

Rights and Gender in Uganda



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About this Toolkit

Property rights economically empower women by creating opportunities for earning income, securing their place in the community and ensuring their livelihoods. When women are economically empowered, it spurs development for their families and communities.

Property Rights and Gender in Uganda: A Training Toolkit seeks to strengthen understanding of property rights for women and men as equal citizens. Because women in Uganda are often not treated as equal citizens, toolkit materials address what rights women have, how to communicate women's rights, and the issues preventing women from exercising their rights.

The overarching goals of the training are to increase Ugandans'

- knowledge of their legal rights to property,
- understanding and recognition of women's and men's equality before Ugandan law, and
- ability to exercise and protect their own property rights while respecting others' rights.

The first step in securing property rights is bringing knowledge to women, men, leaders, and communities of *everyone's* legal rights and emphasizing that women's legal rights exist, are protected by law, and are just as important as men's.

The toolkit has five modules:

- Rights and Gender in Uganda
- Land Law and Gender
- Property Rights in Marriage and Family
- Inheritance Law, Wills and Women
- Monitoring Skills for the Community Rights Worker

Trainers can do all modules or focus on ones of their choosing. However, we recommend beginning with "Rights and Gender in Uganda," especially for community rights workers with little previous training. This module uses a human rights approach as a positive starting point to introduce women's rights, property rights and gender.

The modules use five different methods to engage participants:

- **Background** sections introduce new material, explain new concepts and discuss the gendered aspects of the module topic. Facilitators can use the Background sections as short lectures, reading exercises for participants or segues to new topics.
- **Lecture** sections provide specific information about the module topic. Facilitators need to present all of the information in Lecture sections clearly.
- **Discussion** sections promote group conversation, encourage participants to ask questions and share experiences, and highlight differences between custom and written law. The facilitator's role is more to guide the conversation than present information.
- **Exercise** sections give participants a chance to practice a new skill or idea. Exercises can be used to make the ideas in Background, Lecture and Discussion sections more concrete.
- **Handouts and Resources**, at the end of every module, can be used during the training and by community rights workers in their own outreach or sensitization work.

Rights and Gender in Uganda

Every person has human rights and every Ugandan has rights that are clearly explained in the Constitution. Even though women and men are equal under Ugandan law, women often are denied their rights in practice. This is especially true with their rights around property and land, which are very much tied to culture and custom. This module teaches community rights workers about what human rights are, what property rights are, and what Ugandan law says about women's and men's equality. It creates space for safe discussion and exploration of participants' own views on gender equality and the relationship of culture to women's rights.

Module Objectives:

Community rights workers will **understand**:

- Women and men are equal in Ugandan law
- The Constitution is the country's highest law and prevails over customary law

Community rights workers will be able to **communicate**:

- What rights are
- Women and men have equal rights, in general and to property

Community rights workers will **bring to their communities**:

- Greater knowledge about the Constitution
- Appreciation that the law is for every Ugandan

Handouts:

At the end of the module are two handouts that can be used both during the training and by community rights workers in their own outreach or sensitization in their communities.

- Handout 1: Women's Rights & Property Rights in the Constitution
- Handout 2: Uganda's Constitution and Your Rights

Total time: 8 hours

Rights & Human Rights

Background Rights

The law is based on the notion of rights. Community rights workers need to understand what rights are, where rights come from, and their own role in protecting and promoting rights. Community rights workers may need to challenge the negative perceptions communities hold about the notion of rights. It is important that the rights worker can explain the concept of “rights” in a way that will promote community support, not resistance.

Discussion What are Rights?

(20 minutes)

1. Every culture has a concept of human rights. We use the word “rights” in our everyday language. We say things like, “She had a right to do that,” or, “We have a right to say what we think.” Ask the participants to give examples of the use of the word “rights” from their own experiences.
2. When you feel that the group has a common understanding of what is meant by the word “rights,” open a discussion by asking the participants:
 - From where do we get our rights?
 - Who gave them to us?
 - Can they be taken away?
3. Ask open-ended questions that expand the discussion. You may have to ask contrary questions to enrich the discussion. For example: If participants say, “The government gives us rights,” ask “Can the government decide which rights we have and which we don’t? If the government didn’t exist, would we still have rights?”

Discussion Human Rights (30 minutes)

This is meant as a reflective discussion where participants slowly come to see the assumptions behind their beliefs. The aim is not to come up with a correct answer but to get people thinking about the concept of human rights.

1. Begin the discussion by asking the following two questions:
 - What do you think the term “human rights” means?
 - Where do human rights come from?
2. *The Universal Declaration of Human Rights* gives concrete examples of some human rights. Uganda has signed the Declaration, saying that it will uphold these rights for its citizens. Ask the participants to take turns reading aloud each of the rights in the Universal Declaration of Human Rights. (English and Luganda translations of the Universal Declaration of Human Rights are on the CD version of the toolkit.)
3. Ask the group to give examples of human rights violations they have seen in their lifetime. For each example, ask which right was being violated and whose right was being violated.

Some key points you may want to introduce in the discussion include:

- Every person has human rights just because they are human.
- We are born with human rights, and they cannot be taken away.
- A government can affirm and protect our rights using laws, but governments do not give us our human rights.

- Every right comes with responsibilities. For example, because I have a right to live free of violence, I have a responsibility to respect others' right to safety.
 - When a person's rights are violated, this is an act of injustice.
 - Respect for other people's human rights is not an act of kindness, but a responsibility and obligation.
 - When people demand their rights they are fighting for justice and for what they deserve. They are not asking for welfare, kindness or pity. When you promote anyone's rights, including women's rights, you are fighting for justice, not appealing to people's good will.
6. Continue calling the participant inside the circle to come to you and watch as she increasingly tries to break free from the circle at different points.
 7. Stop the exercise before the energy level gets too high.
 8. Leaving the circle intact with the separated participant still inside, ask *each of the following questions* to ensure that participants recognize the difference between rights in theory and in practice and recognize the role of communities in both upholding and violating rights:
 - Does the participant inside the circle still have freedom of movement in theory? ("Yes" should be the response because you have just taught about the inherent nature of human rights in the last exercise.)
 - Does this participant have freedom of movement in reality, right now? If not, why not?
 - Who violated her human right? If everyone agreed to keep her inside, is it still a violation of her right?
 - Whose responsibility is it to ensure that she has the right of freedom of movement?
 - Who took away that right in practice? The facilitator? The participants?

Exercise Understanding Rights in Theory and in Practice (40 minutes)

Sometimes people are not able to use their human rights or rights from the law in reality. For a written legal right or a human right to become real, society must know about it and enforce it. This exercise will help participants understand how easily our basic rights can be denied.

1. Gather all participants together in a circle and asks them to hold hands.
 2. Separate a female participant and place her out of hearing range.
 3. Tell the other participants that the separated participant will be placed in the middle of the circle and that under no conditions are they to allow her to get out.
 4. Tell the separated participant to go inside of the circle and await instruction.
 5. Once the participant is inside the circle, walk away, and then call out and tell her to come over to you.
 9. Ask the participants to relate this exercise to how women's rights are restricted in the family/community/nation and what can be done to prevent the violations.
- Even if participants were following instructions, they violated her human rights because no one questioned the facilitator's authority to make the rules, and no one allowed her the freedom of movement that is hers by right. Every person played a role in denying this person her human right.

10. Continue the discussion by asking, “If all people are entitled to rights by the fact of their being human, why do we single out women’s rights?”

(Source for exercise: Popular Education for Human Rights: 24 Participatory Exercises for Facilitators and Teachers, by Richard Pierre Claude, University of Maryland, 2000.)

Background Exploring Rights with Respect to Property

Before introducing the law, it is crucial to begin with what participants believe regarding women’s property rights. Exploration of their own beliefs is a good way to prepare participants to learn the law. The exercises are not intended to single out participants who may be struggling with the notion of women’s right to own property. Rather, they aim to provide a safe space for participants to declare and investigate their beliefs about women’s property rights and to move them to being comfortable with women’s rights over property. The session is the start to a lifelong journey toward protection and promotion of women’s property rights.

Exercise Where Do I Stand? (45 minutes)

This exercise will allow you to start the dialogue about the participants’ beliefs around women’s property rights.

1. Make three “islands” in room. The first island is called “Agree,” the second one “Disagree,” and the third one “Not Sure.”
2. Explain that you will read a statement (see possible statements below) and the participants have to rush to the island that corresponds with what they think. For example, you could say, “Women have a right to own property.” If the participant agrees, s/he has to rush to the island of “Agree.” If s/he disagrees, s/he has to rush to the island of “Disagree.” Explain that everyone should

choose an island according to personal beliefs, and not what s/he thinks the law is or what you wish to hear.

3. After each statement, the last person to arrive on each island has to briefly explain why s/he chose that island. If there is sufficient time, ask each island group to write their explanations on a large sheet of paper and present to the entire group. Encourage people on the other islands to ask questions or comment respectfully.
4. If there are people in the “Not Sure” island, the participants from other islands may try to persuade them to join their island by explaining their point of view.

It is best to choose only four to five statements to leave time for discussion. You can create your own or choose from the following:

Possible Statements

- All human beings are equal in value.
- Bride price makes women seem like men’s property.
- Women have a right to equal share in the family’s wealth.
- Women should have equal decision making power in the home as men.
- Women should be able to inherit property both from their parents and from their husbands.
- A man should not tell his wife about all his properties because women cannot be trusted.
- If women want to share property they should contribute to buying it.
- Women should have their own property in case the marriage does not work out.

Optional Exercise Personal Reflections

(15 minutes)

After the group presentations, ask the participants to reflect individually on what beliefs they may need to change to become better champions of women's property rights. They can write this individual reflection in their notebooks or you may ask them to share their thoughts in pairs.

One way to help participants further explore what they believe regarding women's property rights is to explore their own practices through questions such as:

- Do I own property?
- Does my spouse own property?
- Do we own property jointly?
- Do I view the property we own as mine, my spouse's or ours?
- Do my spouse and I share decision making over our property?
- Do my girl children own property?
- Would I give property to my girl children?

Uganda's Constitution: The Supreme Law of the Land and Source for Women's Rights

Background Customary and Statutory Law

Uganda has a dual legal system where customary and statutory (written) laws are applied side by side. At the same time, statutory law takes priority over customary law if the two conflict. That statutory law takes priority over custom means that all Ugandans, regardless of clans and customs, have a similar standard in terms of rights and responsibilities. This is not to undermine customs and cultures, but to provide an equal standard of rights for *all people* in Uganda.

Partially because statutory law is rarely well known or well understood, communities often use customary law. Some people see statutory law as opposed to customary law and therefore shun it or do not acknowledge it. The community rights worker's challenge is to introduce statutory law in a way that makes it acceptable to people as the standard and is not seen as attacking culture.

A discussion on women's rights in Uganda starts with the Constitution because it is the supreme law of Uganda. All other laws come from the Constitution and must agree with it. Articles 21 and 32 of the Constitution say that women and men are equal in dignity and equal before the law and outlaw any laws, cultures, customs or traditions that harm women's dignity or status. Women and men shall have equal treatment and equal economic, social, and political opportunities.

Discussion Supremacy of Our Constitution (30 minutes)

1. Explain that in Uganda, the Constitution is the supreme law. Ask the participants, "What does it mean for the Constitution to be the supreme law?" "Why is there a supreme law at all?"
2. Have the participants read Article 2 of the Constitution (if possible have copies of the Constitution available):

Article 2: Supremacy of the Constitution.

- (1) This Constitution is the supreme law of Uganda and shall have binding force on all authorities and persons throughout Uganda.
 - (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.
3. Article 2 of the Constitution says that if any other law or custom is inconsistent with any of the provisions of the Constitution, the Constitution SHALL prevail and that the other law or custom shall, to the extent of its inconsistency, be void.

Ask the participants:

- What do you think this statement means?
- Do you think it is a good idea or a bad idea? Why?
- What does this statement mean for women's rights?

Exercise Spot the Rights

Part I (1 hour)

This exercise is intended to help the community rights workers become familiar with the Constitution, especially as it relates to women's rights and land and property rights.

1. Divide the participants into four groups and give each group one Constitution, or copies of Chapter 1 and Chapter 4.
2. Ask the first two groups to identify as many rights of women as they can and to write them out in simple language.
3. Ask the next two groups to identify as many rights as they can about land or other property and to write them out in simple language.
4. Have the groups present what they have written.
5. After the presentations, lead a discussion on two women's rights they identified to gain a common understanding about what the right means and how the rights workers would express the right to the community. Repeat for the two property rights.
6. Wrap up the discussion by taking questions.

Part II (Optional, 30 minutes)

1. Ask the groups to pick out one right from those they have written and to:
 - Group 1: Make a poster for a legal education session in the community.
 - Group 2: Compose a song for a legal education session.
 - Group 3: Act out a role play for a legal education session.
 - Group 4: Create a radio spot that educates people about the right.
2. Have the groups present their work with about five minutes devoted to each group.

Property Rights

Background What are Property Rights?

Property is something that is owned or possessed. There are two main categories of property: real property and personal property. *Real property* (also called *immovable property*) is relatively permanent and cannot easily be moved from one place to another. Examples are land, housing, and things that are part of the land like trees, forests, and lakes. *Personal property* (sometimes called *movable property*) is more temporary and can be moved from one place to another. Examples are animals, furniture, bicycles, tools, clothing, bowls and jewelry.

People are not property. According to the Constitution of Uganda, all women, *regardless of marital status*, are equal citizens, not property.

Property rights are claims people have on property and what they can do with a piece of property. Property rights include a bundle of rights about using the property, earning income from the property, transferring the property to others and deciding who may use the property. For a given property, it may be that only one person has all of these rights. Many people also can have different rights over the same piece of property. Consider the following examples:

- A man purchased cattle. When he sells them, he will keep the money from the sale. In the meantime, his wife milks the cows and sells the milk in market, and their son uses the cows to plough his field.
 - The man is considered the owner of the cattle and has the right to make transactions (like selling or renting). The wife and the son have use rights and the rights to income earned through using the cow.
- A woman grows crops on a plot that was allocated to her by her husband's family. She uses some of the produce to feed her family and sells the rest. However, she cannot sell or rent the plot without the permission of her husband's family.
 - The woman has use rights over the land and the right to income earned from the land. The rights to make transactions on the land are with the husband's family.

Discussion Sharing Experiences about Property Rights (30 minutes)

Ask the group to use their experiences to give examples of or stories about each of the rights below:

- Right to use property
- Rights to sell, rent or give away property
- Rights to decide how property will be used (for example, what crops will be grown on a *kibanja*)
- Right to control earnings from property (for example, who in a family decides what to do with income from selling crops)
- Ownership rights

Background Who Makes Property Rights?

Uganda has two systems that determine who has rights over property: statutory law and customary law. Statutory law is the written law of Uganda. It applies equally to all Ugandans. Statutory law about property includes the Constitution, the Land Act and Amendments, the Succession Act, and Marriage and Divorce Laws. Customary law, which includes religious law, is a set of practices around the social order, entitlement to resources, and responsibilities of different

people. In Uganda, the statutory law explicitly lets people practice customary law, often through Local Council courts. *However, the Constitution remains the supreme law of the land, and customary decisions that contradict the Constitution are illegal and void.*

Background Who Enforces Property Rights?

Enforcing property rights happens not only when there is a problem or dispute, but every time that people use property, transfer property, or make decisions about property. By building people's knowledge of *everyone's* property rights, we also help to enforce property rights. People who enforce property rights include:

- Community rights workers
- Community members
- Clans, traditional leaders and religious leaders
- Local Council courts and Local Council persons through settling disputes
- Police
- Magistrates courts and other government bodies

Background Why Do We Need to Talk about Women's Property Rights?

One reason to talk about women's property rights is because gender norms affect whether women can have or use property, have property taken from them, can get help to reclaim property, are able to earn an income or can support themselves, or can live on a piece of land. *Gender norms* are the expectations society has about the roles, rights, responsibilities, abilities, and importance of women, men, girls, and boys. Individuals, families, villages and leaders all have attitudes and expectations. Gender norms influence the rules that people live under and influence the opportunities and

choices available to men and women, their decision making power, their relationships, and their personal identities.

Gender is about:

- The tasks women, men, girls and boys **do**.
- Women, men, girls and boys **having resources** to do their tasks. Resources may include time, tools, assets, knowledge and land.
- **Benefits** women, men, girls and boys expect to gain from their efforts.
- **Decision making power** women, men, girls and boys have about the tasks they will do, the resources they will have, and the benefits they receive.
- **Expectations** women, men, girls and boys have of each other and of themselves.

Exercise Gender Norms (30 minutes)

On the board or fresh sheets of paper, write "Women," "Men," "Girls" and "Boys." Assign small groups to each category. Ask the groups to write examples of:

- what people in their category do and do not do,
- resources they do and do not access,
- benefits they do and do not receive, and
- decisions they do and do not make.

When they have finished, ask the group to explain the norms they gave. Ask if they know of any woman, man, girl, or boy who does tasks, has resources, has decision making power, or has expectations outside the gender norms given. Then discuss how the norms influence their work as community rights workers. For example it may affect the types of cases that come to them, what people or parties they need to consult with, where they refer people, the overall approach that they take, etc.

Women's property rights are important not just for women, but for their families and villages because women affect everyone around them.

- When women have secure rights over land and income from the crops they grow, they put more effort into cultivation to make more income and more food.
- Women especially devote their resources to their families' nutrition, health and education. Ensuring that women have some control over land, livestock, tools, accounts and other resources gives them what they need to care for themselves and their families.
- Property helps ensure that women, especially widows, and their children have economic opportunities and economic security.
- When women do not have rights to own and use land and control their crops, they may engage in risky activities to survive and help their families survive.

Exercise Women's Property Rights Benefit Everyone (45 minutes)

Draw three columns on the board or a large piece of paper. Label the first column, "Woman." Label the second column, "Family." Label the third column, "Village." You can also draw pictures of a woman, a family or a house, and a village.

Ask the participants to write or draw examples in each column of how a woman having access to or control over property (land, housing, animals, etc.) is good for her, benefits her family, and benefits her village or community. Ask the participants to explain their examples. An example of what the groups might come up with is given in Handout 3, "A Woman with Property," at the end of this module.

If there are enough participants, you can break them into small groups for this exercise.

Discussion Women's Property Rights in Ugandan Cultures (45 minutes)

1. Explain that Uganda has many different cultures and traditions, and ask the participants to name several of the kingdoms or ethnicities of Ugandans.
2. Ask the participants to read the examples below of the rights women do and do not have according to different customs.
 - Among the Iteso (Eastern Uganda), property customarily belongs to men. Women may purchase and own animals and some household property and foodstuffs but no land. Women are often counted as property because payment of bride wealth has become considered a transaction of goods rather than its original intention to show appreciation. A woman therefore ceases to own even herself.
 - Among the Banyankole (Western Uganda), a woman has no customary right to own property except items such as pots. When women acquire property, it is still called the man's property. Married men have said that when a woman is buying property, particularly land or cows, it has to be in the husband's name. Opinion leaders have noted that this keeps the family property in a pool and promotes family harmony. Married women do not like this at all. They are bitter that at times husbands would use the property they, the women, had accumulated in order to marry other wives.
 - Among the Alur (Northern Uganda), the husband has a customary right to own property and in most instances, his wife's property is also deemed to be his. A wife's customary property rights are restricted to ownership of personal property like cooking utensils, pots, clothes, etc.

- Among the Baganda (Central Uganda), all property customarily belongs to the husband. However, a wife can acquire and own property in her own name. It is acknowledged that a wife can have independent property where she has bought it, inherited it or received it as a gift. Baganda men have stated that where a woman has not contributed to the property financially, such property belongs to the man alone. However, even when the property belongs to the husband, the wife still has user rights to the property as long as the marriage continues.

(Source: *Uganda Law Reform Commission Domestic Relations Study Report*, Revised Edition, June 2008, pp. 108-109.)

3. Use the questions below to start a discussion about community perceptions of women's property ownership:
 - According to your own culture and custom, can women own land? Does it matter if a woman is married or not?
 - Do you know any women in your communities who have land or other property? What property do they have? How are the women and their families different from others in your communities? How are the women and their families like others?
 - Do you know any husbands and wives who own land or property together? How are they different from other couples? How are they like other couples?
 - What good or bad things would people in your community say about a woman who owns land?
 - What good or bad things would people in your community say about a man whose wife owns land?

Handout 1

Women's Rights & Property Rights in the Constitution

- Women have the right to be treated equally with men. This includes having equal opportunities as men in every area of life (socially, economically and politically). Women are equal in dignity to men.
- The Constitution bans any laws, customs, cultures and traditions that treat women unfairly or deny women the same opportunities as men.
- Land in Uganda belongs to both women and men as equal citizens.
- Women have the same right as men to have property. Women and men have the same rights to keep alone or share property with other people. No one should take away a woman's or man's property for no good reason.
- Widows have the right to inherit the property of their deceased spouse and the right to look after their children if their spouse dies. The government is writing a law to protect these rights of widows.
- Women who are 18 years or older have a right to marry and start a family. The woman and her intended spouse both must agree to marry. Both have equal rights in getting married, during marriage, and if and when they decide to end the marriage.
- Women perform a great service to their families, communities and the nation as mothers. Because of this unique attribute, the government is required to protect women to enable them carry out their motherly role.
- The government must provide services and opportunities (such as access to education) to enable women to realize their full potential and improve their welfare.
- Women have the right to affirmative action. The purpose of affirmative action is to help put right the many years of unfairness to women caused by history, tradition or custom.

Handout 2

Uganda's Constitution and Your Rights

The Constitution is the supreme law of Uganda. It governs all people and authorities throughout Uganda.

If any other law or custom conflicts with the Constitution, the Constitution shall prevail over the other law or custom.

Equality of All People

All persons are equal before the law. Everyone is equal before the law in political life, economic life, social life, cultural life and in every other respect. All persons shall have equal protection by the law.

No one shall be treated differently because of sex, race, color, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion, or disability. However, Parliament may enact laws to implement policies and programs aimed at redressing social, economic, educational or other imbalance in society.

Women shall have the right to equal treatment with men, and that right shall include equal opportunities in political, economic and social activities. The State shall protect women and their rights.

Laws, cultures, customs, or traditions that are against the dignity, welfare, or interest of women or undermine their status are prohibited by the Constitution.

Land & Property

Land in Uganda belongs to the citizens of Uganda. Women and men have equal rights to own land.

Every person has a right to own property either by herself/himself individually or with others.

Duties of a Citizen

It is the duty of every citizen of Uganda

- To respect the rights and freedoms of others;
- To protect children and vulnerable persons against any form of abuse, harassment or ill-treatment; and
- To cooperate with lawful agencies in the maintenance of law and order.

Enforcement of Rights and Freedoms by Courts

Any person who believes that a right or freedom guaranteed by the Constitution has been violated is entitled to apply to a court to hear his/her case.

Any person or organization may take legal action against the violation of another person's or group's human rights.

“A Woman with Property” Poster

A Woman with Property



Advances herself by

Earning more



Starting small businesses



Advances her family by

Earning more



Being more able to feed her family well



Being able to get medical care for her family



Having money to send children to school



Advances her village or community by

Starting thriving businesses



Spending earnings in other businesses



Maintaining the health of her family



Raising healthy and educated children





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