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Unravelling Backlash in the Journey of Legislating Sexual Offences in Uganda

**Amon Ashaba Mwiine and Josephine Ahikire with
Jovah Katushabe, Harriet Pamara and Aklam Amanya**

January 2023

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Countering Backlash aims to create much needed new knowledge around the complex phenomena of patriarchal backlash and identifying opportunities for women's rights organisations and other gender justice defenders, to address the erosion of gender objectives within development and counter gender backlash. The programme's main countries of focus are Bangladesh, Brazil, India, Kenya, Lebanon, and Uganda. Led by the Institute of Development Studies, Countering Backlash is being implemented by a consortium which includes: Advocates for Social Change Kenya, the Arab Institute for Women at the Lebanese American University, BRAC Institute of Governance and Development, BRAC James P Grant School of Public Health, Centre for Basic Research, Centre for Health and Social Justice, Gender at Work, Nucleus of Interdisciplinary Women's Studies of the Federal University of Bahia, and Refugee Law Project. The programme is funded by the Swedish International Development Cooperation Agency (Sida). The opinions are the authors and do not necessarily reflect the views or policies of the funder.



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Summary

This paper interrogates the reality of gender backlash in Uganda by tracing the process of legislating on the 2019 Sexual Offences Bill (SOB). We trace the early beginnings of the Bill by highlighting the motivation that guided the framing of the Bill, the role of individual actors and alliances in pushing for the gender equity reform, and the oppositional forces against the reform. Working with participatory forms of qualitative research methods, the focus on the legislative cycle of the SOB as a policy case aimed to enable us to understand what constitutes backlash, and its drivers and manifestations. While this approach is an opportunity to contribute to and broaden conceptual debates on gender backlash in Uganda and beyond, it is also aimed at working closely with women's rights activists to identify forms of backlash and inform feminist voice and response to the opposition dynamics and the impact on the gender equality agenda – thereby contributing to creating capacity in voice to counter backlash against gender justice.

Keywords

Backlash, gender equality, feminist voice, Uganda.

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Acronyms

ACFODE	Action for Development
AWAC	Alliance of Women Advancing for Change
CBR	Centre for Basic Research
CEDOVIP	Center for Domestic Violence Prevention
CEHURD	Center for Health, Human Rights and Development
DRB	Domestic Relations Bill
DVB	Domestic Violence Bill
HRAPF	Human Rights Awareness and Promotion
MP	Member of Parliament
NRM	National Resistance Movement
PLA	Platform for Labor Action
SOB	Sexual Offences Bill
UCW	Uganda Council of Women
UGANET	Uganda Network on Law, Ethics and HIV/AIDS
UWONET	Uganda Women's Network
UWOPA	Uganda Women Parliamentary Association

1. Introduction

Uganda has had an uneven history and experience around gender equity policy reforms. In terms of the clearly documented history of Uganda, we see women's collective mobilisation right from the 1940s, inspired by anticolonial actions on laws such as marriage and inheritance of family property (Tamale 1999). Women formed coalitions such as the Uganda Council of Women (UCW) in 1947 and the Young Wives Group to fight for women's rights (e.g. citizenship, voting rights, marriage, divorce, and inheritance). However, years of civil strife and turmoil put women's collective mobilisation in relative limbo until it regenerated in the late 1980s and early 1990s (Tripp 2000). For example, from 1989 to 1995, the country witnessed countrywide consultative meetings held by different actors within and outside the state to contribute to a constitutional review process (Ahikire and Mwiine 2020; Matembe 2002). The nationwide inclusive exercise presided over by the National Resistance Movement (NRM) government, in its early years of ascending to power following a five-year guerrilla struggle, heightened optimism around the promotion of gender equity, especially through its outcome – the 1995 Constitution – which institutionalised the language of gender equality, at least in the formal sense.

The Constitution, hailed as one of the most gender sensitive in the region at the time, provided an opportune moment for women activists to carry out countrywide training, sensitisation, and consultation with communities to identify women's rights issues (Mwiine 2021). Women activists made visible the debate on gender concerns in the constitution-making process (Matembe 2002). Their efforts were evidently demonstrated through provisions on gender equality and women's rights in the Constitution. For example, the Constitution outlawed discrimination on the basis of sex and also made specific provisions on women's rights. In Article 32, the Constitution stated: 'the State shall take affirmative action in favour of groups marginalized on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances which exist against them' (Republic of Uganda 1995). Naming women as citizens of equal worth and recognising specific contexts that prejudiced against women and other marginalised groups were among the outstanding achievements of the NRM government reforms.

This sense of optimism motivated a series of gender equity policy reforms in the immediate aftermath of the constitutional review and beyond. The period witnessed the creation of vibrant women's rights organisations, characterised by Tripp *et al.* (2009: 55) as 'new women's movements'. While the robust women's movement is attributed to a new phase of democratisation and commitment to gender and other forms of social inequalities by the new NRM regime in 1986 (Ahikire 2017; Tamale 1999), it was equally linked to international influences and

the diffusion of ideas and strategies across Africa with respect to women's rights, international donors, democratisation, and political liberalisation at the time. Museveni's takeover of government (1986) was on the heels of a United Nations (UN) conference in Nairobi (1985), followed by the Fourth World Conference on Women in Beijing a decade later in 1995, where governments from around the world agreed on a comprehensive plan to achieve global legal equality, known as the Beijing Platform for Action. These events created avenues for crafting global feminist networks and women's rights agendas that influenced national-level gender equality policymaking processes.

In Uganda, newly created women's rights organisations such as Action for Development (ACFODE), Uganda Women's Network (UWONET), Forum for Women in Democracy (FOWODE), Uganda Women Parliamentary Association (UWOPA), and many other issue-based civil society organisations sustained advocacy on domestic violence, affirmative action on women's political representation, girls' education, gender mainstreaming, and other gender equality agendas. Other advocacy agendas saw women mobilise around improving domestic relations on co-ownership of land, marriage, divorce, and inheritance (Kawamara-Mishambi and Ovonji-Odida 2003; Matembe 2002).

At the state level, the NRM government responded to women's clamour for inclusion by instituting mechanisms that ushered them into the realm of public politics through reserved quotas for women in parliament, local governance structures, and political appointments. The mid-2000s saw women in both parliament and civil society contribute to a series of pro-women legislation. In particular, the 8th parliament (2006–11) is recorded as having made more significant progress on pro-women legislation than any other (Mwiine 2018; Wang 2013). In this Ugandan parliament women comprised 31 per cent of the 319 legislators, an increase from the previous 24.4 per cent, with 14 women on unreserved seats and the first female deputy speaker. Several achievements were registered during this period, such as mobilising for the enactment of laws on the prohibition of Female Genital Mutilation Act (2010), the prevention of Trafficking in Persons Act (2009), the Domestic Violence Act (2010), amendments to the Penal Code (2007), and the establishment of an Equal Opportunities Commission (2006) (Mwiine 2018: 25). Though incremental, these milestones were 'important steps towards achieving legislation to enable the rights granted in the 1995 Constitution' (Wang 2013: 116).

The visibility of agendas that refer to the multiplicity of women's daily struggles and women's engagement in organisational spaces at local, national, and international levels has, in a way, pushed the social boundaries. Yet, despite increasing women's visibility and the passage of some pro-women legislation, pursuing gender equity policy reforms has remained 'largely uneven' and a rather rugged terrain (Wang 2013: 114). For instance, the reform of laws

governing land, inheritance domestic relations, and sexual rights has been on the Ugandan women's movement agenda for several decades without success. Other gender equity reforms are characterised by intense negotiations and compromises leading to instrumentalist and watered-down versions of policy reforms (Ahikire and Mwiine 2020). The idea of legislating against marital rape was re-introduced in the 2019 Sexual Offences Bill (SOB) with little success. Beyond the realm of policymaking, the visibility of women's rights has created a moral panic, demonstrated by worries about the family, the place of women *vis-à-vis* men in the domestic and public spheres and, especially, worries about whether women want to rule their husbands. There is a clear shift in discourse where the need to protect the family has regained traction and gender equality is seen as a threat to society. This we see as the locus of backlash against gender justice in Uganda today.

In this paper, we raise questions on what these seemingly intentional and sustained actions by specific – albeit diverse – actors who are opposed to gender justice, equality, and women's equal rights are, and how they can be conceptualised. There is an emerging consensus that gender equality initiatives often trigger resistance and backlash (Flood *et al.* 2018; Tamale 1999; Townsend-Bell 2020). While there are different conceptions on what constitutes backlash, evidence indicates that this is about pushback, resistance, or negative reactions against women's gains, whether real or imagined (Townsend-Bell 2020: 287). For Flood *et al.* (2018), backlash is closely related to resistance. In fact, in their work on resistance and backlash to gender equality, Flood and others use 'backlash' and 'resistance' interchangeably to refer to any form of resistance towards progressive social change. In Uganda, threats to feminist gains manifest in the form of a lack of implementation of pro-gender equity reforms (Ahikire and Mwiine 2019), repealing and/or shelving policy proposals that promise gender transformation, and co-option/appropriation of gender equity policies and using them to deliver unintended objectives e.g. using affirmative action to recruit women as voter banks. Other reversals relate to shrinking civic space characterised by freezing of financial sources for women's rights organisations (Khisa 2019; Mukhaye 2020), which limits mobilisation; re-traditionalisation – calling upon women to return to the home; and the re-building of masculine solidarities that seek to reclaim men's power and privilege. Arguably, feminist gains have triggered an increase in social conservatism and extreme fundamentalisms, especially those arising out of religious machinations but specifically seeking state legitimation (Ahikire 2014).

This paper seeks to use a specific policy case – the Sexual Offences Bill (2019) – to explore ways in which these rather deliberate threats to feminist gains manifest. First, we examine the ways the different actors defined and characterised gender backlash in the stories they told, as well as the popular media narratives that surrounded the issue of sexual offences. Second, we

examine the process of framing, tabling, and debating the Bill, tracing possible manifestations of backlash. We particularly highlight moments in the legislative process that actors identified as constituting gender backlash. Third, we look at the content of the Bill, the clauses that were contested, and the effect these conflicts had on the passage of the Bill. In tracing these conversations, we closely look at the actors (alliance and coalition members, and the opposition), and their interests and motivations in supporting and/or opposing the Bill. We ask, 'How do these experiences enable us to understand the location of feminist voice?'

The overall argument is that the trivialisation and stiff resistance against the SOB largely manifested through the legislative process and that the framing of the content of the Bill is evidently reminiscent of broader backlash against gender justice in the current times.

2. The research method

To explore the backlash and nuances in the struggle for gender equity reform on sexual offences, the study adopted highly qualitative and participatory research methods. These included desk reviews, content analysis of popular media stories on the SOB, group conversations with women's rights organisations, and in-depth interviews with actors from the coalition alliances and those opposed to the Bill. The desk review focused mostly on feminist literature in and outside Uganda, especially that which was theoretically rich with debates on backlash against women's rights, equality, and gender justice. The review also covered discursive analysis of the parliamentary record (Hansard) on the sexual offences debate, as well as media mapping.

Participatory methods of enquiry involved group conversations with women's rights organisations which formed the bulk of the allies to the reform. The group meetings took two forms: the initial meeting brought together ten women activists from mainstream women's rights organisations to reflect on what gender backlash is in general terms, its roots, and its manifestations. The second group conversation was held with nine women and two men representing organisations that actively participated in the framing and promotion of the SOB. This second group went through a power mapping exercise in which researchers guided participants to reflect on informal and formal reform processes, identify actors both in the coalition alliance and those opposed to the reform, and the power each category held in relation to the other.

The interactive power mapping exercise was revealing in different ways. First, it enabled participants to collaboratively review the sexual offences reform process and take stock of key milestones registered by the movement despite the final outcome – the Bill failed to pass. Second, the conversation enabled participating institutions to identify centres of influence, i.e. the actors whose voices mattered in the process, the spaces they operated in, the power they had, and the fractures with the women's coalition. Importantly, the participants identified hidden forms of power by identifying actors who, regardless of being outside the stipulated formal policymaking channels, were influential in brokering policy reforms. These revelations included individuals in the ruling NRM party, NRM party organs such as the Central Executive Committee, the national gender machinery, and an undocumented loose group known as B12. This latter group is an intellectual wing of NRM that works parallel to the system but advises the president on policy matters.¹

¹ Interview, Executive Director, Chapter Four, March 2022.

3. Conceptualising backlash

Gender backlash has not been widely researched and conceptualised in Uganda. Nonetheless, there is rich data on how advocacy for women's rights, equality, and gender justice often faces resistance from culture and religious contexts when it questions unequal patriarchal relations (Tamale 1999, 2006, 2008). Tamale (2006) argues that women worldwide are faced with widespread and multifaceted backlash against their rights. She describes backlash in this context as a 'real danger that threatens gains that the global women's movement has achieved in the past' (2006: 39). While characterising backlash as global, Tamale also points out the contextual and complex character of gender backlash when she argues that 'In Africa, when the backlash is placed against the backdrop of political monopoly, economic deprivation, poverty, violence, displacement, adjusting economies and globalization, the crisis multiplies tenfold' (2006: 39). She cites cases in which neoliberal tenets of individualism and competition for profit intersect with donor demands to, and the government's tight control of, non-governmental organisations to depoliticise the women's movement. Many actors in the movement end up in the 'business of women's rights' rather than political activism for women's rights.

While the concept of backlash is not commonly used, there are discussions that point to 'resistance' in reaction to progress on women's rights and gender equality whether the advance is real or imagined. For instance, conversations on gender equality entail discussions on rolling back hard-won gender equity gains, organised resistance emanating from the religious sector, traditionalists against gender reforms (Oloka-Onyango 2020: 4–5), a conceptual divide between the so-called 'public' and 'private' spheres, and popular narratives on how women ought to pay attention to the private sphere in contrast to men. There are also discussions on resentment to women's political progress. A key example of these forms of resistance is the reaction to women's entry into politics (in the 1990s). As Tamale (1999) puts it, women's entry into formal politics in large numbers due to affirmative action was met with cultural resistance and women were symbolically referred to, in ominous ways, as 'hens beginning to crow' (Tamale 1999: 26). Other forms of resisting gender change manifested in the form of the inadequate implementation of pro-gender equity reforms – e.g. the law on the prohibition of female genital mutilation, as well as the Domestic Violence Act (Ahikire and Mwiine 2019; Tamale 2008).

Resistance to gender transformation has also been noted as gradual, informal, and, at times, seemingly invisible, while it has been more intense in other policy reform processes, especially when a reform questions traditional and religious doctrines (Htun and Weldon 2010). Intense opposition to gender equity reforms has been noted in cases around marriage, inheritance, ownership of property,

and sexuality (Ahikire and Mwiine 2019, 2020; Matembe 2002). In her 2002 book, *Miria Matembe: Gender, Politics and Constitution Making in Uganda*, Matembe, a women's rights activist, former Member of Parliament, and minister in the 1990s, recalls how women actively participated in making a gender-sensitive Constitution (2002: 234). She observes that despite the momentum created by women's visibility, a supportive Constitution, and a state seemingly committed to gender equality, women activists lost a land reform that had proposed women's co-ownership of land with their husbands. To the women's rights activists, the loss of the co-ownership clause in the 1998 land reform was a moment of reality and extremely saddening, yet revealing at the same time (Kawamara-Mishambi and Ovonji-Odida 2003; Matembe 2002). This loss prompted the women's movement to appreciate and understand the political terrain and the nature of the political resistance towards gender equality efforts that had been overlooked in the wake of a so-called gender-sensitive Constitution.

The various activists involved within the SOB process used different phrases that included 'backlash' and 'resistance', and the manner in which these manifested. Study participants in this case commonly characterised backlash as a 'well calculated' move, as 'resistance' to women's rights and gender equality initiatives, as 'watering-down' feminist initiatives, and as 'adulteration' of feminist policy reforms, with the intention of forestalling feminist progress towards equality and gender justice.

In an interview, Monicah Amoding, who tabled the SOB, characterised the opposition encountered in the advocacy process as 'backlash'. She noted that women and men equally seem to have a problem in appreciating and understanding women's individual rights, especially in the private sphere. She argued that while Ugandans seem to appreciate the roles women enjoy in public, such as political participation as Members of Parliament and cabinet ministers, the backlash begins when women try to realise their individual rights in the private arena. To Amoding, while certain forms of progress around gender equality have registered acceptance in society, other initiatives, especially those that touch on the cultural and religious foundations of power, are strongly resisted. Participants also noted that while resistance often comes from individual men against women's rights, it can also be collectively organised formally or informally as well as from institutions such as religion, family, state agencies and others.

These kinds of insights point to backlash as being about power relations in which those who are perceived to hold the power resist any advances (real or perceived) by those with less power. As such, gender backlash is firmly embedded in power hierarchies, often triggered when the border that separates those who 'should' or 'should not' have power is crossed. Sexuality, the broader

discourse within which the SOB is located, represents such kinds of polarities in which a historically patriarchal and heteronormative country like Uganda finds itself. While explaining gender backlash, Tina Musuya, a renowned feminist activist and Executive Director of the Center for Domestic Violence Prevention (CEDOVIP) had this to say:

Advances in women's rights and gender equality are up against a well-structured system called patriarchy. Patriarchy, I would say is the most organised system that works in a very subtle and very explicit ways whereby there are things that dangled at you seemingly nice but they have lasting implications around the issues of gender justice because we are addressing issues to do with privileges – male privilege and that is something we must not miss in this conversation.²

As the Executive Director of CEDOVIP, Tina Musuya championed feminist advocacy that saw the successful enactment of the Domestic Violence Act in 2010. In this conversation, she highlights how patriarchy is an organised structure in which gender backlash is rooted. She describes patriarchy as the foundation upon which this contest of power, characterised by the defence of male privilege to maintain the status quo and to reclaim status loss (real or perceived), operates. These stories on what backlash is – well-organised, intentional resistance rooted in patriarchy – resonate with global conversations on gender backlash (Flood *et al.* 2018; Townsend-Bell 2020), as well as the diversity of gender issues which elicit different forms of resistance in different contexts (Htun and Weldon 2010).

Htun and Weldon (2010) categorise some gender equity policy reforms as doctrinal, i.e. the gender equality issues that touch upon jurisdictional conflict between the state and other organisations over the administration of kinship relations, reproduction, and sexuality. Accordingly, an issue is defined as doctrinal: 'if [it] contradicts the explicit doctrine, codified tradition, or sacred discourse of the dominant religion or cultural group' (2010: 210). Htun and Weldon compare Uganda's affirmative action policy with women's co-ownership of land with men, and argue thus:

Uganda, for example, has pushed women into power with its 30 per cent reserved seat policy but has been unable to reform laws to grant women co-ownership rights with men over land. The first policy is agnostic on clan power while the second presents it with a sharp challenge.
(*ibid.*: 210)

² Women's rights organisation workshop, 29 January 2021.

These comparisons alert us to variations in the nature of policy issues and the backlash they engineer. They enable us to appreciate the fact that gender equity reforms involve not just one issue but many, and each issue involves different actors and conflicts. Different actors have different interests, motives, as well as powers to influence the direction of the reform. Coming to terms with these contextual realities is central to understanding the nature of policy reform, the possible resistance it might encounter, and the strategic interventions needed to counter resistance to the reform. These conversations speak to backlash as being subtle but explicit, deliberate, consistent, and localised as much as it is a global phenomenon. This paper draws on these conceptual insights to make sense of the heightened opposition to the SOB with a view to crafting a critical feminist response to gender backlash.

4. About the Sexual Offences Bill 2019

The Sexual Offences Bill (SOB) 2019 was a private member's Bill, tabled by Hon. Monicah Amoding, then a Member of Parliament representing Kumi District in the 10th Parliament (2016–20). Amoding also chaired the UWOPA, an association that brings together female Members of Parliament. Tabled on the floor of parliament for first reading in November 2019, the SOB aimed to enact,

a specific law on sexual offences for the effectual prevention of sexual violence; to enhance punishment of sexual offenders; to provide for the protection of victims during sexual offences trials; to provide for extra territorial application of the law; to repeal some provisions of the Penal Code Act, Cap. 120 and for other related matters.

(Sexual Offences Bill 2019: 1)

Accordingly, the suggested reforms were largely motivated by high incidences as well as new forms of sexual violence which could not be addressed by existing laws. For instance, the Bill noted that while Uganda had the Penal Code Act, Cap. 120, which outlawed several sexual offences, the provisions were outdated and the elements constituting the offences were increasingly narrow and unable to deal with evolving trends in social attitudes, values, and sexual practices. Framers of the Bill highlighted new forms of sexual violence and exploitation such as sex tourism, indecent communication, and child marriage among others which were currently not provided for. Another gap noted by the framers was sexual violence on Ugandan citizens by Ugandan citizens and residents while outside the country. The gaps in the existing law regarding addressing contemporary forms of sexual violence motivated women rights activists to propose a specific law on sexual offences, one that would consolidate and enhance scattered pieces of legislation into an Act of Parliament to provide for the effectual prevention of sexual violence (Parliament of Uganda 2021a).

The SOB proposed 46 clauses outlining areas of reform around sexual violence in general, sexual violence against children, procedures on how courts should handle sexual violence offenders and survivors, and administrative measures such as creating a sex offenders register. The SOB named forms of sexual violence including rape, aggravated rape, administering a substance for the purpose of committing a sexual act, sexual assault, sexual harassment, detention with sexual intent, sexual exploitation, same-sex relations (presented as unnatural offences), an attempt to commit unnatural offences, and incest. Offences against children included defilement, aggravated defilement, attempted

defilement, child-to-child sex, householder permitting defilement, supply of sexual content and material to a child, child prostitution, and child sex tourism (Sexual Offences Bill 2019).

While the SOB was tabled by a private member, proposed reforms came through a series of consultations from within the women's movement, local communities, development partners, and opposition actors at different stages of the legislative reform process. The SOB was tabled in parliament for its first reading on 24 November 2019 and was referred to the Legal and Parliamentary Affairs Committee for scrutiny as per parliamentary procedure. It is important to note that the 2019 version of the Bill was a re-submission, having been drafted and tabled earlier in April 2016 but later withdrawn to incorporate amendments that were proposed by the tabler during a debate in the house. Parliamentary debates on the Bill that took place in the last moments of the 10th parliamentary session can be characterised as contentious and revealing. From bureaucratic delays for clearing the Bill for its first reading, parliamentary committee discussions that apparently included new contentious provisions, disagreements and divisions amongst coalitions promoting the Bill, to the president's failure to assent to the Bill; the process resonates with what Townsend-Bell (2020) terms a moment of revelation. The Parliament of Uganda debated and passed the SOB in May 2021, two weeks from the end of the 10th Parliament. For some actors, the Bill as passed by parliament was a turning point in as far as it was going to redefine sexual conduct in the country, and that it was not only for women but for everybody (Parliament of Uganda 2021). For others the process and, consequently, the legal reform were divisive because of contentions around the criminalisation of sex work and same-sex relations (OutRight Action International 2020). These divisions manifested in the public discourse when some of the women activists who had originally supported the Bill called on the president to reject the version passed by parliament because of the additions and deletions leading to adulterations and a watered-down Bill.

In August 2021, three months after parliament passed the SOB, President Yoweri Museveni declined to assent to the Bill. He pointed out several offences regarding morality that were already provided for under the Penal Code (amendment) Act 2007. The media reported President Museveni as castigating the proponents of the SOB for ignoring government reforms of criminal laws. He reportedly complained that:

Although the Uganda Law Reform Commission started a comprehensive review of all criminal related laws and their proposed amendments presented by the Minister of Justice and Constitutional Affairs to the Legal and Parliamentary Affairs Committee of Parliament, they were never considered.
(URN 2021)

The president further advised that instead of carrying out piecemeal amendments, the Uganda Law Reform Commission should be given an opportunity to review all the criminal laws and propose a comprehensive amendment of relevant laws for parliament's consideration. It should be noted that while the president recommended that the Uganda Law Reform Commission and the Legal and Parliamentary Affairs Committee conduct a comprehensive review of criminal laws in ways that would accommodate piecemeal legislation such as the SOB, these same institutions were opposed to the SOB in its early stages. In effect, such a move, of 'delegating the change to those who disagree with it, and actively sabotaging the change process' (Flood *et al.* 2018: 14) is a form of backlash. In Table 4.1 we share an outline of historical junctures in the life course of the Bill.

Table 4.1 Key junctures in the process of the Sexual Offences Bill (2019)

Period	Events, actors, and interests	Nature of backlash (if any)
2006	High incidences of sexual and gender-based violence, in particular spousal/intimate partner violence, inspired calls for legislation on domestic violence in 2006.	Sexual matters constituted as private, not a responsibility of state legislation.
2008	Stiff resistance to the Domestic Relations Bill (DRB), particularly from the president, led to its splitting into three pieces of legislation: the Domestic Violence Bill (DVB), the Marriage and Divorce Bill, and the Muslim Personal Law Bill (Ahikire and Mwiine 2015; Wang 2013).	DRB resisted because it raised issues touching on cultural and religious doctrines on marriage, inheritance, and property.
2009–10	The DVB was tabled in parliament (first reading) in June 2009. The Bill included a provision of criminalising marital rape. Through parliamentary debates, the DVB was stripped of the clause on marital rape, framed as a development issue and men as plausible victims of domestic violence. The Bill was passed in 2010 and the president signed it into law.	Stripping the Bill of a clause on marital rape. Framing the law in instrumental rather than rights terminology – domestic violence affects economic productivity.
2011–16	Start of the 9th Parliament (2011–16). Hon. Monicah Amoding elected chair of UWOPA in her first term in parliament. The passage of the DVA 2010 and the associated momentum on gender justice, equality, and women's rights activism inspired the introduction of sexual offenses reform in 2012 by the UWOPA. SOB introduced by the UWOPA chair alongside the Marriage and Divorce Bill (MAD). The issue was raised for first reading but never gained support because of the contentious debates that were already going on around the MAD.	SOB opposed on its introduction in parliament.

Period	Events, actors, and interests	Nature of backlash (if any)
2015–16	<p>Monicah Amoding re-drafts the SOB. The Bill is sponsored by the UWOPA. The Bill re-introduced marital rape in the form of a 'consent before and during the sexual act'. The Bill provided that a person can withdraw his/her consent during a sexual act. This post-penetration consent became the most contentious aspect of the Bill.</p> <p>July 2015: the UWOPA seeks for a certificate of financial implication from Ministry of Finance, Planning, and Economic Development, without success.</p> <p>April 2016: Monicah Amoding tables the SOB for first reading in parliament, a month before the end of the 9th Parliament. Bill tabled without a certificate from government – accepted on extraordinary grounds of inordinate delays by Ministry of Finance. Bill sent to Legal and Parliamentary Affairs Committee for scrutiny. The 9th Parliament ended with no discussion on the SOB. The Bill was carried forward in 10th Parliament.</p>	<p>Bureaucratic foot-dragging. Using certificate of financial implication to frustrate the Bill. Gender equity reforms tabled just weeks before end of parliamentary sessions.</p>
2016–21	<p>The 10th Parliament commences. The SOB is carried forward. The UWOPA consults with women's rights organisations, re-introduces the SOB in 10th Parliament. SOB (2019) presented in parliament for second and third reading between 3–5 May 2021 – again within just weeks before the end of the 10th Parliament. SOB debated and passed for presidential assent amidst strong contentions on sex work and post-penetration consent. The clause on withdrawing of consent during sexual act scrapped, sex work criminalised, and same-sex relations criminalised. Bill passed by parliament on 5 May 2021, just two weeks before the end of the 10th Parliament.</p>	<p>Debates on sexual offences degenerated into trivial matters e.g. about the size of sexual organs, ignoring gruesome cases of sexual abuse.</p> <p>Once again gender Bill passed at the tail end of the parliamentary session, with little attention from legislators.</p>

Period	Events, actors, and interests	Nature of backlash (if any)
May–July 2021	Post-sexual offenses debate – public protest about the passing of the Bill. Local and international protests were made on three contentious issues: (1) criminalising lesbian, gay, bisexual, transgender, and queer (LGBTQ) sexual relations; (2) dropping the clause on post-penetration consent; and (3) criminalising sex work.	Labelling SOB as about piecemeal legislation – calling for a comprehensive review of criminal laws to propose wider amendments. This places the gender equity reforms in the hands of government (Uganda Law Reform) that has already demonstrated its unwillingness to legislate on gender issues that question powerful structures (culture, religion) that leverage the state.
August 2021	On 17 August 2021, President Museveni declines to assent to SOB 2019 (URN 2021), returns it to parliament for consideration. He points out several offences regarding morality that are already provided for under the Penal Code Act, noting: ‘instead of carrying out piecemeal amendments, the Uganda Law Reform Commission should be given an opportunity to review all the criminal laws and propose a comprehensive amendment of the relevant laws for parliament’s consideration’.	

Source: Authors' own.

5. Process as backlash

There were several moments from the SOB legislation process that the study participants (allies and coalition members) characterised as backlash. Moments of resistance against the reform can be traced from the initial framing of the idea, to feminist activists dealing with what remained and what was removed from the draft Bill, to the procedural stage of tabling the Bill, scrutiny and revisions at the committee stage, the debates in parliament, the final parliamentary passage of the Bill, and to the rejection by the president. In all these stages, we trace the evolving nature of the pro-Bill alliances as well as the opposition to the Bill to highlight forms of backlash whether subtle or explicit, and the feminist activists' attempts to manoeuvre around these.

There are several episodes in the process of legislating on sexual offences that highlight resistance to gender equity reform. First, there was failure on the part of the government to award the Bill a certificate of financial implication. According to parliamentary procedure, Bills require certificates of financial implication issued by the Ministry of Finance, Planning, and Economic Development as provided for in the Public Finance and Management Act (2015). This Act provides that:

- (1) Every Bill introduced in Parliament shall be accompanied by a certificate of financial implications issued by the Minister.
 - (2) The certificate of financial implications issued under subsection (1) shall indicate the estimates of revenue and expenditure over the period of not less than two years after the coming into effect of the Bill when passed.
 - (3) In addition to the requirements under subsection (2) the certificate of financial implications shall indicate the impact of the Bill on the economy.
 - (4) Notwithstanding subsections (1), (2) and (3), a certificate of financial implication shall be deemed to have been issued after 60 days from the date of request for the certificate.
- (Government of Uganda 2015)

Unlike other Bills, the SOB failed to acquire the certificate of financial implication to enable its first tabling. Amoding, the tabler, reported frustrations that characterised the early stages of tabling the SOB. Records of parliamentary debates feature Amoding's recollection of the years of bureaucratic foot-dragging by the government which she characterised as tactics intended to frustrate the tabling of the Bill. She informed the house that unlike the usual formal procedure in which Bills are accompanied by certificates of financial implication on their first

reading, the SOB, 2015 had strangely failed to acquire the certificate from the government ministry in the first year of its drafting.

MONICAH AMODING: Madam Speaker, I beg to move that a Bill entitled, 'The Sexual Offences Bill, 2015' be read for the first time. However, I would like to inform the House that this Bill is not accompanied by a Certificate of Financial Implications. I am however protected by section 76 (4) of the Public Finance and Management Act. I beg to lay.

Madam Speaker, I wish to further inform the House why this is so. For the last 15 years, the Uganda Women Parliamentary Association (UWOPA) has been advocating for the Sexual Offences Bill to be brought to this House. In the Eighth Parliament [2006–11], we worked hard to see that this Bill comes but it did not. We were informed that the Bill was at Cabinet level. In the Ninth Parliament [2011–16], since the first year we have been telling the ministry responsible to table this Bill before the House but it had not come.³

The Bill was subsequently moved on extraordinary grounds because the Ministry of Finance had failed to issue a certificate within 60 days. The numerous hurdles to granting the certificate included several government line ministries mandated to issue the certificate as well as those that would host the suggested legislative reforms delaying offering clearance on the tabling of the Bill. Formal requests and reminders to the Ministry of Finance, Planning, and Economic Development, the Ministry of Gender, Labour, and Social Development, and the Ministry of Justice and Constitutional Affairs, specifically the Solicitor-General, yielded no response. Communications tabled in parliament indicate that for almost ten months the UWOPA had not been granted the certificate to table the Bill despite relentless requests. During the 14 April parliamentary sitting, Monicah Amoding further submitted:

Madam Speaker, I have two last items to prove our request and communication with the line ministries. A letter was written by UWOPA on 14 March 2016, reminding the Ministry of Finance about this certificate but there was no reply. I beg to lay a copy of the letter before the House. On 23 March 2016, a reminder for a Certificate of Financial Implication was written by the Ministry of Finance to the Solicitor-General and they were given only a week to expedite this process. We did not receive any response to this matter.⁴

³ Parliamentary sitting on 14 April 2016.

⁴ Parliamentary sitting on 14 April 2016.

These back-and-forth delays were perceived by the UWOPA and its allies as a deliberate bureaucratic effort to frustrate the reform. When receiving the Bill for its first reading, the speaker of parliament (a lawyer and women's rights activist) voiced her concerns on how the certificate of financial implication was being used to frustrate Bills that the government is opposed to. She recollects:

We used to make laws that were not implemented. The government would say they did not have a budget. So, we decided that they inform us how much would be required for implementation of the laws. That is why we need a certificate. However, it seems the Ministry of Finance is now using it to frustrate private members' Bills. (Parliament of Uganda 2016)

In incidences of unforeseeable hurdles, the Public Finance and Management Act provided for an alternative option which was to submit the Bill without a certificate. In the context of the SOB, the speaker termed these hurdles as inordinate delays. After negotiating these early stages of resistance, the SOB 2015 was successfully tabled for first reading and subsequently referred to the Legal and Parliamentary Affairs Committee for perusal and report back.

These delays to certifying the Bill, however subtle and informal they might look, point to a seemingly well-coordinated opposition within the state bureaucracy, as exemplified by a history of unfunded laws that would stall on implementation stage, and indifference by government ministries with a mandate to promote gender justice and equality. That sexual offences issues have been on women parliamentarians' agenda for 15 years without a legislative breakthrough attests to gender backlash.

Another form of resistance to gender equity reform was characterised by respondents as 'institutional dilly-dallying' that is, time wasting through aimless indecision or unfounded claims that gender reforms were in the pipeline. Institutional dilly-dallying, particularly from the executive arm of government, renders gender equity reforms secondary to other issues in government legislative business. In effect, most of the gender-related legislative reforms tend to fall outside of the government's legislative priority list in parliamentary sessions, yet government business dominates the legislative agenda. Dilly-dallying manifests itself in government ministers claiming that gender proposals are under consideration at cabinet level, deterring individuals from initiating these reforms as private member's Bills.

Because of these bureaucratic hurdles, gender-related legislative reforms often come in the last year of parliamentary sessions as private member's Bills. As Monicah Amoding notes:

... we came into the last year, and you recall that most of the gender-related legislations were passed in the last year, in the last session of parliament. We started with the amendment of the Succession Act, it was passed, and then we went to the Employment Act and finally the Sexual Offences Bill. These were passed in a marathon, why – because the Speaker and the women were also fearing to get a bad name from public that we have done nothing for the women. The last parliament we had done nothing for the women, now this parliament as well nothing has come out. So we had to push them, cruise through. We were actually firefighting.⁵

Like its predecessor Bills (the prohibition of female genital mutilation and domestic violence in 2010), the SOB was debated two weeks before the end of the 10th Parliament. Some legislators debating the Bill had already lost the election to participate in the 11th Parliament. We argue that a consistent pattern in which gender-related Bills come at the tail end of parliamentary sessions is not coincidental. Rather, it reflects an intentional resistance to the reforms. Because gender-related Bills are left to the end, they are often rushed and not given adequate time. Some are discussed just days before the swearing-in of a new set of legislators, so there are no electoral dividends that can compel legislators to support Bills. So gender-related Bills are missing out on the pending general election that might have compelled politicians to deliver on the Bills lest they lose their seats.

The third form of backlash is the politicisation of homophobia. A newspaper article by Ajuna and Wandera (2020) reportedly quoted President Museveni warning Ugandan opposition politicians against foreign influence. The article read: 'Mr Museveni also accuses the foreigners of funding illicit acts in Uganda among which include homosexual activities and drug abuse, especially among the youth on Kampala streets' (*ibid.*). Indeed, participants noted that some politicians campaigning for parliamentary seats in the 2021 general elections used homosexuality as a tool to blackmail and discredit their opponents. This political rhetoric created an environment of homophobia in which any reform that included conversations on same-sex relations would be resisted. Notably, there were 'loud' silences on issues of same-sex relations in parliamentary debates even when the revised SOB sought to criminalise what it termed as unnatural offences. Legislators appeared guarded, not wanting to be seen to engage in LGBTQ conversations at all, often referring to same-sex relations in subtle ways such as emerging new sexual relations that require regulation. Members of the coalitions on SOB spoke of some Members of Parliament walking out of consultative meetings organised to solicit public views on the Bill, because they were attended by people who identified as members of the LGBT community.

⁵ Interview with Monicah Amoding, 19 July 2021.

All these dynamics reveal problematic subterranean narratives that animate the subject of sexuality in Uganda.

6. Backlash in the content of the Bill

In this section, the paper highlights the manifestation of backlash in the framing of the content of the Bill. Attention is paid to particular clauses: criminalisation of sex work, same-sex relations (which the Bill named as ‘unnatural offences’), and the question of consent to or during a sexual encounter.

6.1 The framing of the Bill

Women activists who participated in the initial drafting of the Bill pointed out how it was a deliberate process intended to cope with historical opposition towards Bills that sought to address issues challenging unequal power relations, such as the Domestic Relations Bill, Marriage and Divorce Bill, as well as sections of the Domestic Violence Bill. The framing was therefore based on the women activists’ alertness to contemporary resistance to gender equity reforms. The table of the Bill had this to say:

There was a lot of consultation especially with the civil society. We agreed to exclude issues that would become controversial and make discussions to go overboard and challenge enactment of our act into what we want. Those issues which we thought were controversial included prostitution and then of course unnatural offences. So, as a private member, representing UWOPA, we wanted to leave out things which would give us headache, which would not allow this law to see the light of day.⁶

Consultations with civil society aimed at building consensus in the women’s movement on pertinent issues. One of the issues agreed upon by the women’s coalition was the introduction of a clause on consent before and during sexual encounters. The clause required that individuals in a sexual relationship ought to seek consent to a sexual act and that this consent can be withdrawn at any point before or during the act. The coalition framed consent to sexual activity with a motive of re-introducing marital rape, an issue that was earlier rejected in the Domestic Violence Act 2010. ‘We framed it as consent because we were trying to reintroduce marital rape in another way in the form of consent, seeking consent and consent can be withdrawn at any stage of the sexual act’.⁷ Like its predecessor clause on marital rape, the clause on consent before and during the sexual act was strongly rejected during parliamentary debates on the grounds of the practicability of providing proof beyond reasonable doubt that consent was

⁶ Interview with Monicah Amoding, 19 July 2021.

⁷ Interview with Monicah Amoding, 19 July 2021.

withdrawn during the sexual act. In the section that follows, we indicate how parliamentary debates trivialised the issue of consent.

In addition, the women coalition members steered clear of contentions that would derail the Bill. As a result, the Bill was framed without reference to the criminalisation of prostitution, abortion, or ‘unnatural offences’. However, clauses in relation to these issues were introduced later at the parliamentary committee stage. We argue that the introduction of clauses on prostitution and ‘unnatural offences’ formed the bulk of the opposition to the Bill. After the first reading, the SOB was referred to the Legal and Parliamentary Affairs Committee for scrutiny. This committee is mandated to scrutinise all parliamentary Bills after the first reading to ensure quality and fairness of the provisions, receive and consider (or reject) public submissions on the Bill, and discuss and make recommendations. This committee was one of the spaces where contentious clauses in the SOB were introduced. In the sections that follow, we reflect on the introduction and reframing of the Bill at different stages of legislation.

6.2 The introduction of clauses on prostitution and ‘unnatural offences’

Conversations with the initial framers of the Bill – the women’s coalition coordinated by the UWOPA – indicate that detailed clauses on prostitution and ‘unnatural offences’ were introduced at the committee stage. The initial framing of the Bill included a clause (clause 11) on unnatural offences as it already exists in Penal Code Act 2007, i.e., that ‘a person who (a) performs a sexual act with another person contrary to the order of nature; or (b) engages in a sexual act with an animal; commits an offence and is liable on conviction, to imprisonment for ten years’ (Sexual Offences Bill 2019: 9). In clause 19 (2019: 12–13), the Bill sought to criminalise ‘child prostitution’ as indicated below. The Bill stated that:

A person who:

- (a) knowingly permits a child to remain in any premises, for the purposes of prostitution;
- (b) procures or attempts to procure a child to become a prostitute, within or outside Uganda;
- (c) procures or attempts to procure a child to leave Uganda, with intent that he or she may become an inmate of or frequent a brothel elsewhere;
- (d) procures or attempts to procure any child to leave his or her usual place of abode in Uganda with intent that he or she may, for the purposes of prostitution, become an inmate of or frequent a brothel;
- (e) induces a person to be a client of a child for sexual acts or for

any form of sexual abuse or indecent exhibition or show;
(f) takes advantage of his or her influence over, or relationship to a child, to encourage, entice or cause a child to engage in prostitution;
(g) threatens, intimidates or forces a child into prostitution; or
(h) owns, leases, rents, manages, occupies or has control of any movable or immovable property for purposes of prostitution involving children; commits an offence and is liable on conviction, to imprisonment not exceeding ten years.
(Sexual Offences Bill 2019: 12–13)

These provisions were later expanded with new additions introduced at the committee stage. In an interview, the tabler of the Bill indicated that issues on prostitution and unnatural offences were introduced during the Legal and Parliamentary Affairs Committee scrutiny and guidance on the Bill. No actors are specifically identified as being responsible for the introduction of these contentious clauses. Nonetheless, it is clear that these clauses appeared during the discussion of the parliamentary committee report. For instance, on presenting the committee report to parliament, the chairperson is quoted by Hansard as follows:

MR OBOTH: Madam Chairperson, we need to insert a new clause, immediately after clause 11.

The new clause would read:

‘Brothels:

A person who keeps a house, a room or place of any kind, for purposes of prostitution, commits an offence and is liable to imprisonment for seven years.’

‘Prohibition of prostitution:

Any person who practices or engages in prostitution commits an offence and is liable to imprisonment for two years.’ I think all of this will be harmonized.

‘Prohibition of sexual act with a prostitute:

A person who engages in a sexual act with a prostitute commits an offence and is liable, on conviction, to imprisonment for two years.

(Parliament of Uganda 2021a)

Accordingly, the new clause on prostitution was meant to: (1) prohibit prostitution, the operation of brothels and engaging in a sexual act with a prostitute, and (2) to continue the criminalisation of prostitution.

On the issue of ‘unnatural offences’ the committee report appreciated the fact that the initial framing of Bill only identified unnatural offences as already existing in the Penal Code Act 2007. The committee then guided on the need to unpack and expand on this, as indicated below:

The committee notes that this is an offence that is already prescribed under sections 145 and 146 of the Penal Code Act. Whereas the committee is agreeable to the inclusion of this offence in this Bill, it is of the considered opinion that the offence would not be effective since the major ingredients of the offence are not explained. The committee, therefore, recommends that for completeness, clause 11 should stand part of the Bill albeit with the amendments that the ingredients of the offence are defined to include: (i) The penetration of another person's anus with that other person's sexual organ or with any object; and (ii) A ban on a sexual act between persons of the same gender.

(Parliament of Uganda 2021a)

The committee had moved beyond the initial framing by appropriating the law on unnatural offences from the penal code and re-modifying it with several micro-detailed definitions of what an unnatural sexual offence would amount to, as indicated above. In our conversation with coalition members, the new version of the SOB from the Legal and Parliamentary Affairs Committee looked like a re-invention of the anti-homosexuality law of 2014, commonly referred to as the 'Bahati Law'.⁸ The anti-homosexuality law of 2014 was annulled by the constitutional court on the basis that it was passed by Members of Parliament without the requisite quorum and was therefore illegal.

Parliamentary debates clearly attest to the fact that clauses which later became contentious and contributed to an intense resistance to the entire Bill were actually introduced at the committee stage where women activists who initially framed the Bill had no control. While we are not able to identify individual actors responsible for the inclusion of the disputed clauses and their motivation, women activists viewed the introduction of these as a hijack of the sexual offences agenda. We argue that, whether this was intentional or not, it was not without effect. In practice, it generated intense resistance in and outside parliament, and derailed the progress of legislative reform. With the new additions, the private member who tabled the Bill felt isolated, especially as she cited informal dealings in which she was pressured to accept the new provisions or risk losing the whole Bill. These dynamics also alert us to the role of informal networks in policy reform processes (Ahikire and Mwiine 2020). Informal negotiations provide insights into the stakes that different actors had in the framing of the reform.

Proposing criminalisation of same-sex relations and prostitution created another layer of backlash, this time with opposition emerging from previously supportive coalitions such as some of the women's rights organisations and civil society

⁸ Hon. David Bahati was (and still is) a Member of Parliament, who introduced the Anti-Homosexuality Bill in 2009. The Bill was passed by parliament in December 2013 and signed into law by the president on 24 February 2014. Months later (August 2014), the Constitutional Court annulled the law on the basis that it was passed by Members of Parliament without the requisite quorum and was therefore illegal.

organisations. In an interview, Diana Kagere, a women's rights activist expressed her frustration with the new additions to the Bill she once supported. She noted: 'we would rather forego the Bill and then wait for another opportune time for us to present something that is more acceptable. We would rather not have it at all than have something that criminalizes a section of women'.⁹ It is clear that the Legal and Parliamentary Affairs Committee had its own interests in the Bill – introducing new provisions on prostitution and criminalising same-sex relations – which unfortunately watered down, adulterated, and derailed the entire reform process.

6.3 Adulterating and watering-down the policy reform

The majority of women activists we talked to raised concerns on how the feminist principles and interests as reflected in the initial framing of the SOB were adulterated, watered-down, and were consequently turning pro-SOB activists into opponents of the Bill. Notably the addition of very retrogressive clauses and the removal of the original clauses proposed by the coalition were a critical point of backlash. One noted that: women activists were moving in the right direction with the SOB being framed, tabled, and coalitions formed to promote it. However, 'when the Bill was open to consultations and debate at the committee level in parliament, it became adulterated'.¹⁰ She noted further:

First, they introduced an offence where they were criminalizing sex work, which for us we are completely against because sex work is highly skewed towards women, it is majorly women who participate in sex work... Then the next thing we noticed; they had removed the clause on consent. We wondered, what is the use of having rape in the Bill when you haven't concretely dealt with the idea on whether people can consent or withdraw their consent before or during the sexual encounter?... Then the last one I think which they introduced which also shocked us and took us back from where we were was one of criminalising of LGBTQ men who have sex with men and women who have sex with women.¹¹

These additions and deletions altered the initial interests and commitments of feminist activists for a progressive law. Some activists talked of how they preferred not to have the Bill at all if it was going to criminalise certain sections of the population. Others, such as Akina mama Wa Africa, a key leading feminist

⁹ Interview with Diana Kagere, 2 December 2021.

¹⁰ Interview with Rose Wakikona, human rights activist, Center for Health, Human Rights and Development (CEHURD), 23 November 2021.

¹¹ Interview with Rose Wakikona, 23 November 2021.

organisation, called for a recall of the Bill since it no longer represented feminists' original ideas, yet other feminist activists lobbied the president not to assent to the law in its current form: 'We were sponsoring the Bill in its original state but now when it became adulterated, it no longer spoke to our values and neither our principles. So, the very thing we had nurtured, we were now beginning to hate'.¹² It is unknown whether the addition of these contentious clauses, which were never part of the initial framing, was an intentional plan by the opposition to forestall the entire Bill and the progressive proposals therein.

6.4 Consent as a contested terrain

Backlash also manifested during discussions on the clause about consenting to sexual intercourse. Clause 36 of the Bill provided for consent during a sexual act. The Bill read: 'Notwithstanding that a person has consented to performing a sexual act with another, he or she may withdraw such consent at any time before or during the performance of the sexual act' (Sexual Offences Bill 2019: 18). Women activists had intended this clause to serve as a re-introduction of the offence of marital rape which had earlier been scrapped from the Domestic Violence Act in 2010. The clause on consent was strongly opposed by mostly male legislators. Legislators asked how practical it would be to gather evidence in a matter concerning two adults in privacy. Some argued that consent to sex is a psychological issue, an issue of the mind and believed that legislating on issues of emotion could prove problematic. Yet others thought consenting or withdrawing consent could be used by one party against another in case of any disagreements. Beyond these oppositional concerns came another form of backlash, i.e. the trivialisation of the clause on consent and the entire Bill, through legislators using humour to sexualise the debate, infantilising, and ridiculing the entire reform as illustrated in the section below.

6.5 Trivialisation of the debate on sexual offences in parliament

Opposition to the Bill, in particular the clause on withdrawing consent to a sexual act, manifested through the trivial ways the legislators debated the Bill. Pro-Bill alliance members we talked to described the media – formal and social media channels – as well as legislators' debates as comical in ways that rendered the content of the Bill as trivial. Notably, parliamentary debates on sexual offences were intoned with coded language around sexuality, humour, and cultural symbolism. Parliamentarians described male sexual organs in symbolic ways such as 'big manhood', 'size of the needle', 'men who are impossible', or symbolised sexual activity as 'a plane taking off' and how the pilot must not be

¹² Interview with Rose Wakikona, 23 November 2021.

interrupted lest risking crash landing (Parliament of Uganda 2021a). These debates attracted laughter and the concern over the horrific and pervasive cases of sexual abuse all seemed forgotten.

One prominent and influential male legislator (a government chief whip at the time) who became the face of opposition to the SOB raised concerns on how women expected men to stop in the middle of a sexual activity just because the woman has withdrawn her consent. He described his discontent with the proposal on a woman or a man withdrawing his/her consent before or during a sexual activity as follows:

The second point is on the issue of consent. Consent is given at the stage of take-off and all of us fly. Now, we are on a plane; we have taken off and we are at cruise speed and you say, stop. What do you want the pilot to do? To crash the plane? [Laughter] – Aren't you causing trouble to stop in the middle of nowhere?

Madam Speaker, I think we should define at what level do we allow consent? We say consent at take-off. For any normal man if you really accept to enter my bedroom or hotel room, I am already charged and it is already agreed that you have consented. Then we reach in the middle and you say – some men take Viagra; those ones who survive on such medicine, and the moment you say, consent withdrawn, the man dies of heart attack. These are people who die and you do not even get clear post-mortem results as to why they are dying.

(Thomas Tayebwa (NRM, Ruhinda North County, Mitooma) in Parliament of Uganda 2021a)

The analogy of the plane was quickly appropriated and deployed by different actors opposed to the Bill to the effect that the issue ceased to be a serious concern deserving attention of the state. The laughing-off of concerns about one's choice to consent to or withdraw consent in cases of sexual abuse derogated and trivialised the Bill, degenerating the parliamentary debate, and dismissing the activists. In social media, Pastor Martin Ssempe, a religious leader and ardent opponent of the Bill equated withdrawing of consent to a sexual activity as inconceivable as trying to stop a train in its track. These kinds of symbolic representations of masculine sexual domination drew on heteronormative-patriarchal frameworks to mobilise male opposition against the Bill while pathologising women activists' motives of criminalising oppression and forced encounters.

The media was also identified as a key factor in trivialising the debate. Rose Wakikona noted how the media 'turned parliamentary debates on sexual offenses into a comedy show', as the public was selectively fed 'the sexualised

humour that mocked rather than taking seriously and amplifying the voices of people who have suffered sexual violence'.¹³ Thus, the debate in parliament and the manner in which the media reported on it, was devoid of the seriousness the Bill deserved. The debate did not reflect enough on the experiences of sexual abuse but rather made fun of and laughed about sexualised content (language, practices) that is often censored in the public discourse. In the end, laughter had a trivialising effect, in as far as transformative provisions of choice, consent, and decisions regarding when and with whom to have sex were all dropped from the law.

6.6 Individual attacks on women

Women who were active and vocal on SOB were often singled out and attacked on an individual basis in parliamentary debates, online platforms, and other channels.

Most women who were arguing for the consent clause as a means of negotiating marital rape often faced personal attacks publicly. 'They would say, now you, would your husband rape you? would he?' You know like that, directly when you are trying to speak up for marital rape and then you are attacked through your husband. 'Can your husband rape you?' Why would you ask me such a question on the floor of parliament?¹⁴

Tactics such as these had the effect of isolating women, denying them the advantage of collective support, pushing them to account to a patriarchal regulatory system, and consequently shaming those judged as 'inappropriate' or 'bad' women. Public attacks of this nature make individual women activists the focus, and subject of scrutiny by a historically patriarchal parliament, rather than the Bill and what it stands for.

6.7 Denial of the significance of SOB

Backlash also manifested in the form of state institutions denying the urgency and the relevance of a law on sexual offences. The Ministry of Justice and Constitutional Affairs, for instance, repeatedly argued that most of the provisions in the SOB were catered for in the penal code and having a separate law would be a duplication. Similar sentiments were shared by the president when declining to sign the Bill into law. He thus recommended that the Uganda Law Reform Commission should be given an opportunity to review all the criminal laws and propose a comprehensive amendment for parliament's consideration.

¹³ Interview with Rose Wakikona, 23 November 2021.

¹⁴ Interview with Rose Wakikona, 23 November 2021.

The idea that the SOB was an unnecessary reform can be traced back to its inception. The Executive Director of ACFODE and part of the pro-SOB coalition recalls:

I remember we had a very big backlash, before it was named Sexual Offences Bill 2019, one of the backlash before was that we were looking for the law that was going to be more of a duplication of the penal code, we were being told that the penal code had included some of the issues that we were pushing for. But when you read the different reports, when you read the different research, when you read different submissions of different organizations, there were many issues such as defilement, rape that are not anywhere in our legislation not even the penal code. We have issues of aggravated defilement, then different forms of sexual offenses... which have all been included into this Bill.¹⁵

To the Executive Director, these forms of denial as backlash – the idea that the penal code was enough to address the offences suggested in the SOB – pointed to a lack of political will from the legislators and policymakers. She argued that perhaps actors who thought the Bill was unnecessary could be fearing being implicated by the same law. By implication, she adds, ‘if the Ministry of Constitutional Affairs strongly believes that we do not need the sexual offences Bill, don’t you think they can influence the president’s decision on whether to assent to it or not?’¹⁶

6.8 The paradoxical effect of male involvement

UWOPA worked with male legislators to promote the women’s legislative agenda. Women activists and allies acknowledged that while male legislators were recruited into UWOPA supposedly as allies and agents of change, they occupied fluid and complex positions. While some of the male legislators were focused and supportive of the women’s agenda, others were always shifting position in their alliance: ‘... whenever an issue that challenged men’s power came in, the men would change their hats and put on another cap in that direction to argue against what the women were bringing on board’.¹⁷ Amoding also believed that some of the male legislators allied with UWOPA spied on the women’s activities, and that they came in to monitor and see what the women were up to. Male engagement also seemed to replay private relations in the public space. Accordingly:

¹⁵ Interview with Executive Director, ACFODE, December 2021.

¹⁶ Interview with Executive Director, ACFODE, December 2021.

¹⁷ Interview with Monicah Amoding, 19 July 2021.

One reaches a point where you are literally pleading with men – pleading as if you are in a family setting, you are not equals, you are actually unequal in that discussion because you are asking them, begging them to recognise your rights.¹⁸

These revelations shed light on women legislators' frustrations in trying to ally with men. Such frustrations raise concerns that even when deliberate engagement with men is seen as a pragmatic approach necessary for negotiation in contexts of unequal power, it could in the long run reproduce the inequalities that are being challenged (Mwiine 2018, 2019).

¹⁸ Interview with Monicah Amoding, 19 July 2021.

7. Efforts to counter the backlash

SOB actors engaged in diverse strategies to counter and negotiate resistance. These strategies to negotiate opposition to the Bill included: mapping the opposition and engaging with these actors in a deliberate and targeted manner; discursive framing of the Bill; a deliberate media blackout; reliance on credible individual actors; forging issue-based coalitions; and mobilising support for the Bill within and outside parliament e.g. recruiting male allies. We elaborate on some of these strategies below.

7.1 Mapping the opposition and engaging with them in a targeted manner

In their coalitions, women activists pushing for the SOB engaged in deliberate ways of mapping opposition to the Bill and countering these forms of opposition. Opposition to the SOB was marked in different spaces drawing on lessons from previous gender reforms that had been opposed. Actors opposed to the Bill included some legislators in parliament, government bureaucracies, traditional leaders in communities, religious leaders, and some civil society organisations who were against the idea of legislating sexual offences. Women activists also identified media actors in Uganda as potential opponents of the Bill given past experience of their sensationalising and trivialising gender equity reforms. It is important to note that opposition to sexual offences kept evolving and shifting focus as the Bill was conceived, tabled, and debated in and outside parliament. Discursive shifts in the opposition often depended on the activists' discursive framing of the policy reform (Ahikire and Mwiine 2019). These shifts speak to women activists' creative efforts in negotiating, bargaining, and compromising to ensure passage of the reforms. By raising what she termed deliberate bureaucratic delays from government ministries – frustrations acquiring a certificate of financial implication, tabling gender reforms towards the end of the parliamentary session, excluding gender concerns from the government legislative agenda – the Bill's sponsor also alerted the public to the likely pushbacks in the reform process.

7.2 Deliberate media blackout

Media is often seen as an important tool in raising and sustaining a critical policy agenda in the public realm. For instance, Ahikire and Mwiine (2020) indicate that in the past women activists have trained media actors on gender-sensitive reporting during legislation on domestic violence. They subsequently engaged with the media to ensure that domestic violence legislation remained in the

limelight. However, for SOB, women activists identified and isolated media from their engagement on the policy reform. The tabler of the Bill shared how the coalition avoided media:

We avoided the media, we had noted that the media had become our biggest enemy as women, why, because when the Bill is tabled they run for the negatives immediately and the negatives overshadow everything. If you note in this parliament, a lot of discussion on gender-related Bills in the media was limited. We opted to leave out media in consultations, because we knew when they come in, theirs is to come and destroy.¹⁹

Activists decried the way the media often trivialises debates on gender, especially issues of sexuality. Indeed, debates on sexual offences dominated the public discourse during the parliamentary debate on the SOB. Some women activists found media reporting of parliamentary debate on sexual offences 'comical', centred on humorous ways of sexualising the debate, infantilising and ridiculing the entire Bill, as earlier anticipated. Activists noted that had this trivialisation begun in the early days of the policy framing, the Bill may not have even reached parliament.

Beyond these efforts, women further strategised not only to identify, but also to negotiate the pushback against the gender equity reform in different ways. Strategies ranged from individual efforts to organisational platforms, coalition building, and deliberately allying with oppositional actors to negotiate the passage of the Bill.

7.3 UWOPA as a platform for strategic manoeuvre

At the time of tabling the SOB, Amoding was chair of the UWOPA. The UWOPA sponsored the SOB and offered an influential platform upon which to forge an alliance amongst different actors within and outside parliament. The platform was also used to devise a series of strategies, negotiations, concessions, and compromises in pushing for the SOB and other proposed gender equity reforms. According to Monicah Amoding:

As a chairperson [of the UWOPA], I spearheaded my teams and said let's focus on four pieces of legislation in this parliament and ensure that we achieve this for the women's movement in Uganda and count it as gains we have been able to register as legislators in the 10th Parliament. We again reinstated the marriage and divorce; we reinstated the SOB and then we had amendments in the

¹⁹ Interview with Monicah Amoding, 19 July 2021.

Employment Act. There is this old law which had been on law books since 1906, the Succession Act which had never been amended. We were still dealing with the English canon laws. We decided that these four areas will be comprehensive and priority, but we were consulting with civil society on which areas were a priority and then of course those were the ones which came up.²⁰

Amoding's submission reveals how influential she was as a leader of a women's organisation that had a historical mandate of initiating, coordinating, and mobilising for gender reforms in parliament. For example, it is noticeable how, through constant consultations with women's rights organisations, Amoding identified stakeholders who would work with the UWOPA to promote the four aspects of the women's legislative agenda in the 10th Parliament. These consultations were also one of the strategies to mobilise support for gender equity reforms, build alliances in the women's movement across different actors with overlapping interests, and negotiate resistance.

The UWOPA identified and collaborated with LANDnet Uganda, a national network organisation founded in 2012 to spearhead reform on the Succession Act. LANDnet is an umbrella organisation that engages in research, capacity development, and policy advocacy on land governance, gender, agriculture, and natural resources management. LANDnet Uganda chaired the coalition of actors on the Succession Act legislative agenda. UWONET and its allies were tasked to revive the debate on marriage and divorce. UWONET is another umbrella organisation with a reputable history in legislative advocacy on gender equality. The coalition on the SOB was spearheaded by UWOPA, ACFODE, and CEHURD. The coalition on the employment Bill was headed by the Platform for Labor Action (PLA), a national civil society organisation founded in 2000 focused on promoting and protecting the rights of vulnerable and marginalised workers in Uganda. Each of the coalitions was given an opportunity to identify and interest partners to work with. The actors were also responsible for doing research around the Bills, mobilising resources, sensitising the public on the need for reforms, and countering any form of resistance.

Elsewhere, coalition/alliance-building in gender equity policy reform processes has been recorded as a strategic step to enhancing women's voice (Ahikire and Mwiine 2019; Mwiine 2022; Nazneen, Hickey and Sifaki 2019; Nazneen and Hickey 2019). For instance, in examining reforms on gender violence, Nazneen *et al.* (2019: iii) observe that: 'women's presence in formal politics and policy spaces does not fully explain the pace in adopting and implementing domestic violence law'. Other underlying rivers of change within broader domains of power include, among others, coalition-building and persuasion. Nazneen and Hickey (2019: 7) further argue that 'where coalition-building strategies have reached

²⁰ Interview with Monicah Amoding, 19 July 2021.

beyond parliaments to build alliances with actors in broader institutional spaces, success rates seem to have been higher'. The influence of coalition-building in gender equity reforms is also noted by Ahikire and Mwiine (2019) in their tracing of the reform process on domestic violence law in Uganda. They note that:

Key moments in the passage of law included the formation of a policy coalition in 2008 initiated by the Uganda Women's Network (UWONET) and later CEDOVIP (Center for Domestic Violence Prevention), which included women's civil society organizations; human rights organizations; academics; the Ministry of Gender, Labour, and Social Development; and the Uganda Women's Parliamentary Association.

(Ahikire and Mwiine 2019: 74)

Both existing research, and the women's rights coalitions that promoted the SOB agree that coalitions on policy reforms are central to the discursive framing of policy ideas, mobilising the public to ensure visibility of a policy issue, connecting a range of actors, legitimising the policy issue, and providing space to negotiate possible resistance.

In the context of the SOB, we argue that coalition-building among women's rights actors was not without effect. Despite intense opposition, the coalitions sustained a national (and indeed international) conversation on sexual rights of women thereby denting (symbolically or otherwise) the patriarchal and heterosexist public discourse that pathologises women's claims of rights of this nature.

8. Conclusion

The SOB legislative process reveals a complex web of gains in gender justice struggles, as well as resistance to them. While these forms of resistance, some of which are noted above, are becoming increasingly explicit compared to the early 1990s when gender equality struggles were taking shape in Uganda, others are more subtle, silent yet severely undercutting the real momentum of gender justice in the country.

Through the lifecycle of the reform, there is a pattern of consistent opposition to gender reforms that seek to transform unequal gender power relations around property, sexuality, and women's dignity. Indeed, women rights activists noted that an analysis of backlash against the SOB ought to be understood in the context of other reforms that have been unsuccessful. Reforms such as spousal co-ownership of land, the Domestic Relations Bill, and the Marriage and Divorce Bill, among others, represent a set of reforms strongly resisted in the Ugandan parliament, despite progress registered thus far on the country's gender equality agenda. Common amongst these reforms is the aim of transforming the norms, codified values, and doctrines that buttress a historically patriarchal system in Uganda. At the heart of the resistance are religious and cultural institutions which see gender equality as a Western agenda, one that runs in conflict with African culture.

The legislative process has also uncovered often taken-for-granted multiple, layered, and intersecting identities amongst women and men as social categories. Advocacy around the SOB revealed how women cannot be conceived as a homogeneous group, but rather how women's differences need to be harnessed for the promotion of rights of each individual woman. The Bill revealed differences in sexual identities, social class, ethnicities, and religious backgrounds. These differences manifested in internal fractures within the women's movement as some mainstream feminist activists selectively paid attention to some gender equity concerns whilst ignoring others. For instance, for some homosexuality and prostitution are no go areas which meant that they would condone their criminalisation.

Hence, the process revealed internal dynamics within the coalitions – the women's movement was divided, characterised by a lack of a coherent voice on rights. While some women celebrated the passing of the Bill by parliament, other sections of the coalition decried its regressive nature, especially the criminalisation of sex work and same-sex relations. For some, the legislative process could be characterised as successful in as far as it failed to deliver a regressive law. The process highlighted the fragmentation within the women's movement. Clearly there had not been an opportunity to harmonise differences

and the power map (see Figure 2.1) across the pro-SOB actors indicated multiple dotted lines indicating weak links between them. The conclusion to the power mapping workshop was an urgent need towards ‘fixing the dotted lines’ to ensure coherence in countering backlash against gender justice, especially for issues that are within the doctrinal arena (Htun and Weldon 2010).

Finally, we argue, that the reform process was a moment of revelation in terms of the intense opposition amidst seeming progress on gender equality in Uganda. While increasing numbers of women in policymaking positions and social movements matter for pushing gender reforms, the nature of the policy reform matters too. The nature of the policy reform determines the kind of opposition it is likely to attract and the impact this opposition will have on the policy outcome. However, despite the intense opposition and the subsequent failure to pass the SOB, there is a lot to learn from women’s experience of engaging with the sexual offences debate. For instance, until recently, matters of sex and sexuality were seen in most African societies as issues that can only be deliberated on within the private domain, by men. Having women activists mobilise around women’s individual and private rights within the context of marriage and culture alerts us to their collective voice – speaking about a prohibited discussion on sexuality. Their efforts in articulating the relevance of the SOB, mobilising coalitions, working in alliance with some men, and moderating a discussion in public on sexual offences places them ‘outside the reach of power [and] upset the established laws’ (Foucault 1978: 6). Women activists have demonstrated their deliberate exercise of power in a highly patriarchal and heteronormative society, even when the Bill was not passed into law. The debate made visible sexual offences that are often taken for granted, e.g. sexual harassment, rape, including marital rape, and defilement in the Bill. To recall Butler (1988), it is such subversive acts that provide possibilities for gender transformation.

Annexe: Interviews

Position	Organisation	Interview date
Violence Against Women Prevention Consultant	Raising Voices	24 November 2021
Lawyer/advocate	CEDOVIP (Center for Domestic Violence Prevention)	25 November 2021
Executive Director/ Programmes Coordinator	UWOPA (Uganda Women Parliamentary Association)	25 November 2021
GBV Coordinator	UWONET (Uganda Women's Network)	30 November 2021
Head Strategic and Litigation Officer	UGANET (Uganda Network on Law, Ethics and HIV/AIDS)	2 December 2021
Executive Director	ACFODE (Action for Development)	1 December 2021
Executive Director	Uganda Key Populations	26 November 2021
Lecturer	Makerere University	29 November 2021
Senior Campaign Manager	Development Media International	2 December 2021
Senior Programmes Manager – Strategic Litigation	CEHURD (Center for Health, Human Rights and Development)	23 November 2021
Pastor	Makerere Community Fellowship	12 March 2022
Chairperson of Luganda Language Association	Buganda Kingdom	10 March 2022
Programme Officer – Gender and Social Justice	Namirembe Provincial Secretariat	21 March 2022
Programmes Coordinator	Act Alliance	3 March 2022
Programmes Manager	AWAC (Alliance of Women Advancing for Change)	7 March 2022
Executive Director	Chapter Four	4 March 2022
Advocacy and Communications Officer	HRAPF (Human Rights Awareness and Promotion)	7 March 2022
Head – Paralegal and Outreach Services	HRAPF	7 March 2022
Former Member of Parliament	MP, 10th Parliament (2016–21)	19 July 2021

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