

2015

Women, Land & Justice in Tanzania (Book Review)

Sandra F. Joireman

University of Richmond, sjoirema@richmond.eduFollow this and additional works at: <http://scholarship.richmond.edu/polisci-faculty-publications>Part of the [African Studies Commons](#), and the [Women's Studies Commons](#)**This is a pre-publication author manuscript of the final, published article.**

Recommended Citation

Joireman, Sandra F., "Women, Land & Justice in Tanzania (Book Review)" (2015). *Political Science Faculty Publications*. 192.
<http://scholarship.richmond.edu/polisci-faculty-publications/192>

This Post-print Article is brought to you for free and open access by the Political Science at UR Scholarship Repository. It has been accepted for inclusion in Political Science Faculty Publications by an authorized administrator of UR Scholarship Repository. For more information, please contact scholarshiprepository@richmond.edu.

Helen Dancer. *Women, Land & Justice in Tanzania*. Rochester NY: James Currey, 2015. 191pp. Bibliography. Index. \$80.00. Cloth. ISBN 978-1-84701-113-8.

Among the many debates surrounding land in Africa, one that has endured through both colonization and independence is the argument over the merits of preserving customary land law. Human rights based approaches to property rights in Sub-Saharan Africa note women's secondary or derivative rights to land under customary law, correctly identifying inequalities in rules and practice. Communitarian approaches, on the other hand, address the adaptability and accessibility of land regimes defined by customary law. This book contributes to the debates on women, land and law and, while it will be frustrating to some as it does not take a side in the debate, the book helpfully adds to what we know about the praxis of customary law and the impact of efforts to embed customary law within a more egalitarian legal system.

Helen Dancer is a lawyer by training in addition to being a legal anthropologist. This background serves her well in understanding the breadth of law impacting land rights and the challenges individuals face in using law. The text is based on fieldwork in Tanzania in and around Arusha, interviews, and the observation of courts and legal aid clinics. Tanzania is doing what some other countries in Africa have also attempted with regard to land - promoting egalitarian laws while at the same time recognizing explicitly patrilineal customary law and land tenure.

The first part of the book addresses the historical and social context of women's claims to land. This is followed by an overview of land law and the court structure in Tanzania. The second part of the book examines praxis – what actually happens when women try to make land claims - focusing on procedural justice, the fora open to women with land claims, and the interpretation of law. This latter part of the book analyzes specific cases, including some court transcripts and an appendix with further detail on a few cases. Disputes are traced from their origination to final judgement in Tanzania's specialized land court system. Details of the spaces of contestation and accessibility of place are included throughout the text.

Much has been written about women's access to land under customary law in Africa. There are three new contributions which this book makes to this literature. First the book identifies and illustrates the overlap between status and land access for women under customary law and then highlights the fact that the Tanzanian land adjudication structure, is unable to effectively address the status issues which constrain women's access to land. Land matters are not just about land law when it comes to women, they are also tightly bound up with marital and relationship issues because most women (those who are unable to purchase land in their own names) hold land rights derived from their marital status. Customary and statute land laws will not effectively guarantee women's rights to property without marriage and succession laws that are both fair and relevant to local practices. Herein lies a legal lacuna, as the prevalence of polygamy and informal marriage in Tanzania, and indeed other parts of the African continent, create uncertainty in women's property rights. An example illustrates this point. A man is married to three women, the first through a civil marriage and the second two through informal marriages. If the first wife divorces the husband and makes a claim to the marital house or land, the case can be conducted in court between the man and the first wife as if theirs was the only marriage that existed. The property interests of the second and third wives and all of their children are lesser because they are informal. "Claims between couples in this kind of [informal] relationship often concern disputed financial contributions to property that has been purchased in the name of one party (usually the man). Women in this situation do not have the same statutory interest in the man's land as a legal spouse. Consequently, the status of the parties' relationship often becomes a material issue in the legal claim. These relationships cannot be proved by a marriage certificate, so litigants must rely on other kinds of evidence to prove the nature of their relationship and financial contributions. This may be extremely difficult where a relationship has been conducted in secret or where financial contributions to the property have been made in cash"(125).

The intertwining of women's status and land access is not easily addressed by land courts which can deal with land issues, but have no jurisdiction over marriage and succession. This problem in the Tanzanian case is mirrored at multiple levels of legal dispute across many countries. Under customary tenure rules land access for women is about relationships which are defined (or not) by marriage and inheritance. If these relationships are not formalized or legitimized, then property access by women and their children can suffer.

The second, related, contribution of Dancer's work is the observation, and then illustration through cases, that for women power dynamics within disputes are pivotal to their access to justice. "Power relations between a woman and other members of her family shift throughout her lifetime and are closely linked to a woman's security of tenure over her home and /or land"(45). Thus, a married women with no children has different tenure security than a married woman with three or four older sons. Dancer takes this observation further in also noting that a woman's ability to access justice is also dependent upon her ability to invoke the supporting testimony of more powerful allies within her extended family.

The final important contribution of Dancer's book is her observation that even the most egalitarian land laws will not mean equal use or fairness in the investigation of disputes. In the cases Dancer investigates, which are a small, non-random, sample, she notes a critical difference in the nature of claims by plaintiffs. Claims to land by men against women often represent challenges to women's existing ownership or claims to land. Cases brought by women, on the other hand, tend to be a defensive response to an act of a male relative to encroach. "I found it was uncommon for women to bring claims against men in land courts for land they had never used or occupied"(46).

This is an excellent book that details the micro-level exclusions and difficulties women face in asserting land rights as well as the challenges to states in accommodating customary land law within egalitarian legal systems. It is an interesting read for those interested in women's property rights and access to justice under customary law.

Sandra Joireman
University of Richmond
Richmond, VA
sjoirema@richmond.edu

African Studies Review / Volume 58 / Issue 03 / December 2015, pp 241 - 242 DOI:
10.1017/asr.2015.90, Published online: 23 November 2015 Link to this article:
http://journals.cambridge.org/abstract_S0002020615000906