

# Mind the Gap:

Bridging the Divide  
Between Land Policy & Practice



*A policy brief by the  
In Her Name Coalition,  
which is working  
to promote greater  
land rights for  
Ugandan women*



## Mind the Gap: Policy vs. Practice

The 1995 Constitution of the Republic of Uganda is one of the most gender sensitive constitutions in the world, with clear provisions for promoting and protecting the rights of women. This is also the case in relation to women's land rights – the Constitution clearly vests land in the people of Uganda, including the rights of women to own and inherit land. Other land laws, including the Land Act, recognise and uphold women's rights to land as individuals, and as part of a family or community. Importantly, the National Land Policy reinforces and provides strategies to actualize these rights.

Despite these great achievements, land security for millions of women and their children remains tenuous in the country. As we are soon set to celebrate the 20th anniversary of the promulgation of the 1995 Constitution of the Republic of Uganda, it is time to reflect and act on the disparities that exist between these legal provisions and the reality on the ground. Without taking more deliberate action to ensure that policy translates into practice for all of its citizens, another generation of women will continue to remain vulnerable to land grabs from those who are often closest to them. One of the primary drivers of this land insecurity is the power that

customary law holds over many parts of Uganda, more often than not bearing far greater influence over behavior than the law of the land.

The majority of Ugandans hold their land under customary tenure. The National Land Policy recognizes that this tenure is associated with three major problems including: the failure to provide security of tenure for land owners; the impediment of using land as an advancement of economic empowerment and **discrimination against women**.

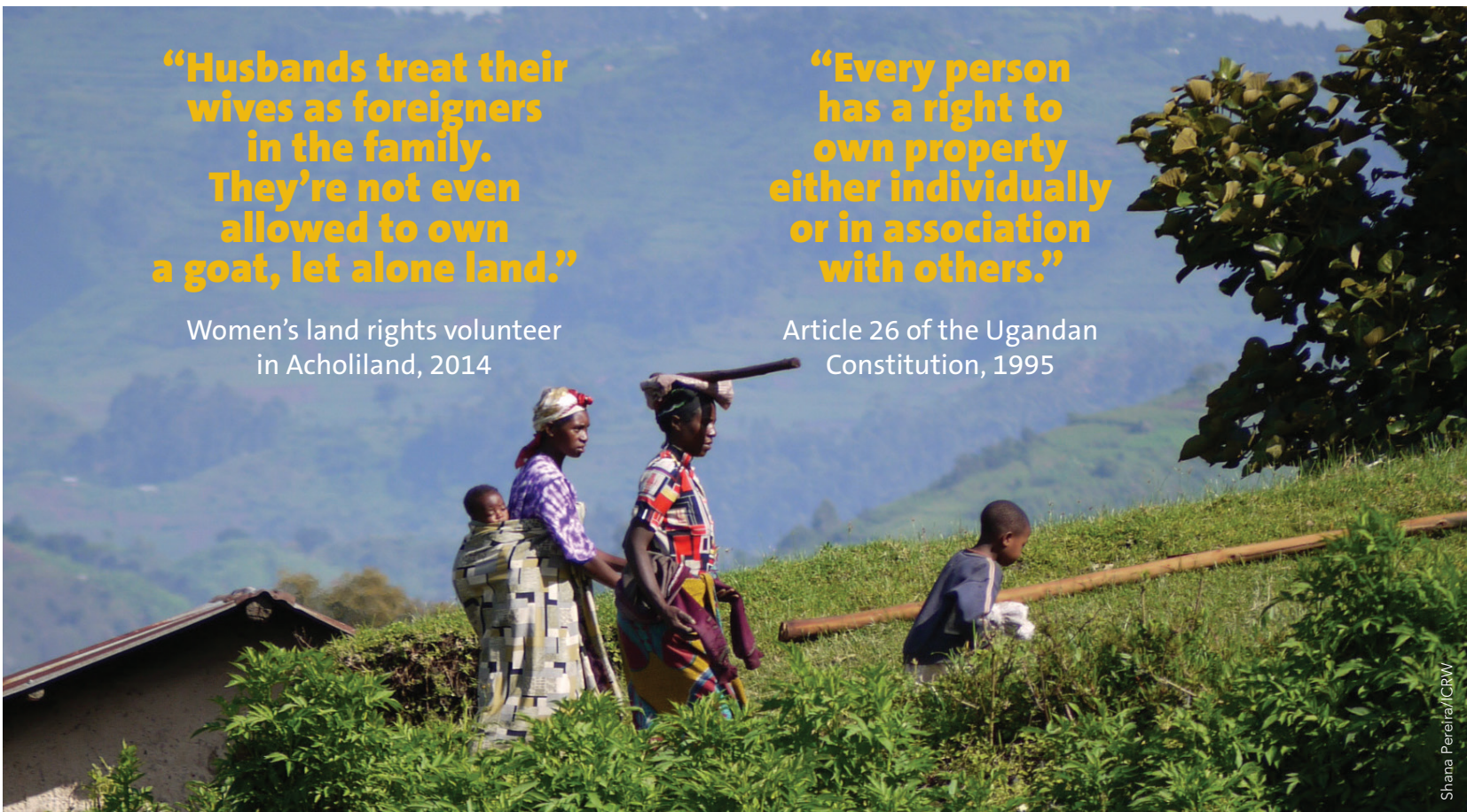
The National Land Policy attempts to formalise customary land through issuance of Certificates of Customary Ownership (CCOs) in order to resolve these problems. The roll out of CCOs is underway in districts such as Kasese, Apac, Amuru, Gulu and Lira. It is now critical that gender responsive principles are systematically applied during this process to ensure that gender inequality and land tenure insecurity are diminished rather than concretised. It is crucial that CCOs are equally distributed to women to protect their rights, their wellbeing and their futures, and doing so requires extra effort to overcome the obstacles presented by age-old customary laws and traditions.

**“Husbands treat their wives as foreigners in the family. They're not even allowed to own a goat, let alone land.”**

Women's land rights volunteer in Acholiland, 2014

**“Every person has a right to own property either individually or in association with others.”**

Article 26 of the Ugandan Constitution, 1995





Shana Pereira/ICRW

## In Her Name: Certificates of Customary Ownership are the Key to Change

While cases like Justina’s are all too common, the experience of Rwanda shows us that helping secure women’s land rights can work, even under extremely adverse circumstances. In the wake of the 1994 genocide, the Rwandan government recognised that alleviating post-conflict tenure insecurity and land disputes was critical to nurturing peace and promoting economic growth and therefore initiated a land tenure reform process that included the documentation of property ownership.

The Rwandan National Land policy adopted in 2004 emphasised tenure security and focused on the elimination of all forms of discrimination in access to land. The Organic Land Law of 2005 called for specific efforts to ensure gender equality in the documentation process, granting men and women equal rights to own land. Disaggregated land tenure regularisation (LTR) figures from 2012 show that 81% of land was owned jointly by men and women; 11% was owned by women only; and 6% by men only. Various reviews and studies of gender in the LTR process in Rwanda have generally attributed the registration of women’s land rights to the positive steps taken to implement gender equality policy objectives. (HTSPE, 2014)

The Rwandan case study shows that change is possible when an effective and strategic policy implementation plan is pursued. Indeed, we have already seen that it is possible in Uganda as well. The case of Alice (not her real name), another woman that *In Her Name* recently met in northern Uganda, illustrates this point.

As compared to other women in the impoverished region where she lives, Alice is well off and even owns a small plot of communal land – she also holds a freehold land agreement – thanks to her own tenacity and favourable personal circumstances. While her situation clearly shows that change is possible, she recognises that it is not representative of most women living alongside her on customary land, and that she has been luckier than most. So when the divorced mother of two girls is not working and caring for her children, she dedicates much of her time volunteering with a civil society organisation (CSO) to raise awareness in communities about women’s right to own land and property. However, the scope of this CSO – and that of others – is limited and can only reach so many communities. She explained that the local land officials must do much more.

### Case Study: A Woman Dispossessed

Even though the legal environment in Uganda appears to be favourable to women, the situation on the ground is still far from satisfactory. Abuse of women’s land rights is particularly widespread in rural areas where it is not uncommon for widows to be chased away from their matrimonial land by their husbands’ male relatives. It is also not uncommon for divorced and separated women to be denied access to land in their maiden homes and for married women to be dispossessed of their land by their husbands (Adoko/Akin/Knight, 2011).

One such case is that of Justina (not her real name), a 65-year-old widow that members of the *In Her Name* coalition recently met in northern Uganda. Justina is struggling to defend her rights to a piece of land that her late husband inherited. She had lived peacefully on the land until her brother-in-law’s son decided he wanted the land for himself and that it was time for her to go. She had nothing legally binding to prove that she had a right to stay on the land, leaving her completely exposed to the whim of her late husband’s nephew.

*“Four years ago, he appeared from nowhere and started to cultivate on my land without my consent”,*

Justina told *In Her Name* in a trembling voice, clearly traumatised by her predicament.

She attempted to negotiate terms for sharing the land with him, but to no end. Not knowing what else to do, she sought redress from the local council chairperson and clan leaders. Although the latter intervened, attempting to resolve the situation through mediation between the two parties, the conflict is yet to be resolved because Justina does not possess any proof of ownership. At the time that *In Her Name* met Justina, her case had finally gone to court. However, she was unable to afford the transport fare to attend proceedings and was on the verge of giving up, without knowing where she would go.



Photo: Trust for Africa's Orphans

*“As much as we have done community sensitisations, many people still haven’t been reached. The district land board is another case. They take ages to work on documents needed”, she told In Her Name.*

Challenges like these can and must be addressed in the continued roll out of CCOs across the country. While the gender responsive constitution provides a strong legal foundation, it does little to help women in need without a well-coordinated government land documentation process that reaches those women in an affordable, systematic manner. Critically, raising awareness among women of their rights to documentation – that they have a right to land titles written ‘in her name’ – must be prioritised.

Equally, sensitisation trainings for key actors like local officials and other influential community members are vital if increased numbers of Ugandan women are to realise those rights. Such initiatives will greatly help to bridge the gap between what is written in laws and what happens on the ground. And ultimately, they will serve to improve the security and livelihoods of all Ugandan mothers, sisters and daughters – and the children that they are raising.

#### **About the In Her Name Coalition:**

The *In Her Name* Coalition aims to raise awareness of women’s land rights in Uganda, and in particular, is working towards ensuring a gender equitable roll out of Customary Certificates of land Ownership (CCOs). Members include UCOBAC and the Uganda Land Alliance, national civil society organisations dedicated to promoting the rights of Ugandan citizens.



Front cover photo by Shana Pereira/ICRW