

Rights and Gender in Uganda



ICRW and ULA thank the following organizations and individuals whose generous contributions made this toolkit possible:

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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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Land Law and Gender



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Land Law and Gender

Land in Uganda is a very important resource for most households. People use land to live on, grow food, keep animals, make their livelihoods and for other purposes. While the Constitution recognizes the right of *all people* to own land, the reality is that most land in Uganda is owned by men, even if mostly women work the land. Many socio-cultural practices discriminate against women and discourage them from owning land.

Uganda's collection of land laws is quite complex and can be confusing even to lawyers. This module will not cover all the details of Uganda's land laws, but will highlight the most important aspects that will enable the rights worker to pass on the basic message that women have a right to own and use land just as much as men do.

Module Objectives:

Community rights workers will ***understand***:

- Uganda's four different land tenure systems
- Women's and men's legal rights over land
- What different land documents do and how to get them
- The institutions that manage land and handle land conflicts

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

- How some customary practices may violate women's rights over land
- The benefits of having documentation for land

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

- Knowledge and services to resolve land conflicts according to the law
- Knowledge and services to document property rights

Handouts:

At the end of the module are 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: Land Ownership Systems in Uganda
- Handout 2: Women's Rights in the Land Act
- Handout 3: Land Management Institutions
- Handout 4: Land Dispute Resolution Institutions
- Handout 5: Important Land Documents
- Handout 6: Story/Role Play for Community Sensitization: Mary & Gilbert

Handout 6 is a story that can be used as an optional exercise. The story raises questions about women's and men's land rights and shows a positive example of a woman owning and managing property. It creates opportunities to open discussions about women's and men's rights over land and other property; how couples make decisions about land; how to register land or document transactions; inheritance issues; and who can help resolve disagreements over land. The story is divided into chapters with discussion questions for each chapter.

Total time: 8 hours, plus 3 hours of optional exercise

Land and Culture

Background Land, Property and Gender in Different Cultures

According to many Ugandan cultures, women do not own land. Land often belongs to the family or clan and is held by men, though women may have the right to live on land and to farm it.

- Among the Iteso (Eastern Uganda), property customarily belongs to the male members of the society. Women may purchase and own animals and some household property and foodstuffs but not land. A woman may be counted as property if the man or his family has given bride wealth for her. 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 buys property, particularly land or cows, it must be in the husband's names. 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 husbands can use the property they, the women, accumulate in order to marry other wives.
- Among the Alur (Northern Uganda), the husband has a customary right to own property. 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 independent names. It

is acknowledged that a wife can have independent property where she has bought it, inherited it or received it as a gift. Some Bagandan men say that where a woman has not made any financial contribution to the property, such property belongs to the man alone. Even in this case, however, the wife still has absolute user and control rights of the property as long as the marriage continues.

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

Some people think that culture and custom hurt women's land rights, while others think that culture and custom can protect women's right to use land. **Because culture and the written law exist together, community rights workers need to show their communities that they understand and respect their culture and that the written law is relevant to everyone, both women and men.**

Discussion/Exercise Gender and Land in Our Communities

Part I (1 hour)

The purpose of this exercise is to start discussion on the common challenges regarding land that women face in their communities. The exercise is also meant to identify customary practices about women and land to start discussion on what the Constitution says about women's land rights.

1. In pairs, have the participants discuss the following questions:
 - What are cultural beliefs and practices about women and land in the community where I work?

- What are common problems that women face in relation to land in my community?
2. Have all the pairs share the answers for the first two questions. Write down the answers on a flip chart.
 3. Have a brief discussion on the most common cultural beliefs, practices and challenges that women face in relation to land.
 4. Point out that despite what culture and practice may be, the Constitution provides the standard for women's land rights. Close the discussion by reaffirming the following Constitutional principles:
 - Women and men in Uganda are equal in the eyes of the law.
 - Land in Uganda belongs to both women and men as equal citizens.
 - 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).
 - The Constitution bans any laws, customs, cultures and traditions that treat women unfairly or deny women the same rights and opportunities as men.
 - Women have the same right as men to have property. Both women and men can have property alone or share with other people. No one should take away women's property or men's property for no good reason.

Part II (30 minutes)

Have participants answer, present and discuss their answer to the following question:

- As a community rights worker, what tools or methods have I used to sensitize the community about women and land? Which work best and why, especially in convincing both men and women about women's land rights?

Land Tenure in Uganda: Then and Now

Lecture A History of Uganda's Land Tenure Systems (1 hour)

The history of Uganda's land law can be divided into three periods: Before the Land Reform Decree (1969-1975), the Land Reform Decree (1975-1995) and the 1995 Constitution and the Land Act (1995-current).

Before the Land Reform Decree (1969-1975)

The four forms of land tenure in Uganda today existed before the first set of land reforms in 1975. The forms were *mailo*, freehold, leasehold and customary land tenure.

Mailo land tenure was created by the 1900 Buganda Agreement between the Kingdom of Buganda and the British government. According to the Buganda Agreement, pieces of land were given to certain people to own forever along with a certificate of title. These people were called landlords. People living on *mailo* land who were not the owner, called tenants, had a different set of rights. According to the Busulu and Envujjo Law of 1928, tenants had to pay a *busulu* fee to the landlord owners for the right to cultivate the land and an additional fee, called the *envujjo*, if they cultivated crops for sale. Tenants did not have rights to transfer the land to someone else. A tenant could not be evicted without a court order and would have to be compensated for any improvements s/he made to the land. Tenants did not have any title to the land.

Freehold land tenure was the result of the British government and the Uganda Land Commission granting land to certain individuals and organizations. Under freehold tenure, the landowner owned the land forever and could do anything s/he wanted with the land (for example build, sell, rent, etc.) unless there

were specific restrictions. The landowner was entitled to a certificate of title.

In **leasehold land tenure**, an owner agreed to let another person, called a tenant, use the land for a specific period for which the tenant paid rent to the landlord. If the agreement was for three years or more, the tenant was entitled to a certificate of title. The land in question could be held in any of the *mailo*, freehold, or customary tenures.

Customary land tenure referred to the traditional ways of owning land throughout Uganda. Customary land was usually controlled by elders or clans but individual people or families could live on or occupy the land. The term *kibanja* became associated with people having land under customary tenure.

After the Land Reform Decree (1975-1995)

The Land Reform Decree, made in 1975, was the first major set of changes to Uganda's land laws. The Land Reform Decree made all land in Uganda public and belonging to the Uganda Land Commission. The Decree ended *mailo* and freehold tenure systems and limited the rights of customary tenants. *Mailo* and freehold interests became 99-year leases by owners to the Uganda Land Commission, and the Uganda Land Commission had to give consent before a person could transfer his/her lease. *Mailo* tenants were no longer required to pay the *busulu* or *envujjo* fees to their landlords because the Land Reform Decree abolished the *Busulu* and *Envujjo* Law of 1928. The Land Reform Decree reduced customary tenants' security of tenure. Customary tenants became considered as unlawful occupiers of land. It became illegal to acquire fresh customary tenure without permission from a prescribed authority, which was never defined. However,

customary tenants could not be evicted without six months notice and were entitled to compensation for any improvements they made to the land.

Uganda's 1995 Constitution and the Land Act (1995-Current)

Uganda's 1995 Constitution brought important changes to the land system. The Constitution restored *mailo* and freehold tenure to what they were before the Land Reform Decree. It became possible for owners to change their customary tenure or leases on public lands into freehold land ownership through registration of the land. Tenants were now entitled to formally register their interest in the land they occupied. The 1995 Constitution also vested all land in the people of Uganda and changed the Uganda Land Commission's role from ultimate landowner to owner and manager only of land that belonged to the government. To manage land throughout the country, the Constitution called for the creation of District Land Boards and Land Tribunals to oversee land registration and transfers, keep records, and handle disputes. District Land Tribunals were recently suspended, and now Magistrates courts hear land cases.

The 1995 Constitution also enshrined women's right to own land and property by stating that:

- All land belongs to the citizens of Uganda. (Article 237)
- Every person has a right to own property, either individually or with others. (Article 26)
- All persons are equal under the law in political, economic, social, and cultural life, and a person shall not be discriminated against on the basis of sex. (Article 21)
- Women are equal in dignity with men and have the right to equal treatment with men, including equal economic, social and political opportunities. The government

will protect women's rights. Laws, cultures, customs or traditions that harm women's welfare are not allowed. (Article 33)

A main purpose of the Land Act is to describe how the land rights in the Constitution should be enacted. It gives specific rules and processes for the creation and responsibilities of District Land Boards that the Constitution created, and provides for the creation of local Land Committees and Communal Land Associations. The Land Act sets the requirements and procedures for people to convert customary land into freehold land and to apply for freehold land, as the Constitution gives them the right to do. Persons, families, or communities holding customary land can, under certain conditions, receive a Certificate of Customary Ownership, giving the owner(s) rights to use, lease, divide, mortgage, sell, bequeath, and make other transactions on the land.

An important contribution of the Land Act and its amendments is to set and clarify the rights and responsibilities of tenants and landlords. The Land Act (Article 3) describes *mailo* tenure as a form of tenure that allows separate ownership rights and use rights over registered land. Landlords and their descendents have all the ownership rights of a freehold owner but must respect the rights of tenants who are lawful or bona fide occupants and their descendents. The Act then defines who is a lawful occupant and who is a bona fide occupant, which had not ever been defined before.

- A **lawful occupant** is someone who either was occupying the land according to the rules of the *Busulu* and *Envujjo* Law of 1928 or the *Toro* or *Ankole* Landlord and Tenant Laws of 1937 before these were abolished by the Land Reform Decree, someone who entered the land with the registered owner's consent, or someone who had been a customary tenant on the land but was not disclosed or compensated when the registered owner acquired a leasehold title.

- A **bona fide occupant** is someone who before the 1995 Constitution either occupied or used land without being challenged for 12 years by the registered owner or who had been settled on land by the government.

Tenants by occupancy (including lawful and bona fide tenants) are guaranteed security of occupancy and have the right to a Certificate of Occupancy if they have paid the ground rent for the land. Ground rent is a nominal payment by the tenant to the landlord and is supposed to be set by either the District Land Board or the Minister of Lands. Tenants by occupancy have the right to make any legal transaction on the land but must obtain the owner's consent. The Land Act further outlines what obligations tenants and landlords have toward each other when one party wishes to sell or subdivide the land or tenancy. The 2010 amendment to the Land Act requires a court order for a lawful or bona fide tenant on *mailo* land to be evicted, requires landlords looking to sell land to give tenants the first option to buy, and requires tenants looking to assign their tenancy to give landlords the first option to buy.

The Land Act further upholds the Constitution's support of women's and girls' property rights by stating in Article 27 that any decision made on customary land according to customs or traditions that denies women access to ownership, occupation, or use of any land, or violates the rights of women in the 1995 Constitution, is null and void. The 2004 Amendment to the Land Act gives all spouses (wives and husbands) the right to security of occupancy on family land (and also defined family land) and requires the consent of the spouse(s) for transactions of family land.

Discussion Land Tenure Systems in Uganda Today (1 hour)

1. Ask the participants to describe the land tenure systems, or ways people can hold land, they are familiar with.
2. Distribute and discuss Handout 1, "Land Ownership Systems in Uganda."
3. Ask the participants
 - What differences are there between customary tenure and *mailo* tenure?
 - What differences are there between being a tenant on *mailo* land and owning customary land?
 - Do people in your communities know which kind(s) of tenure they have?
 - What makes someone who lives on *mailo* land either a lawful tenant or a bona fide tenant?
 - Under *mailo* tenure, what responsibilities do tenants have toward the landlord?
 - Under *mailo* tenure, what responsibilities do landlords have toward tenants?

Invite the participants to ask their own questions.

Discussion Women's Land Rights (1 hour)

1. Ask the group to read aloud Handout 2, "Women's Rights in the Land Act" (and also Handout 1 on women's property rights in the Constitution, in the "Rights and Gender in Uganda" module in *Property Rights and Gender in Uganda: A Training Toolkit*). Have one person read one point aloud and then move to another person to read the next point aloud until all points on the handouts have been read. You may wish to pause after a few points to invite questions.

2. Either as a whole or in small groups, ask the participants to answer the following questions:
 - In your own words, what is family land?
 - Does a woman have a right to own land by herself? Why or why not? What does the law say?
 - Do married women and unmarried women have different rights over land? Please explain.
 - Does a wife need her husband's permission to sell land that they farm for food? Why or why not? What does the law say?
 - Does a husband need his wife's or wives' permission to sell land that they farm for food? Why or why not? What does the law say?
 - If a man and a woman are legally married, is it legal for one spouse or other family to chase the other spouse off family land?
3. Invite the participants to ask their own questions.

Places that Manage Land and Resolve Disputes

Background Managing Land Disputes as a Community Rights Worker

Many different people and institutions are involved in managing land and resolving people's disagreements about land. It is important to know which people and institutions have proper authority and the right expertise. Sometimes when a person has a question about land, needs a document, or needs someone to help solve a disagreement, the person will seek help from one person, and then another, and then another, and not find the help that s/he needs. Understanding the different roles of people and institutions that manage land and resolve land disputes can help the community rights worker to resolve clients' cases more quickly and according to the law.

Managing land involves issuing documentation for land (like titles and Certificates of Occupancy), keeping records, transferring claims or ownership of land from one party to another, surveying land, and estimating land value. Recorders, Area Land Committees, District Land Offices, and District Land Boards are the main places to seek help with land management. Handout 3 describes each of these and their roles according to law.

Resolving land disputes involves hearing parties' disagreements and arriving at a settlement that is consistent with the law. If and when a community rights worker is faced with a particularly complex land dispute to mediate, rather than try to handle it alone, s/he should refer the client to the right institution. Traditional leaders, Local Council courts, Magistrates courts, and mediators are the main persons and places to seek help in resolving land disputes. Handout 4 describes each of these and their roles according to law.

Discussion Where to Go for Land Management (20 minutes)

1. Read aloud or have the group read aloud Handout 3, "Land Management Institutions."
2. Ask the participants the following questions:
 - If your client wanted a survey on his/her land, where would you direct him/her?
 - If your client wanted to apply for a Certificate of Customary Ownership or a Certificate of Occupancy, where would you direct him/her?
 - If your client's land was damaged by the neighbor's cattle and s/he wants to know how much compensation to ask for, where would you direct him/her?
3. Ask the group which of the persons or institutions listed in the handout they have worked with before. What was good about the experience? What was bad about the experience?
4. Invite questions from participants.

Discussion Where to Go for Land Disputes (20 minutes)

1. Read aloud or have the group read aloud Handout 4, "Land Dispute Resolution Institutions."
2. Ask the participants the following questions (please note that any of the institutions on the handout are valid answers. The goal of the discussion is to give rights workers practice in thinking about each of the different institutions).

- If your client and his/her neighbor could not settle on their lands' boundaries and you were unable to help them agree, to whom could you refer them? Why would you choose that person or institution?
 - If clan leaders say that a widow's in-laws can use the land she is living on but she does not want them there, to whom could you refer the widow?
3. Ask the group which of the persons or institutions listed in the handout they have worked with before to resolve disputes. What was positive about the experience? What was negative about the experience?
 4. Invite questions from participants.

Documenting and Registering Land

Background Registering Land to Protect Property Rights

Having land registered is a very good way to strengthen a person's claim on the land. This is especially true for freehold, leasehold and *mailo* land ownership. Upon registration, a Certificate of Title is issued as evidence of lawful ownership of the land in question. Tenants on land can obtain a Certificate of Occupancy to show that they are legally permitted to stay on or use the land.

For customary land ownership, a Certificate of Customary Ownership of the land can be obtained from the District Land Board for a fee. The certificate is evidence of the customary rights and interests relating to the land, and the owner is allowed to manage the land like any other landowner. Banks and many other institutions consider a Certificate of Customary Ownership to be a valid title, and so the owner may use the land as collateral, mortgage or lease the land, and so on. A customary landowner may convert his/her ownership to freehold ownership by applying to the District Land Board. However, the land remains as customarily owned, even with the certificate.

Handout 5 describes the more common documents people use to legally register their claims on land, how and where to apply for the documents, and what rights the documents give.

Both women and men can have land registered in their names.

For any given piece of land, it is possible to register the land in more than one person's names so that people own the land together or jointly. For married couples, registering land in both the husband's names and the wife's names protects both of their rights to the land. Also, if one spouse should die, the surviving spouse would be able to prove his/her claim to the land if s/he is also on the registration or other documentation for the land.

Discussion Land Certificates (45 minutes)

1. Have the participants read Handout 5, "Important Land Documents."
2. After they have finished reading, for one document at a time ask the following questions before moving to the next document:
 - Do you know anyone who has this document?
 - Do you think this document is for owners or for tenants?
 - Can women have this document?
 - Do you think this document is useful? Why or why not?
3. After all the documents have been discussed, begin a discussion on how easy or difficult it is to obtain land documents. Ask participants about their own experiences or the experiences of clients and neighbors in obtaining documentation for land.
4. Invite participants to ask questions.

Land Ownership Systems in Uganda

There are four types of land ownership in Uganda, otherwise known as land tenure systems.

Customary tenure is a system of customs and practices common to a particular community or clan about how persons and families own, use and occupy land. Customary tenure:

- Is controlled by the common and respected rules about land among the community living on the land, as long as the rules are not against the rights of women, people with disabilities, or children or are not otherwise against the law;
- Lets persons or communities share ownership or use of land for purposes like grazing lands, water sources, etc.;
- Lets persons or communities own land for an unlimited time; and
- Lets an individual or community apply for a Certificate of Customary Ownership.

Mailo tenure is a system of owning land in which there is an owner of the land, called a landlord, and there are recognized occupants on the land, called tenants. It is common in Uganda's Central Region and in the Buganda Kingdom. *Mailo* tenure:

- Separates ownership of land and use of land. While the landowner owns the land, the tenants have the right to build on and farm the land.
- Allows the landowner to own the land for an unlimited time and allows the tenants to use the land for an unlimited time. Landowners can pass their rights to own land to their children. Tenants can pass their rights to use land to their children. This is different from customary tenure because the landowner and tenants are setting the rules under the law, while in customary tenure the community or culture sets the rules under the law.
- Gives the landowner similar powers as if s/he owns freehold land. These powers should not be used against the interests of customary tenants, bona fide occupants or lawful occupants.

Leasehold tenure involves a land owner giving another person, called a tenant, the right to possess or control the land in exchange for payment. Leasehold tenure:

- Is usually for a limited period of time, the start and end of which is clearly stated in the lease agreement;
- Is mostly in exchange for money, which is paid either once or at certain agreed-upon intervals; and
- Is created either by law or an agreement made by the owner of the land and the person interested in having or using land. They will agree on how the tenant may use the land and what the payment will be.

Freehold tenure is a system of land owning in which:

- The owner owns registered land for an unlimited period; and
- The owner of the land has full powers of ownership. The owner can do anything with the land as long as it is not against the law, including:
 - Use the things from the land for his/her own purposes
 - Enter into any dealings on the land such as sale, lease, giving it as guarantee to borrow money from a bank, etc.
 - Allow other people to use the land
 - Give the land away in his/her will

Women's Rights in the Land Act

- The law does not allow women to be discriminated against in decisions about land. Any decision taken on customary land that denies women ownership, occupation or use of land is illegal.
- Both spouses—husbands and wives—have the right to use and live on family land as long as the parties are both still married to each other.
- Family land is defined as:
 - Land where the family home is situated,
 - Land that helps sustain the family, such as farmland (for crops, cattle) or land from which the family earns an income, or
 - Land that, according to the family's norms, custom, or tradition, is called family land.
- A spouse—husband or wife—first has to get the approval or consent of the other spouse before either of them can carry out any transaction on family land. Such transactions include sale, exchange, mortgage, or lease.
- A husband's or wife's permission to sell, lease, exchange, transfer, or mortgage family land must be given personally in writing to the Land Committee.
- A wife may make an objection (called a caveat) on the Certificate of Title or on the Certificate of Customary Ownership as a way of publicly documenting her right to consent to transactions on the land. A husband may do the same.
- A woman has a right to appeal a decision on a land dispute if she is not satisfied with it.
- The law requires at least one-third of the members of a District Land Board or the Land Committee to be female.
- At least one-third of the officers of a Communal Land Association must be women.

Handout 3

Land Management Institutions

This table summarizes the roles of different government institutions in managing, allocating, valuing and safeguarding rights to land.

Institution	Functions
Recorder There is a Recorder at every sub-county, town or township, and every division in a city. In a village or rural area, the Recorder is the Sub-county Chief. In a town or township, the Recorder is the Town Clerk. In a city division, the Recorder is the Assistant Town Clerk.	<ul style="list-style-type: none"> ■ Accepts applications for and issues Certificates of Occupancy and Certificates of Customary Ownership ■ Keeps records of Certificates of Occupancy and Certificates of Customary Ownership
Area Land Committee A District Council may, on the advice of a sub-county or division council, set up a Land Committee. Setting up a Land Committee depends on how much the district needs the services of the Land Committee as well as the state the District Council's finances.	<ul style="list-style-type: none"> ■ Assists the District Land Board on land matters, especially regarding rights on customary land ■ Helps people obtain Certificates of Customary Tenure and Certificates of Occupancy ■ Protects the land rights of women, children and persons with disabilities ■ Mediates land disputes
District Land Office	<ul style="list-style-type: none"> ■ Issues Certificates of Title ■ Has technical officers such as the Physical Planner, the Land Officer, the District Valuer, the District Surveyor and the District Registrar of Titles. Together these persons give technical advice to the District Land Board to enable the Board carry out its functions.
District Land Board	<ul style="list-style-type: none"> ■ Manages and allocates land that does not belong to anyone ■ Assists in recording, registering and transferring claims on land ■ Marks, surveys, plans, maps and draws estimates on land ■ Maintains and revises lists of rates of compensation for loss or damage to property <p>At least one-third of the District Land Board's members must be female.</p>
Uganda Land Commission This body manages land belonging to or acquired by the Government of Uganda	<ul style="list-style-type: none"> ■ Keeps and manages any land in Uganda which is <i>owned or acquired by the government</i> ■ Gets Certificates of Title over land belonging to government ■ Manages the Land Fund

Handout 4

Land Dispute Resolution Institutions

This table summarizes the different courts and authorities where people can take their land disputes that they are not able to resolve themselves or with the help of a community rights worker.

Institution	Functions
Local Council Courts	<p>Local Council II courts at parish level are the first court to which parties can bring land disputes. If the value of land in dispute is 50 million shillings or more, the court of first instance is the Magistrates courts, Grade I.</p> <p>Appeals from the Local Council courts go to the sub-county Local Council court.</p> <p>Anyone not satisfied with the decision of the sub-county Local Council court can appeal to the Magistrates courts and from there (if still not satisfied) to the High Court.</p>
Magistrates Courts	<p>Magistrates I courts handle land cases.</p> <p>Previously, District Land Tribunals heard land cases, but they have been suspended. The authority and responsibility to hear and settle land cases has been returned to Magistrates courts.</p>
High Court	<p>The High Court hears appeals of anyone who is not satisfied with the decision of the Magistrates courts</p>
Traditional Authorities	<p>The Land Act recognizes the role of traditional authorities in resolving disputes related to customary tenure. Traditional authorities are also allowed to mediate between persons who are in dispute over matters arising out of customary tenure.</p> <p>The Magistrates court, while handling a land dispute, may ask the parties to have their case mediated by traditional authorities. When that happens, the traditional authorities would then have to write to the Magistrates court to inform them of the outcome of the mediation.</p>

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Handout 4: Land Dispute Resolution Institutions, *continued*

Institution	Functions
Mediator <p>A person of high moral character and proven integrity by virtue of his or her skill, knowledge, work, and standing in society who brings together parties who have a dispute to negotiate and reach a mutually satisfying agreement.</p> <p>The Mediator is appointed by the Magistrates court or Local Council as and when the need arises. The mediator has to be agreed upon by the disputing parties.</p>	<p>The Mediator may assist in settling disputes over:</p> <ul style="list-style-type: none">■ Consent by either a landowner or a person occupying land■ Claims or compensation from government for settling tenants on a person's land or for land compulsorily acquired from that individual by government■ Instances where any member of a communal land association is dissatisfied about portions of land held by the association being subdivided or transferred to individuals■ Applications for Certificate of Customary Ownership or Certificate of Occupancy■ Applications for changing of customary ownership into freehold ownership■ Land that has not been referred to the District Land Tribunal <p>In addition, the Local Council courts or Magistrates courts may request a mediator to assist where it thinks mediation should be the first attempt to resolve the conflict.</p>

Handout 5

Important Land Documents

This is not a full list of all the possible land documents. These may be the most common for the people in communities where community rights workers operate. Any person (man or woman) who owns land by whatever means (purchase, inheritance, gift, etc.) needs to have proof of ownership to manage and make transactions with land and for protection in case their rights to the land are violated.

Document Type	Where/How to Get It	Why It Is Good to Have It and What It Can Be Used For
Certificate of Customary Ownership	<p>A Certificate of Customary Ownership is given only to a person or group of persons who own land under a customary system.</p> <p>The person(s) wishing to obtain a Certificate of Customary ownership applies to the District Land Committee.</p> <p>The Committee issues a public notice of the application and confirms the land's boundaries. It then may recommend that the District Land Board issue a Certificate of Customary Ownership.</p> <p>The District Land Board is responsible for issuing Certificates of Customary Ownership.</p>	<p>A Certificate of Customary Ownership is full and final proof of ownership of customary land.</p> <p>A Certificate of Customary Ownership gives the owner power to do the following things:</p> <ul style="list-style-type: none">■ Enter into any dealings concerning the land such as sale, lease, giving it as guarantee to borrow money from a bank, etc.■ Let other people use the land■ Give the land away by will <p>When the person whose names are on the Certificate of Customary Ownership carries out any transactions involving the land, s/he must give the Recorder a written copy of the dealings so that the Recorder can file a record.</p>
Certificate of Title	<p>This is issued to owners of freehold, leasehold and <i>mailo</i> land.</p> <p>The person must apply to the District Land Board.</p>	<p>Certificate of Title is full and final proof of ownership of land by the owner.</p> <p>The Certificate of Title gives the owner the following powers:</p> <ul style="list-style-type: none">■ Use the things gained from the land (crops, water, etc.) for his/her own purposes■ Enter into any transactions involving the land such as sale, lease, giving it as guarantee to borrow money from a bank, etc.■ Let other people use the land■ Give the land away by will

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Handout 5: Important Land Documents, *continued*

Document Type	Where/How to Get It	Why It Is Good to Have It and What It Can Be Used For
Certificate of Occupancy	<p>A tenant (or someone who occupies or stays on land with the permission of the landowner) can apply for and obtain a Certificate of Occupancy.</p> <p>The tenant applies to the owner of the land for a Certificate of Occupancy.</p> <p>The registered owner then informs the District Land Committee that the tenant has applied for a Certificate of Occupancy.</p> <p>The Land Committee sets a date for a meeting between the registered owner and the tenant. The meeting determines the boundaries of the land for which the tenant is applying for a Certificate of Occupancy.</p> <p>After agreeing on the land boundaries, the registered owner gives consent to the tenant to get a Certificate of Occupancy.</p> <p>The tenant then takes this consent to the Recorder, who issues the Certificate of Occupancy.</p> <p>The tenant has to comply with any terms and conditions set out in the Certificate of Occupancy, such as the requirement to pay rent to the owner.</p>	<p>The Certificate of Occupancy is full proof that the tenant has permission from the registered owner to occupy that piece of land.</p> <p>A Certificate of Occupancy gives the tenant the right to enter into any dealings on the land such as sub-leasing, subdividing, giving away, etc.</p> <p>With a Certificate of Occupancy, tenancy can be inherited, i.e., passed on to other people such as the wife, husband, children, relatives, etc., after the original tenant's death.</p> <p>Before dealing with the land in any way, the tenant must first apply to the registered owner asking for permission.</p>

Handout 6

Story/Role Play for Community Sensitization: Mary & Gilbert

Directions:

This is a story that follows a husband and wife, Gilbert and Mary, over time. You can either tell the story out loud or ask people to act out different characters in the story. You can make changes or add details to make the story richer and more relevant to your audience. You can use all of the chapters or just some.

At different points in the story, there are places you can pause for discussion. Several discussion questions are provided, as well information about what the law says. Encourage the group to ask their own questions, but be sure to discuss what the law says.

You can tell different chapters of the story and do the discussions in order or pick one or two discussions you want to do. If you decide you want to skip a discussion or save it for later, still read the parts of story that are in between.

The entire story with discussions is estimated to take 3 hours.

The Story of Mary and Gilbert

Chapter 1

Mary and Gilbert are wife and husband. They have been married for 10 years and have a son, Samuel, a daughter, Rose, and a baby, Tom. They have two plots of land that Gilbert cleared. Together they decide what to plant. They grow banana, maize, beans, vegetables and pawpaw. Mary spends most of her time tending the crops, selling cooked *matoke* in the market, taking care of the children and keeping the house. Gilbert sometimes helps with the crops but also works at a shop in town. They have been saving money from selling the vegetables, pawpaw, and *matoke* and from Gilbert's wages from the shop. They decide to buy another small piece of land.

Mary works very hard on all their lands, including the new land. She knows that if she works hard, she can have more food for her family and to sell in the market. Plus, Samuel and Rose will soon be old enough to start school, and she and Gilbert want to make sure that they have enough money to pay the school fees. Mary decides that she will plant more vegetables and beans on the new plot.

Discussion: Whom Land Belongs to and Titling

1. Whom does the new land belong to?
2. Who contributed to buying the new land?
(Answer: Both Mary and Gilbert)
3. Do you think there would be any kind of title or purchase agreement for the new land? Why or why not? If there is any kind of title or agreement, whose names will go on it: Mary's names, Gilbert's names, both their names? Why?
4. Where could they get a title or purchase agreement?
(Answer: Either the District Land Board or District Land Office may issue a title or purchase agreement)

Chapter 2

Over the next few years, Gilbert and Mary both work hard—Gilbert in the shop and helping with the farming, and Mary working on the plots, selling foods and *matoke* in the market, and taking care of Samuel,

Rose, Tom, and the house. Thanks to their hard work and the produce from the newer plot that Mary has been farming, they have enough money to pay school fees for the children. The children do well in school, especially because Mary is able to feed her family a good breakfast with the food she has grown. She also buys milk and eggs for everyone with the money she earns from selling her vegetables, beans, and *matoke*. Even when Gilbert fell very ill with malaria, they were able to easily pay for the medication and the doctors' fees. Gilbert and Mary are very proud of their family.

Every weekday, Gilbert drops the children at school on his way to work in the shop. With the children in school, Mary has a small amount of free time each day. She decides to use this time to weave raffia mats and baskets to sell in the market. She does this work in bits and pieces during the day and still tends to all the plots, cares for the children, and maintains the house. By the time Rose is in P4, Mary has saved enough money from the mats and baskets to buy three chickens and a young female goat. Now she can provide eggs to her family and does not have to buy them. She hopes that when the goat becomes an adult, she can sell some of its milk to her neighbors.

Discussion: Rights over non-Land Assets

1. To whom do the earnings from selling the raffia mats and baskets belong? Why?
2. To whom do the goats and chickens belong? Why?
3. Would it be fine for Mary to sell the goat or chickens one day if she wanted to?
4. Would it be fine for Gilbert to sell the goat or chickens one day if he wanted to?
5. If either Mary or Gilbert sold the goat, who should get the money from the sale?

What the law says:

In marriage, the man and woman have a right to own property either jointly or individually and have the responsibility to take care of their property and manage it correctly.

From the Constitution:

- All people—men and women—are equal before and under the law in every area of life and shall be protected equally by the law. All people are to be treated the same. No one, whether man or woman, should be treated unfairly or discriminated against.

- Women have the same rights as men to have property that they can own alone or own with other people. No one should take away any person's property for no good reason.
- Married women have equal rights as their husbands, including the right to property.
- The Constitution bans any laws, customs, cultures, and traditions that treat women unfairly or deny women the same opportunities as men.

The audience may have a variety of answers and opinions about who the earnings and animals belong to and who may sell the animals and keep the profits. Ask the audience to explain their opinions. Use the principles from the Constitution and written law to remind people that

- Mary and Gilbert have equal rights,
- Women can have property of their own,
- Husband and wife can each have their own property and property they own together, and
- Culture is not a good enough reason to keep Mary from having and controlling property.

According to law, the earnings from the mats and baskets can belong to Mary herself. She used her free time to weave them. Mary purchased the chickens and goat with money from the mats and baskets she sold. According to the law, Mary can have the chickens and the goat as her own property, though she may decide to let Gilbert share in the ownership as well since they are working together to take care of the children and he helps on the farm. Because the animals belong to Mary, it should be fine for her to sell them. If Gilbert wants to sell the animals, it would be good to check with Mary first.

Chapter 3

The small town near Mary's and Gilbert's village is growing. When he is working in the shop, Gilbert hears that many people are looking for parcels of land to farm or to build a small house on. People talk about the deals they have heard about and there are rumors about the money people get from renting or even selling a piece of land. The prices are fair, and the family could always use more money, especially with Rose soon set to follow Samuel into secondary school. One day, one of the shop's regular customers, Moses, asks Gilbert if he would sell him some land.

Discussion:

What do you think Gilbert will do? Will he sell the land straight out? Will he first discuss with Mary?

Discussion: Family Property

1. What is family land?
2. What does the law (the 1998 Land Act and its 2004 Amendment) say about family land?

(Answer: Family land is:

- Land where the family usually lives or has a house where they usually live,
- Land that the family farms or that provides the family's main livelihood or income,
- Land which is treated as family land according to the norms, customs, traditions or religions of the family.

Every spouse has the right to have access to and live on family land.

A spouse shall in every case have a right to use family land and give or withhold his or her consent to any transaction that may affect his or her rights.)

According to the 2004 Land Act Amendment, before Gilbert could sell, rent out, or give any family land to anyone, Mary would need to provide written consent if she agreed. The registrar of titles (or the Recorder in case of customary land and tenancy by occupancy) cannot register any land transaction without spousal consent.

- The consent must be given prior to the transaction, be of the spouse's free will, and must be put in writing.
 - Written consent must be given within six weeks from the day the application for consent is received.
 - If the spouse does not give consent, the transaction cannot be legally registered or documented.
 - In cases where there is more than one spouse with an interest in the same piece of land, they must all give consent.
 - If the person who wants to make the transaction feels that her/his spouse is unreasonably denying consent, s/he may appeal to the Land Tribunal. The Land Tribunal will require the spouse to show cause as to why s/he is denying consent and will rule as to whether or not consent is required for the particular case.
3. What contributions has Mary made for each of the pieces of land?
(Answer: Mary has been the main person farming and has used money she earned from selling produce and *matoke* to help buy the last piece of land.)

4. What contributions has Gilbert made for each of the pieces of land?

(Answer: Gilbert has cleared them, helps Mary sometimes with the farming, and used earnings from working in the shop to help buy the last piece of land.)

Chapter 4

Neither Mary nor Gilbert wants to sell any of their land outright. Mary especially does not want to lose any land because it has helped provide her family with more food and more income. Plus, now that they have some small animals, they need somewhere to let them graze. Gilbert says to Mary, "Let's rent out a portion, about one-third of the newer plot to this man for a year." Mary agrees to try this arrangement.

Discussion: Making and Documenting Land Transactions

1. How will the parties agree on which portion of the plot will be rented?
(Possible answers: they could do a survey, use landmarks, draw a map, or have other people witness the boundaries.)
2. What kind of documentation might they draw up?
(Answer: A rental agreement or other contract.)
3. Whom can they ask to draw up the agreement or to help them draw it up?
(Answer: District Land Board or District Land Office, Recorder, a lawyer, others?)
4. Do you think both Gilbert's names and Mary's names should be listed on the document as the owners who are renting it out? Why or why not?

Chapter 5

Years pass, and Mary and Gilbert continue to rent out a portion of the land to Moses. Moses and his wife come from town every weekend to farm. Mary and Gilbert use the rental income to pay school fees for Samuel, Rose, and Tom and to buy extra food and necessities. When Samuel graduates S6, the family has a celebration.

Many more years later, Gilbert grows ill and passes away. Mary, Samuel, Rose, and Tom are very sad and miss him. Since Samuel is now grown, he takes a portion of the family land as his own. He is planning on getting married soon and wants to build a house.

Discussion:

1. How much land should Samuel take for his portion? Can that land come from the homestead or the additional purchased piece of land, or both?
2. Who should decide the size of Samuel's portion?
3. What might have happened if Gilbert had left a will?

(Answer: Gilbert could have said in his will what piece of the land he would leave to Samuel, to any other or his children, or to Mary. However, his will cannot go against any legal rights that Mary would have as a joint owner of the land, especially if her names are on the documents.)

What the law says:

The Succession Act describes how a deceased person's property may be distributed after death and to whom it may be distributed. In 2007, the Constitutional Court ruled several pieces of the Succession Act to be against the Constitution and null and void because they treated women and men differently. One part of the Succession Act that was declared invalid is Section 27 that describes how a deceased male's estate should be distributed if he did not make a will. Another part of the Succession Act that was declared invalid is Schedule 2 that said widows cannot stay in the home where they lived with the deceased if they remarry.

Even though the Constitutional Court ruled that parts of the Succession Act are no longer valid because they discriminated against women and treated women and men differently, no new laws have been written to guide how to distribute property of the deceased. *Until new law are written, people should strive to ensure that sons and daughters are treated equally in inheritance, that husbands and wives are treated equally in inheritance, and that spouses and children receive sufficient amounts to be able to care for themselves.*

Sections of the Succession Act that are still valid say that:

- Jointly owned assets go automatically to the surviving partner at death. This is because property owned jointly has unity of title, time and possession. It cannot be divided so that the beneficiaries of the deceased can have a share. However, the case is different with "property held in common,"

which means that although people hold the property together, each person knows how much of that property belongs to him or her. Property held in common is divisible, and upon death, the beneficiaries of the deceased person can take over the share of the deceased. The deceased can also distribute his share by will.

- A spouse and any children under the age of 18 if male and 21 if female and unmarried who were normally resident with the deceased prior to his/her death are entitled to occupy the residence. For widows and children living in a house that belonged to the deceased, the residence is counted separately from the other property to which the children or wives may be entitled.

Based on these sections, whom the land should go to depends on how Mary and Gilbert held the land when Gilbert was alive. If they held the land together as a whole, it belongs to Mary, and she can decide how much to give to Samuel. If they held the property "in common" so that each had a share, Gilbert's share can be distributed to his heirs and Mary still holds all of her share. It is important that friends or spouses who acquire property together, such as land, clearly decide if they wish to hold the property jointly or in common.

The house Mary lives in is not counted as part of Gilbert's estate to be distributed. She and the children may stay there.

Section 27 of the Succession Act was declared invalid. It gave rules for how much different heirs should receive. Even though the rules are no longer in effect, you may use them as a starting point for a discussion with the audience on how much they think Mary, Samuel, Rose and Tom should receive from Gilbert's estate. *Remind the audience about the law requiring women and men and sons and daughters to be treated equally.*

Under the now invalid Section 27: Where the intestate is survived by a customary heir, a wife, a lineal descendant, and a dependent relative,

- the customary heir shall receive 1 percent
- the wife/wives shall receive 15 percent
- the dependent relatives shall receive 9 percent and
- the lineal descendants shall receive 75 percent of the whole of the property

Chapter 6

For a few seasons, Mary has been noticing that Moses and his wife have been planting beyond the boundaries of the land they are renting and onto the land Mary is using. Each season it seems they are planting more and more onto Mary's land without paying any more in rent or even asking. She even suspects that sometimes they harvest some of her bananas. Mary is upset because with the land Moses is using and the land Samuel is now living on, she has very little land left to support herself, Rose, and Tom. She also wants to make sure that there is enough land left for Tom when he is older. Mary went to the LC1 for support, but the LC1 is a friend of Moses and does nothing. Mary does not know what to.

Discussion: Land Conflicts

1. Where can Mary go for help?

(Answer: A community rights worker, other mediators, local chairpersons or other local officials, LC courts, legal aid clinics, clan meetings, others?)

2. If from the beginning, Mary's names were either on the rental document as an owner or on the title to the land as an owner, how might that help her?

(Answer: If Mary was listed as an owner on either document, it shows that she is the rightful owner of the land, regardless of whether her husband is alive. A court and the government must acknowledge Mary's rights as owner.)

Chapter 7

Closing Discussion:

1. What do you think will happen to Mary and her family in the next few years?
2. Do you think Mary will be able to stay on her land? Why or why not?
3. Suppose that Rose grows to adulthood but does not get married for many years. Do you think that Rose will still be able to use her mother's land before she is married? Why or why not? What about after she is married?



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Property Rights in Marriage and Family



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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.

Property Rights in Marriage and Family

Marriage is an institution that can have a significant impact on men's and women's property rights. Family law in Uganda covers who can get married, the types of marriage that are legal, what makes a marriage legal, marriage rights and responsibilities, as well as marriage breakdown (either by separation or divorce). In practice, customary and religious rules and norms about marriage are applied to family law alongside statutory requirements. Regardless of differences in the written laws and in customary and religious rules, the Constitution provides the standard upon which ALL marriages are based to be fair to both men and women.

It is important to note that the family laws are currently under review because some are unfair or discriminatory to men and women, and the law has to change to reflect the equality embodied in the Constitution. *If and when the family laws are unfair or unclear, the Constitution is applied as the standard for both men and women in marriage.*

Even though property will be discussed in the context of marriage, it is important to remember that women have property rights outside marriage including when they are single, separated or divorced.

Module Objectives:

Community rights workers will **understand**:

- Rights women and men have over property whether married or unmarried
- Procedures and documentation for different types of marriages
- What family land is
- Property gained after marriage is considered jointly owned by the couple unless otherwise stated

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

- How some customary practices of marriage, divorce or separation may violate women's property rights
- Customary practices must not go against the equality of women and men declared in the Constitution

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

- Knowledge and services to document and protect each spouse's property
- A view that women have rights to property outside of marriage and not dependent on men

Handouts & Story/Role Play:

At the end of the module are 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: Practices for a Church Marriage
- Handout 2: Practices for a Civil Marriage
- Handout 3: Practices for a Customary Marriage
- Handout 4: Practices for an Islamic Marriage
- Handout 5: Important Marriage Documents
- Handout 6: The Law on Separation & Divorce: Church & Civil Marriages
- Handout 7: The Law on Separation & Divorce: Customary Marriages
- Handout 8: The Law on Separation & Divorce: Islamic Marriages
- Handout 9: Women's Property Rights at Separation and Divorce

- Handout 10: Informal Dispute Resolution Institutions
- Handout 11: Formal Dispute Resolution Institutions

Also at the end of the module is a role play (Handout 12), which can be used as an optional exercise. The role play tells the story of a husband and wife who might split up and a community rights worker who explains to them their rights to separate or divorce according to the law. It touches on bride price, property rights and who can decide a divorce. The role play needs three persons to act it out but could also be told as a story.

Total time: 8.5 hours, plus 3 hours of optional exercise

What Makes a Legal Marriage?

Background Marriage Laws

The main family laws in Uganda that this module draws on are:

1. The Marriage Act
2. The Customary Marriage (Registration) Act
3. The Marriage and Divorce of Mohammedans Act
4. The Divorce Act

Lecture/Discussion Legal Marriages in Uganda (1 hour)

1. Begin with the following points:

- Marriage is when a man and a woman decide to stay together for life of their own free will under any of the existing legally recognized forms of marriage in Uganda. Deciding to marry is not the same as living together or having children together. Unless a man and woman go through the procedures necessary for a church marriage, civil marriage, customary marriage, or Islamic marriage,¹ the law does not consider them to be married, even if they live together or have children together. This is important because the law gives certain rights and obligations to people who are legally married like rights to inheritance, property and family maintenance.
- Cohabitation (where man and woman live together without going through any of the legally recognized marriages) is not legally recognized as a form of

marriage in Uganda. Consequently, cohabitating couples do not have the same property rights and legal protections as men and women who are married. For example, unless the land where they stay is registered in her name (either alone or jointly with her partner), a cohabiting woman has no legal protection to stop the man she is cohabiting with from selling, renting out, or giving away the land where the couple stays or farms, whereas a married woman would be protected in that her partner could not take any of these actions without her written consent.

2. Give a short lecture on the different kinds of marriages that are legally recognized in Uganda. For each kind of marriage, discuss the conditions, procedures, responsibilities and property rights. Use the following handouts in the lecture and refer participants to key points on the handouts:

- Handout 1: Practices for a Church Marriage
- Handout 2: Practices for a Civil Marriage
- Handout 3: Practices for a Customary Marriage
- Handout 4: Practices for an Islamic Marriage

As much as possible, make the lecture interactive. However, make sure to correct any misperceptions people have and focus on what the law says. For example, it may be necessary to remind the group that the custom of introduction to parents and parental consent are not required for a marriage to be legal.

¹ Please note that while Hindu and Baha'i marriages are also recognized as legal marriages in Uganda, they are not included in this toolkit because they will not be found in the majority of communities where the community rights workers work.

Questions you may wish to use in discussion include:

- How is cohabitation different from marriage?
- What are at least five property rights that women have from the written law that relate to marriage, separation or divorce?
- What differences in a woman's property rights do you see across the different kinds of marriages?
- How are the rights and responsibilities for women and men similar to their rights in the Constitution? How are they different?
- What are some differences between a customary marriage and a civil marriage?
- What differences do participants see across the different marriages?

Lecture/Discussion Important **Marriage Documents (30 minutes)**

1. Begin with the following points:

- Each of the legally recognized marriages in Uganda, including customary marriages, must be registered. In a civil marriage, the Chief Administration Officer (CAO) in each district (who often performs civil marriages) must sign and issue the marriage certificate. In Christian or Muslim marriages, the church or mosque must be legally licensed to perform marriages and must provide the couple a marriage certificate on behalf of the government. The church or mosque is also supposed to keep a register of all marriages performed there. For a customary marriage, the couple must register the marriage at sub-county headquarters within six months of the wedding, and they must bring two witnesses from the wedding. It is illegal to not register a customary marriage.

- To be valid, a marriage certificate must be signed by each spouse in front of two witnesses and be issued by a person who is legally authorized to perform marriages. Each spouse must be at least 18 years old.
- Depending on the religion or custom of the spouses, there may also be other proof that a couple is married. For example, among some communities in Buganda letters from parents state the identity of the child to be married, the clan, and that the child is permitted to marry. Islamic marriages often have a contract that goes into more detail than what is required by law about the conditions of the marriage. Across Uganda it is common for the husband's family to give the bride's family a bride price of money, animals or other goods. However, only the marriage certificate is legally recognized as proof of the marriage.

2. Use Handout 5, "Important Marriage Documents," to describe where and how to get marriage certificates for each type of marriage and to describe the benefits of having a marriage certificate.
3. Ask the participants to suggest ways that having a marriage certificate could be helpful. Below are suggestions you may offer if the participants do not.
- A marriage certificate shows that the marriage is legally recognized. This means that the spouses have certain rights and responsibilities according to the law.
 - A marriage certificate helps parents protect their children's right to inherit their property if they divorce or if either of the parents dies.
 - A marriage certificate can make it easier to protect widows' and widowers' rights to inherit property of their spouse.

- Having a marriage certificate can make it easier to obtain other documents like Letters of Administration or Certificates of No Objection.
- Registering marriages makes it clear who is required to give consent if one spouse wants to sell family land.
- If one spouse wants to leave the marriage and take with him/her all the property, the other spouse can produce the marriage certificate to show that s/he also has a claim to the property.

Property Rights in Marriage

Background Property Rights in Marriage

According to Uganda's Constitution and Land Act, both women and men have equal rights to own land and property, either as individuals or jointly with other people. When people get married, they do not lose these rights. However, because couples tend to share property, what belongs to the husband, what belongs to the wife, and what belongs to both can become confusing. In many cultures in Uganda, most or all property belongs to men, even if their wife has it before marriage or is the person to buy it or pay for it. It is important for women and men to know that they can own property before, during and after marriage.

Exercise Husbands' and Wives' Property in Practice (45 minutes)

1. Arrange the participants into small groups. Ask each group to answer one or more of the following questions:
 - In a family, what property belongs to the man, what property belongs to the woman and what property is shared by both spouses? Property includes land, animals and other items like bicycles, pots and pans, farming tools, etc.
 - List as many cultural beliefs or rules about property in the home that you know about. Which of the cultural beliefs or rules advance women's property rights and which ones do not?
 - What happens to property when the spouses divorce or separate? Which spouse usually receives which properties?
2. Ask the small groups to reconvene as a plenary to share their group work.

Discussion/Lecture Women's and Men's Legal Property Rights In or Out of Marriage (1 hour)

1. Using the points below, give a brief lecture that reminds participants about the rights the Constitution and the Land Act give women and men to own property. Handouts 1 and 2 from the "Rights and Gender in Uganda" module and Handout 2 from the "Land Law and Gender" module, both part of the *Property Rights and Gender in Uganda: A Training Toolkit*, can be used as additional background material for this exercise.

Current marriage laws in Uganda do not clearly spell out the property rights of married men and women. Rather, this information comes from Common Law (the law passed on to Uganda by the British). It is important to remember that the Constitution is the ultimate guide for property rights in marriage. The following provisions of the Constitution apply to the property rights of both men and women regardless of the type of marriage, as long as that marriage is one that is legally recognized in Uganda:

- All people—men and women—are equal before the law in every area of life and shall be protected equally by the law. [Article 21]
- Women have the same right as men to have property that they can keep alone or share with other people and no one should take away their property for no good reason. [Article 26]
- Women have equal rights as men in getting married, during marriage, and if and when they decide to end the marriage. These rights include the right to property. [Article 31]

- The Constitution bans any laws, customs, cultures and traditions that treat women unfairly or deny women the same opportunities as men. [Article 32]

Some articles of the Land Act specifically protect the property rights of married people. The Land Act says that:

- Both husbands and wives have the right to use and live on family land. Family land is defined as land where the family home is situated, land that helps sustain the family (such as land for crops or animals or land from which the family earns an income), or land that according to the family's norms, custom or tradition is called family land.
- Both spouses—husbands and wives—must seek the approval of the other spouse before carrying out any transaction on family land. Such transactions include sale, exchange, mortgage or lease.

2. Invite questions from the participants at this point.
3. Ask participants to name similarities and differences in women's and men's property rights across the different types of marriages: civil, customary, church and Islamic. You can let participants use Handouts 1-4 at the end of this module.
4. Ask the participants the following questions:

According to law, can:

- an unmarried woman have land or other property that is just hers? (Answer: Yes)
- a married woman have land or other property that is just hers? (Answer: Yes)
- a married man have land or other property that is just his? (Answer: Yes)
- a husband and wife own a piece of land or property together? (Answer: Yes)

- a husband sell land that the family farms for their regular food without consent from his wife? (Answer: No)
- a wife sell land that the family farms for their regular food without consent from her husband? (Answer: No)

5. Invite questions from the participants at this point.

Exercise **Debating the Bride Price** (Optional, 2 hours)

In promoting women's property rights, community rights workers will be challenged by opposing views. This exercise provides practice using convincing arguments and persuasive language to lead people to begin to see women's property rights in a new light.

Preparations and Materials

On a flipchart, write the following: "Bride Price Makes Women Property. Property Cannot Own Property." In addition to the flipchart and markers, you will need materials like copies of Uganda's laws, the Bible, the Qur'an, and other sources that the participants may use to bolster their arguments in the debate.

Part I: Debate (1 hour 30 minutes)

1. Explain that you are going to have a debate with the following rules:
 - You will divide the participants into two groups.
 - One group will make a case in favor of the statement and the other group will argue against it.
 - Each group must give clear reasons for their argument and cite sources they are using. For example, if they say something is in the Bible, they have to say where. Or if they use an international convention, they have to say which one.

- Remind the participants that each group is playing a role. They do not need to necessarily believe what they are arguing in the debate. It is important for all participants to make the best argument they can for their side to be able to understand different points of view and to practice making respectful and persuasive arguments.
- Each group will have 45 minutes to prepare their argument.
- Two volunteers from each group should be nominated to present the case.
- Each group will have a maximum of 15 minutes to present their case.
- Present the flipchart with the statement to be debated.
- Divide the group in two. Ensure that the group arguing “Against” the statement has an articulate member who will be able to make the argument against the statement convincingly.
- Conduct the debate as described above.
- During the debate, the opposing group members must listen carefully and cannot interrupt. They can take notes and prepare a short rebuttal (about 5-10 minutes) to the argument after the presentation. Emphasize that because the rebuttal is their response to the arguments presented by their opponents, they need to refer to what their opponents said.

Part II: Discussion (30 minutes)

1. After each group has had an opportunity for a presentation and a rebuttal, the floor is open for a free exchange and discussion.
2. Summarize the discussion and key points made by each side.
3. Ask the members of the team that argued “for” the statement to add any arguments they may have used if they were the opponents.
4. Ask the participants if there were any arguments or approaches from the debate that would have worked well in their communities.

Separation and Divorce

Background Separation and Divorce

While it is hoped that couples will be happy in a lasting marriage, the reality is that sometimes marriages do not work out and the spouses choose to separate or divorce. Community rights workers can either advise couples to get counseling for marital problems or can help in mediating marital problems. At the same time, rights workers need to know what legal advice to give a husband or wife who chooses to separate or divorce.

Please remember to note that because cohabitation is not recognized as a form of marriage in Uganda, the law on separation and divorce does not apply to or protect cohabitating couples who end their relationship.

Lecture What Happens in Separation and in Divorce? (1 hour)

Separation is a situation where a husband and wife stay away from each other for a given period either because they have agreed

(*Separation by Agreement*) or because the court has ordered the separation (*Judicial Separation*). Separation does not end a marriage, but only suspends certain rights of the husband and the wife. The husband and wife are still considered to be married. Neither can marry another person during the separation. Separation cannot go beyond two years.

Divorce is the permanent ending of a marriage. It only applies to legally recognized marriages. The procedure for divorce depends on the type of marriage the parties had. The proper legal procedures have to be followed for a divorce to be valid and for the marriage to be permanently finished. Leaving or chasing away a spouse does not amount to divorce or put a legal end to a marriage.

The table below helps summarize the differences between separation and divorce.

Separation

It is temporary and does not end a marriage.

Marital rights and obligations are suspended during the period of separation.

The husband and wife are still legally married. They work out ways of managing their affairs and looking after children.

The parties cannot marry or be sexually involved with another man or woman.

Divorce

It is permanent. The marriage ends.

Marital rights and obligations end.

The parties are no longer husband and wife. Property is divided between them and custody of children is agreed upon or a court order is given.

The parties may re-marry because they are no longer considered husband and wife.

As important as it is to get the right marriage documents as proof of legality of the marriage, it is equally important to get the right documents when one gets a divorce. The documents are proof that the marriage has ended in case any of the parties wants to marry again.

- For a divorce with church and civil marriages, courts will give a divorce order which states that the marriage no longer exists.
- For a divorce with customary marriage, in some instances, return of bride price is enough proof of the termination of the marriage. In other instances, the person who gave away the bride (father, paternal uncle or other elder appointed by the clan) writes a letter stating that the marriage no longer exists.
- For separation by law, the court will issue the separation order.
- For separation by agreement, each party should have the signed separation agreement which spells out clearly the terms and conditions to be observed during the separation.

Custody of children is addressed by court when a marriage is dissolved. The court considers which of the spouses is in a better position to give the children a proper home and to care for and meet the children's needs. The ages, sexes, feelings and wishes of the children are also considered in custody decisions. Custody is decided on a case by case basis.

Lecture/Discussion How to Obtain a Separation or Divorce (1 hour)

1. Begin by explaining the differences between separation and divorce. It may be helpful to use the table above.

Using Handouts 6, 7 and 8, give a short lecture about the grounds, procedures, and institutions involved in obtaining

a separation or divorce for church/civil, customary, and Islamic marriages.

In particular, note the section in each of these handouts, "Who has power over matters of separation or divorce," to emphasize that a court (civil, customary or Islamic) has the power to grant a divorce. Not living together does not mean a couple is divorced. One partner evicting the other from the home or leaving the other partner is not a divorce.

As much as possible, make the lecture interactive by asking the group what they know about the conditions, procedures, and responsibilities involved for both parties in case of a separation or divorce, as well as their property rights. Make sure to correct any misperceptions people have and focus on what the law says.

2. Ask the participants to compare the rights and responsibilities in case of separation or divorce for each type of marriage.
3. Wrap up the discussion by answering any questions the participants may have.

Background What Happens to Property in Separation or Divorce?

When a marriage ends or couples separate, the properties that they have must be divided. Women and men may bring their own property into a marriage. They may also acquire or improve property together while they are husband and wife. It is important to understand women's property rights in divorce and separation. It is common for women to lose property in divorce even if it was their personal property or they contributed to it because many cultures and traditions say that only men can own property, or they limit the properties that women can have.

Exercise Divorce and Separation in Our Communities (30 minutes)

The purpose of this exercise is to have participants explain what happens when a couple separates or divorces in their communities.

1. Ask the participants if couples who split up typically go through a divorce, separation or some other process.
2. Break the participants into two groups. Ask each group to answer one set of questions:

Group 1:

- When a couple splits up, what does the wife keep, in terms of property or income?
- What does the husband keep, in terms of property or income?
- How is it decided who will keep what properties?
- Who are the people or institutions involved in deciding?

Group 2:

- When a couple splits up, where will the wife stay after the divorce or separation?
- Where will the husband stay?
- Whom will the children stay with?
- Who are the people or institutions involved in deciding who the children will live with?

3. Have the two groups present their answers and discuss.

Lecture/Discussion Women's Property Rights in Separation and Divorce (30 minutes)

1. Remind the participants about the Constitution stating that women and men are equal before the law and have equal rights to have property.
2. Give a short lecture using Handout 9, "Women's Property Rights at Separation and Divorce."

As much as possible, make the lecture interactive by asking the group what they know about the conditions, procedures, and responsibilities involved for both parties in case of a separation or divorce, as well as their property rights. Make sure to correct any misperceptions people have and focus on what the law says.

3. Ask the participants to compare women's property rights in divorce for each type of marriage.
4. Wrap up the discussion by answering any questions the participants may have.

Property Conflicts: Where to Refer People for Help

Background Resolving Disputes

There is a range of dispute resolution institutions to address property-related conflicts in the family. Often, the nature and size of the problem will determine which institution is best suited to handle the conflict. One thing to note is that Uganda is moving toward incorporating mediation into the formal legal process. People in conflict are encouraged to first try to amicably resolve their problem before resorting to the more formal institutions such as courts. This is meant to encourage conflict resolution and peace building right from the smallest units in society—homes and villages.

Community rights workers may carry out mediation of conflicts at the family and community level. However, if the rights worker fails to mediate a case successfully, s/he needs to know where to refer the clients to seek solutions for their problems, including formal mediation using lawyers or local government like Local Council (LC) courts or the Magistrates courts.

Lecture/Discussion Informal and Formal Dispute Resolution (45 minutes)

1. Explain that there are two categories of services available to help resolve conflicts. *Informal dispute resolution institutions* are not part of the formal legal justice system but can help inform people of their rights, provide advice and mediate. Examples are community rights workers, legal aid clinics, religious leaders, clan meetings and family gatherings. *Formal dispute resolution institutions* are part of the formal legal justice system. Examples include LC courts, *Qadhi* courts, Magistrates courts and the High

Court. *Regardless of whether the institution is informal or formal, any decision it reaches or advice it gives should agree with the law and support women's equal rights.*

2. Using Handouts 10 and 11, give a brief lecture about the roles, mandate and jurisdiction of the different dispute resolution institutions. Throughout the lecture, ask the participants to share their own positive and negative experiences in working with each institution.

Exercise Case Studies for Referrals (45 minutes)

Now that the participants understand the roles and mandates of the different institutions, we will practice making recommendations for referrals.

1. Divide the participants into small groups. Depending on the number of participants, you may decide to have all groups do all cases or assign different cases to different groups.
2. Ask the groups to read through the case studies (see below, following the directions) and determine:
 - what additional information they would want to know,
 - what documentation they would ask for, and
 - where they would refer the client, and why.
3. Have each group present their work and explain their advice about information, documentation and referrals.

4. Use the guide to the facilitator that follows the case studies to ensure that certain points are covered in discussion.
5. Wrap up the session by explaining the importance of correct referrals.

Directions: Answer the following for each case that you have been assigned:

1. What is the main problem the client is asking for help with?
2. What other information might you, as a community rights worker, want to find out before you advise your client or refer him/her elsewhere?
3. What documentation might you recommend s/he bring to wherever you refer him/her?
4. How would you approach mediating this case yourself?
5. If you were not able to successfully mediate the case, where would you refer the client and why?

Case 1

Dear Community Rights Worker,

I had four children with a woman I had married legally. Her behavior was very unbecoming and to maintain peace I moved out and started another life. I even married another woman with whom I have a child. When I moved out, my estranged wife sold the flat which was in both our names on goodwill and bought another house which I gather she put in her name alone. Is there a way I can reclaim my due?

(Source: Courtesy of Women's Vision's Editor of *New Vision*, based on real letter seeking advice)

Case 2

Dear Community Rights Worker,

My wife, with whom I have three children, walked out of our marriage for no apparent reason and started renting a house where she now lives. She had been allocated a house by her employers, which I renovated and where we all lived together. She is now claiming it and wants to evict me and the children. I married this woman in church and we have been together for the last 17 years. The house is in her name. I am a retired civil servant and used all my benefits to renovate this house. Can the law allow her to evict us (me and the children) from this house? How can I handle the situation?

(Source: Courtesy of Women's Vision's Editor of *New Vision*, based on real letter seeking advice)

Case 3

Dear Community Rights Worker,

I am 30 years old and a graduate. I am three years into my marriage. I would like some advice on how to handle my husband concerning issues of property ownership.

Recently, he bought land and also processed a plan for a building to be set up on that piece of land, but all were registered in his names. He told me to borrow 3 million shillings from my workplace, which he used to buy some commercial assets, but all the receipts are in his names and the assets were engraved in his initials. All the money he gets from these assets is used for building and on home expenses. He always says there is no money when I need something, yet I am servicing the loan.

On learning that my name was not on any of the assets despite my contributions to them, I bought a small plot of land in town, which I registered in my name. I have now started

building, but he is very bitter about it and has even stopped talking to me. A relationship without communication is not good. What can I do? I am scared of what the future holds without any viable assets.

(Source: Courtesy of Women's Vision's Editor of *New Vision*, based on real letter seeking advice)

Case 4

John is a teacher earning a salary of 400,000 shillings per month. His wife, Mary, is a nurse working in a clinic in town earning a salary of 200,000 shillings per month. The two have been married for three years and have no children. They live in the school quarters. John owns a *kibanja* (customary piece of land) in Mayuge district on which he has a semi-permanent house. He inherited the *kibanja* from his father. John and Mary use this *kibanja* for growing various food crops such as bananas, potatoes, beans and cassava. Twice every month the couple goes to the *kibanja* and spends a weekend there. They always go on Friday and return on Sunday evening loaded with sacks of food from the *kibanja*, enough to last two weeks. On such weekends, the couple stays in the semi-permanent house.

John has decided to sell the *kibanja* and buy a new pickup which he will use as a commercial vehicle to supplement his income. He has identified Phillip as a potential buyer. When John discussed the matter with Mary and sought her go ahead, she refused. She says that the *kibanja* is the only property they own and a pickup is not an adequate substitute. Nonetheless, John decided to tell Phillip that he was ready to go ahead with the deal, as he owned the *kibanja* before they got married. Furthermore, he reasoned, they do not reside on the *kibanja*, each of them has a salaried job, and according to Kisoga culture women are not supposed to have a say on such matters. However, Phillip insists that based on his lawyer's advice, John's wife must give her consent. Because Mary does not want to consent to the deal, John has come to you for advice.

(Source: Uganda Land Alliance. *Training of Paralegals: A Resource Manual on Land Law and Dispute Resolution for a Paralegal Training Program*. October 2007.)

Guide to Facilitator: Key Points to Draw from Case Studies

Case Study 1

- A key question to ask the man is if he has any documentation or other proof that the flat was in both their names.
- The man might try either informal or formal mediation to get the money due him from the sale of the flat.
- If mediation fails, he has a right to go to a Local Council court or a Magistrates court, depending on the value of the flat.
- Be cautious in deciding whether to mention that he has committed adultery by failing to obtain a divorce before remarrying. This opens an entirely new topic and is not the issue he is seeking advice on. If he mentions that he wants a divorce, it would be appropriate to inform him that the court may consider his new relationship as adultery in making decisions about allocating property in a divorce.

Case Study 2

- Participants should be able to describe whether the house is part of matrimonial property or family land based on what they have learned.
- The husband has a legal claim to family land.
- Because the two are still married (though separated), the wife must seek her husband's consent to manage family land (sell, lease, etc.).
- If the client mentions that he would like a divorce, inform him that he must file for divorce in court and the court will decide how to divide the property.
- Parties can always be advised to seek mediation before court action.

Case Study 3

- Both married men and married women have the right to acquire and own individual property.
- Neither of the two parties in this case has done anything illegal with regard to property acquisition.
- Do there exist any documents related to the loan, the land the woman bought, the land the man bought, or any receipts showing that money from the loan is going to develop the land?
- Advise that when a person invests in his/her spouse's individual property, s/he may be entitled to a share of that property.
- Advise about how to register property both individually and jointly.
- One way to create transparency about property in the future is to make written agreements for major property transactions.
- The woman has the option to use mediation to address the issues of ownership of assets, repayment of the loan, and how to communicate about property in the marriage.

Case Study 4

- Participants should be able to describe whether the *kibanja* in question is family land based on what they have learned.
- The law requires spousal consent for any dealing on family land.
- Consent must not be withheld unreasonably. (Do the participants think Mary is being unreasonable? Why or why not?)
- John can be advised to try informal mediation.
- If informal mediation fails, he has the option to resort to formal mediation through use of a formal mediator (for more detail, see Handout 4 in the module, "Land Law and Gender" in *Property Rights and Gender in Uganda: A Training Toolkit*).

Pending Legislation

Background Possible Changes to Marriage Laws

There have been proposed changes to Uganda's marriage and divorce law that could affect women's and men's property rights. You may have heard about the Marriage and Divorce Bill or the Administration of Muslim Personal Law Bill. *As of August 2010, neither of these has been made into law. The descriptions of them below are not law but describe some of the changes that are being proposed. It is possible that the government could make changes to what is below if they pass either of the bills. These bills are not laws, but there has been much discussion about them.*

Property Rights in the Marriage and Divorce Bill

The Marriage and Divorce Bill, though not yet passed into law, contains detailed provisions about the property rights of married men and women. The Marriage and Divorce Bill applies to all marriages in Uganda except Muslim marriages, as the Muslim community has obtained permission to have their own marriage and divorce law.

The Marriage and Divorce Bill is supposed to give effect to Article 31 of the Constitution, which gives men and women equal rights in getting married, during marriage, and if and when they decide to end the marriage.

Among other things, the Marriage and Divorce Bill would:

- Make widow inheritance illegal. Widow inheritance is when a male family member of a deceased man marries his widow without her consent.
- Make asking for the return of bride price a crime. Bride price would remain legal under the bill but is not required.

- Make sex with a wife or husband without her/his consent a crime.

A new and important aspect of the Marriage and Divorce Bill is that it defines property rights for cohabiting couples. Current law is silent on property rights of cohabiting couples and only applies to married couples.

Regarding men and women's property during marriage, the Marriage and Divorce Bill states that:

- Both the man and women have the right to get their own individual property while they are married, if they so wish. *This is the same as current law.*
- Where either the man or woman helps the other spouse improve their individual property (bought before or during the marriage), then the person gets an interest in the property.
- Gifts that spouses or cohabitees give each other during marriage or cohabitation are assumed to be the property of the receiver.
- Spouses have equal rights to use and benefit from matrimonial property. Matrimonial property is owned equally in common by both spouses.
- Matrimonial property includes the matrimonial home (or home where the family lives), the household property in the matrimonial home, any property acquired before or during the marriage which both the spouses agree is shared, to-be matrimonial property, property toward which a spouse has made a contribution, and seed money a spouse provided to start a business.
- Both spouses—husbands and wives—first have to request the written approval [consent] of the other spouse before carrying out any transaction on property that the

family uses for its sustenance. *This is the same as current law.*

- If a husband has more than one wife, matrimonial property acquired by the husband and the first wife before marriage of the second wife is owned in common by the husband and first wife. Later wives will have an interest only in their husband's share of the property.
- Two persons can make an agreement before cohabitation or marriage about how property will be owned separately or jointly during the marriage or cohabitation. The agreement can be oral or in writing, and each party must have a witness.
- Two persons can also make an agreement about how property will be owned or distributed if the marriage or cohabitation ends. The agreement can be oral or in writing, and each party must have a witness.
- The court can change or ignore the agreement if it determines that the agreement exploits one person's unequal bargaining position, the terms of the agreement are unconscionable or all property was not fully disclosed.
- If a spouse incurs a debt before marriage, the responsibility for the debt stays with that person unless the spouses agree that it will be shared or unless any property gained by the debt becomes matrimonial property.

Property Rights of Women in Islamic Marriages

A bill is currently being developed titled "The Administration of Muslim Personal Law 2008" to regulate marriages, divorce, separation, inheritance of property, and other related matters for Ugandan Muslims based on principles of Islamic Law as laid down in the Qur'an and Sunnah (Islamic Holy Teachings). The bill is also based on Article 129(1)(d) of the Constitution which states that "Judicial power in Uganda shall be exercised by the courts of judicature which shall consist of...qadhis courts for marriage, divorce, inheritance of property and guardianship...." As of August 2010, the bill has been stalled for many months.

The proposed bill spells out the property rights of women in Islamic marriages:

- A married woman has the right to the property she got before the marriage as well as the right to get her own property during marriage.
- A married woman's salary or income of every kind (e.g. savings, investments, etc.) belongs to her to do with as she considers proper.
- In Islam, a married woman has the absolute right to own, sell, give away or manage her property. This property includes the gift given to her by her husband at the time of marriage. This gift is called *mahr*. The husband has no rights over the *mahr* at all and cannot take it away from his wife.
- A husband and wife can acquire property together during the marriage.

Handout 1

Practices for a Church Marriage

Conditions Parties Have to Meet

Both the man and woman must be 18 years or older.

Both parties must have freely agreed (given their consent) to marry one another. By law, forced marriages are not allowed in Uganda.

The man and woman must not be married to any other person at the time of marriage.

The man and woman must not be closely related (e.g. child, mother, father, etc.).

A church marriage is monogamous.

Procedures for Conducting the Marriage

Announcements of the intended marriage have to be made in church for three consecutive weeks.

The church where the marriage is solemnized must be authorized by law to conduct marriages.

The religious official who conducts the marriage must be authorized by law to conduct marriages.

The marriage should be recorded in a register kept by the church where the marriage takes place.

The church must issue a marriage certificate. The certificate must be signed by the bride, the groom, two witnesses and the presiding minister.

Rights and Responsibilities of Spouses Under this Marriage

The man and woman have a right to own property, either jointly or individually. Each has the responsibility to take care of his/her property and manage it correctly. Property obtained after marriage is considered jointly owned unless the wife or husband states otherwise or unless it is recorded as individual property.

The man and woman have a responsibility to look after one another. Each spouse has the right to be looked after by the other.

The man and woman have a right and responsibility to protect each other from harm, including not being violent toward each other.

The man and woman have a right and responsibility to nurture and maintain their children. Children born within the marriage are presumed to be the children of the marriage, and the husband is presumed to be the father, unless the contrary is proven or stated.

The man and woman have a right and responsibility to meet each other's sexual (intimate) needs.

Handout 2

Practices for a Civil Marriage

Conditions Parties Have to Meet

Both the man and woman must be 18 years or older.

Both parties must have freely agreed (given their consent) to marry one another. By law, forced marriages are not allowed in Uganda.

The man and woman must not be married to any other person at the time of marriage.

The man and woman must not be closely related (e.g. child, mother, father, etc.).

A civil marriage is monogamous.

Procedures for Conducting the Marriage

Notice of the intended marriage must be displayed at the Registrar's office notice board (if in Kampala) or at the Chief Administrative Officer's (CAO) notice board (all districts outside Kampala) at least 21 days before the intended marriage.

The marriage must be recorded in the marriage register kept in the Registrar's or the CAO's office.

The CAO or Registrar must give the bride and groom a marriage certificate. The marriage certificate must be signed by the bride and the groom, two witnesses, and the Registrar or CAO.

Rights and Responsibilities of Spouses Under this Marriage

The man and woman have a right to own property, either jointly or individually. Each has the responsibility to take care of his/her property and manage it correctly. Property obtained after marriage is considered jointly owned unless the wife or husband states otherwise or unless it is recorded as individual property.

The man and woman have a responsibility to look after one another. Each spouse has the right to be looked after by the other.

The man and woman have a right and responsibility to protect each other from harm, including not being violent toward each other.

The man and woman have a right and responsibility to nurture and maintain their children. Children born within the marriage are presumed to be the children of the marriage, and the husband is presumed to be the father, unless the contrary is proven or stated.

The man and woman have a right and responsibility to meet each other's sexual (intimate) needs.

Handout 3

Practices for a Customary Marriage

Explanation	<p>This is a marriage conducted according to the customs of the community/tribe to which the parties belong. Among some tribes, a man can marry more than one wife as long as he meets the customary requirements of marriage.</p>
Conditions Parties Have to Meet	<p>Both the man and woman must be 18 years or older.</p> <p>Both parties must have freely agreed (given their consent) to marry one another. By law, forced marriages are not allowed in Uganda.</p> <p>Marrying a close blood relative is forbidden among most tribes/communities in Uganda.</p> <p>The man should be single or already married customarily. The woman must be single.</p> <p>The man must fulfill the customary requirements for each individual woman he marries.</p> <p>In most customary practices, the giving of bride wealth by the man is important in establishing the legality of the marriage. What is given as bride wealth, however, varies among customs and families.</p>
Procedures for Conducting the Marriage	<p>Most customs require that a traditional ceremony be performed to make the marriage official. The traditional ceremony is witnessed by family members from both the man's and the woman's sides.</p> <p>The marriage must be registered at the sub-county headquarters within six months of the traditional ceremony. The sub-county headquarters will issue a Certificate of Customary Marriage to show that the marriage is legal. Two people who were present at the marriage ceremony must witness the registration of the customary marriage.</p> <p>It is an offense against the law not to register a customary marriage.</p>
Rights and Responsibilities of Spouses Under this Marriage	<p>The man and woman have a right to own property, either jointly or individually. Each has the responsibility to take care of his/her property and manage it correctly. Property obtained after marriage is considered jointly owned unless the wife or husband states otherwise or unless it is recorded as individual property.</p> <p>The man and woman have a responsibility to look after one another. Each spouse has the right to be looked after by the other.</p> <p>The man and woman have a right and responsibility to protect each other from harm, including not being violent toward each other.</p> <p>Both the man and woman have a right and responsibility to nurture and maintain their children. Children born within the marriage are presumed to be the children of the marriage, and the husband is presumed to be the father, unless the contrary is proven or stated.</p> <p>The man and woman have a right and responsibility to meet each other's sexual (intimate) needs.</p>

Handout 4

Practices for an Islamic Marriage

Explanation	This is a potentially polygamous marriage although a Muslim man is by law only allowed to marry up to four wives.
Conditions Parties Have to Meet	<p>Both the man and woman must be 18 years or older.</p> <p>Both parties must have freely agreed (given their consent) to marry one another. By law, forced marriages are not allowed in Uganda.</p> <p>Marrying a close blood relative is forbidden under Islam.</p> <p>The man must make a declaration of offer to marry the woman, and the woman must consent to marry the man.</p> <p>The <i>wali</i>, or guardian of the woman, also has to consent to the woman's marrying the man. The <i>wali</i> must be a Muslim man of sound mind.</p> <p>The man must pay or promise to pay <i>mahr</i>. <i>Mahr</i> is the mandatory gift paid by the husband to the wife at the time the marriage takes place.</p>
Procedures for Conducting the Marriage	<p>Notice of the intended marriage must be given to the marriage officer at least 30 days before the marriage ceremony. The marriage notice has to be displayed on a notice board at a licensed place of worship.</p> <p>There must be at least two witnesses at the marriage, and these witnesses must be adult Muslims of sound mind.</p> <p>The marriage ceremony must also take place in the presence of the <i>wali</i> or his representative.</p> <p>The marriage ceremony may be solemnized in any part of Uganda by a marriage officer of a licensed place of worship in accordance with the Islamic faith.</p> <p>The marriage officer gives a marriage certificate to the man and woman.</p>
Rights and Responsibilities of Spouses Under this Marriage	<p>The man and woman have a right to own property, either jointly or individually. Each has the responsibility to take care of his/her property and manage it correctly. Property obtained after marriage is considered jointly owned unless the wife or husband states otherwise or unless it is recorded as individual property.</p> <p>The main teaching in Islam with regard to matrimonial rights and responsibilities is that husband and wife should do everything in their means and work together for their united happiness.</p> <p>It is the husband's responsibility to maintain his wife during marriage.</p> <p>The man and woman have a right and responsibility to protect each other from harm, including not being violent toward each other.</p> <p>The man and woman have a right and responsibility to meet each other's sexual (intimate) needs.</p>

Handout 5

Important Marriage Documents

Document Type	Where/How to Get It	Why It Is Good to Have and What It Can Be Used For
Marriage Certificate (for a church marriage)	<p>All churches that are licensed to marry must give marriage certificates.</p> <p>All churches that conduct marriage ceremonies give the bride and groom their marriage certificate either on the day of the wedding or soon after.</p> <p>A marriage certificate has to be signed by the bride and the groom, two witnesses and the presiding minister in the church.</p>	<p>The marriage certificate is proof of the legality of the marriage between the husband and wife.</p> <p>Having the marriage certificate is especially crucial where the legality of the marriage is contested or where proof of marriage is required, for example:</p> <ul style="list-style-type: none">■ in giving spousal consent for transactions on family land■ getting letters of administration upon the death of one of the spouses■ when one spouse wants to obtain a divorce or separation
Marriage Certificate (for a civil marriage)	<p>The CAO must give marriage certificates. This can be done at the district level and can be done either on the day of the wedding or shortly after.</p> <p>A marriage certificate has to be signed by the bride and the groom, two witnesses and the CAO.</p>	
Customary Marriage Certificate	<p>To obtain a Certificate of Customary Marriage, the marriage should be registered at the sub-county headquarters (LC III) within six months of the traditional ceremony.</p> <p>Two people who were present at the marriage ceremony must witness the registration of the customary marriage.</p>	
Muslim Marriage Certificate	<p>The marriage officer gives a marriage certificate to the man and the woman after the ceremony.</p>	

Handout 6

The Law on Separation & Divorce: Church & Civil Marriages

Marriage Type	Church Marriage or Civil Marriage
Grounds for Separation	<p>The grounds for judicial separation for both husband and wife are:</p> <ul style="list-style-type: none">■ Cruelty■ Adultery■ Desertion without reasonable excuse for two or more years
Grounds for Divorce	<p>The section of the Divorce Act that describes the grounds for divorce has been declared unconstitutional and made null and void because it made it easier for men to divorce women than for women to divorce men.</p> <p>According to the Constitutional Court's ruling, women and men should have equal grounds for divorce. Like men, women should have the right to divorce their spouse for the sole ground of adultery. However, Parliament has not yet amended the Divorce Act to treat women and men equally in this regard.</p>
Procedures for Obtaining a Separation or Divorce	<p>The husband or wife presents a petition (a formal request) to court requesting either a separation or divorce. The court then makes a decision based on the evidence presented in support of the petition.</p> <p>The courts grant a divorce in two stages. The first order of divorce is called a Decree Nisi. This lasts six months and is given to allow the husband and wife an opportunity to reconcile.</p> <p>If no reconciliation takes place, the court gives the second order called a Decree Absolute. This decree is the final ending of the marriage.</p> <p>Along with the <i>Decree Absolute</i>, the court gives orders regarding how property is to be divided between the husband and wife, who is to have custody of the children, and whether and how much the husband or wife is to pay toward maintenance of the other until he or she dies or remarries.</p>
Who Has Power Over Matters of Separation or Divorce?	<p>Under civil or church marriage, only the court can grant a divorce or a judicial separation.</p> <p>If both the husband and wife are Africans, then the request for separation or divorce is made to the Magistrate Grade 1 or the Chief Magistrate Court. In all other cases (African and non-African unions, non-Africans) the request for separation or divorce is made to the High Court.</p> <p>In instances of separation by agreement, the husband or wife can seek the services of a qualified lawyer to draft a separation agreement. The separation agreement lays down the conditions that the husband and wife will follow during the period of separation.</p>

Handout 7

The Law on Separation & Divorce: Customary Marriages

Marriage Type	Customary Marriage
Grounds for Separation	There are no uniform grounds for separation under customary marriage. Instead, the grounds are determined by the customs of the particular tribe or community to which the husband or wife belongs.
Grounds for Divorce	There are no uniform grounds for divorce under customary marriage. Instead, the grounds are determined by the customs of the particular tribe or community to which the husband or wife belongs.
Procedures for Obtaining a Separation or Divorce	<p>There is no uniform procedure for divorce under customary marriage. Instead, the procedure is determined by the customs of the particular tribe or community to which the husband or wife belongs.</p> <p>A customary marriage can also be terminated by court of law following the procedure used for church and civil marriages.</p> <p>The procedures for ending a customary marriage should follow the constitutional standards of equality between men and women. The Constitution gives women and men the same rights when they decide to end the marriage; and it bans any customs, cultures, and traditions that treat women unfairly.</p>
Who Has Power Over Matters of Separation or Divorce	A customary separation or divorce is usually brought before a clan or family court where evidence is presented. The clan or family court decides whether to grant the separation or divorce, as well as the terms and conditions to be followed by both the husband and the wife.

Handout 8

The Law on Separation & Divorce: Islamic Marriages

Marriage Type	Islamic Marriage
Grounds for Separation	Ugandan law does not address separation within Islamic marriages.
Grounds for Divorce	<ul style="list-style-type: none">■ The husband or wife has changed from Islam to another faith.■ The husband or wife has committed adultery.■ The husband or wife has not seen and does not know where the other spouse is for a period of more than one year.■ The husband or wife has failed to perform his/her marital obligation without reasonable cause.■ The husband or wife was and remains barren or impotent from the time of marriage.■ The husband or wife has been insane for two years or has a serious and dangerous disease which is either infectious or chronic (persistent) and would take long to heal and thus affects the continuation of the marriage.■ The husband or wife treats the other spouse with cruelty.■ After four months of the marriage, the husband or wife has deliberately refused to consummate the marriage. <p><i>Grounds specific to the husband:</i></p> <p>In addition to the above, a husband may divorce his wife if at the time of marriage she was not yet 18 years, or the wife did not consent to the marriage.</p>
Procedures for Obtaining a Separation or Divorce	<p>Muslims have several forms of divorce, including:</p> <p><i>Talaq</i>: Here the divorce is given verbally or in writing by the husband and must take place in the presence of witnesses. The husband pronounces <i>talaq</i> in three distinct and separate periods (to give the chance for reconciliation) at intervals of one month. The husband must abstain from intercourse with his wife after pronouncing <i>talaq</i>. At the third <i>talaq</i> the divorce becomes final if the parties have failed to reconcile. If before pronouncing the third <i>talaq</i> the husband resumes intercourse with his wife, then he has to start the procedure from the beginning if he still wishes to divorce his wife.</p> <p><i>Khul</i> is divorce initiated by the wife and in which the wife asks her husband to release her from her marital duties where the husband does not want to pronounce <i>talaq</i>.</p> <p><i>Lian</i>, or divorce by oath, occurs when either the husband or wife claims that the other committed adultery but they do not have witnesses to attest to that fact. In this case they must swear four times by Allah that they are telling the truth and a fifth time that Allah should curse them if they are telling lies.</p> <p><i>Ila</i> is a divorce granted to a woman whose husband vows to abstain from having intercourse with her and keeps this vow for four months.</p>
Who Has Power Over Matters of Separation or Divorce	<p>Apart from <i>talaq</i>, all other divorces are witnessed and made effective by the <i>Qadhi</i> (Islamic court).</p> <p>All divorces have to be registered by the Registrar of the <i>Qadhi</i> court.</p>

Handout 9

Women's Property Rights at Separation and Divorce

The table below presents the effects of separation and divorce on the property rights of women. As always, remember that the Constitution is the yardstick for the rights of both women and men. Where the current law, customs, or traditions treat women or men unfairly or discriminate between them, the Constitution takes priority.

Type of Marriage	Property Rights at Separation	Property Rights Upon Divorce
Church Marriage and Civil Marriages	<p>The wife has a right to acquire her own property during a judicial separation. The husband has the same right.</p> <p>The wife has full authority over property she acquires while she is separated without having to first seek approval or consent from her husband. The husband has the same right.</p> <p>The wife is entitled to receive any income from joint property of the marriage during the time of separation. The husband has the same right.</p> <p>The wife is solely responsible for any debts she incurs during a judicial separation, except where she incurs debts for "necessaries" because the husband has failed to provide her maintenance as ordered by the court. The husband is also solely responsible for any debts he incurs during judicial separation.</p> <p>The court can order that the wife remain in the matrimonial home during the judicial separation.</p>	<p>The court decides how to deal with the property of the marriage. The court may order that the property be divided between the husband and wife or that the property be sold and the income shared.</p> <p>The court decides who should retain or stay in the matrimonial home.</p> <p>In making decisions, the court is required to:</p> <ul style="list-style-type: none">■ Treat all parties fairly■ Ensure that justice is done to all, regardless of social or economic status■ Promote reconciliation between parties
Customary Marriage	<p>The property rights of a woman separated under customary law are determined by the customs of the particular tribe or community to which the husband or wife belong as long as the customs treat women and men equally in agreement with the Constitution.</p>	<p>The property rights of a woman divorced under customary law are determined by the customs of the particular tribe or community to which the husband or wife belong as long as the customs treat women and men equally in agreement with the Constitution.</p>

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Handout 9: Women's Property Rights at Separation and Divorce, *continued*

Type of Marriage	Property Rights at Separation	Property Rights Upon Divorce
Islamic Marriage	<p>Under the <i>talaq</i> divorce, the wife stays in the matrimonial home until the final <i>talaq</i> is made by her husband.</p> <p>All other property rights of the wife are the same as in marriage.</p> <p>All property rights of the husband are the same as in marriage.</p>	<p>A divorced wife retains her right to the <i>mahr</i>. It is hers in total, and no one can take it away or claim any part of it.</p> <p>A divorced woman is free to stay in the matrimonial home if her husband is unable to provide her other suitable accommodation.</p> <p>The woman loses her right to the matrimonial home when the children have grown (reached age 18) and she is no longer taking care of them, when she remarries, or if she is guilty of open lewdness.</p> <p>Both the <i>Qadhi</i> and secular courts have the power to make orders about the property upon divorce. The court may order that the property be divided between the husband and wife, or that the property be sold and the income shared.</p> <p>In making the decision about division of property, the court considers the following:</p> <ul style="list-style-type: none">■ The extent of the contribution of both the husband and the wife toward acquiring the property■ Any debts either the wife or the husband incurred that were for their joint benefit■ The needs of the minor children <p>A divorced wife can apply to the court for <i>Mut'ah</i>, a gift given as compensation to a divorced wife. After hearing the case, the court may ask the husband either to pay the wife in money or property.</p>

Handout 10

Informal Dispute Resolution Institutions

Institution	Role
Community Rights Workers	<p>One of the roles of the community rights worker is to offer immediate or preliminary solutions by providing initial legal guidance and information.</p> <p>Community rights workers are also trained to provide legal services as well as mediation and conciliation services for disputes arising between members of the community. As conciliators, they encourage the community to negotiate and settle their disputes among themselves.</p>
Family Gatherings	<p>Many cultures use family gatherings to discuss family problems to arrive at a solution. This involves hearing both parties, agreeing on the issues, providing information and counseling where necessary, and agreeing on a solution.</p> <p>Community rights workers may attend family gatherings if requested by one of the parties in conflict. The role of the community rights worker at a family gathering would be to sensitize the family on relevant laws and procedures to enable the family to develop a solution that is lawful.</p>
Clan Meetings	<p>Clan meetings are also used for resolving family conflicts. Mediation at the clan level is usually done by clan leaders/elders who are considered to know the rules, values and norms of the particular community.</p> <p>Community rights workers may attend clan meetings to provide legal advice where necessary or to help record the outcome of the meeting in an agreement that both parties to the conflict sign as a way to bind the parties to implement the resolutions.</p>
Religious Leaders	<p>Many married people seek help from religious leaders when faced with family conflicts. The role of the religious leader is usually to mediate the case in a way that enables the husband and wife to come to an amicable settlement. Religious leaders are also often known to follow up with the conflicting couple to ensure that the conflict is resolved and that there is peace in the home.</p>
Legal Aid Clinics	<p>Legal aid clinics help parties mediate cases and often do not charge fees. They are run by lawyers and are certified by the Law Council. There are several legal aid clinics throughout Uganda, including clinics run by the Uganda Association of Women Lawyers (FIDA-U), Legal Aid Project (LAP) and Uganda Land Alliance (ULA).</p>

Handout 11

Formal Dispute Resolution Institutions

The law gives formal dispute resolution institutions particular roles and responsibilities. There is a hierarchy for the formal dispute resolution institutions so that if a person is unsatisfied with one level, s/he can appeal to the next level for redress.

Institution	Role
Local Council Courts (LC Courts I to III)	<p>There are three levels of Local Council (LC) courts: sub-county (level III), parish (level II) and village (level I). In the LC court system, a case starts at LC I court level, and if one of the parties is not satisfied with the decision at that level, s/he has a right to appeal to LC II court. If still not satisfied with the decision of that court, either party can appeal to LC III court and then on to a Chief Magistrates court.</p> <p>The LC courts can hear land disputes that may arise relating to (1) customary land, (2) criminal trespass (when a person enters private property with the intention of committing a crime), (3) malicious damage to property (where a person intentionally damages another person's property), and (4) theft (where a person takes another person's property without that person's permission and without intention of returning it).</p> <p>The remedies a local council can decree include reconciliation, apology, compensation and caution.</p> <p>LC courts handle property cases where the monetary value is two million Uganda shillings and below.</p> <p>Cases about land can be handled by LC II and LC III courts. LC I courts do not have legal authority to hear and decide on land cases.</p> <p>Local Council courts are not allowed to hear cases that have already been decided by formal courts or cases that are still being heard by a formal court (i.e., any of the Magistrates courts or the High Court).</p>
Magistrates Courts (Grade II and I) and the Chief Magistrates Court	<p>There are three levels of Magistrates courts: Chief Magistrates, Magistrates Grade I and Magistrates Grade II. Decisions from Magistrates courts are subject to review by the High Court. Currently the country is divided into 26 Chief Magisterial areas administered by Chief Magistrates who have general powers of supervision over all Magistrates courts within the area of their jurisdiction.</p> <p>Magistrates courts handle the bulk of civil and criminal cases in Uganda.</p>

continued on reverse

Handout 11: Formal Dispute Resolution Institutions, *continued*

Institution	Role
High Court	<p>The High Court of Uganda has unlimited original jurisdiction, which means that it can try any case of any value or crime of any magnitude. Appeals from all Magistrates courts go to the High Court. The High Court is headed by the Honorable Principal Judge, who is responsible for the administration of the court and has supervisory powers over Magistrates courts.</p> <p>The High Court has five divisions: Civil, Commercial, Family, Land and Criminal. Most of the business of the High Court is conducted at its headquarters in Kampala, but with the decentralization of the High Court, its services are now available at its circuits at Fort Portal, Gulu, Jinja, Masaka, Mbale, Mbarara, and Nakawa. There are plans to create more locations in the future.</p>
<i>Qadhi</i> Courts	<p>When established, <i>Qadhi</i> courts will have power to hear cases of marriage, divorce, inheritance of property and guardianship. The Constitution allows for these courts, which will serve the Muslim community. There are no formal <i>Qadhi</i> courts in Uganda right now because Parliament has not yet passed the law to operationalize them. However, there are some informal mechanisms through which members of the Muslim faith can seek the help of their religious leaders to mediate in marriage disputes.</p>

Handout 12

Role Play: Rose & Joseph (Optional Exercise)

This is a story about a couple, Rose and Joseph, and how a community rights worker helps them. Rose and Joseph have been married for 10 years, but Joseph has chased Rose from the house because they do not have any children. Rose then meets David, a community rights worker.

To put on the role play, you will need one woman and two men to be the actors. They do not need to say exactly what is written in the script written below, but they should stick to the same story and points about the marriage.

The full role play takes about 20 minutes to complete, but you may shorten or lengthen it as needed.

After the role play, ask the group what they think about the story and each of the different characters. Be sure that everyone has a chance to speak. You may want to ask quieter people in the group a question to encourage them to participate.

Below are more questions you can ask to direct the discussion and create opportunities to educate about what the law says. Short answers and references to information are provided for several of the questions.

Community Rights Workers

- What is the role of the rights worker? What things can this person do to help Rose and Joseph? What things can this person not do?
- What other problems could the rights worker help with?

Property

- Can Rose and Joseph have property that they share together? (Yes. Refer to Constitution, Land Law and Marriage Law.)
- Can Rose have property of her own? (Yes. Refer to Constitution, Land Law and Marriage Law.)
- If Rose and Joseph separate, do you think Rose should have some of the land or animals? Why or why not?
- Suppose that Rose had been selling cooked *matoke* and yams in the market and that she contributed money to buy some of the chickens and a goat. Do you think she should have some of the land or animals? Why or why not?

Bride Price

- Do you think that Rose's parents will accept her if she returns? Why or why not?
- Do you think that they will be able to pay back the bride price? Do you think that they will want to pay back the bride price?
- Do you think families should have to return the bride price if the marriage ends? Why or why not?
- Do you think the bride price is a good idea? Why or why not?

Marriage, Separation & Divorce

- What are the different kinds of marriages that the law in Uganda recognizes?
- What is the difference between separation and divorce? (Refer to the section "Separation and Divorce," found earlier in this module.)
- What are the steps to getting a divorce if you have a civil marriage or a church marriage? (Refer to Handout 6.)
- What are the steps to getting a divorce if you have a customary marriage? (Refer to Handout 7.)

- What are the steps to getting a divorce if you have an Islamic marriage? (Refer to Handout 8.)
- Who decides how to divide property when a husband and wife divorce? (Courts or the clan, depending on the type of marriage.)
- Can a man divorce his wife? (Yes)
- Can a woman divorce her husband? (Yes)
- Suppose that Rose and Joseph only need to go to the clan to be granted a divorce.
 - If the clan decides to grant a divorce and gives all the property to Rose, are they ruling according to the law? (No.) Does Joseph have the right to take the case to court? (Yes.)
 - If the clan decides to grant a divorce and gives all the property to Joseph, are they ruling according to the law? (No.) Does Rose have the right to take the case to court? (Yes.)

General

- What do you think Rose and Joseph will do?

We gratefully acknowledge the work of Francisca Cherukut and David Satya of Kapchorwa Paralegals Association and Jude Okumu (formerly of MIFUMI Project) in developing this role play as part of the ICRW & ULA Women's Community-Based Paralegals and Women's Property Rights Workshop in November 2008.

Rose and Joseph: Rights in Separation and Divorce

[Rose is sweeping the house.]

Joseph: *[angry]* Rose, come here!

Rose: Yes, my husband.

Joseph: Can you sit down there?

[Rose sits]

Joseph: What are you doing in my home? What have you been doing here?

Rose: What is the problem, my husband?

Joseph: I want to tell you today that if you don't give me a baby boy, you will leave this house! Is that clear to you?

Rose: But...

Joseph: Everyone in the bar and in the trading post is talking about me! They say I am a fool!

Rose: Joseph, you know how much I want.... Is this my problem?

Joseph: *[shouting over Rose]* What are you doing in my house?! Your work is to clean my house, make my meals, and give me a son. Is this what I paid for? I paid your father 10 cows for you to come and give children here. What have you done for me? Get out. This is my home, not yours. I don't want to see you here. Leave—it is my home!
[chases her out]

[Rose runs out]

Rose: *[crying]* What can I do? Where will I go? My parents will not like me if I go back. They do not want me. They will not pay back the cows.

[David walks by and sees that Rose crying.]

David: What's wrong, madam? Are you okay? I see you are crying. You are crying so much that you did not even notice that I am passing by. What is the problem?

Rose: I have so many problems.

David: It is okay. You can stop crying. Maybe I can help you. Why don't you sit and tell me what happened? We all have problems and we can help each other sort them out.

Rose: I have a very big problem. My husband, Joseph, and I have been married for 10 years, but we have not had any children. He chased me out because I did not give him a son. And now I am here with nothing and nowhere to go. My parents will not want to see me, because they already have their dowry. They will not pay him back the 10 cows. All the time we were married, we had many resources together. We had animals, the house and land. But he chased me out and did not allow me to go with anything.

David: Do you know who I am or what a community rights worker is?

Rose: No, I do not know you or what you do. I have just seen you around the village.

David: My name is David, and I am a community rights worker. That is someone who helps people resolve their conflicts and tells people about the law. I am a human rights counselor. Do you know about human rights?

Rose: No.

David: When someone comes and wants to take something that belongs to you or to hurt you, they are violating your rights.

Rose: Now how are you going to help me?

David: You are not the first to have this happen to you. We've been helping women and men and families with problems like this by talking with them and advising them. To every problem that comes, there is a solution.

I think I could help you if I could learn more about your problem. Maybe I could go with you and we could talk with your husband together. Would you be free to go to the house and talk with him, or would he beat you when I leave?

Rose: He is very aggressive, but I don't think he will do anything if you are there. Are you a government officer or police?

David: No. I am not an LC or a government officer or policeman. But I work with them to help resolve people's problems. I am a volunteer.

[David and Rose walk back to the house.]

Joseph: You! What are you doing back here?! Who is this man you bring into my house?!

Rose: My husband, you abuse me. Let's listen.

Joseph: *[shouting]* I told you that you could not come here unless you have a baby boy. You go with your man! Get out!

David: Please, please. I don't have a problem. You don't have anything to fear from me. I am not a policeman or anything like that. I just have a few things I wanted to share with you and your wife. I was just going home and I met her on the way. She was crying and I asked myself, "What could be the matter?" It is a human thing to do to help each other. She is your wife, and married couples sometimes have troubles.

Joseph: That stupid woman I just sent from my home. How can I stay with a woman for 10 years and not have a son?

David: Is this man not your husband?

Rose: He is my husband. For the last 10 years we have been married. He introduced himself to my home and parents. I even have a certificate saying we are married.

Joseph: How can I be married to this woman? She has done nothing and given me no son. She is useless to the clan. She is useless to me. You both leave my home.

Rose: I've worked in his home for the last 10 years. We've acquired two plots.

Joseph: *[shouting]* What have you been doing in my house? Nothing! The land, I inherited it from my grandfather. You go and work some other land. The animals you see here are mine. I bought them myself. Everything here is mine, not hers.

David: *[calmly]* I want to give you some small advice.

Joseph: The best you can do for me is to keep her away.

David: I want to just tell you that I work with a human rights group. We help with problems like these family problems you are having. We come in to help sort out problems if people are willing to have our help. But even if you are not willing, I would still like to tell you what the law says and where she can go next. Something has to be done.

Joseph: Okay. Now you stay and tell me what the law says. If you tell me that the law allows her to go ahead and leave my home and she goes forever, I will be happy.

David: Now if you got married to her, were you legally married?

Joseph: I married her. I paid my cows.

David: So that is a customary marriage. This means your clan can decide whether to grant a separation or divorce and what will happen to any property. Still, the clan's decision must treat the man and the woman equally according to the law. But Rose has also said that you have a certificate, so maybe you also had a civil marriage or a church marriage. If that is the case, you would need to go to a Magistrates court.

Joseph: What I know is that I paid my 10 cows for her, and she is my property. I own her. If I want to chase her out, she goes. That is what I know.

Rose: But how? I have been here. I got these animals with you.

Joseph: How can any of these be yours? I bought you.

David: Let me give you more information, so you can use the correct procedures. If you want a divorce, you have to go apply to the court and explain why you want to divorce her.

Joseph: Oh, that is good. I will go do that.

David: The law is not for her alone. It is for everyone.

If you have a good reason, you can divorce her. If the court grants you a divorce, you must divide the property into two. You will have a share and she will have a share. That is likely what the court will decide.

Joseph: Now I understand you. I will tell you what I can do. I will give her the land I acquired with her, so she can go live on that land and leave me alone. Is that okay with you?

David: I am not the magistrate. I cannot decide that.

That is decided by the magistrate after you give the reasons you want to divorce. But I would advise you to take some time together to sort out your problems before you do anything. We will come back together and talk more about what each of you decides. I want to advise you that if you are not able to resolve this issue between yourselves, Rose can go present her case to the magistrate on her own.

Let us meet again tomorrow when you have each had more time to think. But until then, Rose should be able to stay in the house or with friends where everyone can be safe and calm. I will see you tomorrow.

Rose and Joseph: Thank you. See you tomorrow.

END



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Inheritance Law, Wills and Women



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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.

Inheritance Law, Wills and Women

When someone dies, issues of inheritance and succession arise. The distribution of the deceased person's property may either be according to the deceased person's will (testate succession), or according to a prescribed set of laws for property division if the person died without leaving a will (intestate succession).

The law in Uganda protects women's equal right to inheritance. However, in practice, women's inheritance rights are often violated. Widows are often denied the right to inherit their deceased husband's property, especially land. Sometimes they are even denied the right to look after their own children. Sometimes widows are chased out of the matrimonial home or deprived of the right to use the family land to grow food for their families. Girl children are sometimes denied the right to inherit their father's property.

The main laws that govern inheritance are:

- The Constitution of Uganda
- The Succession Act
- The Administrator General's Act

Module Objectives:

Community rights workers will **understand**:

- What a will is
- What needs to be in a will
- How to carry out a will
- How to manage property when a person dies without a will

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

- How having a will can protect a person's family and avoid conflicts
- Women can own property that is given to them in a will and wills are a means to protect family members, especially women and girls, from property grabbing
- How to make a will

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

- Increased awareness of wills
- Knowledge and services to write and witness wills
- Support to follow correct and legal procedures in managing property of the deceased

Handouts:

At the end of the Module are handouts that can be used both during the training and by community rights workers in their own outreach or sensitization in their communities. These include the following:

- Handout 1: Women and Inheritance
- Handout 2: Wills and Women
- Handout 3: If the Deceased Leaves a Will
- Handout 4: If the Deceased Does NOT Leave a Will

Total time: 8 hours

Customary Practices and Inheritance

Background Who Decides Inheritance

For most Ugandans, inheritance happens according to culture and may be overseen by customary leaders. Few Ugandans make a will that reflects how they would like their affairs to be managed after their death. Sometimes customary leaders or family members make decisions about the deceased's property that deny women and girls their equal rights to inherit property. The leaders or family members may not know what the law says about women's and girls' property rights or they may simply be following customs that have been present for generations. Remember that according to the Constitution, cultures or customs that undermine women's dignity and their equality with men are not allowed.

Exercise What Happens When Someone Dies? (1.5 hours)

This exercise will promote discussion and draw out the differences between what happens under custom and under the law when men and women die. The exercise is also intended to gauge participants' familiarity with inheritance law.

1. Introduce a fictional family, either by drawing a picture of the members or by listing their names and relationships. The family should have a husband, his two wives, one daughter younger than 18 years old, and one son younger than 18 years old.
2. Divide the participants into four small groups and give the following instructions:
 - Ask Group 1 to prepare a 5-10 minute role play showing what happens in the family in terms of managing property if the husband dies, especially issues of who does and does not receive property and where the wife and children will live. Ask

the group to make sure that all the people who are usually involved in deciding about property or receiving property appear in the role play (even if some participants must play more than one part).

- Ask Group 2 to do the same exercise but in the event that one of the wives dies.
 - Ask Group 3 to draw pictures of what happens when a person dies when s/he has written a will.
 - Ask Group 4 to do the same for a person who dies without making a will.
3. Have each group present their group work and have a discussion on the differences they see between what happens under custom and under the law as well as the differences when someone dies with or without a will. Ask the participants:
 - Why did characters in the role plays and pictures make the decisions they did?
 - Were there any decisions or actions that treated women differently from men or treated girls differently from boys?

Discussion Women and Inheritance (15 minutes)

1. Have the participants read aloud Handout 1, "Women and Inheritance," with each person taking turns to read a different point.
2. Ask the following questions:
 - If a man and woman are not married but are living together, does the law recognize their claims over each other's property or property they acquired together? What about if they are legally married?
 - Do women without children have a legal right to inherit property?
3. Invite the participants to ask questions.

Joint Property

Lecture Bequeathing Joint Property

(15 minutes)

The Constitution gives women and men the rights to own property separately as individuals and to own property jointly with other people. Land, houses or other buildings, and businesses are examples of properties that people often own jointly.

It is important for friends, family, or spouses who acquire property together, especially land, to clearly decide if they wish to hold the property as one unit or whether they each have a defined share of the property.

How property was held during the deceased's life affects how it may be lawfully distributed after death.

- Property the deceased owned by herself/himself may be disposed of according to her/his wishes in a will or by someone managing the estate.
- Property that the deceased owned jointly with someone else may automatically go entirely to the other owner if the parties owned the whole property together and not in shares.
- If the property was held jointly in common, it means that the owners had different shares. In this case, either owner has the right to say how her/his share should be distributed to beneficiaries in the case of his/her death.

Only property that the deceased owned may be given away or distributed.

Testate Succession and Wills

Lecture Making Wills (1 hour)

Testate succession is when the person who died (referred to as “the deceased”) had written a will describing how to divide her/his property. A person who is making or has made a will is called the testator. Persons making a will can choose who will manage their property after their death. This person is called the executor.

What Is a Will?

A will is a **WRITTEN** document made while a person is alive in which he or she gives instructions as to how his/her property and other affairs should be taken care of after death.

Sometimes a person will make an oral will by saying how s/he wants to have her/his affairs and property handled by stating these wishes out loud in front of witnesses. An oral will may not be accepted as valid in every circumstance. Witnesses may not remember clearly or may disagree with each other. Written wills are the most respected because the person can make her/his wishes known and record them so they cannot be disputed.

There are many good reasons to make a will. A will clearly expresses how a person wants her/his property to be distributed after death and uses the power of the law to support those wishes. Because the wishes are clearly expressed and written down, a person making a will can ensure that her/his property is distributed as s/he wants and not how others might want. A will can help avoid misunderstanding and maintain harmony among family members. Making a will helps a person to ensure that her/his family members receive shares of the property and are protected from persons who would try to grab that property from them. Parents can also write in their wills

who they wish to care for their children and assign property to their children, to ensure that their children are well cared for.

Who Can Make a Will?

Every person, male or female, who is 21 years old or older and is of sound mind, can make a will. A person making a will must do so voluntarily and must be fully aware of what s/he is doing. People who are drunk or ill or otherwise not acting of their free will cannot make wills. People with mental health problems can also make wills during periods where they are lucid and understand what they are doing.

Rules for Making a Valid Will

1. A will must be in writing and signed or marked by the person whose will it is. This person is called the testator. If the testator is unable to sign or mark, then s/he can direct someone else to sign on his/her behalf in the testator's presence.
2. The testator **MUST** sign or mark his/her will in the presence of two or more witnesses.
3. Both witnesses must be adults (i.e., older than 21) of sound mind.
4. The witnesses should not be beneficiaries of the will (i.e., people who will get something from will).
5. The two witnesses must both be present when the testator signs the will.
6. The two witnesses must see the testator sign the will.
7. If the will is more than one page, the testator should sign each page to guard against forgery.
8. The will must be dated to ensure its validity.

Remember that when making a will, a person can only give away property that belongs to her/him. The will cannot give away property that belongs to other people in the household or family unless the deceased and the other owners agreed that they each own shares of the property. In this case, the deceased's will may give away her/his shares.

It is also important to ensure that there is proof of ownership of the property being given away. Proof of ownership may include land titles, sale agreements, log books for vehicles, an employment contract showing you are entitled to gratuity, share certificates, etc.

What Goes in a Will?

A testator has the right to make instructions as s/he wishes in his/her will, but as a matter of practice, wills contain the following:

- Personal details of the testator: full name, sex, age, date of birth, marital status, place of birth or origin, names of parents, clan and religion.
- If the testator was married, provide the name and personal details of the spouse and the date and venue of the marriage. If the testator had ever been separated or divorced, provide the date of divorce or separation along with available personal details of the former spouse.
- Names, ages, and dates of birth of any children and a note as to whether they are biological or adopted.
- Personal details of any other dependants.
- Clear and detailed description of the property.
- How the property should be divided among the beneficiaries.

- Guardians for minor children who will be responsible for looking after the children of the testator who are still younger than 18 years old.
- Aspects dealing with the burial.
- The name of the customary heir.
- The names of persons who owe money to the testator, and names of persons to whom the testator owes money. If the testator has debts to other people, the will should say how and when such people should be paid.
- Names of executor/executrix. This is a person whom the testator entrusts with implementing the will. The executor/executrix must be an adult and can be a woman or a man.
- The names and signatures of not less than two witnesses.
- A statement that the testator is of sound mind and is making the will without any coercion.

Note that where a person, by his/her will, disposes of property without reasonably providing for the maintenance of his/her spouse, children, or dependent relatives, these people may apply to the court (or someone may apply on their behalf) to seek payment from the deceased's estate.

Changing or Canceling a Will

A will may be changed or canceled by the testator at any time before his or her death. The original will must be burnt, torn, or otherwise destroyed by the testator or some other person acting on the testator's orders.

If there are significant changes in the testator's life, for example marriage, divorce, death of a partner, or a new child, it is advisable to make a new will.

Custody of Wills

It is highly advisable that a person make at least three copies of his or her will. One copy of the will should be kept in a secure place like the High Court, the Administrator General's office, a known bank or a law firm. A trusted friend or a relative may also keep a copy.

Interfering with a Will

Nobody (whether Local Council or clan leaders) has authority to implement the will of the deceased without first following all the legal steps mentioned above.

Only the court system can grant authority to implement the wishes of the deceased. Anybody who interferes with the property of the deceased before Grant of Probate (permission given by the court for the executor to carry out the will) commits a crime and may be prosecuted. It is illegal for anyone to tamper with or change the contents of a will.

Discussion How Wills Can Help Women and Girls (30 minutes)

1. Have the participants read aloud Handout 2, "Wills and Women."
2. Ask the following questions:
 - Do you know anyone who has left property to a daughter or wife or who might want to leave property to a daughter, wife or other female relative?
 - Have you ever seen any resistance to daughters, sisters or other female relatives inheriting property? If yes, please explain.
 - How might children be better off if their parents made wills?

- What could you say to people in your community to help them become open to the idea of wills?

3. Invite the participants to ask questions.

Lecture How to Carry Out a Will after a Person Has Died (30 minutes)

See Handout 3 for the steps to follow to administer someone's estate if s/he has left a will. The will should identify an executor who will carry out the steps of applying for permission to administer the estate, making a public announcement that s/he has applied for permission, and carrying out the will upon receiving permission from the proper authorities.

Intestate Succession

Lecture Managing Estates When There Is No Will (2 hours)

Intestate succession is when someone dies without making a will or where a court has declared the will invalid. This is very common in Uganda.

Distribution of Property in Intestate Succession

When there is no will, the law describes which persons may receive how much property. The law only allows for the following persons to receive property as beneficiaries:

- **Husband or wife/wives:** There must be a legally recognized marriage at the time of death. The husband and wife must have been living together for at least six months before the death. If there is more than one legal wife, the wives equally share the portion the law allocates to the spouse.
- **Children of the deceased:** Male AND female children born during marriage or outside marriage as well as any adopted children.
- **Dependent relatives:** Relatives who are completely or substantially dependent on the deceased.
- **Customary heir:** A person recognized by the customs of the tribe or community as being the deceased's customary heir. The customary heir may be male or female.
- **Legal heir:** This is the deceased's nearest living relative and takes the place of a customary heir if there is none.

The law also determines how much property each beneficiary may receive:

Where a deceased person dies leaving a spouse, children, dependent relatives and a customary heir

Children	75%
Spouse	15%
Dependent relatives	9%
Customary heir	1%

Where a deceased person dies leaving a spouse, dependent relatives, a customary heir but NO children

Spouse	50%
Dependent Relatives	49%
Customary heir	1%

These allocations apply both when the deceased is a man and when the deceased is a woman. Similarly, all provisions and rules about leaving property to wives apply equally to leaving property to husbands.

The residential holding (the place where the family lives) and household property ARE NOT included in the property to be distributed according to these rules outlined. Surviving spouses and children have a right to stay in the home. Sometimes the residential holding is also called the "matrimonial home."

When a person leaves a will, s/he may distribute property as s/he chooses and does not have to follow these allocations.

The following rights of widows and children are sometimes forgotten or violated in intestate succession:

1. It is an offense for anyone to chase the widow or children out of the residential holding.
2. All children born both within and outside wedlock shall share equally in the children's share of the deceased's estate.
3. The widow(s) and the children (boys AND girls) have a right to stay in the home until any of the following happens:
 - In case of a widow, if she dies or remarries or ceases to occupy the house for a continuous period of six months, or if she consents to leave the house and voluntarily surrenders it.
 - In case of a female child, if she dies or reaches the age of 21, marries before attaining the age of 21, or if she ceases to reside in the house for a continuous period of six months.
 - In case of a male child, if he dies or reaches the age of 18, or ceases to reside in the house for a continuous period of six months.
4. Where a wife has been separated from her husband as a member of the household for a period of six months or more she will not automatically be entitled to share in the property of the deceased. She has to make an application to court showing that she was separated from the deceased with reasonable cause.
5. It is an offense for anybody to distribute the estate of the deceased without authority from a court of law.

Interfering with the Estate

Nobody (whether Local Council or clan leaders) can distribute or manage the estate of the deceased without first following all the legal steps mentioned above. Only a court can grant authority to administer the estate of a person who dies intestate.

Anyone who interferes/intermeddles with the property of the deceased before the court has given Letters of Administration commits an offense and may be prosecuted.

Procedure for Getting Letters of Administration

See Handout 4, which outlines the steps to administer the estate of someone who has not left a will. A close adult relative should apply for Letters of Administration, which give her/him permission to manage the estate. In managing the estate, this person must follow the law and not discriminate for or against heirs or dependents on the basis of sex.

Who are the Administrator General and Chief Administrative Officer?

The Administrator General is a public officer responsible for ensuring that estates of deceased persons are managed according to the law. The Administrator General sits in Kampala and is represented in each district by a Chief Administrative Officer (CAO) who handles business for the Administrator General's office. The CAO recommends to the Administrator General persons who should be issued Certificates of No Objection, which allow them to get court permission to administer estates of deceased persons. The CAO may also hold family meetings to resolve disputes over distribution of property and give families advice about procedures to follow to manage estates lawfully.

The Administrator General:

- Receives reports of death
- Issues Certificates of No Objection
- Resolves disputes among beneficiaries or family members of the deceased
- Ensures that the rights of beneficiaries, especially minor children and widows, are not violated

What is the Community Rights Worker's Role in Inheritance?

Discussion Your Potential Role in Inheritance Issues (30 minutes)

Ask the group to list or describe what they can do as rights workers to help their communities in matters of inheritance and succession. Write their responses on the flipchart. Probe or make suggestions to ensure that the following roles are included.

1. Educate communities about the importance of making wills.
2. Help members of the community write a will.
3. Be a witness to wills if and when requested by people making wills. However, do not be a witness of a will that you have helped to draft.
4. Educate communities about the procedures to follow when a person dies with or without a will.
5. Assist people, especially widows and orphans, with obtaining the necessary documentation for processing Letters of Administration or Grant of Probate.
6. Assist people, especially widows and orphans, to follow up their cases in courts, with the Chief Administrative Officer, or with the Administrator General.
7. Provide advice and mediate in cases where there are family disputes about property division, ensuring that widows' and orphans' rights are protected.
8. Report any cases of interference in or mismanagement of estates to the police.

Exercise Giving Advice on Inheritance (1 hour)

Now that the participants have a general understanding of testate and intestate succession and the roles and mandates of the courts and Administrator General, we will practice giving advice about inheritance problems using the case studies below.

1. Divide the participants into small groups. Assign each group one of the case studies.
2. Ask the groups to read through the case studies and determine what advice they would give the client and why. Emphasize that their role is to inform and explain about the law to help people reach their own decisions.
3. Have each group present their group work and ask the others for their feedback.
4. Use the Key Points for the Facilitator after the text of the case studies to ensure that certain points are covered in discussion.
5. Wrap up the session by correcting any wrong or misleading advice given.

Case Study 1

A meeting of MM's clan members was held during MM's last funeral rites. MM had two wives with whom he had a total of eight children. The legally married wife, Mrs. M, was chased away from hospital by the husband's relatives and stopped from taking care of him. The second wife of MM, who was not legally married to him, was called in to look after him in the hospital. Four months later MM died. It was alleged that Mrs. M brought HIV/AIDS to the family.

During the clan meeting, the legally wedded wife and her four children were ordered to leave the matrimonial home. She was ordered not to take any property from the house. The clan meeting also ruled that the children of the wedded wife should not inherit anything of their father because of the crime committed by their mother.

Mrs. M has come to you for advice as a community rights worker. What advice would you give her?

(Source: Uganda Gender Resource Center's Training Manual for Anti-Violence Advocates, August 2007)

Case Study 2

J, an unmarried lady of 24 years, was the only daughter of her father who recently passed away. J's father had written a will, and in that will he gave J some land. J's three brothers and her uncles were not very happy that J got some land. They say according to their culture, women cannot inherit land. Moreover, they argue, J is bound to get married and might bring her husband of another tribe to take over their clan land, and they cannot stand such an abomination. J's brothers and uncles are pressuring J to give up the land in exchange for some cows which, if she gets married, she can feel free to take with her to her new home. J's uncles have threatened to disown her if she does not agree to their request.

J is confused. J is not about to get married but her uncles don't believe her. She really wants to keep the piece of land her father gave her, but at the same time, she knows that she is supposed to respect her uncles.

She comes to you, seeking your advice as a community rights worker. How can she keep the land and still maintain ties with her brothers and uncles?

Case Study 3

Paul had been staying with Christine for 11 years, and they had four children, two girls and two boys. In their 11 years together, Paul and Christine acquired a lot of property including land, commercial buildings and houses. Most of the property was in Christine's name though they managed it together. Just when they had made plans to go for a formal introduction ceremony at Christine's parents' home, Christine unfortunately died in a fatal accident. Christine's parents have decided to take the four children to live with them. They say that because Paul and Christine were not married, he cannot get a share of her property.

Christine's parents took over the property, claiming they needed it to help look after their grandchildren. However, they took the children out of the very good schools they were attending and put them in a local school nearby that's not very good. At the same time the children complain to Paul that their grandparents mistreat them and do not give them adequate food or clothing. Also, Paul knows that Christine's parents sold some of the property and bought themselves a car and opened up a shop.

Paul wants to know what he can do to get his children back. He also knows that if he can manage the property himself, he can take better care of his children.

As the community rights worker, please advise Paul.

Case Study 4

Mercy and Isaac were married according to custom about 30 years ago. Mercy does not think there is a marriage certificate. Before they were married, Mercy and Isaac used to live just outside of Kampala. Isaac worked in a store and Mercy worked part-time as a secretary. Shortly after their son was born, Mercy and Isaac moved back to the village. They built a house and started their own grocery store with the earnings they had made back when they lived near the city. Both of them worked there, and it was a good business. From the store's earnings, Mercy and Isaac also bought four cattle and some chickens. They used the milk and eggs to sell in their store. Last year, Isaac became ill and had to stop working at the store. Mercy and Isaac gave the grocery to their son, Adam, who is now grown, but they still sell the milk and eggs to the grocery. After being ill for a long time, Isaac passed away last week.

Mercy has come to you for help. Her son, Adam, has taken the cattle (but not the chickens) to his own house. His wife milks them, and the milk is still sold in the store, but Adam does not pay any money for the milk. Mercy wants to have the cattle back and sell the milk to the store like she used to.

As a community rights worker, please advise Mercy.

Guide to Facilitator Key Points to Draw from Case Studies

Case Study 1

- The law recognizes Mrs. M's marriage to Mr. M because they were legally wedded. The law does not recognize the second marriage. Mrs. M is the rightful widow because she was legally wedded to Mr. M. The law does not allow mixture of marriages. That is, a man cannot marry under customary law, then marry another woman under Islamic law and/or another in church. The only exception to the mixed marriage rule is if only one woman is involved (for example, if a man marries a woman under customary law, he can also marry her in church or civil marriage).
- Mrs. M is entitled to inherit property of her deceased spouse. Even though Mrs. M had been separated from the deceased for four months prior to his death, the separation was not of her making but was forced on her by her in-laws. Furthermore, it is less than the six-month separation given in the law that would disqualify her from inheriting from Mr. M.
- It is against the law to chase a widow and the children out of the matrimonial home. In doing so, the relatives who did chase Mrs. M away could face punishment under the law. Mrs. M and her children have a legal right to stay in the matrimonial home.
- Because there is no mention of a will by Mr. M, Mrs. M should be advised to obtain Letters of Administration.
- Participants should be able to state the process for obtaining Letters of Administration.

Case Study 2

- Participants should be able to state the principle of gender equality enshrined in the Constitution. This principle means that daughters too are allowed to inherit land from their fathers.
- J has a right to the land her father gave her by will.
- People are not allowed to tamper/alter the will of a deceased to suit their purposes. If they are not happy with the way the deceased distributed property, they have to take this complaint to court.
- It is only the court that has the power to alter the contents of a will
- Mediation between J and her uncles and brothers may be one way to resolve their tensions.
- If mediation fails, then the uncles and brothers can go to court to challenge the will if they wish to.
- Can anyone locate a copy of the father's will?
- Are there any documents or certificates regarding the land in question?

Case Study 3

- In the strict legal sense, Paul is not a widower because he and Christine were not legally married. Cohabitation is not recognized as a form of marriage in Uganda.
- It was wrong for Christine's parents to take over management of her property without the legal authority to do so.
- This legal authority to manage the property would come from Letters of Administration because Christine died intestate.

- Paul, as the father of the children, can apply for Letters of Administration.
- Participants should be able to explain the process for obtaining Letters of Administration.
- By selling of some of Christine's property for their own use, Christine's parents have committed a crime called intermeddling and can be reported to the police.

Case Study 4

- Mercy and Isaac bought the cattle jointly with money from the grocery store. Both Mercy and Isaac worked at the grocery store and contributed their own time and money to start the store. That means that some, if not all, of the cattle and the money from their milk belong to Mercy.
- If Mercy and Isaac decided that some of the cows belonged to Isaac and some belonged to Mercy, the cows would be considered as being owned jointly in common. In this case it would be legal for the cows Isaac owned to be given to someone besides Mercy. If Isaac had left a will, he could have said who he wanted to receive his share of the cows.
- Is there a will?
- Did anyone obtain Letters of Administration or a Certificate of No Objection?
- Are there any documents for the cattle?

Women and Inheritance

- According to the Constitution, women have the same right to inherit property as men. The Constitution says that women have the right to be treated equally with men and that women are equal in dignity with men.
- The Constitution bans any laws, customs, cultures and traditions that treat women unfairly or deny women the same opportunities as men.
- Women can inherit all kinds of property, including land.
- All women, regardless of their marital status or station in life, can inherit property and be named as heirs. This includes childless women, women with disabilities or living with HIV/AIDS, single women, women with only girl children, etc.
- The Constitution states that widows have the right to inherit the property of their deceased spouse and the right to look after their children if their spouse dies.
- For a wife or husband to have a legal claim to inherit a spouse's property, s/he must either be legally married under one of the recognized forms of marriage in Uganda or mentioned in the deceased's will.

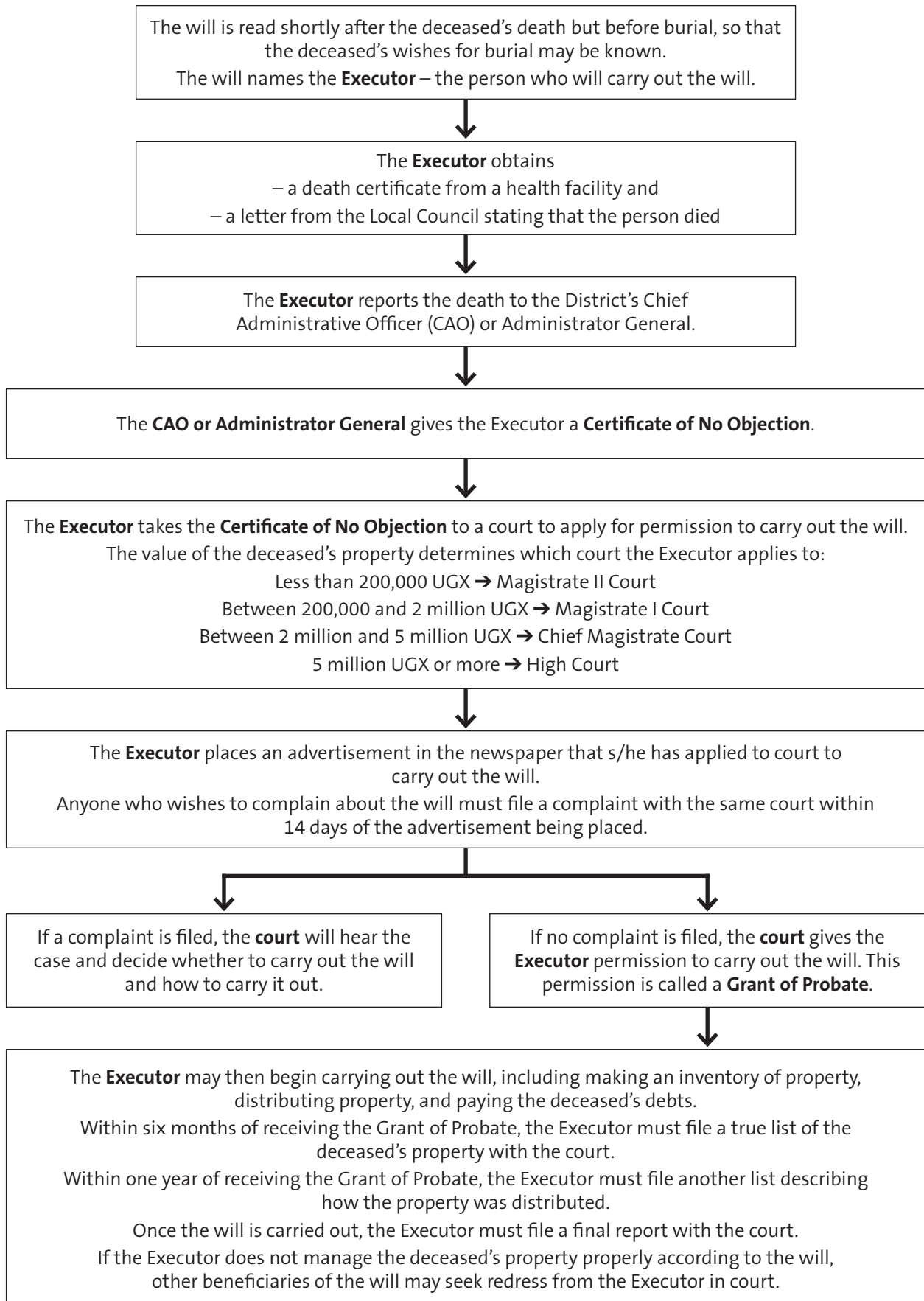
Wills and Women

A good way to protect inheritance rights of women and girls is through wills. A will ensures that if the deceased person wanted to give property to women and girls, his/her intentions are clear and have the power of the law behind them.

- When making a will, a husband must ensure to make provision for his wife and for his *female and male* children. Otherwise the will can be contested. The wife must also make provision for her husband and children; otherwise the will can be contested.
- Women can be named as executors of property and/or can be given authority by the court to administer the estate of a person who dies intestate.
- Women have a right to make a will to give away property they own.

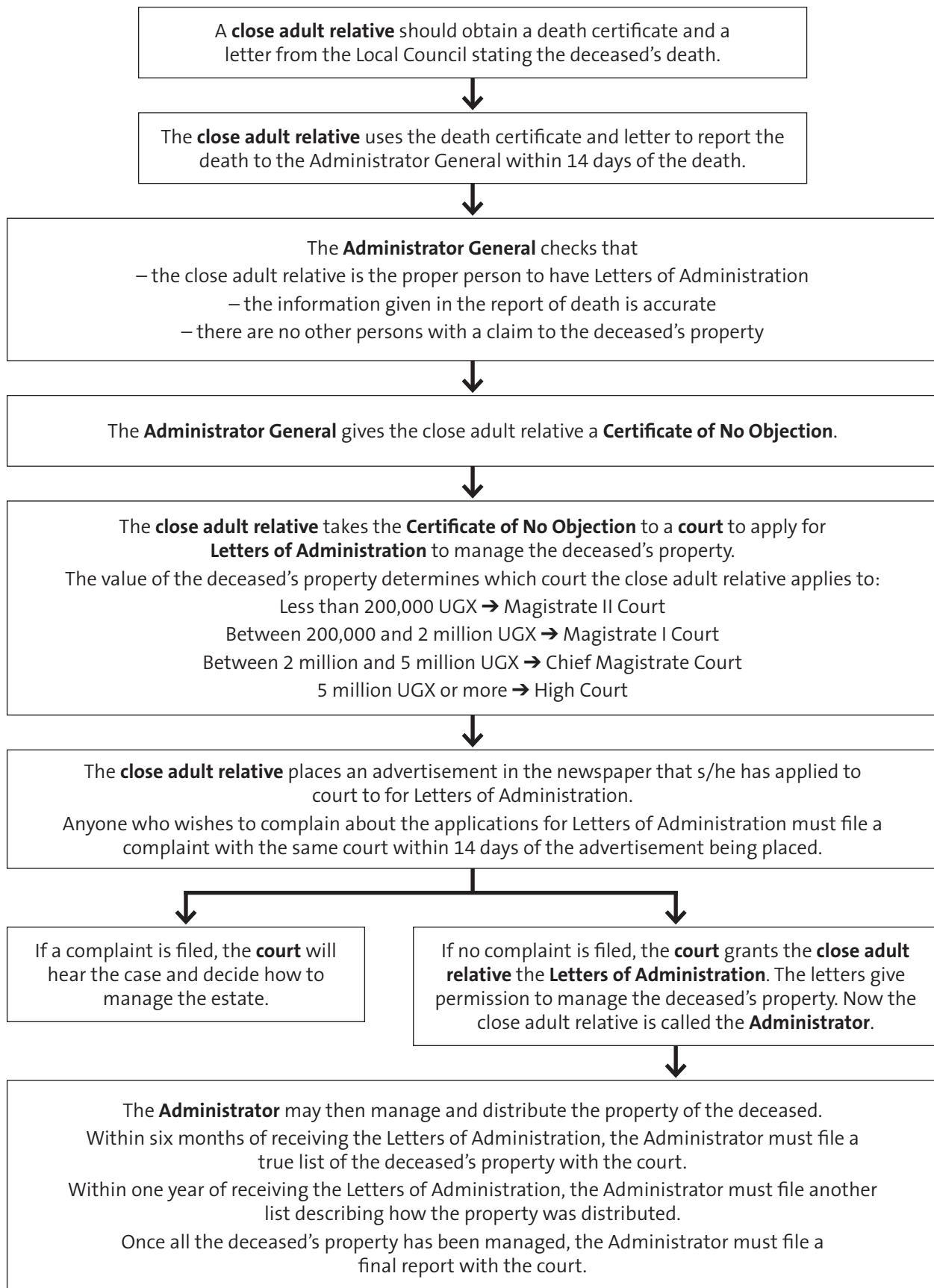
Handout 3

If the Deceased Leaves a Will



Handout 4

If the Deceased Does NOT Leave a Will





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Monitoring Skills for the Community Rights Worker



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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.

Monitoring Skills for the Community Rights Worker

Reporting about cases and activities can help the community rights worker and his/her organization provide services more effectively. It can also help the community rights worker be more informed and efficient through documenting challenges and lessons learned. To get the most benefit out of reporting, it is essential that the rights worker build skills through learning good methods to record data and complete reports, what information to include in a report, and what to do with the reports once they are completed.

The module provides a tutorial on monitoring and reporting. It also includes case study exercises to practice what has been learned.

Module Objectives:

Community rights workers will ***understand***:

- What monitoring is
- How their organizations use their reports
- Why consistency is important

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

- The key information about cases and sensitization events using monitoring forms

Handouts:

Three monitoring forms (Client Visit Form, Monthly Client Visit Log and Community Sensitization Log) are included alongside the exercises in which they are used.

Total Time: 7 hours

Note to the Facilitator:

It will be helpful to have a speaker of the local language facilitate or co-facilitate this module. Several terms used in the module have specific meanings in the context of monitoring that may not carry over into the local meanings.

It may be helpful to translate the monitoring forms into the local language, especially the lists at the bottom of the forms, to ensure that the community rights workers share a consistent understanding of the terms in the lists. Consistency is crucial to obtaining useful data for monitoring purposes.

Monitoring

Lecture What is Monitoring?

(15 minutes)

The Merriam Webster dictionary¹ defines monitoring as:

Definition 1: to watch, keep track of, or check, usually for a special purpose.

In the field of Monitoring and Evaluation of programs, policies and interventions, monitoring is defined as:

Definition 2: regular, planned and organized collection of information to describe what your program is doing.

Monitoring is about the big picture, not about individual clients or even individual rights workers. It is like flying high over the communities and programs: you would not see the details of every case, but you would see the number of cases, the types of cases, common challenges encountered, and so on. Monitoring involves regularly collecting focused information across many rights workers to find patterns in the activities they do, challenges they face, and the needs of the communities. For example, looking across information from all its rights workers, an organization might see that there is a steady increase in boundary disputes or in domestic violence. It might then decide that it needs to provide training or other resources to its workers about boundary disputes and violence.

To be able to see the big picture, someone on the ground needs to be communicating what is happening. When a rights worker (or any service provider) records information about client visits and sensitization events, s/he is “monitoring” activities. Writing reports about

activities using the recorded information is a way to share monitoring information with others.

Each rights worker is the only person who knows the details about his/her own work and the influence it is having on the community. While collecting information and reporting on activities may seem like a large task, this information is important and should be shared with others. Knowledge gained through client visits and sensitization events will be lost if it is not written down. Information such as challenges, lessons learned, and activities that worked especially well can help the individual rights worker, his/her fellow rights workers, and the organization that they represent to learn and improve its programs and services.

Lecture What is Monitoring For?

(30 minutes)

Monitoring answers big picture questions about a program, like, “What portion of cases are about inheritance or domestic violence or boundary disputes? Are some kinds of conflicts becoming more common? What topics do community rights workers need more training in? What resources do community rights workers use most?” These kinds of questions help organizations to understand the needs of rights workers and the communities they serve.

Here are common “big picture” questions that organizations use monitoring to answer:

1. *What services were provided?*

Documentation of activities will help the organization know the types and amount of services provided. This information can show how community rights work affects or changes the community’s knowledge, attitudes and practices.

¹ monitor[2]. (2008). In *Merriam-Webster Online Dictionary*. Retrieved December 1, 2008, from [http://www.merriam-webster.com/dictionary/monitor\[2\]](http://www.merriam-webster.com/dictionary/monitor[2])

2. *What feedback or information do community rights workers need?*

Organizations generally do not have the funding to follow up with every community rights worker to make sure that s/he has the necessary resources to do the work and is providing services effectively and accurately. Monitoring data provides a channel for the rights workers to describe the resources they are using, additional resources they need, their challenges, their successes and their questions. With information about the types of cases and the action rights workers take, the organization can make a general assessment of whether the rights worker is giving appropriate advice.

3. *What can we tell funders or potential funders about what we need and what we do?*

Funding is a major obstacle to effectively providing services for most organizations. Therefore, attracting potential funders is an important use of monitoring data. A proposal or discussion with a funder is much more effective if you have data to back up your statements and more concretely describe the issues. For example, which one of these statements sounds better to explain the need for more money to buy bicycles for community rights workers: “The community rights workers need to travel long distances each day just to get to their clients, which limits the time they have to help their clients,” or “The community rights workers are traveling on average four hours a day just to reach their clients, which limits the time they have to help their clients to an average of two hours a day.” Having data will strengthen the organization’s case for funding.

4. *On what topics should we focus training? Where should we focus the organization’s resources?*

Many resources would be helpful for organizations to provide to their rights workers, including refresher trainings and legal resources that rights workers can bring to client visits. Because every organization has limited funding, it is important to spend money as efficiently as possible on resources that will help the rights workers do their work well. If organizations could collect data on the number of each type of case that rights workers handle, they would have a better idea of what to focus on in training and what legal or educational resources would be most useful to rights workers (for example, information about criminal law may not be useful if the majority of cases rights workers see are land disputes).

Lecture Why is Monitoring Important to the Community Rights Worker?

(30 minutes)

Monitoring does not only benefit the organization as a whole, but it also helps improve the effectiveness of each community rights worker. For example, monitoring can help each worker:

1. *Keep track of client's cases.* It is difficult to remember all of the details of a case between each visit with the same client. Writing down the information from each client visit will allow the rights worker to refer easily to his/her notes to read and remember details from past meetings. This is particularly helpful if the same client comes for more than one issue or if the rights worker is assisting more than one client at a time.
2. *See patterns or similarities in work.* Documenting activities can help when dealing with similar cases that come up in the future. If the rights worker records the details of each case, s/he can refer back to these cases and how they were handled when other clients come with similar problems. This is also helpful for community sensitization events. If one event is particularly successful, it will be much easier to try a similar event in another place if the first one was well documented. Documenting activities provides a way to share successes and challenges with other community rights workers.
3. *Receive training or resources where these are most needed.* An organization can use a rights worker's information to identify areas where s/he needs more assistance or resources. If the monitoring data show that a particular issue is becoming more common in the community, the organization can tailor future trainings to include a discussion about that topic. In addition, monitoring data can reveal particular areas where community rights workers need technical assistance.
4. *Answer the same big questions when a group of community rights workers become a CBO.* If rights workers would like to band together to form a community based organization, they will eventually be interested in answering the "big picture questions" themselves as their group becomes self-sustaining. The group will be able to use monitoring data to apply for its own funding, provide its members with trainings and resources in the most important areas, and identify the needs of the communities so sensitization events can be given on those topics.

Using Forms to Collect Monitoring Information

Note to the Facilitator:

Hand out monitoring forms included in this section before starting so the participants can refer to them throughout the discussion. It would be helpful to have copies of extra blank forms for the participants to use in their exercises.

The following estimated times include full discussions and exercises for each form:

- Client Visit Form: 3.5–4 hours
- Monthly Client Visit Log: 45 minutes–1 hour
- Community Sensitization Log: 45 minutes–1 hour

You may find that you need to spend the majority of the session on the **Client Visit Form** to ensure that all community rights workers understand how to fill in the forms and have a similar understanding of pre-coded lists on the forms. Giving the participants the chance to practice filling out forms will make any uncertainties or difficulties they are having more apparent and create an opportunity for discussion.

Discussion Introduction to Forms

(15 minutes)

Organizations often develop guidelines or forms to specify the information that should be recorded and reported through monitoring. Explain to the participants that monitoring forms are usually preferred over narrative reports because:

1. *Monitoring forms define important information to be collected.* If you look at the sample Monthly Client Visit Log, you will see different boxes that need to be filled in (“Client Name,” “Type of Case,” “Action Taken,” etc.). This is the information that the organization decided was important to know about each case. Using the form makes sure you document this information that might be accidentally left out of a narrative report.
2. *Monitoring forms make it easier to record and analyze information.* Information that is documented in forms is easier for the organization to enter into a database and analyze. Reading through narratives and picking out the important information is very time consuming. Quicker analysis means that the information can be used quickly to improve the program.

Your organization will analyze all of the monitoring information that you and your fellow community rights workers provide. Ideally, someone will collect all forms and information community rights workers send in, input them into a computer, and use the computer to sort and summarize all the information to answer the most important big picture questions.

3. *Monitoring forms improve the consistency of information.* Consistency in data collection means that everyone collects the *same information* with the *same level of detail* and has *similar interpretations* or understanding of the information requested. Monitoring forms improve the consistency of the data because they set a standard for what information will be collected and how the people collecting information will interpret and record it.

Background Using Different Monitoring Forms (15 minutes)

This section will go over how community rights workers can use monitoring forms to track their work. The participants also will have a chance to practice using the forms. The forms here are only examples; participants may find that their organization has its own forms that ask for different information or have a different format.

This module contains three monitoring forms to track community rights workers' activities. Rights workers use the **Client Visit Form** to keep notes and important information about their meetings with clients. Then rights workers report key information from their Client Visit Forms into the **Monthly Client Visit Log**. They will turn in the Monthly Client Visit Log to the organization but keep the Client Visit Form with more details for their own records. Community rights workers can also complete and turn in a **Community Sensitization Log** that gives key information about events the rights worker held or participated in.

Lecture Client Visit Form (15 minutes)

The Client Visit Form below collects information about client visits. Each small box corresponds to a different piece of information that the organization wants the community rights worker to collect. The form is set up to make client visits as natural as possible while still collecting monitoring information. The rights worker should take free-hand notes in the space provided when speaking with the client (or directly afterwards). After the visit, the community rights worker can refer to his/her hand-written notes to fill out the rest of the form.

The community rights worker should keep the Client Visit Forms with him/her as a record and may refer back to them if there are multiple visits with the same client. Each form should contain information for only one client and for only one case. If the same client brings the rights worker multiple cases, the rights worker should fill out a separate form for each of the cases. If a client has multiple visits for the same case, the details of each visit with the same client for the same case should be recorded on a separate line in the "*Visit Information*" chart on the form.

Discussion Reading and Understanding the Client Visit Form (45 minutes)

1. Have the participants read the Client Visit Form and explain what information they think would go in each box. As they go through the form, clarify their explanations using the descriptions in the table on the following page.
2. Explain that for the columns “Type of Case,” “Action Taken,” and “Outcome,” there are categories at the bottom of the form that the participants could choose from as the best description. Ask them to read the lists of categories. Because it is very important for consistency that they use the words on the lists, you need to make sure that the community rights workers understand exactly what is meant by each word.

Note: It might be very difficult at first for the community rights workers to classify the type of case. Make sure you:

1. Continue to go through the definitions of the different case types throughout the duration of the training. Pay particular attention to overlaps between land disputes and inheritance. Make sure that the rights workers know the distinction.

2. Emphasize that the rights workers should record what the client says his/her problem is. For example, the client may tell them that s/he was kicked out of the marital home and wants help to get his/her possessions back. The rights worker might want to record that the client has marital problems, but really the client wants legal advice on how to reclaim his/her possessions.
3. Discuss the logistics of completing the form with the community rights workers. They should fill out the form according to the guidelines above and using the list of potential responses when applicable. It is important that they fill out this form as soon after the visit as they can, but they should not do it while talking with the client. They should instead take free-hand notes during the meeting in the space provided on the second page of the form.

The **Client Visit Forms** are to be kept with the community rights workers as a record of their cases. They will complete a Monthly Client Visit Log that summarizes their cases each month. The **Monthly Client Visit Log** will be turned in to their organization.

Pages 11–14 have an example of a blank Client Visit Form and a Client Visit Form that is already filled in.

Information	Description
Rights Worker Name	Record your name
Client Name	Record the name of the client
Physical Address	Record the village and sub-county that the client is from
Sex	Record the sex of the client by circling M for male or F for female
Marital Status	Choose from the “Marital Status” list at the bottom of the form to classify your client’s marital status. Specify the marital status if requested by your choice on the list.
Age	Record the age of the client
Occupation	Record the occupation of the client
Education	Record the highest education level of the client
How heard of rights worker	Choose from the “How heard of rights worker” list at the bottom of the form to specify how the client heard about your services
Other party (group) name	Record the name of the other person or group of people involved in the case (if applicable)
Relationship to Client	Record how the other person is related to the client
Type of Case	Choose from the “Type of Case” list at the bottom of the form to classify the legal issue that the client discussed with you. Make sure to record what the CLIENT says is their problem. You should not assume or create the client’s problem. Ask yourself: “Why did the client come to visit me?”
Date	Record the date of the visit
Duration	Record the amount of time you spent with the client. If you do not have a clock, estimate the time to the best of your ability.
Action Taken	Choose from the “Action Taken” list at the bottom of the form to classify the action that you took to help the client. Specify the action taken if your choice from the list is “Other.”
Outcome	Choose from the “Outcome” list at the bottom of the form to specify the outcome of the case. Specify the outcome if your choice from the list is “Other.”
Comments	This is a place where you can write any notes about the visit. For example, if you are talking to a client about domestic violence and her husband walks in the room, you could note that here.
Prior Help	Ask the client if s/he has sought other help before coming to you. Record the answer in free-hand here.
Problem of Client (narrative)	This is where you take free-hand notes while talking to your client. Later you can fill out the rest of the monitoring form. Be sure to ask and record all of the information that is requested on the other parts of the form.

Client Visit Form

Rights Worker's Name:

Client information:

Client Name:	Village: Parish: Sub-county:
Sex: M F	Marital Status:
Age:	Occupation:
Education:	How heard of Rights Worker:

Other Party information:

Other Party (group) Name:	Village: Parish: Sub-county:
Sex: M F	Marital Status:
Age:	Relationship to Client:

Type of Case:

If "Other," specify: _____

Visit Information:

Date	Duration (minutes)	Action Taken (if "gave legal advice," "counseling," or "other," then <u>specify</u>)	Outcome (if "referred case" or "other," then <u>specify</u>)	Comments

Marital Status	Type of Case		Action Taken	Outcome
Married (Customary)	Land boundary dispute	Marital problem	Gave legal advice (<i>specify</i>)	Referred cases: (<i>specify</i> to whom)
Married (Civil)	Eviction by landlord	Domestic violence	Counseling (<i>specify</i>)	Examples: Local Council courts, Probation and Welfare officers, Police (family and protection unit), Elders, Legal aid clinics, Magistrate court, Administrator General's Office, Sub-county chief, FIDA, ULA, etc.
Married (Church)	Eviction by partner	Child abuse/neglect	Mediation	
Married (Muslim)	Land grabbing	Custody	Check-up visit only	
Married (Don't Know)	Fraudulent sale/claim to land	Murder	Other (<i>specify</i>)	
Married (Doesn't Specify)	Sale of land without consent	Defilement		
Single	Trespass	Debt	How heard of worker	Scheduled return visit with client
Widow	Other property dispute	Theft	Poster	Scheduled meeting with other party
Divorced/Separated	Inheritance	Property damage	Radio show	Scheduled court date
Cohabiting	Writing a will	Assault/violence	Friend/Family	Scheduled meeting with LC
	Obtaining land certificate	Drug/alcohol abuse	Local leader	Scheduled meeting with other leader
	Obtaining birth/death certificate	Other (<i>specify</i>)	Village/Group Meeting	Filed legal forms (certificates, wills, etc.)
	Obtaining marriage certificate		Other (<i>specify</i>)	Memorandum of Understanding (<i>verbal</i>)
				Memorandum of Understanding (<i>written</i>)
				Resolved—In favor of client
				Resolved—Against client
				(# of people) wrote wills
				Ongoing—no additional visits planned
				Other (<i>specify</i>)

[illegible]

Client Visit Form

Rights Worker's Name: Lucy

Client information:

Client Name: Betty	Village: Kyevunze Parish: Kikoma Sub-county: Katikamu
Sex: M (F)	Marital Status: Married (Customary)
Age: 45	Occupation: Housewife
Education: Primary	How heard of Rights Worker: Friend

Other Party information:

Other Party (group) Name: Tom	Village: Kyevunze Parish: Kikoma Sub-county: Katikamu
Sex: (M) F	Marital Status: Married (Customary)
Age: 51	Relationship to Client: Husband

Type of Case: **Sale of land without consent**

If "Other," specify: _____

Visit Information:

Date	Duration (minutes)	Action Taken (if "gave legal advice," "counseling," or "other," then <u>specify</u>)	Outcome (if "referred case" or "other," then <u>specify</u>)	Comments
10/3/10	15	Gave legal advice—listened to the problem and began to teach her about the consent clause	Scheduled return visit with client	Partner came into room during the meeting
12/3/10	45	Gave legal advice—told the woman she had to give permission for him to sell the land	Scheduled meeting with other party	
15/3/10	60	Mediation	Resolved in favor of client	Husband realized he was wrong to try to sell the land without his wife's permission

Marital Status	Type of Case		Action Taken	Outcome
Married (Customary)	Land boundary dispute	Marital problem	Gave legal advice (<u>specify</u>)	Referred cases: (<u>specify to whom</u>)
Married (Civil)	Eviction by landlord	Domestic violence	Counseling (<u>specify</u>)	Examples: Local Council courts, Probation and Welfare officers, Police (family and protection unit), Elders, Legal aid clinics, Magistrate court, Administrator General's Office, Sub-county chief, FIDA, ULA, etc.
Married (Church)	Eviction by partner	Child abuse/neglect	Mediation	
Married (Muslim)	Land grabbing	Custody	Check-up visit only	
Married (Don't Know)	Fraudulent sale/claim to land	Murder	Other (<u>specify</u>)	
Married (Doesn't Specify)	Sale of land without consent	Defilement		
Single	Trespass	Debt	How heard of worker	Scheduled return visit with client
Widow	Other property dispute	Theft	Poster	Scheduled meeting with other party
Divorced/Separated	Inheritance	Property damage	Radio show	Scheduled court date
Cohabiting	Writing a will	Assault/violence	Friend/Family	Scheduled meeting with LC
	Obtaining land certificate	Drug/alcohol abuse	Local leader	Scheduled meeting with other leader
	Obtaining birth/death certificate	Other (<u>specify</u>)	Village/Group Meeting	Filed legal forms (certificates, wills, etc.)
	Obtaining marriage certificate		Other (<u>specify</u>)	Memorandum of Understanding (<u>verbal</u>)
				Memorandum of Understanding (<u>written</u>)
				Resolved—In favor of client
				Resolved—Against client
				(# of people) wrote wills
				Ongoing—no additional visits planned
				Other (<u>specify</u>)

Prior Help:

None

Problem of Client (narrative):

10/3/10

Betty is upset that her husband, Tom, wants to sell a farm plot of theirs in a neighboring village.

She told him that she did not want to sell the land, but he is still going forward with it. She had heard in a sensitization event that the wife has to give permission before the sale of the land, so she wanted to know if she could legally prevent her husband from selling the land. Her husband is planning to meet with the buyer next week to sell the land. Betty's husband came into the room during the meeting and was mad that I was in the house. We scheduled another time to meet.

12/3/10

Betty summarized her problem again and I gave her more detail about the consent rule, and told her she can legally prevent the sale of the land. I told her that I wanted to talk it over with her husband and try to make him understand before taking any formal legal action.

15/3/10

I met with Tom to discuss the case. I explained the consent rule and told him that Betty had to give permission for him to sell the land. He had never heard of the law. He also didn't realize that Betty was so upset about the sale of the land. He decided that he wouldn't sell the land.

Exercise Using the Client Visit Form to Describe a Case (20 minutes)

Read the first description of a client visit aloud. After you are done reading, ask the participants to identify the important information that is provided in the description. Help the participants fill out the sample Client Visit Form for that case. Make sure that you emphasize that they use the list provided to fill in information about the type of case, the action taken and the outcome.

Read the second visit description aloud. Help the participants fill out the same log with the information for the second meeting for the case.

Visit Descriptions:

(FILL IN TODAY'S DATE)—Christine, a 42-year-old woman from Butenga, came to visit me with a problem. Her husband recently died and his will said that she will inherit the house and a separate 10-acre plot of land. However, her father-in-law, Charles, claims that the separate plot of land is actually his. He only let his son borrow the land to grow crops, but he never gave him the land. Unfortunately, the widow cannot find any documentation that proves that the land was transferred to her husband. I listened to her story for 45 minutes and decided to have a discussion with the father-in-law as soon as I can. Christine works on her farm and takes care of her children. She has no formal education. She heard of me through a friend. Her father-in-law is a 75-year-old widower and does not work.

(FILL IN DATE FOR ONE WEEK LATER)—I visited with Charles, the father-in-law, and Christine at Charles' home. I tried to mediate the issue, but both parties claim that the land is theirs. Neither can produce formal documentation that the land belongs to them. I decided to refer them to the Local Council for help. I will follow up with Christine after she visits the Local Council.

Exercise Role Play for Client Visit Form (1 hour)

The following role play will give the community rights workers experience in filling out the Client Visit Form. Separate the rights workers into groups of two—one person will be the “rights worker” in the role play and the other will be the “client.” You will give the “client” a piece of paper that will give information about the case that s/he will need to tell the “rights worker.” You will give the “rights worker” a piece of paper that will give information about the action that s/he will take with the “client.” Stress that the “client” should not share his/her piece of paper with the “rights worker” and the “rights worker” should not share his/her paper with the “client.” While the “client” is explaining his/her problem to the “rights worker,” the “rights worker” should be taking notes on the second page of the Client Visit Form as s/he would in a typical client visit. The “rights worker” will give advice to the “client” as indicated on the sheet of paper. When the role play is complete, the “rights worker” will transfer the important information in his/her notes to the front of the form. The “client” and the “rights worker” can work together on this.

Note to Facilitator: Be sure that the participants understand the rules of this role play. Make sure that the “client” does not share his/her piece of paper with the “rights worker” and the “rights worker” does not share his/her piece of paper with the “client.” This is supposed to be as similar as possible to a real client visit so the participants get experience listening, giving advice and filling out their forms. If the person playing the client is male, the client is Sam; if the person playing the client is female, the client is Susan.

THE CLIENT (Susan if client is female/Sam if client is male)	
I saw a poster about you and thought you could help me. My father recently passed away, and my brother, Herbert, and I inherited his land in Bweyeyo. There is one borehole on the land that is situated on my brother's plot. However, my brother and I do not get along and he will not allow me to use the borehole, even though that is the only water source in the vicinity. I want to know if I can force him to allow me to use the borehole. I have my father's will that says that we should split the land evenly, and I think that means that we should both be able to use the borehole. You are the first person I have come to for help. Please can you help me?	
Additional Information:	
Client:	Other party:
<i>Marital status:</i> widowed	<i>Brother's Age:</i> 38
<i>Education:</i> P7	<i>Brother's marital status:</i> Married
<i>Occupation:</i> sells clothing at market	
<i>Age:</i> 35	

THE RIGHTS WORKER
I listened to Susan/Sam's problem and decided that I wanted to talk with the brother before taking legal action. I scheduled a meeting for the next day with both Susan/Sam and the brother.

Give the participants 25-30 minutes to go through the role play. After they are done, discuss what should be written in each box of the Client Visit Form. You can do this by printing out or drawing a large version of a blank Client Visit Form that you hang on the board in the front of the room. Have a volunteer fill out the box as they have done on their form and discuss with the rest of the participants. If you cannot print out or draw a large version of the form, you can go around the room and have the participants tell you what they have written in each of the boxes.

Once you have gone over the correct way to fill out the form for the role plays, ask the participants how they would alter the form for the following situations. This will test if the participants understand what to do if there is a second meeting for the same case or if the same clients bring a second case to the community rights workers.

- Suppose you meet with Herbert and Susan/Sam the next day. After two hours of mediation, they decide that they can share the borehole. How will you fill out the form?

(Answer: you should record any relevant notes on the back of the form with the date and fill out the next line in the "Visit Information" with something like this:

Date	Duration (min)	Action Taken	Outcome	Comments
[Tomorrow's date]	60	Mediation	Resolved—In favor of the client	They decided to share the borehole

- Suppose after this case ends, Susan/Sam comes back to you to discuss how to write a will. How will you fill out the form?

*(Answer: They should start an **entirely new** Client Visit Form)*

Discussion Consistency in Filling out Forms (20 minutes)

Consistency is absolutely necessary to quickly and efficiently turn monitoring data on forms into useful information. Organizations need to combine and compare the reports from all the rights workers to say something meaningful about the organization as a whole. If the forms are all completed with consistency, it is easy for the organization to combine the information from everyone's forms. If, on the other hand, each rights worker writes a detailed narrative report about each of his/her clients, it is more difficult to compare outcomes and actions across rights workers. Sometimes rights workers may even leave out some important information or not provide enough detail to make the report useful.

Let's go over an example, so you can see the importance of consistency. Suppose three community rights workers speak with the same client and these are the descriptions that they provide.

Community Rights Worker A: A woman in the community is complaining that her neighbor has been growing crops on her plot of land, but her neighbor claims that the land is his. She wants me to help her enforce the boundary of her property. I scheduled a meeting with the other property owner.

Community Rights Worker B: A woman accused her neighbor of trespassing on her property.

Community Rights Worker C: A 55-year-old, recently widowed woman in my village of Butenga traveled to my house with her daughter to discuss a problem with me. In the last season, her neighbor grew beans and sweet potatoes on her plot of land. When she approached her neighbor about the issue, her neighbor said that the land where he was growing the beans and sweet potatoes actually belonged to

him. However, she explained that he had never tried to grow crops on that land when her husband was still alive. They had an argument over who owned that portion of land and then the woman came to me to try to remedy the situation. Since this is a case about the boundaries of land, I scheduled a meeting with the other property owner.

It is difficult to tell that the three descriptions are about the same case. Community Rights Worker C gave the most detail about the case, but some of the detail is not important for the monitoring. Community Rights Worker B did not give enough detail and did not note the action that s/he took. The descriptions also differed on categorizing the type of case. Community Rights Workers A and C categorized the case as a boundary dispute, while Community Rights Worker B did not note any boundary issues and categorized it as a trespassing case. If all three of these rights workers had completed a monitoring form that asked for specific information (like type of case and action the rights worker took) and allowed them to choose from a menu of responses, it is more likely that their accounts would be similar and that there would be neither too much or too little detail.

The lists of choices in the Client Visit Form for marital status, type of case, action taken and outcome encourage consistency. Community rights workers can choose the description from each list that best fits their case instead of every rights worker writing out a short description of the case using different words that might leave out information, include too much information, or will take too much time and cause confusion for someone analyzing many Client Visit Forms. Only allowing a certain number of choices to answer a question further promotes consistency, as there is less chance that two people will record different answers to mean the same thing. A good list of choices will cover most cases that arise even if the details of cases are different.

Exercise Extra Practice for Consistency in the Type of Case (30 minutes)

At first it may be difficult for the rights workers to classify the type of case based on the choices listed on the monitoring form. In some instances different rights workers may even want to classify the same case two different ways. *Therefore, it is important for them to reach a common understanding of how to classify cases from the choices given.* Read the three following short case descriptions. For each description, ask the participants to classify the type of case that they would record on their monitoring form. Direct them to choose a response from the list at the bottom of the form. They do not need to fill the rest of the form.

Case Description A: A man in the village is complaining about his neighbor growing crops on his land. His neighbor recently started building a fence around the crops. When the man tried to stop him, his neighbor claimed that the land is actually his. The man wants to stop his neighbor from using his land. Neither man has documentation that describes the boundaries for the land under dispute.

Case Description B: A woman in the community is having problems with her husband. He comes home from the local bar late at night, often drunk, and starts arguments with her. He tells her that her cooking is bad, that she doesn't clean the house enough and that she does not please him in bed. When she tries to argue with him, he hits her. He also tried to hit their 12-year-old son, but she always stops him. She doesn't know what to do.

Case Description C: The husband of a local woman recently passed away. He had a pension through his job that should be transferred to her upon his death. However, when she

went to the employer to get the pension transferred to her name, they wanted the death certificate of her husband, which she did not have. She needs help to secure the pension.

Discussion Fill Out Forms Immediately After the Client Visit or Event (5 minutes)

Explain to the participants that it is easy to forget details from a client visit or sensitization event if they are not written down immediately. This is especially true when they see more than one client or if one client gives them more than one case before they fill out the form, since they might confuse the two cases. When a rights worker is doing one activity, s/he may be completely focused on it. However, when s/he starts a second activity, s/he may forget the details of the first even after a short time. Rights workers must fill out the monitoring forms as quickly as possible after the event is finished.

Exercise Filling Out Forms Immediately After Visit or Event (5 minutes)

This is a small memory exercise to demonstrate that we can easily forget important details in just a short time if they are not recorded.

1. Tell the participants that you are going to tell them your phone number out loud (you can use a false number), but that they are not to write the number down or enter it into their mobiles.
2. Say the phone number out loud one time. Make sure no one is recording it.
3. Ask the group to repeat the phone number back to you. Make sure no one is recording it.

4. Now tell the participants that you are going to tell them another phone number out loud and that they may not write or enter this number either. Choose a phone number that is not similar to the first one you gave them.
5. Say the second number out loud. Make sure no one is recording it.
6. Ask the group to repeat the second phone number back to you. Make sure no one is recording it.
7. Now ask them to repeat back your phone number. This will be more difficult because people have been concentrating on remembering the second number and did not have the first one written down.

Background Monthly Client Visit Log

Because the community rights workers will keep the Client Visit Forms as a record of their cases, they also need a way to report information about their client visits to their organization. The **Monthly Client Visit Log** can be used to report information about client visits on a monthly basis.

Discussion Summarizing Data with the Monthly Client Visit Log (30 minutes)

The Monthly Client Visit Log requests much of the same type of information as the Client Visit Form to make it as easy as possible to transfer the data from one form to another. Each row corresponds to a visit that occurred during the month. To transfer the information from the **Client Visit Form** to the **Monthly Client Visit Log**, the community rights worker needs to go back through their Client Visit Forms and set aside the ones that have an entry under “*Visit Information*” that occurred during that month. Then, they will enter the name of that client, demographic information, and type of case from the top of the Client Visit Form in the “*Visit Information*” that corresponds to the meeting that occurred during the month in the Monthly Client Visit Log. If they visited with the same client more than once in a month, they will write the information on multiple lines. The client name, demographic information and case type will be the same for those lines.

1. Briefly revisit the different information categories on the Monthly Client Visit Log. They are all contained on the Client Visit Form, so you need not go into much depth. Refer to the explanations in the Client Visit Form section of the training for clarification of what should be included in each box.

2. Explain again that for the columns “Type of Case,” “Action Taken,” and “Outcome,” there are categories at the bottom of the form that they could choose from as the best description. These are the same categories that are found at the bottom of the Client Visit Form, so copying what they had written in that form will work.
3. Discuss the logistics of completing the form with the community rights workers. They should fill out the form according to the guidelines above and using the list of potential responses when applicable. They should collect all of the Client Visit Forms that have a visit during the month in question, and then fill out the information about the visit in the **Monthly Client Visit Log** exactly as it appears on the Client Visit Form. The organization should establish a time with the rights workers each month to collect these forms.

Exercise Practice Transferring Information from CLIENT VISIT FORM to MONTHLY CLIENT VISIT LOG (30 minutes)

Split the participants into groups of two or three. Have the groups work together to fill out the **Monthly Client Visit Log** using the filled out Client Visit Forms that were completed in the above exercises. Because all the exercises use dates within the month, they should have a number of lines to fill out. After they have filled out their **Monthly Client Visit Log**, discuss what should be written in each box. You can do this by printing out or drawing a large version of a blank form to hang on the board in the front of the room. Have a volunteer fill out the box as they have done on their form and discuss with the rest of the community rights workers. If you cannot print out or draw a large version of the form, you can go around the room and have the participants tell you what they have written in each of the boxes.

Monthly Client Visit Log

Rights Worker's Name:

Month:

Date	Client Name	Village, Parish, Sub-county	Sex	Age	Marital Status	Education	Occupation	Type of case (if "other," specify)	Action Taken (specify if appropriate)	Outcome (specify if appropriate)	How heard of rights worker	Comments
			M									
			F									
			M									
			F									
			M									
			F									
			M									
			F									
			M									
			F									

Marital Status	Type of Case	Action Taken	Outcome
Married (Customary)	Land boundary dispute	Gave legal advice (specify)	Referred cases: (specify to whom)
Married (Civil)	Eviction by landlord	Counseling (specify)	Examples: Local Council Courts, Probation and Welfare officers, Police (family and protection unit), Elders, Legal aid clinics, Magistrate court, Administrator General's Office, Sub-county chief, FIDA, ULA, etc.
Married (Church)	Eviction by partner	Mediation	
Married (Muslim)	Land grabbing	Check-up visit only	
Married (Don't know)	Fraudulent sale/claim to land	Other (specify)	Scheduled return visit with client
Married (Doesn't Specify)	Sale of land without consent		Scheduled meeting with other party
Single	Trespass	How Heard of Rights Worker	Scheduled court date
Widow	Other property dispute	Poster	Scheduled meeting with LC
Divorced/Separated	Inheritance	Radio show	Scheduled meeting with other leader
Cohabiting	Writing a will	Friend/Family	Filed legal forms (certificates, wills, etc.)
	Obtaining land certificate	Local leader	Memorandum of Understanding (verbal)
	Obtaining birth/death certificate	Village/Group Meeting	Memorandum of Understanding (written)
	Obtaining marriage certificate	Other (specify)	Resolved — In favor of client
			Resolved — Against client
			(# of people) wrote wills
			Ongoing — no additional visits planned
			Other (specify)

Background Community Sensitization Log

In addition to client visits, the community rights workers also hold community sensitization events to teach the community about the law and its applications. The form below could be used to collect monitoring information about community sensitization events. Each column corresponds to a different type of information that the organization wants the rights workers to collect. This form is designed to record all community sensitization events that occur in a given month. The rights workers should fill out one row for each event.

Like the Client Visit Forms, the Community Sensitization Log has categories at the bottom of the form that the community rights workers will select from to fill out some of the columns.

Discussion Record Community Interactions in the Community Sensitization Log (45 minutes)

1. Have the participants read all of the different “information” categories and explain what they think would go in that box. The table on page 23 has an explanation of what information should be recorded in each box. As they go through the different types of information, clarify their explanations using the ones in the table.
2. Explain that for the columns “Topic of Event,” “Mobilization Method,” “Training/Activity” and “ICRW/ULA Handout Used,” there are categories at the bottom of the form that they could choose from as the best description. Ask the participants to read the lists of categories. Because it is very important for consistency that they use the words on these lists, you need to make sure that the community rights workers understand exactly what is meant by each word.
3. Discuss the logistics of completing the form with the community rights workers. They should fill out the form according to the guidelines above and using the list of potential responses when applicable. It is important that they fill out this form during the sensitization event or as soon after the event as they can. The organization should establish a time with the rights workers each month to collect these forms.
4. Sometimes community rights workers may hold their own meetings and events to reach out to the community. Sometimes they may be invited to speak at a meeting or event that someone else is holding, even if only for 15 minutes or so. Both situations should be captured in the Community Sensitization Log. The time in the “Duration” box should be for how long the event dealt with topics relevant to the rights worker.

Information	Description
Date	Record the date of the sensitization event.
Duration	Record the length of the sensitization event in minutes. If you do not have a clock, estimate the time to the best of your ability. If your sensitization was part of a larger meeting on a different topic, count just the time that was relevant to your topic.
Village	Record the village and sub-county where the sensitization event was held.
Topic of Event	Choose from the “Topic of Event” list at the bottom of the form to classify the topic that the sensitization event was about. Record only one topic in the space provided.
Mobilization Method	Choose from the “Mobilization Method” list at the bottom of the form to classify the way that you brought together the audience for your sensitization event. Record only one method in the space provided.
Specific Training/Activity	Choose from the “Training/Activity” list at the bottom of the form to indicate how you taught your audience about the topic. Record all trainings or activities that were used in the space provided.
Number of Participants	Record the number of males and females that attended the event. Write the number of males under “M” and the number of females under “F.” If it was a large audience, estimate the numbers.
Issues Arising from Participants	Record any issues that arose during the sensitization events, questions asked that you couldn’t answer, disruptions, etc.
Lessons Rights Worker Learned	Record any lessons learned through the sensitization events, instruction methods that worked well/poorly, locations and times that worked well/poorly, etc.
Handouts Used	Choose from the “ICRW/ULA Handout Used” list at the bottom of the form to indicate if you used any handouts in preparation for the sensitization event or during the event. Record all that applies in the space provided.
Other Rights Workers/Organizations/Leaders Involved	List the other organizations or leaders that were involved in the sensitization event (if any). Be sure to specify the name of any other rights worker or organizations involved, and the role of any leader involved. Record all rights workers/organizations/leaders involved in the space provided.

Sensitization Event Log

Rights Worker's Name:	Month:
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Date	Duration (minutes)	Village, Parish, Sub-county	Topic of Event	Mobilization Method (If "talks at public gathering," specify)	Specific Training/Activity (all that apply)	No. of participants M F	Issues Arising from Participants	Lessons Rights Worker Learned	Handouts used	Other right workers (name)/ organizations (name)/Leaders involved (role) (all that apply)

Topic of Event		Mobilization Method	Training/Activity	Handouts used (from ICRW/ULA's Property Rights and Gender in Uganda: A Training Toolkit)	
Marriage, separation and divorce laws	Human rights	Open air meetings (event held by rights worker)	Role play	Women's Rights and Property Rights in the Constitution	Land Ownership Systems in Uganda
				Uganda's Constitution and Your Rights	Women's Rights in the Land Act
Historical Uganda Land Law	Women's rights	Talks in school	Question and Answer	A Woman with Property	Land Management Institutions
Land Act and Amendments	Children's rights	Talk radio	Lecture	Women and Inheritance	Land Dispute Resolution Institutions
Marriage and property rights	Court system	Talks at public gatherings (specify group/gathering)	Case stories	Wills and Women	Important Land Documents
Landlord and tenant relations	Dispute resolution		Song	If the Deceased Leaves a Will	Informal Dispute Resolution Institutions
New laws and implications	Will writing	House to house visit	Dances	If the Deceased Does NOT Leave a Will	Formal Dispute Resolution Institutions
Land management institutions	Land certificates	Posters (used to sensitize)	Handouts		Role Play: Mary and Gilbert
Inheritance and succession laws	Other certificates	Other (specify)	Other (specify)	Practices for a Church Marriage	Women's property rights at separation and divorce
Land tenure systems	Other (specify)			Practices for a Civil Marriage	Law on Separation and Divorce: Church or Civil Marriage
				Practices for a Customary Marriage	Law on Separation and Divorce: Customary Marriage
				Practices for an Islamic Marriage	Law on Separation and Divorce: Islamic Marriage
				Important Marriage Documents	Role Play: Rose and Joseph



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