The Failure of Popular Justice in Uganda: Local Councils and Women's Property Rights

Lynn S. Khadiagala

ABSTRACT

Advocates of alternative dispute resolution argue that informal, community-based institutions are better placed to provide inexpensive, expedient and culturally appropriate forms of justice. In 1988, the Ugandan government extended judicial capacity to local councils (LCs) on similar grounds. Drawing on attempts by women in southwestern Uganda to use the LCs to adjudicate property disputes, this article investigates why popular justice has failed to protect the customary property rights of women. The gap between theory and practice arises out of misconceptions of community. The tendency to ascribe a morality and autonomy to local spaces obscures the ability of elites to use informal institutions for purposes of social control. In the light of women's attempts to escape the 'rule of persons' and to seek out arbiters whom they associate with the 'rule of law', it can be argued that the utility of the state to ordinary Ugandans should be reconsidered.

INTRODUCTION

The widespread interest among scholars and policy-makers in Uganda's scheme to decentralize power to locally-elected bodies reflects a paradigmatic shift in perspectives on state and society (Nsibambi, 1998; Ottemoeller, 1996; Tideman, 1994; Villadsen and Lubanga, 1996). Ribot (1999: 28) offers a succinct explanation: in the 1980s the Third World state mutated from 'a progressive force of change and modernization to a backward, primordial arena of greed', while civil society became 'the source of creative energy for modern market-oriented change — if only the state could be rolled back'. As the consensus grew that the centralized state had failed to bring either

This article is a revised version of a paper entitled 'Seeking Justice in Uganda: The Adjudication of Women's Property Rights and the Failure of Popular Justice', which was presented at the American Political Science Association Annual Meeting, Boston, MA (3–6 September 1998). I would like to thank Jennifer Widner, Kathryn Firmin-Sellers, Clive Crook, and the anonymous readers of *Development and Change* for their comments. A Fulbright research grant funded the fieldwork, carried out in 1996–97. Writing funds were provided by the Fred Ogg fellowship from the Department of Political Science and a Hyde Dissertation Research award from the Women's Studies Research Center at the University of Wisconsin–Madison.

Development and Change Vol. 32 (2001), 55–76. Published by Blackwell Publishers, 108 Cowley Road, Oxford OX4 1JF, UK.

economic advancement or political stability, a range of scholars turned to the possibility that a combination of decentralized government and a stronger civil society might lift Africa out of its morass (Crook and Manor, 1988: 1–2; Wunsch and Olowu, 1990). Economists, for example, saw in decentralization the possibility of reducing rent-seeking behaviour by state actors. Political scientists anticipated that pluralist, competitive politics would open up political space in which a variety of interest groups could participate more effectively (Bratton, 1989). Advocates of grassroots development suggested that since small-scale, community-based organizations operate with greater efficiency, efficacy, and fairness, they are better equipped to craft local solutions to local problems. More generally, decentralization combined with democratization ought to result in a more responsive, accountable, equitable, efficient, and transparent state.

Cast within the broader framework of state failure, advocates of alternative dispute resolution, especially proponents of community justice, have raised questions about the nature and locus of legal authority. Citing the failure of formal, state-sponsored legal systems to provide expedient and accessible systems of justice, they argue that informal legal systems can regulate key institutions, such as property rights, at a lower cost and in ways that reflect local conditions and customs. Guillet (1998: 44–45), writing on the evolution of water rights in northwestern Spain, suggests that small-scale, face-to-face communities of towns and villages lend themselves to non-market transactional modes because negotiations rely on 'reputation, trust, and reciprocity'. Others perceive informality as a means of providing low-cost mechanisms for dispute resolution to the poor and uneducated (Depew, 1996: 24).

In 1987, as part of a decentralization scheme, the government of Yoweri Museveni granted judicial capacity to Local Councils (LCs), previously known as Resistance Councils (RCs), at the village, parish, and sub-county levels.[1] In promoting LCs as tribunals of 'popular justice', Museveni (1987) argued that they would provide Ugandans with expedient, inexpensive and culturally appropriate justice. Most important, LCs would replace the adversarial form of justice found in formal courts with indigenous norms of conciliation and compromise. At first glance, women should have been the greatest beneficiaries of the LC courts. With lower incomes and higher illiteracy rates, the formal magistrates' courts are perceived to be beyond the means of poor, rural women. Even when women have sufficient funds to pay court fees or to hire lawyers, filling out the forms and comprehending the legal processes are serious obstacles. But most important, the flexibility of the local councils, derived from their mandate to judge cases according to common sense and wisdom, could benefit women by circumventing legal technicalities and outdated and discriminatory laws and customs (Okumu-

1. Resistance Committees (Judicial Powers) Statute No 1 of 1988. For a full account of their legislative history, see Barya and Oloka-Onyango (1994).

Wengi, 1995: 148). Ugandan statutory laws pertaining to marriage, divorce, maintenance, and succession provide little protection to women (Tamale, 1993).

Yet, the experiences of Ugandan women indicate that popular justice has failed to provide a more accessible system of justice to the less powerful and to protect women's customary rights to land. Before turning to those experiences, I first examine the conceptual underpinnings of popular justice. I suggest that the gap between theory and practice arises out of misconceptions about the character of local spaces, particularly the notion of community. The tendency to ascribe a morality to localities obscures the ability of local elites to use informal institutions for purposes of social control. Rather than providing citizens with a forum to voice grievances and to assert rights and needs, elites use the flexibility of informal institutions to marginalize groups or individuals by labelling their behaviour as deviant and disruptive (Abel, 1982: 6–7).

After a brief excursion into the background of women's property disputes and the organizational contours of the local council system, I turn to the experiences of women in Kabale District, in southwestern Uganda. While LCs initially enjoyed a degree of legitimacy among Ugandans, general disillusionment has set in because the courts have failed in three ways. First, LCs have, in many cases, turned out to be more expensive mechanisms for litigating property disputes: recollections by women suggest that unofficial payments to LC officials often exceed costs in magistrates' courts. Second, women perceive LC courts to be naturally biased against them. Because marriages are patrilocal, meaning that if a wife lives with her husband's family, a woman who takes a marital land dispute to the male-dominated LC courts is likely to confront a council filled with her husband's relatives and social companions, especially at the village and parish levels. Third, LCs have at their disposal a set of gatekeeping mechanisms that limit women's access to the magistrates' courts. Finally, I consider the implications of women's strategies. Disgruntled with the 'rule of persons' that operates in LCs, women seek out magistrates, legal aid clinics, or state officials whom they perceive to be autonomous of local society and to operate according to a 'rule of law'. Their need to borrow power from outside the local arena reflects the critical role that national legal institutions play in shaping the political character of localities (Loughlin, 1996). If local participatory democracy is the objective, then the significant factor may not be the centralization or decentralization of power but the broader institutional relationships within the state and between state and society. The legal system, as Loughlin (1996) suggests, may be the pivot around which these relationships revolve.

STATE, COMMUNITY, AND POPULAR JUSTICE

The failure of popular justice to provide Ugandan women legal recourse or to protect their customary rights to land rests in the ideology of community

that characterizes informal systems of dispute resolution. Popular justice, which Merry (1992: 162) defines as an informal process 'for making decisions and compelling compliance to a set of rules', takes as its primary concern the 'social demands of community living' (Depew, 1996: 23). While liberal legal ideology, 'allows parties to ground their claims in those rights and in the principles of social justice that underlie them', the ideology of community emphasizes the values of social harmony, co-operation, and compromise (Edelman and Cahill, 1998: 17–19). It assumes that disputes are generated by 'the failure of individuals to act as they should in their social relationships' and encourages individuals to take responsibility for their actions. By encouraging community participation in adjudication, focusing on social relationships rather than legal concepts, and drawing on indigenous forms of order and control, popular justice aims to restore harmony to social relationships (Depew, 1996: 23–5).

Interrogating the notion of community is important in Africa where the tendency to idealize local spaces is an enduring one. Lurking behind donor-funded programmes to teach alternative dispute resolution techniques to African lawyers and judges, for example, is an implicit assumption that Africans have a natural affinity for non-adversarial and conciliatory procedures (see Grande, 1999: 63). Moore (1992: 15) cites a colonial document from Tanzania in which officials describe African villages as 'kinship groups in harmonious equilibrium, normally peacefully ruled by their chiefs' when, in fact, they were 'social arenas seething with internal activity in which social credit was being accumulated and lost, reputations being made and broken, factions organized and loyalties mobilized'. Colonial officers constructed African communities as self-sustaining entities to curtail the High Court's supervisory powers over local chiefs' courts. As the backbone of social order in the colonies, colonial administrators were determined to maintain control over local courts and their interpretation of local customary laws (Chanock, 1985; Mamdani, 1996: 110; Morris and Read, 1972: 144–8). Arguing that the intrusion of European ideas of law and justice would impair the traditional authority of tribal elders over their subjects (Morris and Read, ibid.), the implication was that African communities were not in need of external authority.

The communitarian tradition tends to perceive community as a site of refuge to which people can retreat from the culturally degrading influence of global forces (Greenhouse, 1998: 109). Hyden and Williams (1994: 75, 84), for example, suggest that people can withdraw to the 'relatively secure conditions of the local community', where the moral economy will ensure that collective interests overrule the self-interested individual, and the 'face-to-face contact, commonality of shared purpose, and dependability commonly attributed to African tribal societies reduce the need for authority outside the moral universe of the relationship'. To Greenhouse (1998: 109), these communitarian appeals commit a significant error. By defining 'local' by its geographic or demographic extent, they presume that these arenas constitute

distinct and separate social units '*apart from* or *at another level* from the "global"' (emphasis in original). With localities conceptualized as unique spaces, they are assigned a morality which is denied to global institutions. In turn, this morality diminishes the need for external regulation or interference, a consequence that Greenhouse (ibid.) calls a moral geography of law and space that 'anchors legality to custom and moral consensus, and moral consensus to place. In this mythos, "local" is always smaller scale, relatively speaking, since the myth stipulates that communities are capable of self-regulation on the basis of their moral consensus'.

The self-regulating and socially just community fails to materialize because community is a process not an entity. It is a series of social practices that constitute closures, boundaries, and divisions that create insiders and outsiders, delineate who has the right to set the rules, and determine the morality which guides social conduct and the legitimacy of claims (Hunt, 1996: 183). Far from promoting egalitarian values, Merry (1992: 171) suggests that 'most forms of popular justice tend to reinforce and entrench power relations rather than transform them'. In Mozambique, Gundersen (1992: 276–7) found that older, socially conservative men used tribunals to limit participation by groups likely to challenge the status quo. Unconstrained by law, the tribunals were free to rule according to 'good sense and justice'. But, as Gundersen asks, whose good sense? Popular tribunals, rather than providing an arena in which people could articulate and resolve competing norms and values, were more often vehicles by which local political elites could punish men and women who deviated from traditional patterns of correct behaviour.

The idea that community 'connotes civility, solidarity, and democratization of social space', has the effect of suppressing conflict by portraying diversity and dissent as exceptional and deleterious to community interests (Greenhouse, 1998: 111–12). Elites fear conflict because it engenders the very participation that threatens their control (Schattschneider, 1960: 10). Since outcomes are determined by the scope of a conflict's contagion, the powerful work to localize or privatize conflict, a process that Abel (1982: 6–7) calls the trivialization of grievances to individual rather than social causes. As Greenhouse et al. (1994: 190–1) observed in their study of county courts, when local elites complain about the disintegration of community and interference by the courts, '"Community", for the local elites ... appears to be less about the pluralist possibilities of collective action (as communitarian advocates claim) than it is about the rhetorical management of change'.

The rhetoric of community has also served Local Councils in Uganda in their strategies of exclusion and domination. Government support for popular justice has been a thinly veiled attempt to limit the capacity of magistrates to intervene in district affairs, leaving local councils unfettered in their exercise of power. A weak judiciary makes it easier for the ruling party to intervene in local matters, using the LCs as administrative extensions. In 1991, the government proposed amendments that would have

subordinated lower magistrates to sub-county LCs where they would serve as secretaries to the court.[2] The bill eliminated concurrent jurisdiction between LCs and magistrates, making LC I (village) the sole court of original jurisdiction [s.6(5)]. In practice, Ugandans would no longer choose whether to file a suit in a council or magistrates' court; if the LCs were empowered to hear the case, litigants would have to initiate cases in village councils. The bill failed to pass the National Resistance Council (NRC) because of the vociferous objections of lawyers. But, according to lawyers at the Ministry of Justice and a representative of DANIDA, the Danish aid agency, the government remains committed to upgrading the judicial capacity of LCs (interviews, Kampala, 11 July 1998; see Barya and Oloka-Onyango, 1994: 29–32).

The remainder of this article examines these strategies of exclusion and domination and their impact on women's customary property rights and access to legal recourse. First, however, a brief overview of women's property rights under customary and statutory law is in order.

WOMEN, LAND, AND LAW IN KABALE DISTRICT

Kabale District, located in the southwestern corner of Uganda, lies in the foothills to the Virunga Mountains that straddle Rwanda, Uganda, and the Democratic Republic of the Congo. The dynamics of land in this densely populated region originate in its economic necessity and scarcity. The local economy offers few opportunities for off-farm employment and 85 per cent of all households depend on subsistence farming. Yet, with a population density of 246 persons per km^2, 51 per cent of all households survive on one acre or less (Kabale District, n.d.: Table 4). Not surprisingly, land disputes dominate the civil dockets of LC and magistrates' courts and lurk behind many criminal prosecutions. Conflicts range from minor border disagreements to questions of ownership.

In patrilineal societies, where women derive rights to land from marriage, economic dependency should inhibit them from challenging the hegemony of male authority (Francis, 1998: 90; Gordon, 1995: 899). In Kabale, however, women are frequently parties to legal disputes. From 1994 to 1996, for example, the percentage of civil appeals at the Chief Magistrate's Court in Kabale involving at least one female litigant ranged from 45 to 48 per cent (Civil Registry, Chief Magistrate's Court, Kabale [Civ. Reg., Ch. Mag. Ct]). Disputes between husbands and wives constitute a large share but cases between co-wives, mothers and adult sons, and widows versus in-laws are also common.

---

2. Resistance Committees (Judicial Powers) (Amendment) Bills Supplement No 11 of 1991, s.3(2)(3).

Women assert and defend authority to land for several reasons. Drawing on the economic significance of their agricultural labour to the household economy, women argue that property rights should flow not from a person's status but from the fulfilment of social responsibility. Of the households surveyed in Kabale for the 1991 agricultural census, 91 per cent listed crop production as their primary source of income (Kabale District, n.d.) and women provide roughly 80 per cent of the agricultural labour (Barton and Wamai, 1994: 173; Busingye, 1993: 31–2). They not only ensure that the subsistence needs of their families are met, but generate the cash income needed to pay taxes, school fees, and medical care through the sale of surplus grains, tubers, and vegetables to local and regional markets. Women are especially resentful when the land in question was acquired during the course of marriage because they perceive their labour to have made its purchase possible.

While the Kiga (the largest ethnic group in Kabale) are patrilineal with property passing from fathers to sons, women's expectations of authority can, nevertheless, be traced to customary practices, known as the house-property complex, that once organized property rights around female-headed households throughout eastern and southern Africa. Men retained a few plots for personal use but distributed the bulk of their landholdings to their wives. Sons inherited the property of their mothers rather than from a general pool controlled by the father. Oboler (1994) argues that these arrangements gave women more than caretaker rights — they enjoyed well-defined and inalienable rights in property attached to their houses and had access to legal recourse when men violated those rights. This was the case in Kabale where colonial-era chiefs' courts derived from the house-property complex the customary law that once property had been 'gifted' or distributed to a wife, it could not be taken away. The courts consistently rebuked husbands who tried to sell land or transfer it to a new wife. Chiefs also protected widows against the property claims of leviratic husbands and adult sons. Under Kiga customary law of succession, widows inherited ownership rights in matrimonial homes and land; they also shared in the distribution of the deceased man's personal property.

Customary law, however, is dynamic and fluid. By the late 1960s, the newly constituted magistrates' courts found it increasingly difficult to reconcile the principle of gifting with the institution of polygyny under conditions of land scarcity.[3] Arguing that men have a social obligation to provide each wife with adequate amounts of land, magistrates adjudicated marital disputes according to the principles of necessity and sufficiency. If one wife had more than sufficient land, she had no right to deny her co-wife land, no matter how the property was acquired. By the late 1980s, chief magistrates and High Court

3. The Native African and Magistrates' Courts merged in 1964: see Magistrates' Courts Act No 13 of 1970.

judges had reinterpreted Kiga customary law to subordinate women's property rights under the authority of men as the natural head of household.

Nor do statutory laws on marriage, divorce, and succession offer women any significant protection because customary law tends to prevail in matters pertaining to women. As Tamale points out, the High Court ruled in 1977 that women, regardless of their marital status, can own property but only 7 per cent of Ugandan women have the financial means to purchase land (Uganda v. Jenina Kyanda, *High Court Bulletin* [1977] 111, cited in Tamale, 1993: 174). Even so, formal law is discriminatory, irrelevant, or ignored by the courts. In Kabale, for example, even though marriages contracted under the Marriage Act (Cap. 211, Laws of Uganda, 1964) are monogamous, magistrates have been reluctant to punish men who marry second wives. The cultural right of men to practise polygamy supersedes the legal right of women to protection, because customary law tends to prevail in matters pertaining to women.

Under the Succession Act (Cap. 139, Laws of Uganda, 1964), widows whose husbands have died intestate inherit their matrimonial homes and 15 per cent of the property. If there are several wives, they share the 15 per cent among them. Among ethnic groups that practise widow inheritance, however, those of childbearing age must marry a brother-in-law or other close relative to retain property and children. Adult sons, desperate for additional land, harass elderly mothers. If families suspect AIDS as the cause of death, they apply for letters of administration to prevent widows from controlling property for fear that they will sell it to pay for their own medical care. Under the Succession (Amendment) Decree No. 22 of 1972, sections 200 and 201, women are no longer automatically entitled to letters of administration. Instead, the Administrator General's (AG) office, a department in the Ministry of Justice charged with implementation of inheritance laws, has extensive discretionary powers over the granting of letters (Okello, 1993: 1). Staff lawyers admitted to favouring families over widows because, as one staff member stated, 'most of the cases are HIV and so the issue of naming the widow [as administrator] makes no sense' (interview, 2 May 1997, Kampala).

The 1995 Constitution raised hopes among women that significant legal change would be forthcoming. Chapter Four, article 21(1), grants women legal equality and protection in political, economic, social, and cultural spheres; article 33(6) specifically prohibits laws, cultures, customs, or traditions that violate the dignity, welfare, or interest of women. Unfortunately, the Constitution has little effect on the courts in the absence of statutory reforms. The Land Act promulgated by Parliament included clauses granting women joint marital property rights but President Museveni pulled the amendments before the final version was printed (Bakyawa, 2000: 1).[4] The draft

4. Land Act No 16 of 1998, Acts Supplement No 11, *Uganda Gazette* No 41, vol. xci.

Domestic Relations bill aimed at overhauling Uganda's marriage, divorce and succession laws is stalled over objections by Uganda's Muslim population to clauses limiting the number of wives a man can marry.

Nevertheless, women seek out magistrates' courts, legal aid clinics, or other government offices when they perceive the law to be capable of protecting them and the authorities running these venues to arbitrate matters according to law rather than custom. The Office of Probation and Social Welfare, which oversees the interests of minor children, is popular among women in Kabale even though it suffers from limited resources. Staff strongly support the preservation of landholdings for children, allowing women to 'piggy-back' their own needs onto the social and legal obligations of men to care for their children. Legal and para-legal aid clinics have proliferated in Uganda during the past five years to the benefit of women. The Ugandan Women Lawyers' Association (FIDA) and the Uganda Law Society (ULS) run clinics in several districts where they supply legal information, mediate disputes, and provide lawyers when cases proceed to court. To reach these venues, however, women must first negotiate with Local Council officials who strongly resent outside interference in their jurisdictions.

LOCAL COUNCILS AND POPULAR JUSTICE

Ugandan officials depict popular tribunals as part of society. They are, in fact, legal institutions 'located on the boundary between state law and indigenous or local law' with lateral and vertical linkages to state and society that are often the site of heated contestation (Merry, 1992: 162). Under the Resistance Committees (Judicial Powers) Statute No. 1 of 1988, LCs share concurrent jurisdiction with magistrates' courts over minor civil suits and customary matters and are linked to the judiciary through the appellate process. Civil jurisdiction includes debts, contracts, assault and battery, property damage and trespass. LCs may preside over customary matters including land, the marital status of women, the paternity of children, the identification of customary heirs, the impregnation of or elopement with a girl under eighteen years of age, and customary bailment.[5] Persons who elect to use the LC system must initiate their suits in the village. Appeals move up the LC ladder to the parish and sub-county levels before reaching the chief magistrate who can uphold or overturn decisions or send the case back for retrial.

Tribunals are connected downward to customary law through mechanisms of social control and conflict management that exist within family and

5. In the case of debts, contracts, and assault or battery, the monetary value of the matter in dispute cannot exceed U.Shs. 5,000 or US $3.00 (Judicial Powers, s.4, First and Second Schedules).

society (Merry, 1992: 163–4). Since popular justice relies on lay judges — usually educated, wealthier, and older men who have little knowledge of law or legal process — common sense, local norms, and social ties guide the courts. The court's personal knowledge of the disputants replaces the rules of evidence employed by formal courts of law.

The investing of judicial authority in local councils was intertwined with the broader claims of the National Resistance Movement (NRM), Uganda's ruling party, that LCs would foster participatory democracy and political inclusiveness. Community participation would occur through periodic town meetings, sponsored by the LCs, in which people would identify problems and design solutions (Resistance Councils and Committees Statute [1987], No 9, section 6). By incorporating citizens into local governance structures, the councils were supposed to provide political 'empowerment' to the poor and rich alike, making the rich who 'use their wealth to secure political influence ... answer to the population for the way they use it' (Brett, 1992: 39). In a similar spirit of participation and self-reliance, community participation in the administration of justice would allow people to resolve disputes and punish crimes according to local customs; in the ideal setting, popular justice would emphasize co-operation, conciliation, and compromise in contrast to the zero-sum, adversarial approaches of the magistrates' courts.

Any claims to participatory and representative democracy, however, have been moderated by Uganda's electoral process. To prevent the partisan politics that accompanied earlier elections in Uganda, the NRM, until 1998, employed electoral colleges above the village level to constitute the nine-member executive councils. In a pyramid-like structure, elections began in villages where all adult persons voted for the members of the executive committee; once constituted, village committees came together to elect parish committees. The pattern deviated with sub-county committees responsible for electing the district committee and counties electing representatives to the National Resistance Council. The electoral process was supposed to facilitate a face-to-face, participatory system of decision-making. Instead, the 'back-room conspiratorial politics where it was much easier to buy or to intimidate small numbers' most likely facilitated control of the NRM over the composition of the LCs (Mamdani, 1995: 235).

Under Uganda's affirmative action programme, one seat on each council was reserved for a women's secretary; in 1998, the quota increased to three women per council. The position of women's secretary, though, has had greater symbolic than strategic significance. It signalled to women that they have a legal right to participate in the public arena but the often sole female voice had little power to influence LC decisions. The male-dominated electoral colleges responsible for selecting representatives tended to favour socially conservative women, leaving observers to doubt whether they represented women's interests (Tamale, 1999).

Although enthusiasm for local councils was high during the early years of the Museveni government, public opinion of their judicial capacity was

mixed. While Burkey (1991: 47) concluded that judicial functions were the most popular aspect of the LCs in one central and two eastern districts, Kigula (1992) and Tideman (1994) found Ugandans to be less enthusiastic about the ability of LCs to adjudicate fairly. Among the six districts surveyed by Kigula in 1995, LCs were the least popular in Kabale District. Tideman (1994: 38), working in central Uganda, did not find the village council courts to be widely popular: '"Popular justice" reflected the interests of the group or groups that dominated the LCs; within this version of the "local interest", women and especially youths are seen as having few entitlements'.

If quantitative data on court usage in Kabale District can be taken as an indicator of public sentiment toward the courts, then the decline in cases would suggest that Ugandans have, over time, been less willing to use the council courts. For four sub-counties, the total number of cases fell from 154 in 1986 to 81 in 1995, a decline of close to 50 per cent.[6] The average number of cases per year fell from thirty-nine in 1986 to twenty in 1995. Alternatively, the overall drop may reflect the declining incidence of civil litigation in general. Civil suits filed at the chief magistrate's court in Kabale also fell, from 171 in 1985 to 90 in 1996. Appeals have, likewise, declined from 176 cases in 1986 to 57 cases in 1998 (Civ. Reg., Ch. Mag. Ct., Kabale). Cases involving women, however, deviate from this trend. While the number filed annually by women in local council courts has declined from an average of twelve cases in 1986 to eight in 1995, appeals filed by women before the chief magistrate rose from two cases to thirty cases between 1985 and 1996. Over the same period, civil suits filed by women at magistrates' courts in Kabale and Rukungiri towns have increased two- to three-fold (Civ. Reg., Ch. Mag. Ct., Kabale; Mag. Ct., Rukungiri).[7]

Local Council officials throughout Uganda offered a variety of explanations for the decline in their case loads. They ascribed the drop at the sub-county level to an explicit policy to discourage litigants from appealing cases beyond the village council. One sub-county chairman reported they had not heard a single case in the first six months of 1997 (interview, 12 March 1997, Mukono). But village and parish officials in both districts reported that they, too, were hearing fewer cases in 1996 than in previous years, even though — without court registries — they could not document it. One LC I chairman suggested that the declining number of cases occurred because 'LCs have been so effective that women no longer have any problems. The LCs have solved all of their problems' (interview, 16 May 1996, Kabale). Women, however, explained the decline in cases brought before the LCs in

6. Obtaining court data from LCs is difficult. Most LCs do not maintain a registry. Of seven sub-counties surveyed, only four could provide data for the period 1986 to 1996.
7. The Chief Magistrate's Court of Kigezi at Kabale served three administrative districts: Kabale, Kisoro, and Rukungiri. The court at Rukungiri was upgraded to a magisterial district in 1999.

terms of a lack of legitimacy. For many, financial corruption and the social biases generated by affective ties undermined the legitimacy of LC courts.

'All They Want is Money'

One of the most common complaints expressed by female litigants concerned the 'fee-for-service' strategy of the local councils, fostering the perception that justice is for sale in the council courts (Barya and Oloka-Onyango, 1994: 59–60; Ottemoeller, 1996: 57). To make LCs financially accessible, filing fees were set at US$ 0.50, $ 1.50, and $ 2.00 for village, parish, and sub-county courts, respectively (RC Courts [Fees] Regulations No 45 of 1990, s. 1). Instead, women recalled paying two to three times the official filing fees. Women complained that 'all they want is money. LCs are chasing money for nothing. If you have no money, you get no justice' (interview, 18 November 1996, Kabale). To win a case requires an additional outlay of money. As one woman put it, 'you pay a small fee [when filing] but then you pay more for a decision'. One woman claimed that when her case came up before a sub-county LC, they demanded US$ 20 or the equivalent in locally brewed beer for a favourable judgement. Another woman produced a formal bill from a LC court which charged her $ 90 for their lunch, transport, a small salary, and two jugs of beer, one for the officials and one for the elders attending court (interviews, 7 May 1996, 18 November 1996, Kabale; Ch. Mag. Ct., Kabale, Civ. App. MKA 68/1994).[8] Men face similar obstacles. In a letter to the chief magistrate, one man complained that the parish chairman demanded a cash payment of US$ 100 before agreeing to hear his case (Mag. Ct., Muko, Civ. Suit MKA 76/1990).

The fee-for-service attitude extends to other forms of LC intervention. A woman who sought to recover custody of her infant from her estranged husband found the LC officials unwilling to help her without payment. She was eight months pregnant when her husband chased her away from their home and after she gave birth, he took the child away. She first approached the probation officer in Kabale who agreed to retrieve the child for her. When he arrived at the man's home, however, the husband grabbed the child and fled. The case proceeded to the legal aid clinic where the lawyer requested the assistance of the village LC chair. When the young woman went to retrieve her child, the LC chair wanted US$ 9 before turning over the child. Their excuse was that she might remarry and take the child with her, making it difficult for them to find her. The Probation Officer decided to involve the LCs at the woman's natal home, where she now resided. The

8. See also Barya and Oloka-Onyango (1994: 67). In the case of the woman who received a bill from the LC, she brought the document to the interview.

LC I chair agreed to accompany her to her husband's home 'as a sort of social guarantee', but on the appointed day, the chairman could not travel so the vice chairman went. When they arrived at the husband's home, the officials refused to turn over the child because 'she had not brought her chairman' (Field Log, 8 November 1996).

High-ranking LC officials are aware that corruption threatens their legitimacy. At a legal education seminar, the district chairman in Kabale chastized lower level officials, warning them that 'there was a movement in Kampala to take their judicial authority away' (Field Log, 4 December 1996). But most sub-county LC members invoked the government's position that 'with nine members, it would be difficult to bribe the LC' (Museveni, 1987: 6). The NRM's logic, however, is often overcome by the power structure within the councils. According to Kigula (1992: 56) 'influential members of the court, by virtue of their social and economic status, influence the decisions ... especially when they are interested parties in a dispute'. Even on the rare occasion when a council gathers all nine executive members for a hearing, it is only necessary to persuade three people — the chairman, the vice chairman, and the secretary. Once they have cast their votes on the side of a particular litigant, other councillors tend to follow suit (Field Log, 27 April 1996, Kabale). LC officials in Luwero District confided to Burkey 'that they feared to challenge the chairman's clique openly, since this would "create hatred". One councillor went as far as saying that "even murder" might result' (Burkey, 1991: 34). A sub-county chair in Mukono District painted a different picture. When he tried to prevent or limit corruption, his fellow councillors accused him of depriving them of a source of lucrative income (interview, 27 April 1997, Mukono).

The potential to appeal decisions through three layers of LCs before reaching the chief magistrate contradicts the aim of creating an expedient and inexpensive legal system. If the latter orders a retrial, the case returns to a sub-county LC or magistrate's court, requiring additional time and money. In contrast, suits initiated in sub-county magistrates' courts appeal directly to the chief magistrate. (Appeals to the High Court are rare.) Rather than shortening the judicial process and making it less expensive, LC courts have created additional complexities, expenses, and delays.

Beer, Community, and Impartiality

Women ponder openly whether they, as the quintessential outsiders in patrilineal and patrilocal society, can obtain an impartial judgement before a local council constituted by their husbands' family and friends. Confounding procedural or substantive justice are the intricate webs of social and family ties that weave in and out of male society, held together by the daily rituals of beer drinking. Hunt's (1996) conception of community as a series of social processes plays out in Kabale where taboos against drinking

alone have encouraged a close association between beer and community. Around the ubiquitous pots of beer, men foster social ties and incur obligations that surface in judicial proceedings (Motoyoshi, 1978: 92). Long a social process, beer drinking has been central to the construction of a male community, differentiating insiders from outsiders. As one government official (interview, 13 May 1996, Kabale) described the situation in Kabale: 'you are fighting people who drink together and who grew up together. If you accept that justice requires impartiality, how can RCs dispense justice when people are fighting relatives of council members or when you have a case against the chair?'. One woman put it more simply: 'local councils stand up for each other because they all drink together' (interview, 18 November 1996, Kabale).

It is not only women who find themselves at a disadvantage in LC courts. In a letter to the chief magistrate in Kabale, a frustrated litigant complained that the village LC was filled with his opponent's relatives: 'The Chairman is a step-brother of the appellant. Another member is the brother of the appellant while his wife is also a member. Another two are his sons' (Ch. Mag. Ct., Kabale, Civ. App. MKA 133/1986). The chief magistrate ordered their removal but the local council refused to comply with the orders.

A dispute between a woman and her son illustrates the frustration that women feel toward local council courts. When the son had tried to sell some land of his mother's, she filed a suit in a magistrate's court but the son and the buyer preferred the local council court. In a hearing before the chief magistrate, the woman (Mag. Ct., Kyanamira, Civ. Suit MKA 1/1990) stated:

> Almost all members of RC I and RC II executive committees are friends of my son ... They have a drinking place where they drink several jellycans of *muramba* [sorghum beer] everyday and my son is a member of this group which is hostile to me ... My two brothers-in-law... are influential members on these committees [RC I and RC II]; they are witnesses of the defendant. They are also members of the muramba jellycan group ... hence they are pressing hard that the case be reversed to the RCs who are the drinkmates of my son so that they trample on justice.

Beer drinking and the social networks it forges are directly linked to the growing economic and land insecurity of women in Kabale. The District Council, concerned with rampant land sales in Kabale, passed a by-law requiring husbands to obtain a wife's permission. LCs retain the power to write by-laws, though they do not have the force of law in a magistrates' court unless approved by the Attorney General.[9] The by-law reflects what many Bakiga, including men, consider to be a long-standing custom requiring

9. According to one judge of the Ugandan High Court, this by-law violates the 1995 Constitution which protects an individual property owner's right to sell property and would not survive legal scrutiny (Field Log, Kampala, 24 March 1997). See also John Mugambwa (1997).

husbands to consult their wives on important issues. Sellers, however, circumvent it by forging close ties with local council members. One woman (Ch. Mag. Ct., Kabale, Civ. App. MKA 11/1995) offered this colourful description of her husband's strategic use of beer to the chief magistrate:

> In 1991, my late husband tried to give my land [away] by the same fraudulent means using RC I and RC II courts . . . It is on record that [he] was fond of double dealing and was always selling off land and in fact sold off most of his land only to booze the RCs and natives to win them on cheap popularity. He didn't even build himself a house despite all these sales. He left me in a very small grass thatched house. I am appealing to this court to give me peace and continue using my land without interference and threats from the lower RCs and natives who are oppressing me because I have no money to booze them.

Men also bypass restrictions by offering to sell the disputed land to one of the council officials. One widow was not optimistic that she would succeed against her brother-in-law because he had 'placed the land in the hands of the RC I chairman and was secretly in the process of selling it to him' (Maziba LC 3, No 9/1992). Another woman, who had tried to prosecute a suit against her husband in the village court, found herself stonewalled by the chairman. Not only was her husband a regular drinking partner of the chairman, but the latter was the purported buyer of the land (interview, 18 May 1996, Kabale).

Central government officials working in Kabale expressed frustration at their inability to reduce alcohol consumption and to preserve land holdings, an important social safety net in Kabale. Several suggested that the local council members are part of the problem. Typically, government education programmes or public awareness campaigns rely on the LCs to disseminate information acquired in seminars. But this has not worked. According to one government official, 'we have learned that we cannot mobilize for education through the LCs to reduce alcoholism and family problems because they are part of the problem. They do not want change. The LCs are the ones who sit and drink all day' (interview, 28 October 1996, Kabale). A nationwide study on poverty reiterated similar findings that 'legal enforcement of laws against alcohol production is weak, in part because police and RCs [LCs] are themselves frequently among the brewers or local customers' (Barton and Wamai, 1994: 132).

The perception that local council members use their positions to accumulate land is widespread. Agricultural researchers working in Kabale suggested that LC officials were amassing sizeable land holdings (Field Log, 5 November 1996, Kabale). People are reluctant to reveal how much land they own but one parish chair said that he owned thirty plots, all of which he had bought rather than inheriting (interview, 27 May 1996, Kabale). Another chairman had acquired eight acres of land, paying US$ 900 to have it surveyed and titled (interview, 18 April 1996, Kabale). According to him, this represented only a small share of his total holdings. One man testified before the chief magistrate on the abuse of power by LC officials in order to accumulate land:

> We are sorry to call our Chairman land hungry. Recently in his attempt to cheat the fertile land from sons of Bihungira they ended up in prison at Muko and their property looted ... we kindly beg you to inform this Chairman that during his land game, our people lost a lot of useful time, money, property, energy, and above all our people are tired of prison. You advise him legally how land is acquired. There is no free land in Kabale. (Civ. Reg., Ch. Mag. Ct. Kabale, correspondence, 10 December 1990)[10]

Gatekeeping in Kabale

If Abel (1982: 6–7) is correct that the primary business of informal institutions is social control, then one reason litigation may rise in formal courts is that people who are motivated by an ideology of individualism and egalitarianism seek to escape informal institutions' rigid systems of control (Merry, 1990: 17). LCs in Kabale, however, use two mechanisms to prevent constituents from seeking legal assistance elsewhere. First, inherited from their colonial predecessors, the ubiquitous letters of introduction act as a pass-control system. Once used to restrict the movement of Africans and their cattle, LCs use them to preclude people from approaching other government officials on issues ranging from the mundane to the significant. One must have a letter authenticating one's identity from the village chairman to apply for a post office box, a telephone line, or a passport. Local council officials insist on witnessing land transactions; their presence is supposed to guarantee that the person selling the property is the legal owner. By insisting that people obtain a letter of introduction before approaching a magistrate, the police, or other government agencies, LCs control access to the formal legal system.

The most egregious abuse of power occurs when LCs require their constituents to report crimes to them before turning to the police. While interviewing at the Office of Probation and Social Welfare, I met a woman who claimed that her husband was trying to poison her. After marrying another wife, he wanted to sell her land. When asked why she did not report her case to the police, she replied that the police would not help her without a letter from her village chairman which he had refused to write. Her husband and the chairman were daily drinking companions and the chairman was in the process of purchasing her last four plots of land (interview, 22 October 1996, Kabale). LCs routinely thwart the judicial process by making it difficult for litigants to appeal their decisions to the chief magistrate. LC officials erroneously tell litigants to wait for their official letter before applying for an appeal. If they delay beyond two weeks, the filing period for appeals has expired, forcing the appellant to file 'out of time' and to pay additional fees (interviews, 25 and 28 October 1996, Kabale).

Second, the ability to control the construction of grievances or, more important, to prevent them from emerging, enables LCs to control political

10. Kakeikuru w/o Karuhura v. Ntomize s/o Kaara and Baryenyoneza. The file did not have a case number.

and social agendas. Many Ugandans, including women, tend to feel that disputes between husbands and wives are private, family affairs that are unsuitable for public fora (interviews, 22 April 1996, 31 May 1996, Kabale). LC officials take this one step further. Drawing on the idea that community means the absence of conflict, they argue that land disputes are the product of women's misbehaviour rather than any violation of their rights (Okumu-Wengi, 1995: 170; Field Log, 18 May 1996 and 4 December 1996, Kabale). Rather than investigating complaints or scheduling hearings, LCs deny the justiciability of women's claims and send them away with admonishments to behave 'like women'. By constructing women's grievances as a function of individual behaviour rather than a violation of legal rights, LCs trivialize conflicts. This is important because, as Handler (1997: 137) points out, before people seek legal remedies, they must know that they have been harmed, they must blame someone other than themselves, and they must know how to pursue a remedy.

Rather than confronting the fundamental problem of land insecurity, caused in part by male unemployment and high alcohol consumption, many LCs focus on how the government's affirmative action programme and the constitutional extension of equality to women threatens their inherent rights as the heads of households. A male secondary school teacher in Kabale municipality was especially strident, shouting, 'you just wait until the next presidential election. We are going to throw Museveni out and put these women back in their places'. Most men were adamant that 'women need to be sensitized because they have misunderstood equality by leaving home and drinking. The government should have seminars for women on how to behave toward their husbands' (Field Log, 18 May 1996 and 4 December 1996, Kabale). Other men felt that women had misinterpreted 'equality' to mean superiority.

There is a persistent reluctance among men to associate women with the notion of individual rights. At a legal aid seminar for LC officials and community leaders in western Kabale, participants were discussing the implications of the Children's Statute (No 18 of 1995). After several minutes of discussion on the rights of children, one man asked whether girls count as children, or only boys: 'Who is a child at home, a girl or a boy?'. Another man responded, 'a child is a boy because he stays at home while girls go away' (Field Notes, 5 December 1996, Kabale). In other words, the rights spelled out in the statute applied to sons but not daughters.

CONCLUSION: LEGALITY AND LOCALITY[11]

In his study of local politics in the former Zaire, Schatzberg (1988: 5–6) suggests that 'in the midst of creating elegant intellectual abstractions, we

11. I borrow this phrase from Loughlin (1996).

have lost sight of how the state appears to the powerless who must deal with it every day'. Braddick (1991: 7) argues that we should cease viewing the state as something that the elite does to other people: 'by definition, the state may also have something to offer groups outside the elite ... increased state activity may answer needs arising from outside the ruling class'. Advocates of popular justice have argued that local, informal institutions are better positioned to provide justice to the poor and powerless. Yet, the willingness of women to invite the magistrates' courts to intervene in their daily lives suggests that a national judiciary has some utility in local spaces. Their legal strategies should prompt us to reconsider the relationship between legality and locality.

Since the magistrates' courts are inconsistent in providing women with substantive justice, other facets must influence their legal strategies. One factor is the association of magistrates' courts with the 'rule of law' and local councils with the 'rule of persons'. While women complained of corruption among lower magistrates, they tended to view the chief magistrate as autonomous of and impartial to local society. As a result, they expected the court to adjudicate disputes according to the law. A second advantage of the magistrates' courts is the ability to borrow power from the formal legal process. At a minimum, the acts of testifying and cross-examination guarantee persons a right to participate in public discourse on matters that directly affect their lives, making it difficult for local elites to ignore the arguments of the underprivileged (Sutil, 1999: 271).

If English legal history is instructional, a national legal system containing a unified body of law and an independent judiciary may be necessary for the emergence of local self-governments responsive to local needs and interests. Loughlin (1996) argues that local self-government did not emerge in England because the Crown surrendered power; nor did it emerge out of changes in local state–society relations. The critical nexus lay in the institutional relations among parliament, the judiciary, and the localities. Only when the judiciary gained its independence from the crown did local governments cease being administrative extensions of the Crown and become responsive to local needs. The crafting of the Common Law into a unified national law was fundamental. Without a separate body of law through which the Crown could exercise direct control over the localities, local officials were 'answerable not to the central state, but rather to the courts and ultimately to Parliament' (Loughlin, 1996: 24). With citizens and public officials accountable to one body of law, the former were able to use the courts to check the abuse of power by local authorities.

Loughlin's conclusions on the role of law in the emergence of local democracy have significance for Uganda where the granting of judicial capacity to local councils restores a bifurcated legal system not unlike the one created by the colonial administration. Whether we focus on the colonial policy of indirect rule through native chiefs or popular justice through local councils, both segregate the rural populace to the realm of

customary law where local elites have wide discretionary powers to define custom. Mamdani (1996: 25, 125), who argues that democracy will not take root in Africa until reforms address the nature of power in the local state, sees the colonial legacy of customary law as a chief impediment by facilitating and sustaining the local state as a form of decentralized despotism. Unlike the civil realm where 'the justification of power was in the language of rights ... [and] civil rights guaranteed by civil law were at the same time said to constitute a limit on civil power', customary law is not about limiting but rather enabling the power of local native authorities (Mamdani, 1996: 109–10).

While the idea of popular justice is an alluring one, Barrington Moore's observation (1978: 502) that social co-operation and reciprocity are not innate, spontaneous qualities but must be continually re-created is apt. One woman in Kabale, when asked why her son had ceased trying to grab her land, responded that since her case had gone before the chief magistrate, the son 'feared going to jail'. While proponents of community-based justice claim advantages in costs, expedience, and cultural norms, the legal strategies of women to incorporate actors from the formal legal system, such as magistrates and lawyers, correspond to Abel's (1982: 8–9) assertion that informal justice ultimately fails because 'people want authority rather than informality'. People may want expedient and cheap justice but 'justice may be more important to them than speed'. As a result, people are willing to endure delays and to pay higher costs in government courts because they want the 'leverage of state power to obtain the redress they believe is theirs by right, not a compromise that purports to restore a social peace that never existed'. The consequences are significant for, as Lev (1993: 140) asserts: 'If the going myth is that law counts, people will use law to the limits of its assumed capacity to get things done ... If the understanding of politics suggests that powerful men get things done, then patron–client relations are likely to prevail'.

REFERENCES

Abel, Richard L. (1982) 'Introduction', in Richard L. Abel (ed.) *Politics of Informal Justice*, Vol. I: *The American Experience*, pp. 1–13. New York: Academic Press.

Bakyawa, Jennifer (2000) 'Women Threaten to Vote Against Movement Over Land', *Monitor* 22 (February): 1.

Barton, Tom and Gimono Wamai (1994) *Equity and Vulnerability: A Situation Analysis of Women, Adolescents and Children in Uganda*. Kampala: National Council for Children.

Barya, John-Jean and J. Oloka-Onyango (1994) *Popular Justice and Resistance Committee Courts in Uganda*. Kampala: Centre for Basic Research.

Braddick, Michael (1991) 'State Formation and Social Change in Early Modern England: A Problem Stated and Approaches Suggested', *Social History* 16(1): 1–18.

Bratton, Michael (1989) 'Beyond the State: Civil Society and Associational Life in Africa', *World Politics* 41(April): 407–30.

Brett, E. A. (1992) *Providing for the Rural Poor: Institutional Decay and Transformation in Uganda*. Sussex: Institute of Development Studies; Kampala: Fountain Press.

Burkey, Ingvild (1991) 'People's Power in Theory and Practice: The Resistance Council System in Uganda'. BA dissertation, Yale University.

Busingye, Winfred Mbabazi (1993) 'Gender Conflict over Land Control: A Study of Bukinda Sub-County, Kabale District'. MA dissertation, Makerere University.

Chanock, Martin (1985) *Law, Custom and Social Order: The Colonial Experience in Malawi and Zambia*. Cambridge: Cambridge University Press.

Crook, Richard C. and James Manor (1988) *Democracy and Decentralisation in South Asia and West Africa: Participation, Accountability and Performance*. Cambridge: Cambridge University Press.

Depew, Robert C. (1996) 'Popular Justice and Aboriginal Communities: Some Preliminary Considerations', *Journal of Legal Pluralism* 36: 21–67.

Edelman, Lauren B. and Mia Cahill (1998) 'How Law Matters in Disputing and Dispute Processing (Or, the Contingency of Legal Matter in Informal Dispute Processes)', in Bryant G. Garth and Austin Sarat (eds) *How Does Law Matter?,* pp. 15–44. Evanston, IL: Northwestern University and the American Bar Association.

Francis, Elizabeth (1998) 'Gender and Rural Livelihoods in Kenya', *Journal of Development Studies* 35(2): 72–95.

Gordon, April (1995) 'Gender, Ethnicity, and Class in Kenya: "Burying Otieno" Revisited', *SIGNS: Journal of Women in Culture and Society* 20(4): 883–912.

Grande, Elisabetta (1999) 'Alternative Dispute Resolution, Africa and the Structure of Law and Power: The Horn in Context', *Journal of African Law* 43: 63–70.

Greenhouse, Carol J. (1998) 'Figuring the Future: Issues of Time, Power, and Agency in Ethnographic Problems of Scale', in Bryant G. Garth and Austin Sarat (eds) *Justice and Power in Sociolegal Studies*, pp. 108–35. Evanston, IL: Northwestern University Press and the American Bar Foundation.

Greenhouse, Carol J., Barbara Yngvesson and David M. Engel (1994) *Law and Community in Three American Towns*. Ithaca, NY: Cornell University Press.

Guillet, David (1998) 'Rethinking Legal Pluralism: Local Law and State Law in the Evolution of Water Property Rights in Northwestern Spain', *Comparative Studies in Society and History* 40(1): 42–70.

Gundersen, Aase (1992) 'Popular Justice in Mozambique: Between State Law and Folk Law', *Social and Legal Studies* 1: 257–82.

Handler, Joel F. (1997) 'Poverty, Dependency, and Social Welfare: Procedural Justice for the Poor', in Bryant G. Garth and Austin Sarat (eds) *Justice and Power in Sociolegal Studies*. pp. 136–65. Evanston, IL: Northwestern University Press and the American Bar Association.

Hunt, Alan (1996) 'Law, Community, and Everyday Life: Yngvesson's Virtuous Citizens and Disruptive Subjects', *Law and Social Inquiry* 21(1): 173–84.

Hyden, Goran and Donald C. Williams (1994) 'A Community Model of African Politics: Illustrations from Nigeria and Tanzania', *Comparative Studies of Society and History* 26(1): 68–96.

Kabale District (n.d.) 'Baseline Survey Analysis Report on Food and Nutrition, Quantitative Assessment'. Kabale District Administration: Office of Economist.

Kigula, John (1992) 'Land Disputes in Uganda: An Overview of the Types of Land Disputes and the Dispute Settlement Fora'. Kampala: Makerere Institute of Social Research and Madison: Land Tenure Center.

Lev, Daniel S. (1993) 'Social Movements, Constitutionalism, and Human Rights: Comments from the Malaysian and Indonesian Experiences', in Douglas Greenberg, Stanley N. Katz, Melanie Beth Oliviero and Steven C. Wheatley (eds) *Constitutionalism and Democracy: Transitions in the Contemporary World*, pp. 139–58. Oxford and New York: Oxford University Press.

Loughlin, Martin (1996) *Legality and Locality: The Role of Law in Central-Local Government Relations*. Oxford: Clarendon Press.

Mamdani, Mahmood (1995) 'The Politics of Democratic Reform in Contemporary Uganda', in P. Langseth, J. Katorobo, E. A. Brett and J. Munene (eds) *Uganda: Landmarks in Rebuilding a Nation*, pp. 229–39. Kampala: Fountain Press.

Mamdani, Mahmood (1996) *Citizenship and Subject: Contemporary Africa and the Legacy of Late Colonialism*. Princeton, NJ: Princeton University Press.

Merry, Sally Engle (1990) *Getting Justice and Getting Even: Legal Consciousness Among Working-Class Americans*. Chicago, IL: University of Chicago Press.

Merry, Sally Engle (1992) 'Popular Justice and the Ideology of Social Transformation', *Social and Legal Studies* 1: 161–76.

Moore, Barrington Jr. (1978) *Injustice: The Social Bases of Obedience and Revolt*. White Plains, NY: M. E. Sharpe.

Moore, Sally Falk (1992) 'Treating Law as Knowledge: Telling Colonial Officers What to Say to Africans about Running "Their Own" Native Courts', *Law and Society Review* 26(1): 11–46.

Morris, H. F. and James S. Read (1972) *Indirect Rule and the Search for Justice, Essays in East African Legal History*. Oxford: Clarendon Press.

Motoyoshi, Omori (1978) 'The Social and Economic Utility of Omuramba, the Chiga Sorghum Beer', *Senri Ethnographic Studies Africa* 1: 89–104.

Mugambwa, John (1997) 'Article 26(2) of the 1995 Constitution of Uganda and the Protection of Private Property', *East African Journal of Peace and Human Rights* (1997): 70–89.

Museveni, Yoweri (1987) 'Why Our Law Should Be Reformed', *New Vision*, 3 March: 6-7.

Nsibambi, Apollo (1998) *Decentralization and Civil Society in Uganda*. Kampala: Fountain Publishers.

Oboler, R. (1994) 'The House-Property Complex and African Social Organization', *Africa* 64(3): 342–57.

Okello, C. (1993) 'A Study on the Administrator General's Office: Research Project on Women and Inheritance'. Kampala: Ministry of Women in Development, Culture and Youth.

Okumu-Wengi, Jennifer (1995) 'Women's Legal Position in the Resistance Committee Courts in Uganda: A Study of Access and Participation'. DPhil dissertation, University of Zimbabwe.

Ottemoeller, Daniel J. (1996) 'Institutionalization and Democratization: The Case of the Ugandan Resistance Councils'. PhD dissertation, University of Florida.

Ribot, Jesse C. (1999) 'Decentralization, Participation, and Accountability in Sahelian Forestry: Legal Instruments of Political-Administrative Control', *Africa* 69(1): 23–65.

Schattschneider, E. E. (1960) *The Semisovereign People: A Realist's View of Democracy in America*. Chicago, IL: Holt, Rinehart, and Winston.

Schatzberg, Michael G. (1988) *The Dialectics of Oppression*. Bloomington and Indianapolis, IN: University of Indiana Press.

Sutil, Jorge Correa (1999) 'Judicial Reforms in Latin America: Good News for the Underprivileged', in Juan E. Méndez, Guillermo O'Donnell and Paulo Sérgio Pinheiro (eds) *The (Un)rule of Law and the Underprivileged in Latin America*, pp. 255–77. Notre Dame, IN: University of Notre Dame Press.

Tamale, Sylvia (1993) 'Law Reform and Women's Rights in Uganda', *East African Journal of Peace and Human Rights* 1(2): 164–94.

Tamale, Sylvia (1999) *When Hens Begin to Crow: Gender and Parliamentary Politics in Uganda*. Boulder, CO: Westview Press.

Tideman, Per (1994) 'New Local State Forms and "Popular Participation" in Buganda, Uganda', in Peter Gibbon (ed.) *The New Local Level Politics in East Africa: Studies on Uganda, Tanzania, and Kenya*, pp. 22–49. Uppsala: Scandinavian Institute of African Studies.

Villadsen, Søren and Francis Lubanga (eds) (1996) *Democratic Decentralization in Uganda: A New Approach to Local Governance*. Kampala: Fountain Publishers.

Wunsch, James S. and Dele Olowu (eds) (1990) *The Failure of the Centralized State: Institutions and Self-Governance in Africa*. Boulder, CO: Westview Press.

Statutes referred to
Succession Act, Cap. 139, Laws of Uganda (1964).
Marriage Act, Cap. 211, Laws of Uganda (1964).
Resistance Councils and Committees Statute No 9 of 1987.
Resistance Committees (Judicial Powers) Statute No 1 of 1988.
RC Courts (Fees) Regulations No 45 of 1990.
Children's Statute No 18 of 1995.
Land Act No 16 of 1998.

Lynn Khadiagala obtained her PhD in political science in 1999 from the University of Wisconsin–Madison. She is currently teaching at the School of International Service, American University (4400 Massachusetts Ave. NW, Washington, DC 20016, USA) and working on a book on the politics of law in Uganda.