

# **katine** it starts with a village

## Issues: Ugandan politics and history

### Rural women still have few rights to land in Uganda

Ths state of Uganda: The Ugandan government, academia and NGOs need to change their attitudes towards customary law if rural women are to have equal rights to land, argue Judy Adoko and Simon Levine, from the Land and Equity Movement in Uganda

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Women walking to Katine market on the new road. Photograph: Guardian/Martin Godwin

In 1998, the government of [Uganda](#) revolutionised land rights in the country. For the first time, "traditional" or "customary" ownership of land

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(ie without any official papers) was legally recognised. (More than 80% of Uganda's land is owned in this way, including almost all land in [Katine](#).) Local systems of justice were allowed to determine land disputes, but the state also gave the right to go to local courts, which have very low fees (less than \$1) and where hearings are without lawyers. The state also outlawed any discrimination in local "customary" rules.

Unfortunately, the situation for [women](#) and their right to land is still terrible and seems to be getting worse. The [Land and Equity Movement in Uganda](#) (LEMU) has spent several years researching the grassroots realities of women's land rights in Uganda, and working with people to find appropriate solutions to their problems. We have found that the majority of widows suffer attempts by neighbours or relatives to grab their land – and in a non-industrialised country with no urban jobs, having nowhere to farm means starving, children having no education and the sick going untreated. Almost all divorcees and separated women are denied land by their own brothers, and live, often with children to support, in misery and destitution. Land grabbing is always aggressive and unimaginably abusive, and sometimes violent.

The conventional wisdom is that customary law - people's local cultural norms - are both backward and discriminatory, treating women as possessions and denying them rights. The solution, we are told, is to give everyone titles to land to bring them under state protection. Gender activists want the law to give husbands and wives automatic co-ownership of any land the family lives on. Then, once we educate women about these rights, they can use the courts to enforce their rights.

The basic flaw in conventional wisdom is that it isn't true. A major problem regarding land in Uganda is that policy is still designed without finding out the real situation on the ground. Customary law for most tribes in Uganda (including the Teso, the ethnic group of Katine) gives women considerable rights, far more than state law allows under the freehold title system. However, customary law is not always being applied. There are many reasons for this – including the fact that many of the customary authorities (clan leaders) don't know their own unwritten law any more.

Another reason is that the state has ignored the clan system, instead of supporting it and holding it to account, so clan leaders are no longer clear about their powers and responsibilities. They no longer take responsibility for preventing land grabbing. In customary law, all land is owned by families, not individuals, but men who wish to grab land for themselves have claimed that "women don't own land". By constant repetition – including from women's organisations – and from lack of any challenge, the myth is becoming reality.

The state is not protecting rights, because justice is not available from local courts (it is perhaps hard for a western reader to imagine how bad the situation in the justice sector is). LEMU has identified many factors behind this. Court members are not trained in customary land law. How can they uphold women's rights if they don't know in what form they exist? Courts function with no support or oversight. Our examination showed that lower court "judgments" rarely make reference to evidence.

Anne Perkins

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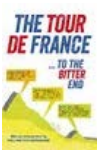


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Though sometimes guilty of bias or corruption, they often give judgment defending the rights of women.

However, land grabbers simply ignore these judgments. The courts don't know how to enforce them, and so shrug their shoulders and tell the victim (who won the case) to take it – at their own expense – to a higher court. As this is repeated, the victim eventually gives up, unable to afford to proceed.

The underlying problem is the reliance on the justice system to ensure that land administration happens smoothly. This is not fair on the justice system. The justice system will remain overwhelmed until there is a way of preventing conflicts arising, by making sure that land rights are clear, by clearly marking land boundaries, and recording all transfers (when people sell land, or pass it on to their children). Reform of land law only thought about titled land, and completely ignored land administration for customarily owned land.

To compound the neglect, the state neither acknowledges nor supports the role that the customary authorities are supposed to play in land administration. Lack of resources is not the problem. It costs nothing to organise villagers to choose a tree that they will all recognise as a boundary marker and to encourage people to plant these trees. It costs nothing to encourage everyone to draw maps of their land, marking their neighbours and getting their neighbours and clan leaders to sign these maps. The state does not need to do this on the ground – but it must set the policy lead that this will be supported, and must make clear that these trees will be protected as boundary markers by the law, that these maps will be respected in courts. The problem remains that governments, academics and the urban elite of the NGOs have all inherited the prejudices against native or traditional culture from the colonial authorities.

The state justice system on its own will still never be able to defend the rights of all women (and men) who face land grabbers. Land grabbers are persistent. If they lose today, they try again tomorrow. The state has to work out how to integrate the customary justice system with its own, so that it supervises and holds the clan system to account. It has to provide adequate possibility of appeal against the clan judgment, but ensure enforcement of judgments if there is no appeal – which must be brought by the loser. Again, this is not about resources. The leaders of Teso have written down their customary land law – how much does it cost to disseminate this to both the clan elders and the members of the lower state courts and the magistrates? Once there is legal integration of the two justice systems, others can help in the work of training clan and state courts in record keeping, or in the principles of evidence and natural justice.

Women's land rights will not improve until three changes happen. The first is that attitudes towards customary law have to change, both within government and in the distant world of academia and NGOs. Secondly, the government has to be proactive about improving the situation, and thirdly, policy should be based on evidence, not on preconceptions.

Ultimately, we have to decide whose voice counts in deciding how to protect land rights - only those of us who live in town, are educated, have money and know how to handle courts? Or those of the rural women whose lives we say we want to help?

- Judy Adoko is programme coordinator at the Land and Equity

Movement in Uganda. Simon Levine is consultant and volunteer for the organisation.

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**Java1930**  
26 March 2009 9:00PM

How ironic it is that Europeans now criticise Teso culture for being backward because it denies women rights to land when in fact it was European colonialists who introduced the notion of individual property ownership to men in Teso in the first place thereby undermining the historical right women always had to land.

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**odixyz**  
15 April 2009 1:17PM

women too have a right by virtue of being people,citizens and are entitled to have opinions over the land. this should not be left for politics,denominations to act on!! Before they had no voice on land but this was a grave mistake that only a minority

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realised and updated it. let the women too be remembered in as much as the land issues are concerned for a better generation. They have much for development !.

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