study on the 1998 Sexual Offences (Special Provision) Act No. 4, <i>Scolastica Jullu</i>	117

Domestic Violence: Strategies for Combating Wife Battery in Uganda, <i>Kulsum Wakabi</i>	132
Marital Rape as a Form of Domestic Violence and the Need for Law Reform in Ghana, <i>Beatrice Akua Abrekna Duncan</i>	147
Attitudes Toward Victims of Rape that Affect the Reporting, Prosecutions, and Convictions for Rape: The Need for Law Reform in Ghana, <i>Sheila N.Y. Gyimah</i>	155
Female Genital Mutilation: Tradition or Torture?, <i>Fitnat N-A. Adjetey</i>	166
Chapter Three Women's Rights within the Family	181
Chapter Introduction, <i>Johanna Bond</i>	181
Polygamy, Equality, and the Gender Debate: A Comparative Study of Ghana and the United States, <i>Angela Dwamena-Aboagye</i>	190
Discrimination in the Traditional Marriage and Divorce System in Ghana: Looking at the Problem from a Human Rights Perspective, <i>Bernice Sam</i>	205
Comparative Study of the Status of Women under the Law of Divorce and of their Economic Status in Uganda, Britain, and Bangladesh, <i>Regina Lule Mutyaba</i>	218
Rethinking Property: Women and Matrimonial Property Rights in Tanzania, <i>Salma Maulidi</i>	232
Property in Marriage Relations—Its Legal Implications for Women in Uganda, <i>Margaret C. Oguli Oumo</i>	243
Impact of Customary Inheritance on the Status of Widows and Daughters in Tanzania: A Challenge to Human Rights Activists, <i>Monica E. Magoke-Mhoja</i>	255
Chapter Four Reproductive Health, Women's Subordination, and HIV/AIDS	267
Chapter Introduction, <i>Johanna Bond</i>	267
Religious and Cultural Rights: Reclaiming the African Woman's Individuality—The Struggle Between Women's Reproductive Autonomy and African Society and Culture, <i>Fitnat N-A. Adjetey</i>	274

Women and HIV/AIDS in Uganda, <i>Emma Ssali Namuli</i>	288
Women's Rights and the AIDS Epidemic in Tanzania, <i>Maria Tungaraza</i>	301
Chapter Five Women's Economic Empowerment	315
Chapter Introduction, <i>Johanna Bond</i>	315
Women and Employment Discrimination in Uganda's Formal Sector: Facing Challenges and Forging Change, <i>Evelyn Nassuna</i>	323
Women's Access to and Control over Land in Uganda: A Tool for Economic Empowerment, <i>Naome Kabanda</i>	337
Ghanaian Women, the Law, and Economic Power, <i>Gloria Ofori-Baodu</i>	349
Shattering the Glass Ceiling: What Women in Uganda Need to Make it to the Top, <i>Harriet Diana Musoke</i>	366
Law Reform and Effective Implementation as the Means to Economically Empower the Ugandan Woman, <i>Sarah B. Lubega</i>	379
Conclusion	
National Human Rights Commissions: Ghana, Uganda, and Tanzania, <i>Vanessa Brocato</i>	391
Contributors	403
Index	417

PREFACE

With two exceptions, the authors in this volume have all participated in a fellowship program called the Leadership and Advocacy for Women in Africa (LAWA) Program. The LAWA Program brings accomplished women's rights lawyers to Washington, D.C. for a sixteen-month fellowship program in which the lawyers pursue an LL.M. degree at Georgetown University Law Center and work at a Washington-based non-profit organization for six months. As part of their degree program, each of the LAWA lawyers authored a graduate thesis concerning some aspect of women's rights law in her home country. Those graduate papers formed the basis of the essays included in this volume. For this compilation, the papers have been excerpted and in many cases updated to reflect developments in the law.

Although the geographic reach of the LAWA program has expanded in recent years, the program began as a pilot project focused on Ghana, Tanzania, and Uganda. As a result, the essays in this compilation address women's rights concerns in those countries. As of 2003, the LAWA program has included thirty-nine participants from Botswana, Ghana, Sierra Leone, South Africa, Swaziland, Uganda, Tanzania, and Zimbabwe.¹

The LAWA program is part of a larger women's rights fellowship program called the Women's Law and Public Policy Fellowship Program (WLPPF), which has been housed at Georgetown University Law Center since its inception in 1983. As a complement to the LAWA program, the WLPPF program brings women's rights lawyers from across the United States to Washington, D.C. for a one-year fellowship, during which the fellows work for non-profit organizations dedicated to protecting and improving women's rights. The WLPPF program is not merely a way to funnel talented attorneys into women's rights organizations. The program, which convenes bi-weekly, substantive seminars that the LAWA and WLPPF fellows attend, invests in developing the leadership and professional capacity of each of the fellows. The two programs enjoy a symbiotic relationship; the interaction between the U.S. fellows and the LAWA fellows enriches both groups in innumerable ways.

Not surprisingly, the LAWA program attracts an applicant pool that is unsurpassed both in its credentials and its collective passion for women's rights

1. The LAWA Program also included a fellow from Afghanistan in 2002.

activism—all of which makes the program fertile ground for a collection of women’s rights essays. Although the authors share some attributes, such as a deep commitment to women’s rights advocacy, they differ in significant ways as well. Although each is a lawyer, their human rights careers include a range of diverse experiences. The group includes a Member of Parliament, a law professor, a Labor Commissioner, a legal expert for the United Nations High Commissioner for Human Rights, and directors of non-governmental organizations, to name just a few.

The research these lawyers accomplished while they were pursuing an LL.M. degree at Georgetown reflects not only their scholarly research but also their years of activism fighting for gender justice in their own countries. As such, many of these essays include pragmatic strategies born of years of activism in the trenches. Some of the strategies are transferable across borders and will interest like-minded activists in other countries. Many of the essays include broader theoretical questions, such as the role of judicial activism in the quest for social justice. Despite the range of topics and strategies, however, the authors share a steadfast commitment to gender equality. This book is intended to share their expertise and, in so doing, contribute to the global effort to promote and protect women’s human rights.

ACKNOWLEDGMENTS

First and foremost, I am grateful to the authors contributing to this volume. Their extensive knowledge about and dedication to women's rights was the inspiration for the book. It has been a privilege to work with them through the Leadership and Advocacy for Women in Africa (LAWA) Program, and I continue to learn from them on a daily basis.

I am deeply indebted to Mary Hartnett, Susan Deller Ross, and Wendy Webster Williams for their early and unrelenting support of this project. A number of people at Georgetown University Law Center contributed their talent and expertise to ensure successful completion of the project, including Tracey Bridgman, Tony Crossed, Jermaine Cruz, Marci Hoffman, Christopher Knott, and Zinta Saulkalns. Two people in particular, Anna Selden and John Showalter, proved themselves to be indispensable throughout the project. My research assistants, Rachel Brauner Vogelstein, Todd Schneider, and Nicole Smith performed invaluable research.

I am grateful to the Fulbright Program for providing the support necessary to collaborate with the authors and conduct the research to update the essays. In particular, I owe a special thanks to Ann Martin at the U.S. Department of State, Bureau of Educational and Cultural Affairs and to Debra Egan at the Council for International Exchange of Scholars (CIES). They recognized the value of the authors' research and supported the idea of sharing it with other activists and academics in the form of a compilation. I am thankful for their vision.

