

# INFORMAL AND CUSTOMARY PRACTICES

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**Phase:** Post violation

**Context/Cause:**

Land is a critical asset for the rural poor women and girls. The 1995 Constitution of Uganda stipulates equal rights of women and men, and prohibits harmful customs and traditions. The Uganda Land Act (2010) provides for a joint ownership of the matrimonial home and property, and prohibits either the husband or the wife from selling of matrimonial property without the consent of the other and the children.

The Equal Opportunities Commission Act, 2007 prohibits discrimination and unequal treatment against any individual or group of persons. The Succession Act of 1903 deals with the matters of the deceased. Despite the laws and policies in place, they do not adequately protect women and girls land and property rights; and women and girls face injustices and challenges to exercising their human rights. The injustices are attributed to poor implementation of laws, unfavorable laws and the patriarchal society in which men are recognized as powerful and with authority over resources, including land.

Over one hundred years later, the Parliament of Uganda has not amended the Succession Act, leaving widows and daughters inadequately protected by the law. Taking action, the Uganda Women Parliamentary Association (UWOPA) strategic plan (2016–2021) included interventions to enact a Private Members Bill aimed at amending the Succession Act (1903). In 2017, UWOPA exerted efforts to have the Succession Bill (2011) re-tabled before the 10<sup>th</sup> Parliament. The Bill to amend the Succession Act of 1903 was first tabled before parliament in 2007, but the majority of parliamentarians rejected the amendments and considered them null and void.

In its current form, the 1903 Succession Act directly affects the safety and families of many Ugandans. According to its Section 27, women can share only 15% of the estate of their late husband, yet in case of death of a wife, the husband inherits the entire property. The current law also inhibits girls from inheriting their late father's property. Given that land is a critical asset for production and a key resource for economic empowerment and development, it determines livelihood opportunities such as agriculture, which most women in Uganda practice. Therefore, it is necessary that women and girls' rights to own land be protected.

Most women and girls in Uganda are subject to discrimination: Only 27% of women in Uganda own land, yet land is a critical asset for production.<sup>1</sup> The agricultural sector employs 72% of Uganda's labour force, the majority (77%) of whom are women, yet long-standing discrimination of women also through social norms and practices that exclude women from owning, inheriting and controlling land continues to deprive women of land rights, thereby perpetuating women's economic dependence on male relatives. Cultural norms give more economic power to men and make them superior and authoritative over various resources.

Other causes of land rights violations among women and girls include:

- Forced evictions;
- Ignorance of the existing laws that limit women to demand for justice;
- Inadequate enforcement of the law by duty bearers;
- Corruption among the duty bearers; and

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<sup>1</sup> Uganda Ministry of Finance, Planning and Economic Development, Budget Monitoring and Accountability Unit, Briefing Paper 2016, at: <https://www.finance.go.ug/publication/policy-briefing-papers-2016>.

- High levels of illiteracy among women, which hinders them from accessing information and makes them dependent on men.

### Incidences / cases

*When Justine Badaru a 38-year-old, resident of Kijogoro Parish, Miirya Sub County, Masindi District lost her husband to an HIV/AIDS-related illness, she was left with no independent source of livelihood. Illiterate and HIV positive herself, the mother of four faced a bleak future as a widow. Soon after her husband's funeral, rumors started circulating in the village that she had killed her husband. The rumors, which spread like a wildfire, left Badaru dealing with not only grief, but also with stigma and isolation as her friends shunned her as the rest of the village, calling her a witch and a murderer. Badaru's in-laws also joined in the fray, and informed her that, since she had killed their son, they would not let her go away with his property. "They told me to pack only my personal belongings, take my four children and leave their son's property. They said that I was the reason their son was dead and that I did not deserve anything of his," she narrates.<sup>2</sup>*

### *Governments Share Information and Citizens Give Feedback: illustrating the interaction of citizens and government in AJS*

During an inaugural workshop on Women's Land and Home dispossession project, testimonies were shared by women slum dwellers from diverse areas, illustrating dispossession of their homes and land by parents, spouses, siblings and local authorities in their communities. The cases shared included:

Case 1: **Margret Kaheru Namusoke**, from Luwero who narrated her story of eviction from public land (railway land), the struggle to find alternative accommodation during the period, her husband's sale without her knowledge of land she purchased, challenges of limited documentation of ownership and loss of property due to limited knowledge of her rights and the processes for registration of land.

Case 2 **Justine Nakibuule** from Namayumba district, who narrated her story of loss of inheritance land to male siblings, as well as loss of land to the deceased husband's first wife who had male children.

Case 3: **Hajati Haminsa Kyaye**, who shared her story of being disowned due to cross-tribal marriage of the parents; loss of land to her husband's family due to no education; loss of land as when her husband sold off the land she purchased; and potential loss of her current domicile without compensation due to an upcoming project by Uganda National Roads Authority.

Case 4: **Teopista Namusiisi** of Masulita, who shared her story of being cheated by brokers during the sale of family land, and the current threat of eviction by her siblings from the current family land she is settled on in Kibuye.

The cases illustrated that, beyond cases of large-scale displacement under exceptional circumstances, women in Uganda regularly undergo denial of their housing and land rights due to informal and customary practices. These insidious means of violation of a woman's human right to adequate housing, land and property often escape the monitoring process and elude quantification.

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<sup>2</sup> UNDP-Uganda, "A Widow's right to matrimonial property," undated, at: <http://www.ug.undp.org/content/uganda/en/home/ourwork/womenempowerment/successstories/AWidowsrighttomatrimonialproperty.html>.

## Gender Specificity

- Women and girls are the most affected. Other categories affected include children especially the orphans.

## Duty Holders

- **Clan leaders:** Custodians of cultural norms and practices have a duty to ensure that the cultural norms and beliefs do not violate the rights of women and girls.
- **Area Land Committees:** Such local bodies possess information on the land parcels and ownership. They have a duty to sensitise the community about the land management procedures.
- **District Land Boards:** These local authorities encourage communities to formalize their claims on land; e.g., obtaining land titles.
- **Judiciary:** Judges and legal practitioners are sworn to ensure that justice is served and fair compensation is made to the victims.
- **CSOs:** Creating awareness of rights and responsibilities, CSOs also purvey information about relevant laws and, in some instances, offer legal support; e.g., The Uganda Association of Women Lawyers (FIDA-Uganda). CSOs also promote livelihood programs for economic empowerment.

## Redress/ Remedy type

- Sensitization to meet the need to create awareness on women's rights to land, existing laws, referral pathways
- Male engagement through targeting cultural leaders, local leaders, influential leaders and elders.
- Advocating for the review of policies and advocating for effective enforcement of the existing laws.
- Promoting livelihood programmes for women's economic empowerment; e.g., handcrafts, baking, tailoring, urban farming, mobile money-agent banking and village saving loan associations (VSLAs).
- Continuous empowerment of the girl-child education.