Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

1. Can you provide information on the Sebei – in particular. cultural practices?
2. Can you also provide information on the legal position in Uganda vis-a-vis female circumcision and forced marriage?
3. Can you provide information on services/assistance available to women in Uganda who fear forced marriage to a man of Sebei ethnicity or are required to undergo female circumcision?

RESPONSE

1. Can you provide information on the Sebei – in particular, cultural practices?

The Sebei are also known as the Sabei and Sabiny. Information provided in response to this question has been organised under the following headings:

- General Information
- Female Circumcision
  - Numbers
  - Legal Situation
  - FGM Customs of the Sabiny in Kapchorwa
  - REACH [Reproductive, Education and Community Health] Project
  - Surgeons
- Marriage

General Information

A seminar paper dated May 2004 by a Santa Clara University law student provides information on the Sebei of Uganda including demographics, daily life, legal structure, contracts, offences and sorcery. The following is general information on the Sebei.

> The Sebei are a tribal people living on the northern and north-western slopes of Mount Elgon, and on the plains below, in eastern Uganda.
>
> …Population statistics are a bit confusing. One source, from 1971 cites 35,000 Sebei, but another source in 1994 cites 120,000. This latter number is quoted to be to 0.6% of the Uganda population, which corresponds to a 2003 population quote of 25,632,794. Regardless, the Sebei are a small percentage of the Ugandan population.
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> The Sebei are classified as NiloHamitics and speak a language of the Nandi cluster which is now generally called Kalenjin.
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> …The Sebei live in somewhat of a pie-slice shaped area encompassing both mountain heights and dry plains in the present Kapchorwa district.
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> …Some Sebei communities are primarily pastoralists (cattle-keeping) and others are farmers (hoe-farming), depending on their location.
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> …The Sebei are polygnous with women marrying soon after initiation, in their mid-teens. Men traditionally married later, closer to their thirties. Each wife has her own house which includes her kitchen. She also has her own plot of land to cultivate and usually collaborates with her co-wives. The women do most of the cultivation, cooking, beer-making, house maintenance, and milking of cows. The men look after the cattle, sheep and goats, clear bush, and occasionally hunt game. Livestock are kept in thorn kraals, Scattered households form Sebei neighborhoods.
>
> Drinking beer made of maize, plantains, or honey is an important, daily, activity for the Sebei.
>
> …More significantly, cattle is the primary measure of wealth for the Sebei and many surrounding tribes, and the easiest way to increase the size of a herd is to raid the neighboring tribe's stock. Thus, Sebei men are on the constant defensive from raiders and are sometimes raiders themselves.
>
> Societally, the Sebei recognize agnatic kin units (clan or *aret*) and spatial units (tribe or *pororyet*) and age-sets (*pinta*). The clan is a patrilineal descent group which is further divided into lineages, or *korik* (singular, *kota*). Clans are not named and are occasionally linked together in groups of two to four. Each clan has ancestral spirits (*oyik*) who monitor the clan's welfare and its members' behavior. "These spirits can harm only members of their own clan, except that the spirits of the mother's clan may also affect the welfare of a person."
>
> There are about fifteen acephalous tribes, or *pororyets*. These tribes are not formally organized into a larger entity; however, they share a prophet and a ceremony called ntarastit. A tribe is divided into smaller entities, called *songmwek* (singular, *sangta*), similar to a village.
>
> Both men and women belong to age-sets, and though it is a more formal relationship for men, the age-sets have evolved to have little to do with Sebei law. The original purpose of the age-set is thought as defining the roles of the men according to age and abilities, forming functional units such as warriors and elders; however, the role of age-sets for the Sebei is limited to evoking "a measure of protocol in interpersonal relationships" between coinitiates. An age-set is a named group that spans about twenty-years.

> The age-set is defined as those boys and girls who are initiated during a particular period of time. **Both boys and girls are indoctrinated with Sebei values and initiated through circumcision** [researcher emphasis added]. Although circumcision is a cultural tradition rather than a legal institution, **it is only through initiation that a child becomes an adult in status** [researcher emphasis added]. Male circumcision is formally organized and conducted every two years (previously every five to seven years) whereas the female circumcision is performed annually and is scheduled more casually with the primary requirement of the enough maize to make sufficient beer for the occasion.
>
> Marriage rules prohibit marriage between a man and the daughters of an age-set mate and marriage between clan members. **Marriage can be by capture, elopement, or prearrangement** [researcher emphasis added]. Brideprice is negotiated and paid and is discussed later as a Sebei contract. The Sebei consider physical beauty an important criterion for spouses.
>
> …In general, the Sebei have "(1) fear of death, (2) diffuse anxiety, (3) fear of the malignant power of women, (4) profound jealousy and hostility, (5) desire for population increase, and (6) respect for seniority." The Sebei obsession with death is a fearful dread. They are not necessarily concerned with the means of dying, "it is death itself that terrifies them." Furthermore, the Sebei are afraid of everything, even their friends and family. Fear and jealousy hinders them to be cooperative with each other. Jealousy is expressed in terms of stealing others' possessions. Sebei women are to be feared due to "their supernatural power as witches, and their secular power as shrews." Women encourage this belief (Benintendi, Lori 2004, *The Sebei of Uganda*, David D. Friedman's Homepage, May http://www.daviddfriedman.com/Academic/Course_Pages/legal_systems_very_different_05/final_papers_04/benitendi_sebei_04.html – Accessed 23 May 2005 – Attachment 1).

Kapchorwa district is highlighted on the attached map of Uganda ('Uganda Districts' (undated), Uganda Bureau of Statistics website http://www.ubos.org/map%20of%20uganda.html – Accessed 25 May 2005 – Attachment 2).

Female Circumcision

Female circumcision is also known as female genital mutilation (FGM) and female genital cutting (FGC).

- **Numbers**

According to George William Cheborian, Chairperson of the Sabiny Elders Association and reported in *The Monitor* on 26 December 2004, "less than 50 per cent of the entire population of this region practices FGM. And even in those communities that still allow the practice, it is disappearing. We were able to affect real and lasting change through our community outreach efforts" (Kirunda, Kakaire A. 2004, 'Sabiny Men Speak Out On FGM', *The Monitor*, 26 December, allAfrica.com website http://www.allafrica.com/ – Accessed 23 May 2005 – Attachment 3).

An article dated 25 January 2005 by *New Vision* reports that "594 women were circumcised in Kapchorwa district under the Sabiny ritual that ended on December 31."

> Data from all the district's 49 parishes showed that the number of women who underwent the ritual dropped from 621 in the 2002 circumcision season. The data showed that 261 women

> were saved from the knife through peer education and provision of incentives to the circumcision surgeons, some of whom hail from Kenya.
>
> …Kalenget said some of the circumcision rituals were carried out in the night to avoid detection (Etengu, Nathan 2005, '600 Women Circumcised', *New Vision*, 25 January, allAfrica.com website http://www.allafrica.com/ – Accessed 24 May 2005 – Attachment 4).

According to the US Department of State *Country Reports on Human Rights Practices 2003* the Sabiny carry out FGM ceremonies every two years so there were no reported cases in 2003.

> FGM was practiced by the Sabiny ethnic group, located in the rural Kapchorwa District, and the Pokot ethnic group (also known as the Upe), which inhabited the northeastern border with Kenya. There were approximately 10,000 Sabiny and approximately 20,000 Pokot in the country. Among the Sabiny, initiation ceremonies involving FGM were carried out every 2 years. Because the ceremony took place in 2002, there were no recorded cases of FGM among the Sabiny during the year (US Department of State 2004, *Country Reports on Human Rights Practices 2003 – Uganda*, 25 February, Section 5 Women – Attachment 5).

According to the US Department of State *Country Reports on Human Rights Practices 2002* 586 Sabiny women underwent FGM in 2002 down from 621 in 2000.

> FGM was practiced by the Sabiny tribe, located in the rural Kapchorwa District, and the Pokot tribe (also known as the Upe), which inhabited the northeastern border with Kenya. There were approximately 10,000 Sabiny and approximately 20,000 Upe who lived in the country. Among the Sabiny, initiation ceremonies involving FGM were carried out every 2 years. During the year, initiation ceremonies took place in Kapchorwa. The NGO REACH [Reproductive, Education and Community Health] recorded a total of 586 women who underwent FGM. These figures were down from the 621 reported in 2000 (US Department of State 2003, *Country Reports on Human Rights Practices 2002 – Uganda*, 31 March, Section 5 Women – Attachment 6).

An article dated 9 December 2002 in *The Monitor* reports that 971 Sabiny girls underwent FGM in 1990, 854 in 1994 and 544 in 1996 (Wetaka, Ahmed 2002, 'Female Circumcision Nosedives, As Reach Project Takes Root', *The Monitor*, 9 December, allAfrica.com website http://www.allafrica.com/ – Accessed 24 May 2005 – Attachment 7).

- **Legal Situation**

According to the most recent US Department of State *Country Reports on Human Rights Practices 2005* there is no law against FGM in Uganda

> There was no law against FGM, but the Government, women's groups, and international organizations continued programs to combat the practice through education. These programs, which received some support from local leaders, emphasized close cooperation with traditional authority figures and peer counselling. Significant press attention to these ongoing efforts brought public attention to the problem during the year (US Department of State 2005, *Country Reports on Human Rights Practices 2004 – Uganda*, 28 February, Section 5 Women – Attachment 8).

An article dated 28 January 2005 by *The Monitor* reports that the Sabiny community has asked the Ugandan Government to ban FGM.

The Chairman of the Sabiny Elders Association, Mr George William Cheborion, said they have fought FGM for nine years, but there are few people who are secretly supporting the circumcision of girls.

"What we want from the government is a law to enable us apprehend these people. We shall not tolerate people who still want to cherish this inhuman culture of injuring the sexual potential of our girls. The government should help us deal with them," he said.
The meeting of Sabiny elders, sub-county and parish LCs, chiefs and politicians who had met on Friday, to asses the decline of FGM in the district, resolved to make their own bylaw to ban FGM in the district if the central government delays to address the problem.

…The woman MP, Ms Gertrude Kulany, appealed to the LC leadership to come up with regulations to criminalise traditional surgeons who carry out female circumcision within their communities.

…She also told the meeting that Mwenge South MP, Ms Dora Byamukama, has drafted a private members Bill to ban FGM in Uganda.

"We shall soon bring the Bill for your input and Parliament shall enact a law to ban female circumcision," he said.

The Kapchorwa RDC, Mr Joseph Arwata, said there was need for a law to completely ban FGM in the district.

"Am also aware that some few elements and even few politicians are secretly supporting this inhuman culture of female circumcision. What we want is a law and we shall deal with them." He added that, "Am in charge of the intelligence of this district and I have learnt some security operatives use their guns to protect Kenyan traditional surgeons to cross to Kapchorwa and carry out female circumcision and disciplinary action shall be taken against them."

He also called upon the district leadership to come up with a homemade law against FGM, which enable law enforcers to apprehend those who are sponsoring the female circumcision.

The Managing Director REACH Ms Beatrice Chalangat said though they are few challenges, the practice is slowly going down.

"Fighting culture is not something easy but at least according to number of people being circumcised now, we shall win the battle," she said (Nandutu, Agnes 2005, 'Sabiny Want Genital Mutilation Banned', *The Monitor*, 28 January, allAfrica.com website http://www.allafrica.com/ – Accessed 24 May 2005 – Attachment 9).

- **FGM Customs of the Sabiny in Kapchorwa**

A March 2000 report entitled *Female Genital Mutilation and Associated Gender and Political Issues Among the Sabiny of Uganda* provides extensive information on the FGM customs of the Sabiny in Kapchorwa.

Female genital mutilation or female genital *cutting*, as it is preferred among the Sabiny tribe in Kapchorwa, has been a part of their culture for as long as anyone can remember. Both boys and girls are circumcised... Among the Sabiny, the type of FGM practiced is excision, where the clitoris and labia minora are cut away. "Spontaneous infibulation," the knitting together of the wound through scar tissue, often occurs, but no stitching is traditionally involved to close the wound. It is considered the female parallel to male circumcision. …Prior to cutting some

girls are in secondary school, with fees paid by their families. After being cut, girls usually drop out and get married.

Although only about 5% of all the women in Uganda are cut, until recently almost all of the females in the Kapchorwa District were cut. The Sabiny are well known for this practice among other Ugandans. For the Sabiny, cutting marks the passage of an adolescent into adulthood. Circumcision season falls during the November/December school holidays of even-numbered years for both boys and girls, though some are cut in the off-years if they wish to marry. Girls who avoid cutting usually relent under heavy social pressure and intimidation from relative and neighbors despite the promise of lifelong pain and the possibility of death (Kuka 1998). Even a woman who manages to get married prior to cutting is likely to be pressured into it after marriage by her in-laws.

A three-week festival accompanies circumcision and cutting when girls of about 15 years old and boys of 17 or 18 from throughout the region are initiated. It is a big occasion for everyone. Once the season is declared open by the elders, for about three weeks male circumcision candidates run through the villages of the District, collecting gifts and congratulations from friends and relatives, who often join in the run to the next village. During this time, a boy collects the foundation for the bride price to be offered for a newly circumcised girl to be his wife. Female cutting candidates do not tour the district but remain in the family homestead, where they are prepared for what is to come.

There is feasting and merry making. Local maize beer is brewed for the occasion and sipped by adults gathered around a pot using special three-or four foot long straws. Beer drinking is so important to the festivities that ceremonies were traditionally timed to coincide with large maize harvests.

On the night before the cutting is to take place, age cohorts and school mates gather together, separated by gender. Girls dance all night and the accompanying singing and drumming resounds throughout the area. Around dawn the next morning, the "secrets" and history of the culture are imparted to the initiation candidates. Young men and women are exhorted never to reveal their tribal secrets to uncircumcised Sabiny or to outsiders. Then comes the cutting and circumcision, performed in separate places. (Traditionally men could not be present during the ceremonies for girls, but this appears to have changed somewhat in recent years.) Sabiny girls are expected to be brave during the procedure. They are not restrained. They lie down in turn on the cutting mat with their arms extended over their heads. After pulling up their skirts and arranging their legs to allow the procedure they do not blink an eye in reaction to the cuts. After the excision, the girls are allowed to recover without much aftercare. The wound is traditionally treated with cow's urine.

Cutting and circumcision not only make the passage into adulthood, they mark the beginning of community and civic responsibility. Prior to the cutting, a girl is not allowed to speak in public, in front of those who have already been circumcised. She is considered "only a girl," and may not even undertake important women's tasks such as milking cows and drawing grain from the communal granary. However, after she is cut she is accepted as a woman, with all the prerogatives granted by the Sabiny, including full rights to leadership as an elder among the tribe (Horsfall, Sara & Salonen, Rebecca 2000, *Female Genital Mutilation and Associated Gender and Political Issues Among the Sabiny of Uganda*, March, Stop FGM website http://www.stopfgm.org/stopfgm/doc/EN/90.pdf – Accessed 24 May – Attachment 10).

An article dated 22 February 2005 in *New Vision* provides information on three Sabiny women who are now disabled due to FGM. The article reports on the community's belief that

the women were cursed or bewitched. The article also notes the increase in the number of women getting circumcised in the advanced years of marriage.

> BETTY Chespi and Monica Cheruikut, both in their 40s, were once active and happy nursing-aids in Kapchorwa Hospital. Today they are paralysed in both legs.
>
> …The two women were circumcised together with Judith Yapmangusho, their agemate, at puberty. Yapmangusho is also paralysed. Disability struck the three women 10 years after their circumcision.
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> What started as a cultural ceremony amidst dancing and drumming turned into tragedy after they each had three children.
>
> …The community believes either the 'surgeon' bewitched the women for failing to pay the mutilation fee or some of spirits associated with Female Genital Circumcision (FGC) ceremonies were not appeased.
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> …Chalengati [REACH Assistant Project Manager] says the community has mixed feelings about the status of the three women. "While they seem to agree that female circumcision causes disability, they are divided on how it actually occurs," she says. Chalengati says the three disabled women testify that the doctors who examined them on separate occasions did not diagnose any disease, raising the possibility that they were either bewitched or cursed by the mutilator.
>
> …Before the Government made it optional, the Sabiny circumcised 10,000 girls every year.
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> Although FGM has reduced, a new trend has emerged. **More women are being pressured to give in to the ritual. Many parents are now aware of the importance of educating their daughters, but in-laws are ignorant of the consequences** [researcher emphasis added].
>
> Previously, the ceremony involved merry-making. It was the greatest cultural event. Today, women are circumcised in haste, fearing to run into the anti-FGM crusaders. A candidate follows the mutilator to her home, where the clitoris is hurriedly cut off.
>
> **REACH's recent reports show an increase in the number of women eloping with men and ending up getting circumcised in the advanced years of marriage.**
>
> **This means the campaign has protected only the girls under 18** [researcher emphasis added].
>
> …Kuka [Former Minister for Disaster Preparedness], also the vice patron of FGC says it was through community education that the Government made FGC optional, after the Sabiny Local Council passed a by-law making the ritual obligatory (Emasu, Alice 2005, 'Disabled By the Sabiny Knife', *New Vision*, 22 February, allAfrica.com website http://www.allafrica.com/ – Accessed 24 May 2005 – Attachment 11).

An article dated 26 December 2004 in *The Monitor* reports on FGM ceremonies. The article notes that circumcision is "a must" in Kapchorwa because uncircumcised women are not considered full women.

> Chelangat and Chebet are students at Amanang Secondary School, Bukwa sub-county, Kapchorwa district. The girls, who didn't want their father to hear what they were telling me, said they could not be accepted as family members until they had been circumcised.

“You see we have reached secondary school without getting circumcised and our friends were laughing at us. Our parents were also putting pressure on us. The chapter is now closed because we have done what they want,” says Chebet, looking rather miserable.

…While human rights groups are trying to help communities that practice FGM find a different way to celebrate a girl’s womanhood without causing her harm, several young girls in Kapchorwa are still being subjected to this extremely painful procedure that can cause infection and severe bleeding, and even lead to death.

…Circumcision for both men and women is a must in rural Kapchorwa. It is so important that if one is not circumcised, he/she cannot be allowed to participate in important clan meetings. For the women it is even worse – she would not get a husband, is not allowed to go to the spring to fetch water, cannot collect food from the granary and cannot clean the kraal. This is because uncircumcised women are not considered full women.

…Though I was in Kapchorwa during this years’s circumcision period, I could hardly see any activity in town because people in town no longer follow the practice.

Arapkissa advised me to travel to Kongasis county where FGM is still rampant. Vehicles to Kongasis were difficult to come by, but we were lucky to get a tipper lorry. As the tipper went up the hills, we came across two FGM candidates, preparing for the ceremony in Binyiny sub-county.

We requested the driver to stop so I could talk to them. Josephine Chelangat and Mercy Chemtai were equipped with whistles around the neck to alert people that candidates were passing around. When I ask them why they were determined to undergo such a painful exercise, Chemtai says the culture has been there since they were born and there was no way they could escape it.

“Nobody forces us to be circumcised but the society that we live in does. We shall not be identified among other women if we don’t go through it. It is such a painful practice but we have nothing to do,” she tells me.

As we arrived in Bukwa, Kongasis county, we found two yellow and red flags hanging up a tree in a home. This signified that two girls and one boy have been circumcised in that home.

We decided to go to the home and as we approached, a man tells us to stop and meets us where outside the home. Traditionally, no stranger is supposed to meet the circumcised girls because they believe it causes severe bleeding.

Mzee Kwerit Saik Samson brought chairs and welcomed us under the tree. This is a man who is determined to follow the footsteps of his ancestors.

“Since I and my wife were circumcised, I will do the same to all my children, both girls and boys and no body can stop me,” he says.

He says the REACH programme and UNFPA have been sent by the whites to destroy their culture. “My daughters have to get circumcised to get husbands,” he says.

Kwerit says many girls who have listened to REACH and UNFPA’s campaigns against their culture have got problems in their marriages.

“When they face problems because they have not undergone circumcision, they always come back and we circumcise them,” he says with a smile [researcher emphasis added].

Circumcision starts on December 1 to 30 every even year. FGM is performed on girls between the ages of four and 12; it is an automatic qualification for marriage.
The woman councillor for Amanang sub-county, Ms Evelyne Chelangat Tete knows the pain of FGM because she was circumcised at an early age.

"We should help our girls to abandon this bad culture. I would not like others to experience what I went through," she says. **"To add insult to the injury, during the process of healing, boys begin coming for you and you are forced into marriage."** [researcher emphasis added]

In homes where there are candidates for circumsicion, it is like a big party. Families begin by budgeting and preparing beer and food for the big day. After the preparations, the parents send the candidate out to invite the relatives.

The girls are also given gifts like chicken, goats and money from the relatives. They move in a group of 2-6 girls and sometimes, boys accompany them.

They wear beads around the waist, necks and hands and go dancing for about four days. On the eve of the exercise, the parents, relatives and mentors sit around a big pot of beer, drinking all through the night. The girls, smeared with millet flour dance all night.

Just before dawn, the mentors take the girls to a river where they are immersed into very cold water at 5 a.m. to freeze their bodies so that they cannot feel pain during circumcision. They are then circumcised early morning.

Women of 40-70 years perform the exercise and the healing process takes about two weeks to one month. Herbs are used for healing but girls are encouraged to let urine go into the wound to heal quickly.

Chelangat says the man who is supposed to marry you takes you to his home before healing. This is normally done to avoid any other person from having sex with you. "The boys want to take somebody who is still fresh and keeps you in his home until you are healed," she says.

In the process of healing, the mentors keep the girls indoors to train them in marriage.

…Rev. Moses Bushendich associates FGM with demonic forces. "The girls first perform some rituals before one is allowed to bath. The mentors also make sacrifices of milk, meat and alcohol to the gods," he says.

This, according to him is because of the belief that if rituals are not performed, it may result in severe bleeding and even death. After healing, there is another process known as leopard ordeal that the girls have to undergo. Nobody is supposed to know what happens inside the rooms except the mentors.

The girls come out with wounds on their right hand, which they refer to as a leopard's scratch. They have to swear never to tell anyone what happens in those rooms (Nandutu, Agness 2004, 'Destructive Culture; Female Genital Mutilation Still Rife in Kapchorwa', *The Monitor*, 26 December, allAfrica.com website http://www.allafrica.com/ – Accessed 23 May 2005 – Attachment 12).

An article dated 9 December 2003 in *New Vision* reports that "girls who have survived the knife in their adolescent stages are being forcefully circumcised upon marriage."

WHILE the commitment by the anti-Female Genital Circumcision (FGC) activists to eliminate the practice among the Sabiny of Kapchorwa district by 2006 still stands, meeting the target is becoming elusive with the new developments in the Sabiny society.

The girls who have survived the knife while in their adolescent stages are being forcefully circumcised upon marriage.

…The 2002 enumeration results of FGC in Kapchorwa district conducted by the Family Planning Association of Uganda (FPAU) show that in-laws and husbands are playing a significant role in the decision to have married women circumcised.

In the past, girls between the age of 13 to 20 were the main participants. Today the age bracket has widened to 48 years of age.

“This is partly because women who were not circumcised in their adolescent stages are going in for the knife upon marriage,” says Patrick Kitiyo, a youth counsellor with FPAU-Kapchorwa, and one of the people who took part in the enumeration exercise.

Kitiyo says harassment, intimidation, peer pressure and cultural beliefs are some of the reasons married women are going in for the knife.

“These conditions apply more to women living deep in the villages. Here it is a taboo for uncircumcised women to climb into their own granaries, preside over cultural ceremonies and to collect cow dug from one’s kraal,” he said.

Kitiyo says it is also considered a taboo for uncircumcised woman to fetch water ahead of the circumcised women.

“They are referred to as ‘girls’ and elders look at them as people who have nothing developmental to contribute to any debate and because society has also deemed it a taboo for them to climb into granaries or even collect cow dug, these women have been forced to undertake circumcision to avoid harassment,” he explains.

As a result, the range of married women undergoing FGC is widening. Out of the 647 women who were circumcised last year, 436 (67.4%) were married.

The sub-counties of Benet, Bukwo, Swum, Kwanyi and Kaprorom registered the highest number of married females who under went circumcision.

Enumeration results also show that 344 of the FGC cases were from Kongasis County while Kween and Tingey registered 244 and 68 cases respectively.

…“But while we are doing our best in eliminating the practice, girls we have saved from the knife in their adolescent stages are now falling victims upon marriage,” she [Beatrice Chelangat, REACH Programme Manager] adds.

“However, we have laid a new plan and starting next year we will be targeting newly married couples. We want them to denounce FGC in the same way they did while in their adolescent stages,” she says.

Women undergoing circumcision also vary according to fertility experience. While some are circumcised before giving birth, others are circumcised after.

FGC is associated with a lot of festivities. These involve feasting, family reunion and merry making by the community.

> "After circumcision, the candidates are bestowed upon the status of womanhood. This is one of the factors that make the practice cherished," says Kitiyo.
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> …[T]he Sabiny – especially the elders – still regard FGC as a sacred ritual that is sanctioned by their ancestors.
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> Their cultural belief is that a woman cannot be considered to be an adult until she has undergone this procedure (Nangoli, Fred 2003, 'Sabiny Now Circumcise Married Women', *New Vision*, 9 December, allAfrica.com website http://www.allafrica.com/ – Accessed 24 May 2005 – Attachment 13).

An article dated 2 December 2003 in *New Vision* reports that Sabiny from Kapchorwa who have moved and settled in other parts of Uganda still practise FGM.

> Examples have been cited among the Pokot, Tipeth, Bok and Sabiny immigrants in Nakapiripirit District.
>
> Female genital cutting has also been cited in Kyenjonjo, Mpigi, Tororo, Busia, Palisa, Kumi and Bugiri districts.
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> Beatrice Chelangat, the programme manager, REACH Programme, an NGO aimed at eliminating FGC in Kapchorwa District said the practice is mainly among the Sabiny immigrants from Kapchorwa and among the Nubians, Somalis, Masai, Nandi and Sudanese immigrants who have moved and settled in different parts of Uganda (Nangoli, Fred 2003, 'Female Genital Cutting Cited in Other Districts of Uganda', *New Vision*, 2 December, allAfrica.com website http://www.allafrica.com/ – Accessed 24 May 2005 – Attachment 14).

Hellen Alyek of the Ugandan police force presented a paper entitled *Harmful Cultural Practices against Women and Children (Girl Child) in Uganda/Africa* at the Third Australasian Women and Policing Conference which was held 20-23 October 2002. The paper provides the opinions of women and men from Kapchorwa on FGM.

> Opinion of the Women on FGM
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> About 50% said that they want their daughters to have decent marriage and they have to under go cultural rituals (FGM) because their grand mothers went through the same culture.
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> About 30% contested that all women in the world do undergo FGM, so it is a must to all women in Kapchorwa district to go through FGM.
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> 20% of the women were against FGM because they themselves went through a horrible pain which they do not want their daughters to go through that experience.
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> Men's Opinion on FGM
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> 65% of men interviewed do support FGM because it tamed women not to love men (to have a boy friend) outside their marriages hence avoiding prostitution.
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> 25% of men said that this kind of ritual which is against females should be abolished because at times death may occur due to loss of blood and women have problem during birth. A % of men interviewed are totally ignorant of FGM. They think that all females are made to go through such ritual. They take it for granted that every female woman must undergo the FGM because it is a culture (Alyek, Hellen 2002, *Harmful Cultural Practices against Women and*

Children (Girl Child) in Uganda/Africa, Paper presented to the Third Australasian Women and Policing Conference: Women and Policing Globally 20-23 October, Australian Institute of Criminology website http://www.aic.gov.au/conferences/policewomen3/alyek.pdf – Accessed 24 May 2005 – Attachment 15).

- **REACH Project**

An article dated 9 December 2002 in *The Monitor* provides information on the REACH project.

> The Reproductive Education and Community Health Organisation (REACH) project, is a saviour for the Sabiny community, as they fight against the cultural practice of female genital mutilation.
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> Started in 1996, REACH is a brainchild of a resolution adopted at the international conference on population and development in Cairo. The resolution states that everyone, "has the right to the enjoyment of the highest attainable standards of physical and mental health."
>
> Funded by the United Nations Population Fund (UNFPA), REACH is implemented by the Kapchorwa local government. REACH has among its goals, the enhancement of reproductive health conditions of all people where FGM is practiced, through discarding of the harmful practice of the FGM. It calls for promotion of good cultural values and making quality reproductive services accessible to the communities. The project enjoys support from the local community including the Sebei Elders Association (SEA).
>
> …Their strategies aim at separating the cultural practice of actual cutting, which is harmful, from the cultural values of initiation, which need to be promoted.
>
> …Cultural days have also been introduced at the district and sub-county level. Held every Nov 30, the cultural day enables the community to identify successes and failures, and above all, to inform the community about REACH programmes.
>
> REACH also uses health workers as resource persons and counsellors. It supports the rehabilitation of health units in remote areas with high FGM prevalence. However several other new health units and aid posts at the lower villages have been put up to take services nearer to the locals.
>
> For efficiency of service delivery, REACH works with other stakeholders in the district including, the Sebei Elders Association (SEA), Ministry of Health, Population Secretariat and UNFPA who are the special donors.
>
> The chairman Sebei Elders Association (SEA) William Cheborion says the elders body was established in 1992 with the aim of fighting FGM and other harmful practices among the Sabiny community, but it was grossly ineffective until REACH came to their rescue. "Through seminars, training workshop and cultural day celebrations organised by REACH, participants are able to learn and share experiences on their anti female genital cutting crusades. Cheborion says that through the REACH partnership with the elders association, there are some changes especially in FGM practices.
>
> …REACH has also been able to succeed in the creation of a free and conducive environment on the discussion of FGM that was not the case before. Today, there are several groups including school children, who act drama pieces to clearly portray the dangers associated with FGM.

> …Kapchorwa Resident District Commissioner, Tezira Jamwa also testifies about the increasing role-played by REACH in as far as fighting FGM. Tezira says that through REACH programmes, the practice has reduced by 90 percent. "REACH is doing a good job but there are saboteurs who do not want the programme to prosper," said Jamwa during Kongasis County pre-cultural day held at Namanang Secondary School on Nov 15.
>
> REACH has learnt that one of the main reasons for the survival of FGM is the social pressure on the uncircumcised girls, mainly by the in-laws (Wetaka, Ahmed 2002, 'Female Circumcision Nosedives, As Reach Project Takes Root', *The Monitor*, 9 December, allAfrica.com website http://www.allafrica.com/ – Accessed 24 May 2005 – Attachment 7).

An article posted on the Reproductive Health Outlook (RHO) website reports that FGM is being eliminated in Kapchorwa though a partnership between the Sabiny Elders Association and the REACH project funded by UNPF.

> The partners' work in replacing FGM with a symbolic ritual has been so successful that the head of the Elders association, G.W. Cheborian, received the 1998 United Nations Population Award and its $25,000 prize to supplement the work of the Association.
>
> …As recently as 1990, the Sabiny chiefs were staunch defenders of FGM, even clashing with the government of Uganda over the issue. Then, in 1992, the chiefs formed the Elders Association and decided to methodically review their traditional practices. They decided that FGM was indeed a destructive tradition and began an effort to eliminate it.
>
> The goal of the REACH project was to build upon the work of the Sabiny Elders Association to enhance reproductive health of women and girls through discarding FGM, promoting positive community values, and providing accessible reproductive health services. Specific objectives included sensitization of specific target groups including traditional birth attendants, improved reproductive health services, and a newly established district population coordination structure. Efforts to eliminate FGM were developed in partnership with the Sabiny Elders, and focused on celebrating positive cultural values through retaining certain aspects of the FGM ceremony, like feasting and gift-giving. An annual "Cultural Day" was instituted to promote healthy traditions and openly dispel myths about harmful practices. Community seminars and workshops are held regularly, often with participation of the Sabiny Elders Association. Peer education activities and health worker training are ongoing.
>
> Other organizations are involved too, helping strengthen and extend program bonds including the Family Planning Association of Uganda, the International Planned Parenthood Federation, and the Norwegian Agency for Development ('Harmful Traditional Health Practices: Program Examples – Uganda' (undated), Reproductive Health Outlook website http://www.rho.org/html/hthps_progexamples.htm#uganda-sabiny – Accessed 24 May 2005 – Attachment 16).

- **Surgeons**

A March 2000 report entitled *Female Genital Mutilation and Associated Gender and Political Issues Among the Sabiny of Uganda* provides the following information on the surgeons who perform the FGM.

> This elite group of women actually performs the operations. They are paid for their services, and are thereafter regarded somewhat as godmothers and advisors to the girls they cut and their families. They have a special status within the community, are honored and periodically given more gifts. The wealth that this elite group acquires is seen in their dress, and the status given them is demonstrated in their regal presence. A mystique surrounds them, as they are the

> custodians of special knowledge and traditions and are often believed to have special powers (Horsfall, Sara & Salonen, Rebecca 2000, *Female Genital Mutilation and Associated Gender and Political Issues Among the Sabiny of Uganda*, March, Stop FGM website http://www.stopfgm.org/stopfgm/doc/EN/90.pdf – Accessed 24 May – Attachment 10).

An article dated 14 July 2004 in *New Vision* reports that 10 surgeons in Kapchorwa resolved to abandon FGM.

> The surgeons and their assistants asked the UN to initiate income-generating projects and organise study tours during circumcision seasons.
>
> …They said FGM should be replaced by an alternative income source, if they are to abandon it (Muzungyo, Rashid 2004, 'Sebei Surgeons Abandon FGM', *New Vision*, 14 July, allAfrica.com website http://www.allafrica.com/ – Accessed 24 May 2005 – Attachment 17).

An article dated 11 October 2004 in *New Vision* reports that 15 Sabiny surgeons have asked the UN for a retirement package so they can concentrate on the campaign against FGM (Muzungyo, Rashid 2004, 'Sabiny Surgeons Petition UN', *New Vision*, 11 October, allAfrica.com website http://www.allafrica.com/ – Accessed 24 May 2005 – Attachment 18).

An article dated 10 December 2004 in *New Vision* reports that the UN has donated sh20m to purchase heifers as a retirement packages for Sabiny surgeons in Kapchorwa who have abandoned female circumcision.

> She [Beatrice Chelangat, REACH Project Manager] told Kapchorwa resident district commissioner Joseph Arwata that the UN would provide a two-month salary to the practitioners and provide alternative income and employment opportunities to them (Muzungyo, Rashid 2004, 'Sabiny Surgeons Get Heifers', *New Vision*, 10 December, allAfrica.com website http://www.allafrica.com/ – Accessed 24 May 2005 – Attachment 19).

Marriage

A seminar paper dated May 2004 by a Santa Clara University law student provides information on the Sebei marriage contract. The paper notes that marriage can occur by capture, elopement, or prearrangement

> Although a Sebei man may have as many wives as he wishes, most have only one, and very few have more than three. Once married, a man builds a separate house for each wife. The wife has rights to a portion of land and livestock belonging to him and he has rights to her labor and food production. Both have rights to access each other for sexual relations. There are no obligations between co-wives or their children; there is a separate marriage contract for each wife.
>
> There are restrictions, in addition to those mentioned earlier (marriage within a clan and marriage to the daughter of an age-set mate), to whom a man can marry. In essence, these restrictions prohibit a man marrying into his matrimonial lineage or a current wife's clan a second time.
>
> **The marriage contract is between the bride's father and either the groom or his father** [researcher emphasis added]. A ritualized bargaining session called "breaking the sticks" is used to determine the payment amount (primarily livestock) for bride-price. **Once this payment is made, the marriage is legally established** [researcher emphasis added].

The “breaking the sticks” starts with the bride’s family making a demand by placing tally sticks on the ground. The groom’s family (the groom is usually absent), push back the sticks with a response, and so it goes until an agreement is reached. The negotiations are in a specific order: first the number of cattle, then the goats and sheep, then money, and lastly personal goods, including beer. Interestingly, the distribution of the bride-price among the bride’s family is customarily established. The bride’s father receives all animals except one bull, one goat, ten percent of the money, some hens go to the bride’s maternal uncle, and one goat goes to the bride’s mother. The first daughter’s bride-price allocation goes to her mother’s oldest brother, and each younger brother receives his payment as subsequent daughters marry. The animals acquired can be used to pay the bride-price of the bride’s brothers. Sons can legally demand their father to provide cattle and other assets to pay his first bride-price. During the 1960’s, Goldschmidt estimated that the average value of bride-price to be about $200.

Bride-price is a widespread practice, especially in patrilineal societies. The groom is paying for the woman’s labor and reproductive capacity [researcher emphasis added]. “In Uganda, the Sebei pay more for young widows than for old widows, stating explicitly that an older widow has fewer reproductive years left.” If a wife dies giving birth to her first child, either the bride-price is returned to the husband or another woman is given to him. However, the wife’s father does keep a cow and a sheep as a form of consolation and to satisfy oyik (the spirits of the dead).

Bride-price payments allow for a redistribution of wealth among the Sebei, essentially switching investments between wives and cattle, and building and depleting herds accordingly. The relative scarcity of marriageable women or cattle is included in Sebei negotiations, evoking “a tacit law of supply and demand.”

The bride-price negotiation session establishes social obligations and sentiment between the two families in addition to addressing the economic considerations. “They expect mutual entertainment; one consideration in the acceptance of a suitor is whether he will be willing and able to provide beer.” The bride’s parents, not the groom’s, may also assert some previous harm done by the groom’s family and demand compensation.

The marriage contract is binding when the couple “exchange bracelets” after having lived together for awhile. During the time between the bride-price negotiation session and the “exchange of bracelets” ceremony, either party can withdraw from the marriage agreement for an appropriate cause. These causes include discovery of improper kinship or unresolved harms or quarrels between the couples’ clans [researcher emphasis added].

If a couple separates after the “exchange of bracelets” ceremony, they are regarded as divorced. A man may divorce his wife for laziness, repeated adultery, refusal to have intercourse, refusal to cook, engaging in witchcraft against him, abusing or cursing him because he is annoyed, using a weapon against him, being a murderer or thief, “if her vagina is black,” having “children three times and each time she kills them,” if she is unable to have intercourse, or is from an inappropriate clan. A wife’s father must agree if she seeks a divorce. A woman may divorce her husband if he “mistreats her by beating her too much when she has done nothing wrong,” does not provide enough land, is impotent, sterile, or refuses to have intercourse with her (sexual neglect), practices sodomy with her, is insane, or “curses her or spreads evil rumors about her.” “It is only upon the repetition of complaints that a divorce is seen as the appropriate solution.” In the event of divorce, the children live with the father although the mother retains her rights in her children, and her obligations.

When a man dies, and his widow is old, she goes to live with her grown sons. If she is still of childbearing age, she is inherited by one of her husband’s brothers according to the following

order. Although she technically has no voice in the decision, she may be able to successfully assert her preference through persuasion and reason.
1. next younger full brother
2. next older full brother
3. older full brothers in reverse order of their seniority
4. younger (adult) full brothers in order of seniority
5. half brothers
6. kota brothers
7. clan brothers (Benintendi, Lori 2004, *The Sebei of Uganda*, David D. Friedman's Homepage, May http://www.daviddfriedman.com/Academic/Course_Pages/legal_systems_very_different_05/final_papers_04/benitendi_sebei_04.html – Accessed 23 May 2005 – Attachment 1).

According to an Immigration & Refugee Board of Canada response dated 31 August 2000 "forced marriages are common in Kapchorwa."

> Various sources indicate that forced marriages are common in Kapchorwa and Pallissa districts, eastern Uganda, and in northern Uganda (Kuka n.d.; IPS 22 Dec. 1999; *The Monitor* 13 July 1999). According to Jane Kuka, Ugandan State Minister for Gender and Community Development, and a member of the Sebei tribe, female genital mutilation (FGM) makes young girls lose their sense of value or self respect. Consequently, most girls in the district of Kapchwora, "drop out of school and are forced into early marriage" (n.d) (Immigration & Refugee Board of Canada 2000, *UGA35148.E – Uganda: Forced marriage in Uganda in general, and among the Sebei people in particular*, 31 August http://www.irb.gc.ca/cgi-bin/foliocgi.exe/refinfo_e – Accessed 23 May 2005 – Attachment 20).

2. Can you also provide information on the legal position in Uganda vis-a-vis female circumcision and forced marriage?

- **FGM**

According to the most recent US Department of State *Country Reports on Human Rights Practices 2005* there is no law against FGM in Uganda (US Department of State 2005, *Country Reports on Human Rights Practices 2004 – Uganda*, 28 February, Section 5 Women – Attachment 8).

An article dated 29 January 2005 in *New Vision* reports that Parliament is drafting a law to criminalise FGM.

> Kapchorwa woman MP Gertrude Kulany said the law would be presented to Parliament as a private member's bill.
>
> "A copy of the draft will be sent to the district to enable them to sensitise the community and include information they feel should be accommodated in the bill," Kulany said.
>
> …She said the law would charge whoever offered herself for FGM.
>
> She said both the circumcision surgeons and the promoters of the practice would be charged under the law ('FGM Law in Offing' 2005, *New Vision*, 29 January, allAfrica.com website http://www.allafrica.com/ – Accessed 24 May 2005 – Attachment 21).

An article dated 12 March 2005 in *New Vision* reports that "MPs on the equal opportunities committee want the government to come up with a law that will allow the extradition of

Kenyan surgeons who conduct female genital mutilation (FGM) on Ugandans" (Maseruka, Josephine 2005, 'Legislators Want Law on Genital Mutilation', *New Vision*, 12 March, allAfrica.com website http://www.allafrica.com/ – Accessed 24 May 2005 – Attachment 22).

The UN Human Rights Committee regrets that the Ugandan government "has not taken all the necessary steps to eradicate" FGM and recommends that the Ugandan government should outlaw FGM "as a matter of priority."

> 10. The Committee takes note that the State party has acknowledged the persistence of female genital mutilation in some areas of the country, despite article 33, paragraph 6, of the Constitution which prohibits cultures, customs and traditions which are against the dignity, welfare or interest of women. The Committee regrets that the State party has not taken all the necessary measures to eradicate this practice (arts. 3, 7 and 26).
>
> The State party should take appropriate measures, as a matter of priority, to outlaw and penalize female genital mutilation and to effectively eradicate it in practice (UN Human Rights Committee 2004, *Concluding observations of the Human Rights Committee: Uganda* (CCPR/CO/80/UGA), 4 May http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.CO.80.UGA.En?Opendocument – Accessed 23 May 2005 – Attachment 23).

Article 33(6) of the *Constitution of the Republic of Uganda* 1995 may prohibit FGM.

> 33(6) Laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status ('Chapter 4 – Human Rights & Freedoms', *The Constitution of the Republic of Uganda 1995*, Parliament of Uganda website http://www.parliament.go.ug/chapt4.htm – Accessed 24 May 2005 – Attachment 24).

Article 2(2) of the *Constitution of the Republic of Uganda 1995* may make the custom of FGM void.

> 2(2) If any other law or any custom is inconsistent with any of the provisions of this Constitution, the Constitution shall prevail, and that other law or custom shall, to the extent of the inconsistency, be void ('Chapter 1 – People's Sovereignty', *The Constitution of the Republic of Uganda 1995*, Parliament of Uganda website http://www.parliament.go.ug/chapt1.htm – Accessed 24 May 2005 – Attachment 25).

No information on the Constitution being used to stop or prevent FGM was found amongst the sources consulted.

- **Forced Marriage**

According to a report published by the UN Human Settlements Programme in April 2002, there are five types of marriage and subsequently five marriage laws in Uganda. The report notes that customary marriages are the most common and are often carried out without the consent of the girl.

> At present, five types of marriages are recognised in Uganda: civil, Christian, Hindu, Muslim and customary marriages. Marriage must be monogamous if contracted under the Marriage Act of 1902, the African Marriage Act of 1903 or under the Hindu Marriage and Divorce Act of 1962. However, the Customary Marriages Decree of 1972 and Islamic law both allow polygamous marriages. In practice, customary marriages are most common, and are based on

> the payment of dowry or 'bride price', a tradition that contributes to the view of many men that 'women are their property', and is often carried out without the consent of the girl. Since the girl's parents receive the bride price, cases of girls being 'sold' by the parents are frequent. If a woman under a customary marriage wants divorce, she will need to pay back the dowry (Benschop, Marjolein 2002, 'Chapter Three: Uganda', *Rights and Reality: Are women's equal rights to land, housing and property implemented in East Africa?*, April, UN Human Settlements Programme website, p.79 http://www.unhabitat.org/publication/hs66702e/rr_chp3.pdf – Accessed 24 May 2005 – Attachment 26).

An article dated March 2001 in UNICEF's *Innocenti Digest* reports that women in Uganda are specifically not granted by law the right to "full, free and informed consent" to their marriage.

> Only in Cameroon, Jordan, Morocco, Uganda and Yemen are women specifically not granted by law the right to 'full, free and informed consent' to their marriage (UNICEF 2001, 'Early Marriage Child Spouses', *Innocenti Digest*, No. 7, March, p.8 http://www.unicef-icdc.org/publications/pdf/digest7e.pdf – Accessed 23 May 2005 – Attachment 27).

The UN Human Rights Committee "is concerned at the practice of…forced marriage" in Uganda and recommends that the Ugandan government "take effective steps to do away with this practice."

> 23. The Committee is concerned at the practice of early and forced marriage in the State party, despite the minimum age for marriage of 18 years (art. 23).
>
> The State party should take effective steps to do away with this practice and to sanction those involved in its occurrence (UN Human Rights Committee 2004, *Concluding observations of the Human Rights Committee: Uganda* (CCPR/CO/80/UGA), 4 May http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.CO.80.UGA.En?Opendocument – Accessed 23 May 2005 – Attachment 23).

Article 31(3) of the *Constitution of the Republic of Uganda* 1995 prohibits forced marriage.

> 31(3) Marriage shall be entered into with the free consent of the man and woman intending to marry ('Chapter 4 – Human Rights & Freedoms', *The Constitution of the Republic of Uganda 1995*, Parliament of Uganda website http://www.parliament.go.ug/chapt4.htm – Accessed 24 May 2005 – Attachment 24).

If the *Customary Marriages Decree* of 1972 does not require consent for the marriage to occur then that section is void under Article 2(2) of the *Constitution of the Republic of Uganda 1995*.

> 2(2) If any other law or any custom is inconsistent with any of the provisions of this Constitution, the Constitution shall prevail, and that other law or custom shall, to the extent of the inconsistency, be void ('Chapter 1 – People's Sovereignty', *The Constitution of the Republic of Uganda 1995*, Parliament of Uganda website http://www.parliament.go.ug/chapt1.htm – Accessed 24 May 2005 – Attachment 25).

No information on the Constitution being used to stop or prevent forced marriage or challenge the *Customary Marriages Decree* of 1972 was found amongst the sources consulted.

A report dated November 2004 provides the DRB Coalition's position on the Domestic Relations Bill (DRB). The report notes that the DRB was tabled before Parliament in December 2003 and that it requires the free consent of either party to an intended marriage. The DRB Coalition believes the requirement should be full and free consent and that the DRB should outlaw forced marriage and FGM.

> The DRB Coalition, formed in 1999, is a coalition of more than 40 women and human rights organizations and institutions and has championed the campaign for a fair family law. The major goal of the DRB Coalition is that Uganda should have a just domestic relations law with a family code based on principles of non-discrimination and gender equality. All family related laws should be conform to Uganda's Constitution (1995), which recognizes the equality and freedom from discrimination of all persons, male or female.
>
> ...**Consent to marriage must not only be free but full.** Clause 15(1) of the present bill states that '*a marriage shall not be celebrated, solemnized or contracted in Uganda without the free consent of either party to the intended marriage*.' Free consent is not the same as full consent. Full consent connotes that the consent is informed. The freedom to consent must be backed by adequate information as to the impending decision to marry, the person one intends to marry and any such other information necessary to make the decision for marriage. The Coalition thus proposes that the law adopts the language in the international Covenant on Civil and Political Rights (ICCPR), which states that '*No marriage shall be entered into without the free and **full** consent of the intending spouses*.'
>
> …The Bill makes a tentative attempt at **outlawing cultural practices** that have a negative impact on women. However it should go further than outlawing only widow inheritance but also all other harmful customs and practices related to marriage that negatively impact on women (and men) such as female genital mutilation, early marriages, forced marriages, the requirement of a wife to have sex with the father in law or to be available to her brothers in law, etc (Asiimwe-Mwesige, Jacqueline 2004, *DRB Coalition Position on the Domestic Relations Bill, 2003*, November, Women of Uganda Network (WOUGNET) website http://www.wougnet.org/Documents/UWONET/DRBCoalitionPositionOnTheDRB.doc – Accessed 24 May 2005 – Attachment 28).

An article dated 17 May 2005 in *New Vision* reports that the DRB was withheld from its second reading before Parliament.

> THE Domestic Relations Bill (DRB) was yesterday again shelved amidst protests from several MPs, mostly women activists.
>
> Constitutional affairs state minister Adolf Mwesige sought to have the Bill withheld as it was due for the second reading in Parliament yesterday.
>
> Deputy Speaker Rebecca Kadaga, however, ruled that the Bill be brought back to Parliament for the 2nd reading on June 16.
>
> Mwesige said following protests from different important sections of society like the Uganda Muslim Supreme Council and the Uganda Joint Christian Council, the Government had mandated the Law Reform Commission to consult further on the issue before it could be debated in parliament.
>
> This enraged the MPs, who said it was a ploy by the Government to withdraw the Bill. They expressed fear that once withdrawn, would never see the light of day again. The Bill has been pending for over 40 years (Olupot, Milton & Kaheru, Hamis 2005, 'Domestic Bill on Hold',

> *New Vision*, 17 May, allAfrica.com website http://www.allafrica.com/ – Accessed 24 May 2005 – Attachment 29).

3. Can you provide information on services/assistance available to women in Uganda who fear forced marriage to a man of Sebei ethnicity or are required to undergo female circumcision?

Hellen Alyek of the Uganda police force presented a paper entitled *Harmful Cultural Practices against Women and Children (Girl Child) in Uganda/Africa* at the Third Australasian Women and Policing Conference which was held 20-23 October 2002. According to Hellen Alyek "FGM is not a crime in Uganda…but we usually try to protect girls who have run away in fear of FGM."

> The worst form of abuse against women/girls in Uganda/Africa is Female Genital Mutilation and domestic violence.
>
> In Uganda, domestic violence is not a crime, but if a victim comes to police a perpetrator can be taken to Court under assault case. This is only if a victim complains but, on the side of FGM, police do protect by putting them to stay with another family in another district, with the knowledge of her mother. But the women Parliamentarian are working very hard to see that domestic violence and FGM should be passed by Act of Parliament as a crime. Otherwise the rate of domestic violence and FGM is very high (Alyek, Hellen 2002, *Harmful Cultural Practices against Women and Children (Girl Child) in Uganda/Africa*, Paper presented to the Third Australasian Women and Policing Conference: Women and Policing Globally 20-23 October, Australian Institute of Criminology website http://www.aic.gov.au/conferences/policewomen3/alyek.pdf – Accessed 24 May 2005 – Attachment 15).

According to an Immigration & Refugee Board of Canada response dated 9 September 2004, the Research Directorate was unable to find any information on state protection for victims of forced marriage in Uganda (Immigration & Refugee Board of Canada 2004, *UGA42960.E – Uganda: Prevalence of forced marriage in Uganda and the availability of state protection (2000-2004)*, 9 September http://www.irb.gc.ca/cgi-bin/foliocgi.exe/refinfo_e – Accessed 23 May 2005 – Attachment 30).

No other information on services/assistance available to women in Uganda who might be subject to FGM or a forced marriage was found amongst the sources consulted. The following is general information on the police, judiciary and women's organisations in Uganda.

An article dated 6 May 2005 in *The Monitor* reports that "the police force ranks highest in corruption and bribery among service providers in Uganda, a new national survey has shown." The article continues stating "Magistrates and High Court judges came next in extortion."

> The National Service Delivery Survey (NSDS) released yesterday says all institutions in the country asked for bribes.
>
> The Uganda Bureau of Statistics (Ubos) conducted the survey in the 56 districts of the country to assess availability, utilisation and satisfaction of service users as a guide for policy makers, implementers and monitors at all levels of governance.

> It covered six sectors namely health, education, agriculture road infrastructure, water and sanitation and governance.
>
> …The report says the police has continued to exhibit the negative practices of bribery, extortion and corruption.
>
> Magistrates and High Court judges came next in extortion (Nyanzi, Peter 2005, 'Police Most Corrupt – Report', *The Monitor*, 6 May, allAfrica.com website http://www.allafrica.com/ – Accessed 24 May 2005 – Attachment 31).

The most recent US Department of State *Country Reports on Human Rights Practices 2004* provides the follow information on the effectiveness of the Ugandan police force.

> The police force was widely perceived to be ineffective. Major constraints included low pay and lack of vehicles, equipment, and training. Police committed numerous abuses, and impunity was a problem (US Department of State 2005, *Country Reports on Human Rights Practices 2004 – Uganda*, 28 February, Section 1d – Attachment 8).

An article dated 9 March 2004 in *New Vision* reports that "many women continue to be frustrated by the courts of law whenever they present their cases."

> She says, currently, despite the constitutional provisions for equality between men and women, many women continue to be frustrated by the courts of law whenever they present their cases.
>
> "Sometimes, women go to the courts of law with genuine cases of discrimination and violation of their rights and they are told their concerns are family matters," Madraa asserts. She adds that many women have lost so much money to the courts of law due to lack of a family law. She says there exists also a problem in re-enforcing some of the existing pro-women laws like the law on rape and defilement (Emasu, Alice 2004, 'Women's Day Comes with a Smile this Year', *New Vision*, 9 March, allAfrica.com website http://www.allafrica.com/ – Accessed 24 May 2005 – Attachment 32).

The US Department of State *Country Reports on Human Rights Practices 2003* provides the follow information on the effectiveness of the Ugandan police force.

> The police force is widely perceived to be ineffective both in urban and rural areas. Major constraints included lack of vehicles, equipment, and training, and low pay. Police committed numerous abuses, and impunity was a problem (US Department of State 2004, *Country Reports on Human Rights Practices 2003 – Uganda*, 25 February, Section 1d – Attachment 5).

Hellen Alyek of the Uganda police force presented a paper entitled *Harmful Cultural Practices against Women and Children (Girl Child) in Uganda/Africa* at the Third Australasian Women and Policing Conference which was held 20-23 October 2002. The paper provides information on the Child Care & Family Protection Unit (CFPU).

> In response to continuing and rampant of criminal violence against women, children and girls in Uganda, in 1995, Police Child Care & Family Protection Unit (CFPU) was put in place and some women and men Police officers were trained to handle such crimes. And in 1998 the Unit was officially established with the main function of the Police officers. The Unit was also created in time when violence against children and women was on the increase especially on domestic violence, rape, defilement and child sacrifice which were particularly on

rampant. This prompted Police CFPU to embark on a pro-active approach through education awareness to the communities by community policing Police officers (Alyek, Hellen 2002, *Harmful Cultural Practices against Women and Children (Girl Child) in Uganda/Africa*, Paper presented to the Third Australasian Women and Policing Conference: Women and Policing Globally 20-23 October, Australian Institute of Criminology website http://www.aic.gov.au/conferences/policewomen3/alyek.pdf – Accessed 24 May 2005 – Attachment 15).

The most recent US Department of State *Country Reports on Human Rights Practices 2004* provides the follow information on the independence and effectiveness of the Ugandan judiciary.

> The judiciary generally was independent but remained understaffed, weak, and inefficient; in addition, the President had extensive powers of judicial appointment.
>
> …Poor judicial administration, lack of resources, a large case backlog, and lengthy trial delays limited due process rights, including the right to a fair trial.
>
> …The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the President had extensive legal powers of judicial appointment. The President appoints Supreme Court, High Court, and Court of Appeal judges with the approval of Parliament. The President also nominates, for the approval of Parliament, members of the Judicial Service Commission, who make recommendations on appointments to the High Court, the Court of Appeal, and the Supreme Court. The judiciary ruled against the Government on several high-profile cases during the year; however, judicial corruption was a serious problem.
>
> …The LC courts had the authority to settle civil disputes, including land ownership and debt cases, and criminal cases involving children. These courts, often the only ones available to villagers, reportedly exceeded their authority by hearing criminal cases, including murder and rape. LC court decisions could be appealed to magistrates' courts; however, there often were no records made at the village level, and some defendants were not aware of their right to appeal. Unlike in the previous year, there were no reports of bribery and discrimination against women in some rural LC courts.
>
> The civilian judicial system contained procedural safeguards, including bail and the right of appeal; however, an inadequate system of judicial administration and a lack of resources, resulting in a serious backlog of cases, limited the right to a fair trial (US Department of State 2005, *Country Reports on Human Rights Practices 2004 – Uganda*, 28 February, Introduction & Section 1e – Attachment 8).

The US Department of State *Country Reports on Human Rights Practices 2003* provides the follow information on the independence and effectiveness of the Ugandan judiciary.

> The judiciary generally was independent but remained understaffed and weak; in addition, the President had extensive powers of judicial appointment.
>
> …Poor judicial administration, lack of resources, a large case backlog, and lengthy trial delays limited due process rights, including the right to a fair trial.
>
> … The Constitution provides for an independent judiciary. While the judiciary generally was independent, the President had extensive legal powers of judicial appointment. The President appoints Supreme Court, High Court, and Court of Appeal judges with the approval of Parliament. The President also nominates, for the approval of Parliament, members of the

> Judicial Service Commission, who make recommendations on appointments to the High Court, the Court of Appeal, and the Supreme Court. The lower courts remained understaffed, weak, and inefficient.
>
> … There were unconfirmed reports of bribery and discrimination against women in some LC courts in rural areas, particularly in cases related to land ownership rights. The LC courts had the authority to settle civil disputes, including land ownership and debt cases, and criminal cases involving children. These courts, often the only ones available to villagers, reportedly exceeded their authority by hearing criminal cases, including murder and rape. LC court decisions could be appealed to magistrate's courts; however, there often were no records made at the village level, and some defendants were not aware of their right to appeal.
>
> The civilian judicial system contained procedural safeguards, including bail and the right of appeal; however, an inadequate system of judicial administration and a lack of resources, resulting in a serious backlog of cases, circumscribed the right to a fair trial. The High Court made little progress in hearing and disposing of backlogged cases. Of the 87-case backlog remaining from 2002 and the 115 cases that arose during the year, the High Court had disposed of 112 by year's end. All nonmilitary trials were public (US Department of State 2004, *Country Reports on Human Rights Practices 2003 – Uganda*, 25 February, Introduction & Section 1e – Attachment 5).

The Women of Uganda (WOUGNET) website provides a lit of women's organisations in Uganda. It is included as Attachment 33 ('Women Organisations in Uganda' 2005, Women of Uganda (WOUGNET) website, 26 April http://www.wougnet.org/wo_dir.html – 23 May 2005 – Attachment 33). One of the organisations listed is the Association of Uganda Women Lawyers – FIDU (U). FIDA (U) may be able to assist a woman fleeing FGM or a forced marriage. FIDA (U) operates nationwide to assist women attain effective legal protection through litigation, mediation, arbitration and advocacy ('The Association of Uganda Women Lawyers – FIDU (U)' 2004, Women of Uganda (WOUGNET) website, 15 September http://www.wougnet.org/Profiles/fidau.html – 23 May 2005 – Attachment 34). According to the most recent US Department of State *Country Reports on Human Rights Practices 2004* the "local chapter of Uganda Women Lawyers Association and the FHRI practices public interest law from offices in Kampala" (US Department of State 2005, *Country Reports on Human Rights Practices 2004 – Uganda*, 28 February, Section 1e – Attachment 8).

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United Nations (UN)

UN Child's Fund http://www.unicef.org/
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UN Human Settlements Programme http://www.unhabitat.org/

Non-Government Organisations

Amnesty International http://www.amnesty.org/
The Female Genital Cutting Education and Networking Project http://www.fgmnetwork.org/index.php
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International Association of Women Police http://www.iawp.org/
Parliament of Uganda http://www.parliament.go.ug/
The Uganda Association of Women Lawyers (FIDA-Uganda) http://www.fidauganda.or.ug/
Uganda Bureau of Statistics http://www.ubos.org/
Women of Uganda Network (WOUGNET) http://www.wougnet.org/

Search Engines

Google http://www.google.com.au/

UNHCR	*REFWORLD*	UNHCR Refugee Information Online

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Public	*FACTIVA*	Reuters Business Briefing
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