

**REPORT OF THE FAO/OXFAM GB WORKSHOP ON  
WOMEN'S LAND RIGHTS IN  
SOUTHERN AND EASTERN AFRICA**

**Held in Pretoria, South Africa  
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## 1. INTRODUCTION

This workshop was planned and organised by **Kaori Izumi**, from the FAO Sub-Regional Office for Southern and Eastern Africa, and **Robin Palmer**, Oxfam GB's Land Policy Adviser. Its origins sprang from their recent work and experiences. By common consent this workshop, attended by 75 people, was a resounding success for a variety of reasons, including intensive prior preparations, especially around the programme, a passionate commitment to the issues from those attending, the fact that people came to learn from others, that there was immediately established a sense of collective responsibility, that there was an unusually broad range of participants and therefore nobody knew everybody, that it was not hierarchical, that nobody was trying to sell anything, and that the discussions and debate covered a wide range of countries and experiences. This official report summarises the papers, presentations and discussions in the original order of the programme.

### LIST OF WORKSHOP PAPERS AND PRESENTATIONS

Theme	Title	Author	Institution
Opening	A Way Out from the Impasse: Multi-Sectoral Alliance and Multiple Strategies for Women's Rights to Land and Property	Kaori Izumi	FAO, Southern and Eastern Africa
Opening	Opening welcome	Robin Palmer	Oxfam GB
Women's land and property rights - conceptual framework	Women's Land Rights in Eastern and Southern Africa: A Framework for Analysis and Action	Cherryl Walker	Human Sciences Research Council – HSRC, South Africa
Legal issues of land, property and (co-) ownership	Prevalence of Joint Titling in Uganda: Implications among Conjugal Couples	Abby Sabina-Zziwa	Makerere Institute of Social Research, Uganda
Legal issues of land, property and (co-) ownership	Lobbying For Legislation of Women's Land Rights In Uganda: An Uphill Struggle For Civil Society Organisations	Harriet Busingye	Uganda Land Alliance
Legal issues of land, property and (co-) ownership	An Irish Solution to an African Problem? Protecting Women's Interests in Family Land in Uganda	Ambreena Manji	University of Warwick
Legal Issues of land, property and (co-) ownership	Legislation for Women's Land Rights – a wrong answer? Some reflections	Birgit Englert	University of Vienna
Natural resources	Strategic Women, Gainful Men: Gender, land and natural resources in Mozambique	Rachel Waterhouse and Carin Vijfhuizen	Consultant Mozambique and University of Wageningen, Netherlands
Women's inheritance rights	Venia Magaya's Sacrifice- A Case of Custom Gone Awry (Zimbabwe)	Agatha Tsitsi Dodo	Women and Law in Southern Africa – WILSA
Women's inheritance rights	Women's Property and Inheritance Rights and the New Land Policy in Malawi	Naomi Ngwira	University of Malawi
Women's land rights in post-conflict countries	Women's Land Rights in Post Conflict Countries	Nyaradzai Gumbonzvanda	United Nations Development Fund for Women - UNIFEM
Women's land rights in pastoral communities	Issues to consider: Women's Land Rights and Pastoralism in Ethiopia	Fiona Flintan	International Famine Centre, University of Cork, Ireland
HIV/AIDS and	HIV/AIDS and Women's Land	Maude Mugisha	Eastern Africa Sub-Regional

women's land rights	Rights and Livelihood in Uganda		Support Initiative for the Advancement of Women – EASSI
HIV/AIDS and women's land rights	Testimonies by Constance Niwagaba and Edivina Kyoheirwe	Constance Niwagaba and Edivina Kyoheirwe	Bunono-Ilanga Group of Women Living with HIV/AIDS in Uganda & woman living with HIV/AIDS in Kampala
HIV/AIDS and women's land rights	Gender, HIV/AIDS and land issues in Kenya	Cherryl Walker	Human Sciences Research Council – HSRC, South Africa
Land administration and women's land rights	Security of Tenure – Best Practices	Marjolein Benschop	UN-Habitat, Nairobi
Land administration and women's land rights	Efficient Land Administration as a Tool to Secure Women's Land Rights – Botswana's Experience	Gaolebe Lekhula	Ministry of Lands, Botswana
Legal aid and women's land rights	Women and Land Rights in Kenya	Christine Ochieng	Women Lawyers' Association, FIDA-Kenya
Legal aid and women's land rights	Village Legal Aid Desk for Women's Land Rights in Tanzania	Mary Kessi	Tanzania Women Lawyers' Association – TAWLA
Women's rights to housing, land and property	Women and Housing: Applying a Rights-Based Perspective	Birte Scholz	Centre on Housing Rights and Evictions - COHRE, Switzerland
Women's rights to housing, land and property	Women's land, housing and property rights: research findings, tool development, pilot project	Marjolein Benschop	UN-Habitat, Nairobi
Women's rights to housing, land and property	Kenya Case Study on Women's Property Rights Violations	Janet Walsh	Human Rights Watch, USA
Women's rights to housing, land and property	Women's Lands Rights and HIV/AIDS (in Kenya)	Esthter Mwaura-Muiru	GROOTS Kenya
Women's rights to housing, land and property	Global Working Group on Women, Housing, Land and Property	Jan Peterson	Huairou Commission
Women's rights to housing, land and property	African Human Rights and Access to Justice Programme (ICJ's Access to Justice Initiative)	Winluck Wahiu	International Commission of Jurists

## 2. FAO AND OXFAM GB OPENING REMARKS

Both **Kaori Izumi** and **Robin Palmer** stressed the lack of progress in establishing women's land rights, despite much excellent advocacy work. The devastating reality was a chronic lack of security of women's land rights. They also spoke of our common passion and commitment to turn rights to land, shelter and property into reality on the ground. We had come together to reflect on past failures and achievements, and to establish global and multi-sectoral alliances and multiple strategies as a means of breaking out of this impasse on women's land rights.

### 3. WOMEN'S LAND AND PROPERTY RIGHTS – CONCEPTUAL FRAMEWORK

In her opening regional presentation, **Cherryl Walker** spoke of the need to see women's land rights in a heterogeneous and dynamic context. The strategic opportunities facing women were different in different places, offering very different conditions for advocacy. The relative importance of agriculture varied enormously across countries. What may work in one country would not necessarily work in another. Land had different meanings for different women and men. It serves many, often competing purposes, including historical redress, social justice, unlocking economic growth, securing livelihoods. Land rights for which women was a question mediated by class, marital status, the age and gender of children and will change at different stages in a life cycle. This was a difficult and daunting context – of widespread agricultural decline, rapid urbanisation without economic growth, weak government capacity, and of changing family and marriage patterns. There were however opportunities – there was a high level of legitimacy for the principle of gender equity; there were strong efficiency arguments for improving women's status; realignments around social norms, values and practices; a mobilisation of women and civil society; cross-class interests of women; ; national and international interest in land policy; and global pressures around trade and debt. Even the HIV/AIDS pandemic provided opportunities because it was focusing attention on fundamental problems. Too many rigid either/ors were not helpful. Tenure security was especially important in a context of HIV/AIDS and poorer prospects off the land. There were real fiscal constraints on governments. A framework for action should include formal and statutory protection for women's rights, affordable land administration, dispute resolution and legal redress, awareness and gender training, state programmes for social and economic development. The workshop should help us to refine our understandings and analysis and to think actively about follow up. **In discussion**, the Mozambique family law and South African Constitution were cited as excellent frameworks but suffered huge capacity and implementation constraints. Foreign ownership was an issue in many places.

### 4. LEGAL ISSUES OF LAND, PROPERTY AND (CO-) OWNERSHIP

This was a session focussing on the Ugandan debates on co-ownership and their wider implications, comprising presentations from Abby Sabina-Zziwa and Harriet Busingye, and from two discussants, Ambreena Manji and Birgit Englert.

**Abby Sabina-Zziwa** presented the detailed findings of recent research into 70,000 land records conducted by herself and others at Makerere Institute of Social Research on joint titling among conjugal couples. She noted that there has been an upward trend in joint titling in Uganda from about 1.3% of all titles in 1980 to 3.4 % by October 2002. Women's ownership of titled land had risen from 12.4% to 16% in the same period. This went against the arguments of those who claim that co-ownership is undesirable and disruptive of family harmony. They came across cases of women strategically withdrawing their labour from farms and men knew why this was happening. Younger men were more sympathetic to the idea of co-ownership. Among women and men, education levels were a key factor in negotiations and decisions for joint titling. Men viewed economic rewards (investment) as the major benefit from joint titling, while women saw them in terms of greater security of tenure.

**Harriet Busingye** gave a presentation on the uphill struggles of the Uganda Land Alliance and other civil society organisations in lobbying for legislation for women's land rights. She denied claims that the 1998 Uganda Land Act adequately provided for the rights of women; in fact, the law has failed to offer real benefits to poor women. Much research has demonstrated the need for real ownership rights to land by women but for the legislators this has not been enough. Sentiments such as when women get rights of ownership to land they will not have stable marriages and will go all around marrying and divorcing, or they will become too powerful have been used to deny women real benefits. She discussed the Uganda Land Alliance's advocacy campaign launched in 1998 for the enactment of a clause giving ownership rights to spouses of the family residence. She looked at the challenges encountered and lessons learned by the Alliance and examined future strategies and possible ways

forward, including strategic litigation and sensitisation of the grassroots. (During the course of the workshop, the Ugandan Government passed an amendment to the Land Act, referred to as the consent clause, which was seen as a minor victory).

**Ambreena Manji** tried to draw out wider lessons from the Ugandan experience with co-ownership. She acknowledged that a remarkable feature of the Ugandan debate has been the widespread and detailed discussion of co-ownership, and the role played by gender progressive groups. But she argued the need for clarity about objectives and to test basic assumptions. As a legal academic, she suggested that law sometimes offers more than one way to achieve your desired ends - on the Rolling Stones Principle: 'You can't always get what you want... but if you try sometimes, you just might find, you get what you need.' She suggested that to avoid the need for registration, to deal more effectively with situations in which there is no full informed consent, and shift the burden of proof onto more commercially experienced parties, Ugandans might do well to look at the Irish Family Home Protection Act 1976, under which no registration of interest by the spouse was necessary, transactions without requisite consent are void not voidable, and the burden of proof is on the party claiming validity, who must show that informed consent has been obtained.

**Birgit Englert** similarly urged the need for constant reflection about the wider implications of chosen strategies. She cautioned against basing lobbying work on too firm positions and on neglecting the wider context within which land tenure reform is being made. Citing her own and others' research in Tanzania, she noted that development arguments against gender discrimination in land rights tended to reinforce the gendered division of labour and asked, citing Issa Shivji, how useful is it to lobby for gender equity in a context of threatened land rights for the majority of the population? She felt that lobbying for registration of women's rights to land ignored other problematic aspects of titling and that it was not women as such who are being discriminated against, but that the less powerful members of society lose out when resources are contested. She believed that law can and should only play a complementary role and that legislation can even limit women's rights to land. Women do not share similar interests. It was not matrilineality or patrilineality that were the crucial factors in determining the extent to which women manage to secure access to and control over land, but exposure to contacts with 'the outside' and informal business activities. Finally, interest in land-secured credit was low – both among women and among banks. Women generally felt more secure within the informal sphere and might be better advised to change their situation by exploiting the flexible and changing nature of systems based on custom than lobbying the government to do so.

**In discussion**, some positive examples were cited from Zimbabwe (constitution), Malawi (some inheritance customs and middle class innovations), Botswana (learning from Uganda), Mozambique (women's rights protected within community rights) and Lesotho (refining its laws). Co-ownership was not about gender equity as such but about secure tenure, but the non-recognition of women's contribution to the economy formed part of the debate around it. Women's access to land should be seen as a citizen's right, a human right, and not within the context of the family or marriage. It should be taken out of the private sphere and into public discussion.

## **5. NATURAL RESOURCES (MOZAMBIQUE)**

**Rachel Waterhouse and Carin Vijfhuizen** talked about their edited collection, *Strategic Women, Gainful Men: Gender, land and natural resource tenure in different rural contexts in Mozambique* (Maputo 2001) based on research carried out between 1999 and 2001. Their paper looked at land tenure in Mozambique and the policy context, at key gender issues addressed in the case studies, and at positioning the cases in the wider context. Land transactions were happening daily, especially in urban and peri-urban areas and there was enormous diversity of patterns. Uniquely in Southern Africa, Mozambique's 1997 Land Law combines recognition of customary and formal tenure under one legal instrument. It recognises the right to use and occupy land according to customary tenure and the rights of 'local communities' to acquire a collective co-title to 'use and benefit' from land they have historically occupied. The Land Law also seeks to guarantee the equal rights of women. To counteract

concern that women's rights would be undermined by recognizing customary norms, it explicitly states that women have equal land rights to men. Their case studies explore and challenge three assumptions which seem implicit in the law: that women lack adequate land rights under discriminatory customary laws; that the law, implemented by the State, can and will guarantee equal rights and improved living standards for rural women; and if women have secure tenure rights over land they will improve their position through more efficient production. Their studies suggest that current processes of rural transformation in Mozambique are contributing to undermining women's customary tenure but are not yet providing accessible, alternative guarantees through formal law or 'modern' tenure regimes. This suggests, they argue, that policy and programme interventions should investigate which women are able to access new opportunities and how they 'manage insecurity' or achieve security through reinterpretation of customary claims, market opportunities or other means, in order to strengthen their capacity to acquire and maintain rights over land. In conclusion, legal reform can legitimise women's rights, but is not enough: women need better access (though this does not resolve labour and cash constraints), the law needs to be tested and women's ability to negotiate in other forums should be supported, while the economic value of non-monetarised labour must be recognised in economic policy agendas.

**In discussion**, it was noted that the diversity of livelihoods and redefinition of households means we need to consider the wider dimensions of issues that interact. The need for more research into the outcomes of this project suggests that its initial objectives be re-visited. But the book provided a great deal of knowledge and information which can be built on.

## **6. WOMEN'S INHERITANCE RIGHTS (ZIMBABWE AND MALAWI)**

**Agatha Tsitsi Dodo** presented the Venia Magaya case from Zimbabwe, highlighting and challenging the dominant stereotypes of law and gender relations in Zimbabwe. She argued that women in Zimbabwe have to brace themselves against a strong patriarchal society, dual legal system and an environment that is politically, socially and economically unfriendly to women. Socially and culturally, women are still considered minors and economically the majority of women are still dependent on their male relatives. Women and Law in Southern Africa (WLSA) Research and Education Trust studied the Venia Magaya case to analyse the judgement and appraise the justice delivery systems that dealt with her case as well as the family structure and the role it played in aiding or impeding her access to justice; they use her story as an example of the problems with interpretation and application of the customary law of inheritance.

**In discussion**, a further appeal to the International Court of Justice in the Venia Magaya case was felt to be justified. It also needed to be exposed in more fora within Africa and should be treated as a regional case, not just a Zimbabwean one. The current law in Zimbabwe was weak and needed to be repealed to protect women. More effective legislation on inheritance is needed throughout the region and more lobbying of governments on this is needed. Constitutions should include protection of women against torture, violence, property and land grabbing and some customary practices which violate women's human rights. There is need to re-conceptualise customary law by lobbying women judges. However, this is difficult and there is need for the international human rights instruments to help pressurise government in the repealing of negative customary laws. Mobilising women in the villages to protest against negative customary practices can be difficult due to fear of violence and because most women are not in decision making roles. Representation of women in various fora within local governance structures is very necessary for purposes of solidarity and in order to advance women's issues. NGOs that reach the grassroots play an important role in helping women exercise their rights. WLSA are prioritising victim friendly courts, community courts, and gender sensitisation in each sector within the justice delivery agencies as some of the ways to improve women's access to justice. The judiciary is very supportive of the idea, but logistical reasons hinder progress. The approach undertaken by the complainant in this case was judicial. It is necessary to look at alternatives, which would explore solidarity (through fellow women) – the suggestion is to use community based social/legal approaches in order to develop lobbying and advocacy initiatives. There

was a need to provide training and sensitisation in gender and human rights to the formal justice structures in order to create awareness and possibly change perceptions, so as to provide the opportunity to circumvent the flaws of traditional justice delivery structures.

In a parallel session on Malawi, **Naomi Ngwira** presented a paper on her detailed research on women's property and inheritance rights, which drew out lessons for the review and implementation of the new National Land Policy in a gender responsive manner. Her results pointed to the need for reform of institutions assigning and securing women's property and inheritance entitlements, including changes in customs, perception, laws and structures for administering and adjudicating ownership and inheritance matters, and policies and programmes related to livelihoods derived from land. Those responsible for implementing the new land policy need to continually look out for the subtleties and nuances that these institutions pose for women's property and inheritance rights which, if ignored, would lead to extensive dispossession of land from women and the poor with negative consequences for their welfare. But officials tend to be very gender insensitive.

**In discussion**, Naomi Ngwira questioned the need for and rationale of the whole land reform process in Malawi – and of access to and inputs into the land policy; such documents needed to be publicly available. Some saw this as a flowing river, in which it was difficult to stem the tide, others asked are we a log floating helplessly or on a boat with some controls? It was good to have research such as this looking ahead, seeking to address problems of perceptions of land rights before registration happens, but women's rights were becoming more insecure. Marriages were not negotiated on neutral ground. The new land law needs to be clear on how land is to be inherited. Customary land can be transferred to leasehold, but can't revert back to customary again. In Malawi, 'custom' is what people did about two generations back. In urban Angola, all children inherit. There is too much uncritical acceptance of Western notions of ownership.

## 7. WOMEN'S LAND RIGHTS IN POST-CONFLICT COUNTRIES

**Nyaradzai Gumbonzvanda's** presentation on this subject sought to contribute from three perspectives. First, it located women's rights to property and to land within the centrality of property issues as usually one of the key elements of conflict resolution and peace agreements. Second, it explored how conflict itself increases the vulnerability of women's access and rights to property, and how the whole institution of property is affected by conflict and its associated impact on women. Third, it attempted to define how peace negotiations, constitutional reforms and reconstruction processes are strategic opportunities for entrenching into legal frameworks issues of women's human rights and their rights to property and land. Her paper concluded with broad observations and recommendations on how this effort could be taken further within a context of globalisation, macro economic governance trends, national efforts of strengthening the legal basis, and linking this to the household reality. She recommended moving the issue of women and land and women's property and land rights from the private domain on family property issues to the public discourse of citizenship rights and the need to continue support for legal literacy and an accessible justice system.

**In discussion**, conflict over land in post-conflict situations should also be considered as an opportunity in that laws and policies are being debated (e.g. in Angola) which provides an opening for inputs from civil society. The element of time influences discussion and debate in post-conflict situations, which is not constructive for discussing the issue of women's access to land, as this is not defined by time but should be seen as a progression over time. We should remember that post-conflict is occurring in a wider context of increasing poverty, globalisation, privatisation and HIV/AIDS. Post-conflict often produces an exit of academics, technicians and specialists (e.g. lawyers) and this influences efforts of women to gain access to land and participate in the debates around land.

On policy, there is need to have provisions in the key legal national instruments and policies that guarantee women's rights; special attention needs to be given to the process of law reform and policy formulation to ensure that local people's views are taken into consideration; for women's land issues

to be addressed, there is need for clear strategies; addressing land should go beyond user rights to making the land productive and looking at alternative livelihoods and support structures e.g. education. On mobilising for change, the role of civil society organisations has to be increased in order to link policy makers with grassroots communities, while women's networks have proved effective in bringing women's issues to policy makers. On the use of human rights approaches, women should be looked at as citizens in their own rights. Locating women in the household implies that their right to property is mediated through the household. Human rights instruments provide a broad framework for protecting women's rights e.g. the UN 1325 resolution protects women's rights in post-conflict situations. This has been an important tool which has been used by UNIFEM in Somalia to request peace facilitators to take gender issues into consideration. On different approaches, the concept of 'Home Based Care' in relation to HIV/AIDS has to be re-conceptualised as in conflict situations families are on the move and their environment does not guarantee a home. Women's right to land should be conceptualised in a broader context of property rights. There is need to develop strategies that preserve women's gains during conflict situations, e.g. conflict tends to weaken patriarchy at first, but then, as communities stabilise, patriarchy re-surfaces in other forms. Women still find other ways of organising and challenging these new forms of patriarchy, e.g. Somali women are reclaiming their rights by documenting their history to show women's contribution during the war.

## **8. WOMEN'S LAND RIGHTS IN PASTORAL COMMUNITIES (ETHIOPIA)**

**Fiona Flintan**, about to start a two-year programme of research on women's land rights among pastoralist communities in Ethiopia, stressed that NGOs found it hard to engage with pastoralist women, while government's focus was on agricultural development leading to industrialisation. It only recognised the need to address pastoralist problems seriously in 2001. This followed a long history of alienation of pastoralist land and growing insecurity. Currently pastoralists do not have secure rights to land, either communal or private, so there are constant conflicts between different land users and over resources. Decentralisation offers opportunities for a greater focus on pastoralist issues. Pastoralists in Ethiopia have progressed along the 'development' trajectory to a lesser degree than many other pastoral groups in Africa, so it is likely that lessons can be learnt from them and the future of pastoralists in Ethiopia predicted to some extent. There are great pressures on pastoralists to sedentarise; the Federal Government aims to see a large percentage of them settled within the next 20 years, which is likely to have an immense impact on 'ownership' and use of land, not least from a gender perspective. There is an absence of an autonomous and vibrant civil society to advocate for women's rights and little evidence of efforts to make women aware of rights or to support them - 'equity in land should wait for cultural change.' It is imperative to examine the difference between the legal and social recognition of land rights as well as between the recognition and enforcement of them. The lesson from seemingly gender-responsive laws and policies in Ethiopia and elsewhere is that women may have legal rights on paper but such rights are meaningless unless they are both socially recognised and enforced. Marital status and the type of marriage (e.g. polygamous) determine women's rights and access to land. The growth of Islam in Ethiopia is likely to be having an impact on women's rights to land, with a tightening of men's control and increased labour burdens. Women's high illiteracy rates are a debilitating factor. Women are losing out under privatisation, with their secondary rights being reduced. Experiences from other countries suggest that pastoralist societies remain highly patrilineal and dominated by men throughout decision making processes. Women often stay at home when men migrate to graze cattle or to find work. They are the ones therefore who have to bear the brunt of oppression. Support networks are increasingly relying on women to, e.g. look after the old. Women have suffered disproportionately from the increasing shift of control over land from community-based ownership to smaller male-dominated elites. Privatisation of property has broken down the support mechanisms that helped poor households by providing gifts and loans of livestock in times of need. Cooperative work groups, upon which women particularly depended for access to additional labour, have also broken down. Thus, women are suffering from loss of animals, labour and land. The insecurity of pastoralists and their vulnerability to famine means that women are often more concerned with fulfilling short-term needs than thinking of long-term sustainable development and management of natural resources. Though sedentarisation of pastoralists in Ethiopia is in its early



stages, there have already been a number of negative impacts on women, e.g. the move to agricultural-based livelihoods means that women have to spend more time collecting water and working in the fields. Well-defined gender roles still characteristic of these societies mean that men rarely help women with their increased labour burdens. The products that women produce, such as dairy products, are often used as a 'payment' for grazing on farmed land.

**In discussion**, the issue of HIV/AIDS and its long-term implications on the pastoralist economy was raised. It was noted that it is very difficult to get a precise figure - it is larger along main transport routes and largely absent in remote areas, while in Kenya the HIV rate is much lower in pastoral areas than in general. A pilot study showed that education of boys and girls was important as a livelihood strategy. Pastoralists occupy about 60% of the land mass in Ethiopia, mostly in the marginalised south. With a very authoritarian history of land reform, people were wary of stepping out of line. Governments were generally at best indifferent, at worst hostile to pastoralists; an early version of the Tanzanian National Land Policy declared that pastoralism should be abolished! In Botswana, livestock production plays an important role, but more fencing to get into EU markets and deal with environmental degradation had led to less communal land being available. In Kenya, the strong influence of urbanisation has led to a rapid growth of urban centres around Maasai areas, where men sell off land to individuals.

## 9. HIV/AIDS AND WOMEN'S LAND RIGHTS

This session began with a presentation on Uganda by Maude Mugisha and concluded with one on Kenya by Cheryl Walker. In between were two extraordinarily moving testimonies by two Ugandan women living with HIV/AIDS, Constance Niwagaba and Edivina Kyoheirwe.

**Maude Mugisha's** presentation was based on a 2002 pilot study documenting 29 cases of rural and urban women living with HIV/AIDS who had land related problems. In situations when a man dies of HIV/AIDS, it is known that the spouse will also eventually die; this prompts the man's (mainly male) relatives to get interested in the property of the deceased, especially land. This grabbing of land and other properties leaves the deceased's family without the basic source of livelihood. Among the 29 cases studied, 26 have strained relationships with the husbands' families due to land wrangles. Fathers-in-law and/or brothers-in-law tried to repossess land after the death of a son/brother claiming that the land was given to the son/brother and not the wife. One study participant was taken to a local court for 'using land that is not hers'; the local court ruled in favour of the woman on the basis that she needed the land to feed her children - not that she had a right to it! Out of 17 rural women, 15 do not have sufficient land for their household needs. The majority of them were not strong enough to work on the land, they hired labour when they needed it. Some of the women with limited land have to sell their labour to get food to supplement what they receive from their own gardens but they are not able to do this, as they grow weaker. The major concerns of women living with HIV/AIDS are poor nutrition for themselves and their children, education of their children, poor housing, the future of their children, their own health and that of their children. Despite their problems, the women are surviving their husbands for much longer. One rural woman has lived with the virus for more than 16 years, 10 of the 17 rural women have lived for more than 6 years after the death of their husbands and are determined to live on. One said: 'We are not just coping, we are living.' They have a motto: 'Disabling the virus before it kills us.' Rural women living with HIV/AIDS are more open about their HIV/AIDS status. Those in the urban setting are not so open because they depend on petty trade and fear they may lose their businesses if their status is known. The rural women have formed support groups and are engaged in income generating activities and HIV/AIDS sensitisation programmes. Urban women living with HIV/AIDS are more isolated, lead individual lives but are trying to form a support group. The women (particularly those in rural areas) attribute their resilience to counselling and their decision to live positively with HIV/AIDS despite the stigma and other related problems.

In their testimonies, **Constance Niwagaba and Edivina Kyoheirwe** spoke about living with HIV/AIDS. Both were part of support groups and were better off because they had some land. Edivina

had been chased away by her husband, had tried to use the courts but was unable to assert her rights at home. This is part of Constance's testimony:

My husband died of HIV/AIDS in 1995. We had been married for 10 years at the time of his death. After my husband died, my in-laws demanded that I leave the home where I had lived with my husband. They claimed that that land and the property belong to them. They took away my property and I had to flee from the house. But I managed to come back. I am better off than most of the women because I have land. Although I am not able to do much work on it, I can hire out part of it and get some income which I use to pay for labour to grow my own food. Many of my colleagues are worse off because they do not have land. As a group, we undertake sensitisation activities on HIV/AIDS in the community, churches and schools. We use songs and plays to educate people about HIV/AIDS and how they should protect themselves. Though weak in body, we have tried our best to do what we can to support each other.

And this is part of Edivina's testimony:

Then my husband started saying that he wants to leave his job. He did not explain to me why he wanted to leave the job. Eventually he left the job. He then started selling property. He sold the family car. He sold some land in the village as well. One day, my daughter found papers in his drawer written on HIV/AIDS or something like that. She told me and I was alarmed. I asked my husband but he became very hostile to me and accused me of having infected him with HIV/AIDS. He continued selling off land and when he tried to sell the land which I was using, I went to the local authorities. He said that it is his land and he will sell it. He mentioned that he does not want to leave any property with his wife when he dies. He said it is his property and he will use it to look after himself. I wanted to move back to the village to live in the house there but he could not allow me. He said that he will follow me there and kill me. My husband has sold all the land which was near Kampala. There was some land in the village which we had bought together and I had signed on the purchase agreement. He has not been able to sell that land because the Local Councils would not allow him to sell this land without my consent.

**In discussion**, women with HIV/AIDS in Tanzania are having problems over inheritance, so TAWLA (the Tanzania Women Lawyers' Association) is encouraging them to make wills, and writing brochures on how to write wills. In one Uganda study, only one woman in 17 had written a will. In Zambia, when a man dies without a will, the state distributes 50% to the children, 20% to the wife, 20% to the parents, 10% to any other dependents. Some men when they fall sick don't want to bequeath property 'for wives to enjoy themselves with other men.' In Kenya, women are encouraged to put their property in their children's name. FIDA-Kenya found it useful to compile a 'memory book', which was a strong tool. In Uganda, rural people are more able to talk openly of their HIV+ status, whereas in Kenya this is easier in urban informal settlements. In Uganda, this was helped by a counselling and support programme based at a hospital, which encourages surviving spouses to form support groups. How can we support this type of capacity building and enabling people to learn from each other? In Uganda, legal instruments are often good, but the social environment ends up reversing the positive rulings of the courts. There was a need to raise macro issues, to lobby governments, for different kinds of credit, and for coordinated UN strategies. It was more difficult to give support in urban areas. Not much money goes into building capacity of grassroots groups. Generally, social services were inadequate. Part of the Oxfam Copperbelt livelihoods programme includes support to community schools for those from vulnerable households, with children older than usual when they start. This is accepted by government which has put its teachers on the government payroll.

Following this, **Cherryl Walker** spoke about the findings from a research project on 'The Impact of HIV/AIDS on Land Rights in Kenya', in which she had been one of the participants. This had been commissioned by DFID-East Africa and FAO-Kenya, in partnership with the Kenyan Ministry of Lands and Settlement. The primary field work was conducted in September - October 2002 in 3 rural

sites (in Embu, Thika and Bondo districts) and two workshops on the draft findings had been held in Nairobi in April 2003. The terms of reference included: the impact on and changes in land tenure systems; the ways that HIV/AIDS affected households are coping; consequences on security of access and rights to land; the effects of changes on agricultural productivity, food security and poverty, with a focus on women; the future implications for land tenure of HIV/AIDS affected households and individuals, identifying areas for policy interventions and future research. The major findings included: that AIDS was undermining tenure security, but not leading to a universal loss of land or land rights (it was one of many impacts on tenure). The extent of impact was related to the interaction of 4 factors: the severity of the epidemic (duration and extent), cultural traditions relating to gender and family relations, the severity of stigma in the community, the tenure status of affected households and individuals. Widows and their children were most vulnerable (with young widows more vulnerable than old), there was limited evidence of land grabbing in the study sites, and distress sales of land due to HIV/AIDS were rare. There were multiple impacts on land tenure systems. HIV/AIDS was not working in a vacuum; there were other impacts on tenure, with their own histories and dynamics, including population growth, social change, the macro-economic and environmental context, and poverty. There was a complex interaction between 'impacts' over time and complex cause-effect relationships between AIDS and tenure. The methodological challenges included: isolating HIV/AIDS as one variable among many, the extent to which one can generalise the findings, ethical challenges relating to social stigma associated with HIV/AIDS, and recognising the relational, socially embedded nature of tenure systems. A summary of the key findings was that: the impact of HIV/AIDS on land tenure is mediated; it differs from other chronic illnesses in two main respects – stigma, and the young and middle age groups are worst affected; tenure insecurity may heighten vulnerability to HIV; land grabbing is not endemic; widows and orphans are vulnerable but not universally so; divorced and separated women are vulnerable too; the value of family land as a safety net is recognised – and sales are resisted; there is potential in developing a land rental market; the land registration system needs reform; generational and not just gender conflict is important; non-AIDS affected households are vulnerable too.

**In discussion**, the research report with summary recommendations was presented to and well received by the Kenyan Government in a context of a constitutional review commission and discussion of land policy. There is a spectrum of tenure rights from informal to formal and degrees to which vulnerable people are able to enforce them. Ways in which women could mobilise in defence of their rights varied greatly, in relation to social status and family networks, but also access to state services and attitudes of state officials. Distress sales of land were rare; people were more likely to sell household assets to pay for medical and school fees. Households not affected by HIV/AIDS were also selling assets for illnesses such as malaria. IFAD's work in Nyanza witnessed a lot of land disputes and dispossession, but also widows and orphans sometimes losing land through a process of 'creeping fences'. Women victims of this did not know what their formal rights were and did not have access to conflict resolution mechanisms. Lots of land was being left fallow in Bondo because of lack of labour, leading to encroachment from other sites where land pressures were high. The 'missing generation' distorts inheritance and transmission patterns to grandchildren. There was a differential impact of HIV/AIDS on different people. Legal mechanisms were not enough – there was a need to look at land in a much wider context, e.g. education and health, so people are not forced to sell land to pay user fees. There is a problem in many areas of the impact of HIV/AIDS on service providers; as staff fall sick, some of these services are collapsing. Therefore, there was a need to simplify land administration because of this. There was a lot of scope for capacity building of service providers, e.g. land information systems need to be decentralised, so people don't have to go to urban areas to register land rights. The stage reached in the trajectory of the epidemic makes a huge difference, e.g. it appears that at this stage there are few child-headed households in Kwa-Zulu Natal, in great contrast to Uganda. There is a need to try to think ahead, but this is difficult because so much is happening at once.

## 10. LAND ADMINISTRATION AND WOMEN'S LAND RIGHTS

**Marjolein Benschop** presented a UN-Habitat paper on best practices relating to security of urban tenure. Under international human rights law, secure tenure was one of 7 components of the right to adequate housing. Her paper covered freehold and registered leasehold (including co-ownership), documented unregistered rights, group tenure, formal undocumented tenure types, and informal tenure types. Best practices included: Recognize and treat informal settlers as having a 'right to the city'. Reassess conventional tenure types and land registration systems and use them in more innovative ways. Strengthen and simplify land administration and processing of records before planning. Decentralize land management responsibilities, including administration of deceased estates, with clear guidance from central land and succession laws. Involve local communities in adjudication process. Prohibit forced evictions by law, provide legal aid, (including community-based paralegals) and recourse in case of violation and simplify court procedures in case of violation. Recognize the important role NGOs play in mobilization against forced evictions. Support training of male and female paralegals who assist legal aid centres, mediate in disputes and raise awareness on the ground. Recognize existing customary land rights. Prohibit discrimination in rights and access to land. In addition to law and policy reform, the following approaches play an important, complementary role to improve women's secure tenure: Awareness raising through media campaigns, land rights information centres, legal aid centres, paralegal networks etc. Training of professionals, government officials, MPs, the judiciary, police officers etc. on the repercussions of gender-based discrimination and on the advantages of implementing women's equal rights to land, housing and property. Collecting, analysing and disseminating gender-disaggregated data and information and integrate this data in all planning and policy formulation. Include urban poor women in design, implementation, management and maintenance of housing projects. Recognize the role of women's organizations in housing programmes, particularly in networking for the purpose of efficient collection and repayment of housing loans. Support peer exchanges with groups who run successful saving schemes. Ensure sufficient representation of women in decision-making bodies related to land and housing, and in community groups. Liberalise credit eligibility requirements by adopting terms and conditions for loans that suit the needs of the low-income groups, particularly women. Simplify collection methods and recognise already existing practices that work well for the urban poor.

**Gaolebe Lekhula**, Under-Secretary of Lands in the Ministry of Lands and Housing in Botswana, presented a paper on efficient land administration as a tool to secure women's land rights. He said that married women still encounter problems – not because of the existing laws and policies – but because of the centuries old perceptions which are resisting change. With more female-headed households and economic opportunities through land emerging, Botswana's land administration system signally recognizes the invalidity of old assumptions that access to land by men will necessarily benefit their female relatives. Government therefore consistently reviews existing land tenure policies, laws and institutional frameworks to bring them in line with changing socio-economic circumstances. The Ministry is currently reviewing Botswana's National Land Policy and women's land rights are among the prominent issues addressed. The emphasis is on the removal of all forms of discrimination against women and to make all policies and laws gender neutral. Although considerable progress has been made in the promotion of gender equality there are still challenges facing the land administration system, notably: that women are still under represented in decision-making positions; although the number of women in the membership of Land Boards has increased, it is still below the 30% considered reasonable; that most women are still uninformed of existing laws, policies and opportunities; the system still has to contend with some conservative customary laws and practices which disadvantage women; the enforcement of all gender based land laws and policy reforms. Strategies needed included: the involvement and appointment of women in key decision-making positions; all statutes with residual elements which still disadvantage married women should be reviewed to provide for a non-segregatory approach to land, in order to influence changes in the lending practices of financial institutions; strategies to raise women's awareness of their rights so that they are conscious of existing opportunities and choices; changing mind sets and or perceptions which are still not gender sensitive; access to land by women must be enforceable and secure against any gender discrimination. The bottom line was that, although Botswana has made significant progress in

reforming its institutional, policy and legal frameworks to make them gender neutral and while on paper there is no discrimination against women in relation to access to land and land rights - in practice there are still challenges regarding the application and enforcement of reforms made so far. Intrinsic cultural influences still play a part in denying access to land and securing rights by women, e.g. the customary law of inheritance.

**In discussion**, there were usually more men than women in land administration institutions because of education patterns; girls are not encouraged to take on science subjects. Women lack access to titles etc. so it was difficult to take cases to Land Boards. They do not contribute greatly to Land Boards because of low levels of literacy. The majority of the poor cannot afford registration; why is it so complicated and expensive? There is a tendency to move towards computerised technology, as opposed to seeking more cost-effective ways of documentation, especially at district level. Huge volumes of files need to be transferred to computers. With decentralisation (as in Malawi), in theory access by women should become easier- but land administrators tend to be technocrats who intimidate women. They often experience sexual harassment in cases of inheritance. We need training in social relations before computers! Uganda borrowed the land board system from Botswana, but there are many problems – the integrity of members is questionable, they often live in the capital and don't turn up in the districts. In Namibia, there has been continuous resettlement of people in search of land, but gender sensitivity is generally poor in the resettlement schemes. Introducing user fees in land administration needs to go hand in hand with disseminating information on the amounts involved, what the money is used for, and how this will benefit communities. Chiefs were recognised in Malawi, Zambia and Zimbabwe as main vehicles for people accessing customary land. In Botswana, chiefs were removed from land administration because they were playing a dual role of distribution and dispute resolution. Women are in a majority in multi-ethnic Kampala informal settlements, but slum upgradings have ignored social dimensions and often led to displacement of people. There is a need to mediate before upgrading slums.

## 11. LEGAL AID AND WOMEN'S LAND RIGHTS

**Christine Ochieng** presented a paper analysing the concepts and definitions of land and property rights in relation to women in Kenya. She examined women's very limited participation in adjudication of land rights. Her paper also enumerated the campaigning and outreach activities of the women's lawyers association, FIDA-Kenya, in relation to advocacy and civil litigation undertaken on women's land rights, including research, training of community and opinion leaders, monitors and paralegals, taking up public interest cases, and spreading legal awareness. This was brought out through a number of cases analysed that FIDA-Kenya has undertaken in the past few years which clearly showed how traditions perpetrate injustices against women in relation to property rights. Paralegals were chosen from the communities, they had to have O level grades plus Swahili and English. They had regular training and were given certificates. They were doing 'first aid in law' and reported violations. They were more focussed in rural than urban areas and were trying to stop men selling off land. Local land boards were often all-male, and generally old men! They have produced an ABC of property law. Paralegals often get into trouble with the Kenya Law Association because they sometimes give advice which is not correct. Some assume they can go to court (which they can't) and some charge fees (which they're not allowed to). The paper took cognisance of the ongoing constitutional reforms and made recommendations with respect to women's land rights. These included the need for land reform processes to provide opportunities for the formulation of more gender responsive policies; women should be made automatic joint owners to family properties; a law should be put in place making it mandatory for women to have a share of their parents' ancestral land; and the government should implement the recommendations of the Report of the *Presidential Commission of Inquiry into the Land Law System of Kenya* (the Njonjo Commission) and the Law Society of Kenya report on land issues.

**Mary Kessi** of the Tanzania Women Lawyers Association (TAWLA) presented a paper giving the background to the enactment of the Land Acts of 1999 and the role played by the Gender Land Task

Force which was coordinated by TAWLA. Most of its recommendations were adopted. The paper looked at the enactment of the Land Acts, which came into force in May 2001, and the steps taken subsequently, including legal awareness programmes (through leaflets and posters in simple language and radio), the legal aid desk in villages aimed at providing timely legal services, and a user friendly legal system to women, training of trainers, law enforcers and opinion leaders, a booklet of procedures, training manual and the formation of a village information centre, proposed amendments to the Land Acts, which were supported by the Bankers' Association and detailed responses from the Gender Land Task Force, which believes the amendments are aimed at liberalising the land market which GLTF firmly believe is premature and is being made hastily without the support of convincing research.

**In discussion**, questioned about the impact of legal aid as a strategy, FIDA-Kenya claimed wide national impact through different strategies; legal aid workers, mobile clinics, open days on human rights in communities, radio programmes, advocacy, training of chiefs. They encourage women to represent themselves. TAWLA's impact is still limited to 3 pilot regions and by creating women's help desks in villages. Both stressed they teamed up with other organisations working on HIV/AIDS and health. This was important in providing added value and holistic benefits. It was not a great problem retaining voluntary lawyers from their large memberships. The paralegals of FIDA have terms of reference, are not employees but volunteers with allowances, so only the really committed ones remain. They act only for women who earn less than Shs 5,000. Don't mobile clinics publicly expose women seeking assistance, and don't they threaten traditional authorities? This was solved by calling them open awareness raising sessions - and then opening a desk in the shadow of the main event. By being open and to some degree blunt with traditional authorities, they hope to modify their attitudes. The dispute resolution role of paralegals was stressed as being at least as important as linking to the legal system, as they settle the majority of cases. Their work could usefully be mainstreamed into other programmes. Governments had a responsibility to ensure a national network of paralegals. Lesotho also uses paralegals and Mozambique is trying to establish a network of them, to look especially at conflicts between the private sector and communities. In South Africa, the Women's Legal Centre takes up test cases; it found custom and religion were most difficult to litigate on. On customary law, only dominant (CONTRALESA) voices were heard and they blocked reform. They had not been able to bring a case to court on succession. There was need for but absence of a coherent law reform process in South Africa. The importance of community mobilisation and organisation in the process of legal reform and access to law and justice should not be overlooked. How to capture and share experiences? FIDA and TALWA both report regularly and disseminate their achievements, but links with other organisations dealing with these issues could be improved. Banks and the juridical systems have rarely been seen as lobby targets thus far; given their importance, this needs more attention. It was difficult to measure the impact of legal aid, especially at the community level. The poorest have difficulty accessing legal support. Maintaining legal aid to the poor through voluntary, pro bono work of lawyers could be achieved by establishing fee levels for those who are able to pay to help cover the costs of those who cannot pay (i.e. sliding fee scales).

## **12. WOMEN'S RIGHTS TO HOUSING, LAND AND PROPERTY**

6 presentations of varying length were given during this session. **Birte Scholz** gave a paper on applying a rights-based approach to women and housing, in which she examined the dimensions of the right to adequate housing, its meaning under international law and the various obligations pursuant to that right, as well as the connection between housing and land rights. Approximately one third of the world's women are homeless or live in inadequate housing. While women perform two-thirds of the world's total working hours, they own less than one percent of the world's property. Each day, thousands of women die of preventable disease, complications in childbirth, and violence. Women and girl children make up 80 percent of the world's estimated 50 million refugees and internally displaced persons, forced to leave behind their homes and lands. In many countries, especially within Africa and South Asia, women are systematically denied ownership and inheritance rights. Women are targeted during forced evictions, especially during times of conflict. In many countries, the majority of

homeless women are escaping situations of domestic violence. A human rights-based approach to housing establishes that everyone, everywhere is entitled to adequate housing. This is enshrined in the Universal Declaration of Human Rights and in other conventions and declarations. What does the right to adequate housing mean? This was discussed in terms of security of tenure, availability of services, habitability, accessibility, affordability, location and cultural adequacy. The obligations of states under each of these were explained. Violations of the right to adequate housing included forced evictions, lack of services and domestic violence. Women and children suffer enormously when forced evictions take place, are often perceived as weak targets, may suffer beating, rape or torture, and the indirect effects of forced eviction are also particularly severe for women. On domestic violence, without anywhere to go, due to a lack of access to housing and land and since housing is usually held in the name of the man, women will often stay in abusive relationships and remain in effect prisoners in their own homes. Unstable or loss of housing can result in heightened levels of violence within the family; in America up to 60 percent of homeless women are escaping batterers at home. The human rights approach gives validity and strength to the housing, land and property rights for women. Actively relying on legal norms can have a very real impact upon those facing problems of housing and land. Governments and non-State actors, all with some obligations to respect, protect and fulfill the right to adequate housing, land and property for women, need to be held accountable. Advocates, activists and allies, and women themselves must work to hold these actors accountable to promote and protect land and housing rights, and to make these rights a reality for all.

**Marjolein Benschop** from UN-Habitat covered similar ground, stressing that women's equal rights to land, housing and property, though firmly entrenched in international law, were still not recognised in all countries, were often related to marital property and inheritance rights and are often blocked by customs, tradition or culture and frequently violated e.g. by forced evictions. The tradition of dowry contributed to the view of women as property who cannot own property in their own right. Without marriage registration (which is the norm) women are more vulnerable on divorce or death of their husband. Alliances or Task Forces of NGOs and CBOs played an important lobbying role and a multi-sectoral approach within Task Forces worked best, while paralegals played an important role in raising awareness on women's rights and in challenging customs. The urban poor lacked secure tenure, while women often also lacked secure tenure within households. 'Formal' property rights administration systems were not affordable, accessible or transparent and excluded slum dwellers and the poor in general. Slum dwellers lacked basic rights, such as privacy, sanitation and security. Women were more affected, as they were prevented from properly managing their physical safety, reproductive health and sexuality. She argued that privacy, security and sanitation needs of women must be specifically taken into account in slum upgrading planning, and that all members of land and housing offices, the judiciary, the police etc. must be made gender aware through training sessions; while support for women entrepreneurs and home working projects should be an integral part of any slum upgrading initiative. There was a need to work at international, national and local levels on education, awareness raising, policy making and exchanging good practice. She concluded by mentioning a UN-Habitat pilot project in East Africa seeking to empower urban women entrepreneurs through housing development and land ownership and development of tools on women's secure tenure, flexible tenure types and affordable land management systems.

**Janet Walsh** spoke to her Human Rights Watch report, *Double Standards: Property Rights Violations in Kenya* (March 2003), which described the abuses of women's rights to own, inherit, and control land and other property in Kenya; the discriminatory laws and practices that contribute to violations; and the devastating consequences, including poverty, homelessness, illness (including HIV/AIDS), and vulnerability to violence. She covered Human Rights Watch's advocacy on this issue in Kenya, regionally, and internationally. The findings included unequal inheritance by widows and daughters, the relationship between wife inheritance, cleansing rituals, and property rights violations, violations of divorced and separated women's rights to family property, and married women's lack of control over family property. Contributing to this were discriminatory laws and practices, biased attitudes, unresponsive authorities, ineffective courts, and other obstacles such as women's low level of knowledge of

their rights and lack of resources to pursue them. Fundamental advocacy goals should include constitutional and legislative reforms, programmatic and institutional reforms, human rights education and awareness-building, the regional and international standard setting, increased assistance and pressure from international organisations and donor countries.

**Esther Mwaura-Muiru** showed some graphic photos and spoke about the work of GROOTS Kenya in the Mothers Development Centre in the Mathare slums in Nairobi. Over 25% of the urban population in Kenya live in absolute poverty and have no access to land, the majority being women. Over 70% of the c.1.5 million people living in the high density (1200 per ha) Mathare slums earn less than a dollar a day. The Mathare Mothers Development Centre represents a grassroots community initiative (led by women) living in Mathare slums, bringing together 26 self help groups to address common challenges and offering a physical space for women, mostly aged 20-35. This is essential for advancement of communities – a day care centre, for meeting and planning, training and capacity building, and income generating activities. The majority of women between 20-35 living in Mathare slums have no access to land. They are traditionally socially and economically marginalised and are more vulnerable to HIV/AIDS because they are at the peak of their reproductive life. Young girls born in the slum generally marry at between 13-20 years of age, will not have completed basic formal school or any meaningful technical training which compromises their bargaining power in marriage and elsewhere. Seizing of property by separated husbands or the dead man's family has become a common phenomenon - hence rural-urban migration. There is no more land in Mathare for allocation or distribution; the majority is now in the hands of private developers. The Centre had provided a psychological and social haven for poor women living with HIV, peer learning and a support group, capacity building, external linkages and networks, collective bargaining power, safety for children, giving mothers an opportunity to earn a living, and a bridge over ethnic divides. Utilising people with HIV/AIDS to share their personal life experiences helps individuals to better perceive the reality of HIV/AIDS and enhances individuals' intention to change behaviour and strive to live. The mainstream donor world had proved rigid about addressing basic needs WITH grassroots communities.

**Jan Peterson** spoke briefly about the work of the Huairou Commission in developing a global Working Group on Women, Housing, Land and Property. Lots of groups were coming together. Where were the strategic opportunities to make a difference? The Working Group seeks to integrate and entrench the human rights and development perspectives: human rights alone is not the answer, nor is working on the ground. In order to effectively and sustainably tackle the problems of women and housing land and property, a combined effort must take place. Work on the ground must be done with a human rights perspective, and work at the human rights level done with a development perspective.

Finally, **Winluck Wahi** of the International Commission of Jurists spoke about its Access to Justice Initiative, which focuses on women's rights, labour rights, health rights and the right to fair trial. The basic assumption is that international human rights standards are relevant as a source of norms as well as a source of sanctions. This involves strategic litigation trying to get international conventions put into practice, applying human rights standards in ordinary courts, e.g. on HIV/AIDS and access to information in South Africa, and on inheritance. The ICJ works to support, promote and strengthen national legal systems that protect human rights and the independence of the judiciary. In some African countries you can take governments to court, in others not. It can be useful to expose governments internationally. International law was a continuation of national law. Litigation was one among many strategies – domesticating international rights. The basic strategy is to develop test cases around strategic issues under the thematic areas while working directly with the national lawyer. Customary practices which violate human rights are wrong! They are wanting to bring lawyers together to develop task teams.

**In discussion**, African governments were said to be more sensitive to international criticisms than to criticisms from within. Slums have problems, but can also provide opportunities for women, which are denied elsewhere - a space for organising, accessing land, escaping from domestic violence and for



having a livelihood. Need to ensure that opportunities are maintained in slum upgrading, which needs to be done in ways that enable people to stay. How to use the tools and initiatives presented in our work? The applicability of UN-Habitat's proposed affordable tools on accessible land management systems were questioned in a context such as Mozambique's, with its centralised and weak government systems. This was acknowledged; hence the need for innovative tools. Why had ORAM in Mozambique not been very successful in bringing cases to court? The answer was that strong and effective lobbying was more appropriate, as the legal system was so weak and unreliable. We need to take the rights discussed in the presentations to the African level, use the SADC declaration on gender and violence at the AU heads of state meeting in Maputo. We need to share information more actively. Bilateral donors and donors in general are becoming too rigid, they withdraw support from NGOs and are too much focussed on direct results; they need to support *process*. There was a need to take the Magaia v. Magaia case further – the African Commission on Human Rights, Special Rapporteur Angela Mdo, and the ICJ can assist in bringing international jurisdiction back to Zimbabwe. GROOTS Kenya wants international organisations to build on existing experiences rather than build something themselves. It became clear that even within UN agencies it is an uphill struggle getting gender and land property issues on the agenda; those within the UN asked for support through other channels to put pressure on these issues. There was a request for an email server to keep participants in touch. A number of clear opportunities for working together were pointed out. There is need to find out how effective paralegals and NGOs find international instruments to be in their work. The issue of women's land rights needs to be located in African regional instruments e.g. the African Charter on Human Rights, NEPAD and the SADC declaration on gender and violence, the East African Legislative Assembly. International instruments need to play a role on women's rights violations at the grassroots level. In Mozambique, the land law allows women to own land but there is no land policy in place which makes land administration difficult. Legal and policy reforms do open up opportunities for civil society to push their proposals. There is need for women organising for change, so strategies need to be devised on how land alliances can effectively share information at the regional level.

### 13. DISCUSSION OF WORKING GROUP PRESENTATIONS

The workshop divided into 4 working groups, reflecting the earlier presentations and discussions. They were on: land rights and legal reforms; legal aid and land administration practice; women's land rights in an HIV/AIDS context; and women's land rights from a food security and livelihoods context.

The groups were asked to:

- identify key elements of effective strategies based on experience and achievements to date;
- identify gaps in strategy and approach to women's land rights issues from regional experience;
- and to define next steps, including:
  - is there need for broader alliances of organisations to make land rights a 'non-specialist' issue? If so, how can that be done?
  - should there be a scale-up of programme work and/or research?
  - is there a need for establishing links to other programmes for better impact, or to improve social acceptance and support? If so, how can it be done?
  - Is there a need for other social and economic support to enable women to establish and use land rights? If so, what needs to be done?
  - On effective integration of a focus on women's land rights into livelihoods programmes.

The full reports back of the working groups can be found in an **Appendix** to this Report. What follows is a short record of the discussions following each working group presentation.

#### **Working Group 1: Land Rights and Legal Reform**

Litigation and test cases were important, but there was a need to go beyond legal action and the group actually focused a lot on non-law strategies. You can take forward law reform through decentralisation processes and changing practice at the local level – the 'competition approach'.

### *Strategies:*

- Need to use existing networks, e.g. [www.oxfam.org.uk/landrights](http://www.oxfam.org.uk/landrights)
- Draw on positive community practice, e.g. chiefs giving land to women, daughters inheriting land from fathers, and try to institutionalise these practices – but it's hard to do this and can sometimes be problematic.
- Need to address political will – not just to do with land, but also men's resistance to women's claims – the history of ambivalence, bad faith, broken promises.
- Need to look more at urban-rural interactions over land rights.
- Face to face communication and dialogue, especially multi-sectoral as in this workshop, is infinitely preferable to electronic.

### **Working Group 2: Legal Aid and Land Administration Practice**

- Can legal aid be an effective tool for women's land rights? Mediation is an alternative. Lesotho has tried to build the role of mediators into the legal framework to resolve land disputes.
- Not enough lawyers to deal with land issues – so you need paralegals, but they need to be aware of the limits of their role.
- Public interest litigation (e.g. the South African Legal Resources Centre) can be effective, but it's difficult for these cases to benefit the individuals involved. So there is need for awareness raising and for NGOs to make people better aware of the anticipated benefits from such cases.
- NGOs still see themselves as doing part of governments' job in offering legal aid - governments should address this issue more effectively. But some rights abuses stem come from the law, so there is need for law reform.
- Need to have bodies in place to monitor and report violations of UN conventions / legal instruments. Need to litigate on the basis of international declarations.
- A proposal could be sent to African Union delegates in each country to put issues of women's land and legal rights firmly on the AU agenda.
- Need for specific responses in specific contexts, given diverse land administrations, the urban / rural dichotomy, and whether areas are governed by statutory or by customary law.

### **Working Group 3: Women's Land Rights in an HIV/AIDS Context**

#### *Stigma*

- strategies should not be confined to disclosure and testing.
- emphasise the need for local support groups for people to disclose their status.
- it can influence violence and dispossession.
- need to focus not just on those HIV-positive, but on families and communities.
- need to build grassroots dialogue within communities.

#### *Tenure and legal rights*

- Lobbying from Mozambican civil society contributed to the consultative process.
- Need to recognise the dynamic nature of custom and to build on positive practice.
- A multi-sectoral approach is needed.
- Danger of privileging AIDS and need to focus on the wider context of vulnerability, otherwise non-AIDS affected widows etc. can be excluded.

#### *Ways forward*

- Need to bring together with results of mitigation strategy of HIV/AIDS on agriculture.
- Years of research plus workshop a few weeks earlier agreed to try to distil lessons from experience, but we are still struggling for the way forward.
- There is a capacity threshold capacity at the household level, beyond which distress sales, vulnerability, and rural-urban migration increase. Government investment in social services can be critical in mitigating this.

- The lack of coordination among the many organisations working on these issues reduces impact.
- Little is harvested from the ground to see how people are actually coping.
- There are success stories, but they are not easily accessible or well known; we need short and simple communication messages, e.g. videos to get messages into villages.
- The grassroots women's academy 21-25 September in Kenya before ICASA - bringing communities together to learn from each other and inputting into the conference – will emphasise the need for donors to learn from what communities are actually doing.

#### **Working Group 4: Women's Land Rights from a Food Security and Livelihoods Context**

- The presentation covered the importance of building links between rights, multi-sectoral livelihoods issues, community-based and policy levels.
- Need to learn what is happening on the ground; how can women get power in negotiation in customary settings?
- Community-based action research is needed, as is research on how customary practice is changing. Local practices and law often do not sit well together.

### **14. KEY ACTION POINTS**

#### **1. Advocacy**

- Need to continue with work around law reform and ensuring that women's rights are taken on board.
- Legal aid and social services - alternative dispute alternative resolution mechanisms.
- Continue community mobilisation and engagement.
- Resource allocation for investment in the national budget to address issues of women and land e.g. gender budgeting initiatives.
- Continue the multi-sectoral approach.
- Improve funding for social services.
- For decentralised structures to support women's issues.
- Law and policy reform at sectoral and broader macro-economic processes.
- Change the nature of how development workers work with the poor so as to be linked to community empowerment.

#### **2. Research**

Existing researches need to inform advocacy, support partner capacity building, and be linked to policy and action. The areas for further research are:

- Need to understand the implications of land tenure systems on women in the short and long term to be able to come up with evidence-based analysis for both rural and urban women.
- Build on the study from Lesotho which shows that customary practices could be shifting to protect widows and orphans, but the customary laws have not changed.
- Understand better the different legal systems in the different countries.
- Continue the interface between policy and practice, including identifying policy gaps (e.g. Oxfam GB consciously seeks in its programme work to promote policy and practice changes).
- The issues of stigma in the context of HIV/AIDS and how they link to women's land issues.
- Issues of security and ability to use the land associated with stigma that can increase vulnerability.
- Have communities taken part in the research and has the research benefited women?
- Document customary practices at the different levels.
- Environment changes and how they affect land.

#### **3. Networking and dissemination**

- Community participation.
- The multi-sectoral approaches strengthen networking at various level.

- There is need to continue building a movement around these issues and a need to move beyond traditional partners to others doing similar work.
- Need to continue sharing experiences, generate best practices, share knowledge e.g. pilots and replications, creating innovative ways to share information.
- Need to network around monitoring women's human right violations and use the information to support communities but also to raise issues.
- Impact litigation.
- Support communities to share experiences with each other.
- Researchers need to develop concrete partnerships with the grassroots.
- More resources need to be invested.
- Invest in more community ownership
- There is need to work with the media to disseminate information.

#### **4. Capacity enhancement/development**

- We need to deepen our conceptual base on broader issues e.g. linking human rights and livelihoods approaches in terms of recognising women's contributions and carrying out responsibility analyses.
- Enhance capacity around community engagement, awareness and protection of rights, and negotiation skills.
- Enhance government partners on issues of gender equality and equity and land and work with different line ministries at all levels and also at the regional level.
- Build the capacity of women to negotiate on issues concerning their lives and property.
- Grassroots women need to be brought into the national level and into decision making.
- Ministries of Education are critical for the enhancement of women's land rights; there is need for gender issues to be better incorporated into the curricula.
- Need to put together research information as a baseline to act as a monitoring tool.
- Private sector partnerships need to be explored but there is need to identify which issues would be addressed in them.
- Invest in communities to help them document their own experiences.

#### **5. Existing opportunities to take forward**

- Continue existing networking but also that generated by this workshop.
- The AU summit is taking place in Mozambique, so the representatives from Mozambique should take the opportunity to raise specific issues.
- Need to take advantage of the September ICASA conference on HIV/AIDS.
- Many countries are going through PRSPs, land reform, and constitutional reform processes – these need to be better linked.
- Every individual at the workshop is committed to women and land issues so needs to take them up in appropriate ways and places.

## Concrete Follow up Activities Proposed

Organisation	Activity	Potential partners	Timeframe
ICJ	International Commission of Jurist (ICJ) shall organise a regional training workshop for women lawyers' associations and NGOs on strategic litigation	Women lawyers' associations (TAWLA, WLSA, Women's Resource Centre in Swaziland, FIDA Lesotho and Kenya, etc.)	August 2003
UNIFEM, WLSA Zimbabwe, ICJ	Follow up to Venia Magaya case as a renewed test case of strategic litigation		to be specified
UNIFEM Eastern and Horn of Africa	Lobbying with OECD gender advisers during their meeting on mainstreaming gender in the PRSP to be held in Nairobi in September 2003	FAO, UNHabitat	September 2003
UNIFEM Eastern and Horn of Africa	Lobbying with AU meeting in Mozambique	UNIFEM Southern Africa	August 2003
Groots Kenya, OXFAM Angola, OXFAM Zambia, Novib	Study visit to Mathare slum home based HIV/AIDS care group, Groots Kenya by OXFAM Angola and Zambia	Mathare Home Based HIV/AIDS Care Group	to be specified
FAO, EASSI, Ministry of Womens Affairs in Namibia, Groots Kenya	Formulation of projects on support to the survivors of land and property grabbing in Namibia, Kenya and Uganda	OXFAM country offices, Ministries of Lands, Agriculture, Gender, Justice, grassroots organisations, land sector NGOs, HIV/AIDS NGOs	September – November 2003
Groots Kenya and Houairou Commission	Advocacy at ICASA conference in Nairobi in September 2003 on land and property rights of HIV/AIDS affected with focus on widows and orphans	Grassroots organisations in African countries working on HIV/AIDS care	September 2003
OXFAM participants (OXFAM groups held pre- and post-workshop meetings to seek ways forward with women's land rights as a part of OXFAM future work on land rights)	Key issues in Angola, Kenya, Malawi, Uganda Zambia and Mozambique and actions points were discussed including advocacy and sensitisation, paralegal training, cross regional collaboration, mainstreaming the issues in PRSPs, NEPAD, global trade campaign, etc.	UN agencies, national land alliances, land experts in each country	Long term

## 15. CLOSING REMARKS

**Kaori Izumi** emphasised the need to work together and identify best practice for replication. A number of initiatives exist at the grassroots level which need to be identified and supported. Women's land rights need to go beyond development approaches and customary practices. A position paper will be written to facilitate lobbying. FAO was involved in a regional study on women land rights and had made research grants for Namibia, Uganda and Kenya. She thanked Oxfam for funding the workshop and the two Ugandan women who shared their HIV status and the challenges they were meeting. She urged participants to continue networking.

**Robin Palmer** thanked all for attending the workshop; it was great that so many people so seriously talked, listened and learned from each other, both inside and outside the workshop. In short, and in the words of Tina Turner, it was 'Simply the Best'.

## 16. CONCLUSION

The 3-day workshop provided an excellent space in which delegates were able to engage with challenging issues in a positive and open environment. There was considerable interest in a follow-up event taking place in due course, at which issues could be revisited and progress measured. In the meantime, the organisers are investigating options for publishing a selection of the papers and presentations, in order to disseminate the discussions more widely.

**APPENDIX I:  
FULL REPORTS OF THE WORKING GROUPS**

**GROUP 1: LAND RIGHTS AND LEGAL REFORM**

**GROUP 2: LEGAL AID AND LAND ADMINISTRATION PRACTICE**

**GROUP 3: WOMEN'S LAND RIGHTS IN AN HIV/AIDS CONTEXT**

**GROUP 5: WOMEN'S LAND RIGHTS FROM A FOOD SECURITY AND LIVELIHOODS CONTEXT**

At one point, the workshop divided into 4 working groups, reflecting earlier presentations and discussions. They were on: land rights and legal reforms; legal aid and land administration practice; women's land rights in an HIV/AIDS context; and women's land rights from a food security and livelihoods context.

The groups were asked to:

- identify key elements of effective strategies based on experience and achievements to date;
- identify gaps in strategy and approach to women's land rights issues from regional experience;
- and to define next steps, including:
  - is there need for broader alliances of organisations to make land rights a 'non-specialist' issue? If so, how can that be done?
  - should there be a scale-up of programme work and/or research?
  - is there a need for establishing links to other programmes for better impact, or to improve social acceptance and support? If so, how can it be done?
  - Is there a need for other social and economic support to enable women to establish and use land rights? If so, what needs to be done?
  - On effective integration of a focus on women's land rights into livelihoods programmes.

Below are the full reports from the 4 groups.

**WORKING GROUP 1: LAND RIGHTS AND LEGAL REFORM**

**1. Some Gaps Identified:**

- Lack of political will - promises made are broken; law reforms do not reflect input from communities; governments unwilling to negotiate; bad faith and ambivalence.
- Class and power relations are uneven - governments are greedy; negotiation processes are uneven.
- Complicated systems of law; laws not implemented - often made more complicated by new laws written by outsiders; communities do not know laws; laws do not address the linked issues, are too narrow.

**2. General elements of effective strategies for Law Reform:**

*The focus in all strategies should be on solutions rather than problems.*

*Multi-stakeholder approach at all levels:*

Involve legal and non-legal actors alike, must be involved at the very outset of law reform process, builds credibility and support for issues.

Examples are: Communities; NGOs/CBOs; media; local authorities; national governments; international community, donors.

Set primary goals from the very beginning and ensure that all have the same ideas in mind.

*The various roles that each actor plays:*

- Communities: give input as to their own needs, provide ideas for solutions.
- NGOs: receive and transmit input from communities to 'higher' levels of authority, breaking down laws, assisting in identifying issues, creating a credible space with governments and authorities for the communities, training and capacity building for communities and governments to ensure they are aware of and address communities' needs.
- Media: spread the word, attract attention of nation, world, inform re law reform, pressure governments to keep promises.
- Local authorities: must act as intermediary between civil society and governments, must push for reform at the local level and ensure that it is reflected at national level.
- National government: responsible to ensure all needs are reflected, must seek input for laws, must ensure rights standards are met.

- International community: must put pressure on national governments to ensure human rights obligations are met, shame governments which do not comply.
- Donors: can put pressure on governments to change, support solutions.

*Media attention:*

Start a media campaign on the need for law reform and the government's unwillingness to work with the nation.

*Build credibility with governments:*

Must often be done slowly, in a non-confrontational manner. Again, situational specific.

E.g. In Malawi, a non-confrontational, cooperative process was employed - civil society made appointments with government to provide input into policy, a special Task Force was created consisting of civil society and government. Sadly, in the end, the policy came out contradictory to the input that was given.

*Information dissemination:*

Civil society must ensure that information is spread to the communities in order to get them involved.

E.g. WLSA has employed the use of information booklets, in which inheritance laws are put into five languages, simplified and spread throughout communities to let them know of their rights and to see where the needs are for law reform. Additionally, WLSA has generated posters and put information into the print media. It is important to make information simple for communities; they know what they want and need and, when they know the law, they will know what changes are necessary to make it work for them.

*Critical mass campaign:*

Taking on board all stakeholders, legal and non-legal alike, to begin a mass campaign - involve the media, national and international, organise marches and demonstrations, advocacy such as mass letter writing campaigns. If necessary use the justice system to get needs addressed.

While a confrontational route may close the door to some avenues, it is often the only effective means of at least addressing the basic issues. However, the utility of such a campaign must be weighted carefully with consideration given to many factors.

*Use of domestic legal system:*

Apply to the Courts to demand legal reform or to enforce implementation of law reform. Make persuasive arguments on human rights standards and norms as well as comparisons with other countries in similar situations.

*International pressure:*

Approach the United Nations, other governments and international bodies and NGOs to assist in pushing for law reform. Can apply international pressure in the context of human rights norms and standards as well as political pressure.

*Build upon the history of land reform*

Consultations must start early and be very well carried out, where each side knows what the other is doing. This is a slow process, and does not always result in success. Often, the outcome document does not reflect that which was desired.

E.g. Uganda, land law reform consultations went on for 7 years; in Tanzania for 10 years.

*NOTE: These ideas are very country and situation specific depending upon the (1) the political feel of the country (2) the level of government control/involvement (3) the potential that the government will comply (4) the nature of the reform, (5) public support for the reform, (6) access and effectiveness of the justice system, etc.*

**3. Specific Gaps Addressed:**

*Contradictory output document: legal reform does not reflect consultations:*

Often, law reform results in laws that are contradictory to negotiations made during the law reform process. How can this be addressed?

It is always best to ensure that government is involved in negotiations at all stages, and that dialogue between government and communities is open. Information flow must be consistent. Credibility must be concrete, and support must be given from all levels, from community to international. These stakeholders should be brought in early on, at the initial stage, for fear that bringing in more stakeholders at a later time may serve to undermine credibility (putting government on the offensive that more players have been brought in to point fingers).



E.g. if the donor community is brought in at the initial stage, when solutions are being formed and agreed upon for law reform, they can serve to support such solution rather than merely point fingers at governments and tell them to change.

*Complicated laws:*

As rights do exist already, establishing a new system of rights often undermines the other, and opens it up to unintended legal consequences: it is often difficult to intervene in an arena impacted by so many other rights. Another problem is that often the new laws are written by outsiders:

E.g. in South Africa the Communal Land Rights Bill will replace the old bill: the Department of Land Affairs and consultants writing the latest draft had a team of international experts but can't get it right as there are so many other existing laws that serve to undermine and conflict with the new one.

It is important to include communities' inputs, consultations with lawyers and parliamentarians, bring it back to the communities for further input, and then back to parliamentarians, and back and forth in this way - however this is a slow process. Try to get commitment from governments along the way, and ensure a way to hold them to such promises (see 'media campaign' or 'international pressure' above). This will ensure that all voices are heard at all stages. Additionally, various national and well-informed international experts can join in to interpret existing and new laws.

*Bad faith by the government:*

Often governments act in bad faith and go back on promises. This is where a media campaign to expose such bad faith can be useful. International pressure and attention may also be useful.

Often, people say 'do not bite the hand that feeds you' if the government has kept some promises and reneged on a few. One must remember that law reform is not charity - it is an upholding of people's basic rights, and thus it should be a comprehensive and thorough process - even if governments have conceded on some issues, it is important not to lose sight of all necessary reforms and continue to push for those. It is not inappropriate to attempt to hold governments to their promises and obligations, either via international pressure, media pressure or the justice system.

E.g. FIDA-Uganda is bringing a case on poor constitutional reform.

*Law trickling down or from the ground up? - implementation of law reform:*

Where does law reform really take place? Drafting v. implementation of the law - law reform is only effective if it is implemented.

Must ensure that ownership of the law rests with the people. Education of the law reform process and outcome is necessary to facilitate the people's enforcement of their own rights.

It is important to show people HOW the law is made, not just how it affects people. If you can show that the people can influence the law, then they gain ownership of it, and if they are able to participate in the making of the law, they are able to exercise their rights as citizens, and can thus really feel a part of the law. Also, it is important to show people how the law in existence may be used to better their situations.

*Urban and rural link:*

It is always important to maintain the link between the urban and the rural and not separate the two; to see that the issues are overlapping and law reform should address both. It is especially important that this link be addressed in the context of land reform. Both urban and rural voices must be heard at the negotiating table.

**4. Other strategies/means to achieve legal reform:**

*Use of paralegal networks:*

Sometimes problematic: e.g. in Uganda, there are often problems with acceptance by the communities and local authorities; often paralegals seek payment, do not want to work voluntarily, lack motivation, or misrepresent information: Training courses for paralegals are needed, and some remuneration may be necessary.

*Cultural strategies:*

- Participatory methods of gender sensitisation.
- E.g. Zambia - worked heavily on sensitising the chiefs on issues for women, however still not implementing land policies in favour of women.
- Sensitisation is a long process, and cannot take place in one workshop or on one day.

- Education campaign on the ground needed.

It is important to show HOW the law reform works or affects people, rather than just talking about it - must show examples on how to use it.

*Decentralised approach:*

Finding entry points on the ground, at the district level. The district level is a smaller unit to work with, and often provides a more sympathetic or open arena for addressing women's issues. It also enables easier information dissemination and is more accessible for lobbying. It is important to complement law reform with work at the district level.

Approach district level authorities to implement national law reform, or push along national law reform, or establish their own reforms to the extent that they are able to reflect your constituents' needs.

*Competitiveness:*

It often pays to have players 'compete' against each other. In the case of national law reform, it may help to get several ministries involved, e.g. the ministry of gender and employment, encouraging each to further their particular area of concern in law reform. In local areas, encourage competitiveness among district authorities, to drive issues of women's land and housing rights forward.

*Best practices:*

- Build on best practices and translate these into the national institutional level. The gains people make on the ground must be reflected at the national level.
- Focus on solutions coming from the ground: e.g. in Eastern Uganda it is a patriarchal system; however fathers are giving their daughters land, as they know they will take care of them. NGOs could emulate this and further it at the national level.
- It is important to realise that gains are not only made in the reform process, but also in the struggle itself, the people's struggle. It is vital that this process be articulated into practice at the national level.
- It is important to capitalise on successes and lobby for these at all levels.

*Take stock:*

Who has benefited from law reform, what is the government doing, what are civil society doing, reassess, perhaps law reform is not the best method, try and work with what you have through awareness building, new strategies for advocacy and capacity building.

*Revolutionary tactics:*

Marches, demonstrations, and civil disobedience are sometimes the only option. E.g. in Zambia, people are staging protests and being arrested to ensure that citizens' voices are heard in the constitutional reform process. 'Constituent Assembly' is a ribbon campaign to advocate for people's direct involvement in the new constitution.

*Regional network:*

Important that networks are formed, especially during crisis situations, for both learning and support. The networks should cover the entire region, as many of the issues are similar throughout the region and may have already been successfully addressed elsewhere.

A network does not need to be an email list serve, or something constant, with ongoing correspondence. This takes time and resources that many organisations do not have. It was suggested that a non-specialist, broad coalition, where local civil society groups rise to the regional level on occasions where advice and solidarity are needed, would serve the need for networking best. It would be ideal to have one centralised, separate organisation (right now, this person seems to be Robin Palmer) which has its finger on the proverbial 'pulse' of women's land rights in the region, and who can be turned to for direction especially in a crisis situation. Furthermore, it was suggested that one person in each organisation act as a 'focal point' for purposes of contact and correspondence when necessary. This person could be made known to the central agency, and could be contacted if a question arose which may be pertinent to that particular organisation.

## **WORKING GROUP 2: LEGAL AID AND LAND ADMINISTRATION PRACTICE**

### **BOTSWANA**

#### *Communal land and state land*

- 50 year lease land belongs to state.
- Land can only be used for the purposes for which it was allocated.
- For serviced land, the land allocation is categorised into levels of an individual's income, with high income earners subsidising those less well off, e.g. the self-help housing agency.
- Government gives credit to people to purchase and buy building materials on a 15 year loan period; this facility has been extended to rural areas.
- Poverty alleviation scheme – a pilot programme.
- Freehold tenure system: privately held land excised from communal land only needs planning permission from government.

#### *Acquisition of land*

- Accessing land is now gender neutral.
- Land Boards were male dominated.
- In the past, women could only access land through male relatives.
- Over time land administration has evolved, women do not need to tie themselves to male relatives in order to access land.
- Married persons in community of property cannot access credit facilities and cannot register property in their own names.
- Patriarchal legacy – women still cannot register property in their own names.
- Women do not have enough information on what their rights are.

### **KENYA**

#### *Acquisition of land*

- Trust lands owned by county councils (10 year lease); they give restrictions on what you can do. They can also take the land away from you. Women get dispossessed.
- Land adjudication process: in cases of disputes, a claimant can get a title and have other people evicted, which is unfair to people who do not know about their rights.

#### *Flaws in the law*

- Act governing the sale of land states that the husband can sell the land without the wife's consent.
- Women do not really stand a chance when they try to stop the sale of land.

#### *Deceased estates*

- Widows' interest in the land is terminated either by death or remarriage.
- Divorce laws state half share, but this is not automatic, women would still have to prove their contribution made to the estate.

#### *Private land*

- Most farming on agricultural land takes place in freehold land.
- District Commissioners allocate land to the people.

### **LESOTHO**

#### *Acquisition*

- Women married under customary law: the Deeds Registrar shall refuse to register title in the name of any woman if she is governed by customary law.
- Women married in community of property shall only register title to land if they have written consent from their husband unless it is in the possession of the women as a result of a bequest.
- Women acquire land in the name of their parent in order to have the land transferred to them. Land acquired as donation is excluded.
- Inefficient administration of land matters; fragmentation of legislation leads to inefficiency.

#### *Land Act (law reform)*

- Widows may acquire land rights as held by the previous husband because traditional leaders used to evict women from the land; sometimes this would be done by the male heirs.

- There remain contradictions in the manner in which the law still discriminates against women who are married in terms of customary law because of the minority status conferred to women.
- Law reform in the Land Act. Preamble to the legislation: equal rights application to their male counterparts; makes legislation gender neutral.

#### *Paralegals*

- Organisations like FIDA (women lawyers) work with voluntary paralegals.
- Paralegals operate from village levels. They refer people to lawyers, but are not trained to draft papers, but do represent parties in negotiations.
- Training of paralegals needed to update them on law reforms.
- Chiefs have begun to listen to paralegals when adjudicating disputes.

### **MALAWI**

Laws are in place but women are often not aware of them.

#### *Process of acquiring land*

- Different on freehold, customary and public land.

#### *Gender neutral*

- Waiting list for allocation of plots which have been serviced; it matters who you know and how you fill out the forms.
- Plots can be withdrawn if a person is unable to develop the land and is then allocated to someone else.
- Need to have a sound development plan.
- Information – people have to constantly check.

#### *Rural land*

- Inefficient administration.

#### *Customary law*

- No committee which allocates land and the chief can allocate alone.
- Land not registered so in patrilineal communities widows cannot stay in the plot
- How do you register bits and pieces of land if registration finally starts?

#### *New land reform*

- Land administration clerks trained in surveying, land use planning, and registration; this needs to change.
- Trying to decentralise the services, but only trained 30 so far.
- Need for assistance and sensitisation.

### **MOZAMBIQUE**

Lands belongs to the state

- In rural areas, Ministry of Agriculture encourages a debate, then allocates land.
- Council of 9 (made up of traditional leaders and local authorities) makes decision on whether the land is free and how it should be allocated.
- Civil code covers both parties to a marriage: the inheritance hierarchy is children, parents, siblings, spouse.

### **SOUTH AFRICA**

#### *Land administration structure*

- Created Communal Property Associations (CPAs) where claimants get land through the Restitution process.
- Democratically elected tribunal to administer the land.
- Communal Land Rights Bill - worried about the exclusion of women if land is in the hands of the chiefs.
- Communities have choices on land administration structure.
- Women's voices cannot be heard if women do not participate; their participation is still problematic.
- Participation of women in community structures limited, as very few women are in traditional structures.
- Asking for quotas in women's representation.

#### *Allocation of land in urban setting*

- Often Permission to Occupy not granted because of changes in land ownership.

#### *Legal aid*

- Justice Centres – state delivering legal aid.
- NGOs.
- Rural Legal Trust set up to provide day to day legal assistance and finance lawyers in provision of legal services.
- A useful function of paralegal work is to get lawyers working in communities.
- Accessing litigation funding – long waiting periods.
- Legal aid is developmental.

## **SWAZILAND**

### *Legal framework*

- Deeds Registry Act of 1967 provisions relating to women - Section 14: Title deed land:
- No legal impediments for single women.
- Those married in community of property cannot have the property transferred to women who have not excluded the marital power.

### *Swazi law and custom*

- 60 percent held by the king in trust.
- Divided into chiefdoms with the power to allocate land to subjects.
- Only married man can access the land.
- Single women cannot access the land unless with the help of a male relative.

### *Draft constitution*

- Gender sensitive language.
- Right to own land to everybody.
- A council of chiefs has been established to allocate Swazi Nation Land.

## **TANZANIA**

### *Village land*

- Village land committees in every village, with provisions for the representation of women.
- Prohibition of traditional practices that discriminate against women.
- Marriage laws are very clear.
- Insist that women who sit on committees understand the laws that they have to implement.
- Problem with awareness - women need to be empowered because some do not insist on their right because they do not know what their rights are.

### *Registration of Land*

- Benefit of registration is to prove ownership.
- 33, 66 and 99 years lease periods.
- Priority given to female headed households and widows.

### *Paralegals*

- Limitations in law on what paralegals can or cannot do. They cannot draft documents or provide legal representation, but do however provide a vital service.
- There are 5 NGOs working around the country in providing legal services.
- Lobbying government to start funding paralegal work in instances where there are no resources available to provide legal aid.

## **ZAMBIA**

Statutory land constitutes 6%, customary land 94% - administered by chiefs. State land in the name of the President. Land tribunals exist.

### *Acquisition of land*

- Land has been commercialised and is too expensive.
- Identify land and advertise in the media.
- Produce a bank statement - convince them you have enough resources to develop the land – 30 days in which to show resources.
- Few women registered.

### ***Recommendations of the working group***

- Lawyers need to be strategic in the ways in which they do their work.
- Community meetings that highlight the problems are critical.

### *Impact litigation*

- Strategic work comes from communities. Their information can help in building up an impact litigation case; anecdotal data on violations can be put before the court.
- In some countries there are institutions supporting democracy; Chapter 9 institutions in South Africa assist in monitoring and correcting violations.
- Lobby the state to provide legal aid as a human right. Establish good working arrangements with government.
- Even where communities win cases in court, it does not always bring benefits; sometimes they are not using or benefiting from the land several years after, or justifying why they got the land.

### *Legal aid*

- Effective legal aid is part of good governance (making land laws work).
- Research in and identification of good practice in the provision of legal aid.
- Law reform - change unclear land laws which perpetrate the disadvantage of women.
- Ratification of international instruments that promote women's interests.

### *Research*

- FIDA's Eastern Africa Land Rights, has been working well and able to network.
- SADC 2001 meeting agreed they need to include a land component. Ministries responsible for land in the region meet regularly to discuss land issues, but have not yet specifically taken on women's land rights. There is also a gender desk within SADC.

### *Donors*

Help donors to understand:

- Why developmental work and work geared towards poverty reduction need to have a legal aid component.
- No need to separate legal services and development. They reinforce each other in order to monitor benefits.
- Need to advocate as NGOs that land issues and legal aid are essential for poverty reduction and development. Can engage at international and national levels and also at local levels with implementers pointing out how essential it is to deal with land rights and legal aid and build these into project design.

### *World Bank and other institutions*

- Need to make state partners aware of violations or the state's failure to conform with the funding agreement, e.g. on issues of gender insensitivity, corruption, etc.

### *Partnerships*

- Needed with other service providers which are not necessarily legal services e.g. social services.
- Insist on the participation of women in all meetings or client communities that you service.
- Laws that govern the registration of legal service providers sometimes place constraints on the work or services that can be provided by a particular NGO.

### *International instruments*

- Look at how international and regional instruments have been ratified by member states to force them to uphold their obligations.
- Research on international laws on the vulnerability of women.

### *Mediation*

- The new Lesotho legislation makes provision for mediation of land disputes.
- Mediators sit over a particular case to mediate land issues. Paralegals assist the parties in the mediation. If parties agree, the decision of the mediator can be made a court order.
- Mediation is a less expensive process that must be used more to resolve disputes. Less costs are involved and it can be done without lawyers.

### **WORKING GROUP 3: WOMEN'S LAND RIGHTS IN AN HIV/AIDS CONTEXT**

#### *Key issues*

- Different levels of intervention are needed, not just at the national.
- The impact of HIV/AIDS on the capacity of organisations.
- Mainstreaming and gender impact.
- Stigma and rights.
- Tenure and legal rights.
- Learning from experiences and to influence policy.
- Multi-sectoral response needed - nutrition, livelihoods, access to basic services.
- Enforcement of laws / awareness of legal rights.
- Dangers of creating privileged groups around HIV, which can increase stigma and disempower people.
- Also need to be aware of unintended consequences for vulnerable groups without HIV/AIDS.

#### *Stigma*

- Stigma may lead to death, inability to market produce, or denial of land rights. It raises the issue of disclosure, often a pre-requisite for someone to access benefits and rights - but disclosure may lead to stigmatisation with consequences. So strategies are required that are not necessarily linked to disclosure and testing, but voluntary testing and counselling (South Africa); need to encourage and support disclosure but not require it as a condition.
- Stigma and women's land rights - where land grabbing occurs, stigma may exacerbate it, e.g. widows accused of 'bringing AIDS' are forced off the property. Women without clear land rights might also be unable to leave situations of domestic violence. Strategies are required that help both, also evidence-based research.
- Local support groups and systems and broad awareness raising (Uganda) is necessary to minimise stigma and offer mutual support. Women did not lose land in Kenya because they had recourse to law, but local institutions enabled them to fight, so need to understand defences to protect land rights.

#### *Tenure and legal rights*

Mozambique - lobby campaign led by civil society against HIV/AIDS discrimination. Law was passed within 18 months of start of the campaign. Lesson about focusing on discrimination and AIDS, linked to land rights. Initially workplace focused, but might cover access to services.

Kenya - series of sectoral laws with little inter-linkage.

Sub-division on father's death can drive women out - strategy to protect occupier rights to stop (gender neutral) eviction, e.g. beneficial occupation in South Africa, despite its limitations. Legal frameworks needed for protection. Build on customary principles in some contexts (Lesotho).

Need to better understand the dynamism of customary practice and shifts in practice in the context of AIDS, e.g. wife inheritance. This research could lead to a strengthening of progressive practices.

Fallow land attributable to HIV/AIDS deaths raises difficult issue of utilising land that is available. In Kenya a land tax encourages use, but can dispossess those who can't use it temporarily. Rental markets can protect owners with incomes, but some fear they will be dispossessed. A challenge to make rights more secure.

Issue of encroachment - women with HIV have a weak negotiating position, worse if there are no clear physical boundaries. Their ability to negotiate is further undermined by illness. Even if a system exists to protect rights, illness may preclude due process.

Research to look at future projections of AIDS, changing demographics, loss of adults / parents now means a generation of grandparents is missing. This also needs to be built into policy.

Fast track service - process takes too long for all - maybe special process for people affected by AIDS / special situations. Need to investigate options.

Land administration often absent or weak; need better, more accessible administrative systems and tools.

Work with existing institutions, responses at local level, not necessary to reform the entire system, but strengthen existing local processes.

### *Multi-sectoral approaches – land and livelihoods*

Multi-sectoral approaches at various levels needed to strengthen development impact. Need better inter-sectoral coordination approach. Land support not enough; need better understanding of land use, HIV/AIDS and gender. Address all actors: UN, governments, bilaterals, NGOs. Need for better legal awareness among staff of Ministries of Justice.

Concerned that agricultural production and economic performance are overshadowing rural and social development - you cannot set up a delivery system in this context. Emphasis on the most able, forgetting the most vulnerable.

Identify and build on community led successes, between communities, and on coping strategies.

User fees (health, school) generally a problem for vulnerable people, not just people with AIDS. Yet governments are poor, so how to finance such services? Role for advocacy here - Women's Budget in South Africa with emphasis on shifting budget priorities to social services, leading to community led poverty monitoring. Use research showing HIV is reducing household and community capacity as a basis for advocacy against user fees.

Botswana Ministry of Agriculture field staff need to work in different ways than in the past. Need for retraining in working with vulnerable people and specific monitoring of vulnerable households.

Management issues within ministries - job descriptions, performance management systems etc. need to have an HIV/AIDS focus with appropriate rewards and incentives and help for administrative staff.

Find workable steps based on experience; some policy makers and implementers feel overloaded - help them and practitioners take the first steps. Must draw lessons to feed back into policy so that governments are learning from this approach.

### *Learning from experience (next steps)*

- Don't rely on much external support, but keep pushing for it. Some issues are government responsibility (land administration), others can be done by CBOs, NGOs, and (South Africa) PPPs – Public-Private Partnerships.
- So build community practice to share experiences, they can demand accountability and involvement of governments and other service providers.
- Write short paper drawing on this workshop, circulate and initiate a debate targeted at World Bank, donors, governments, local politicians, academics.
- Look concretely at community level and implications, give practical examples.
- Influence through strategic entry points and opportunities (Uganda PRSP review, NEPAD secretariat, Maputo meeting).
- Link with existing frameworks, show momentum.
- Develop strategies for sharing existing information in concrete ways (women's land rights through VCT centres, churches, government staff).
- Referral services – e.g. provide information on different, complimentary services – treatment, land rights etc. Also link with broader women's rights and development organisations.
- Spread good, low-cost ideas that can give short-term results (e.g. access to physical space to meet for discussions).

### *Specific next steps*

- Kaori Izumi (FAO) missions to Namibia (August), Uganda (September), Kenya (November) will identify partners from different sectors and projects leading to possible study in Namibia to maintain support, though need to find more funds to underpin projects. Land literacy programme, develop manuals.
- ICASA (International Conference on Aids and Sexually Transmitted Infections in Africa) grassroots community members to share experiences (21 September). 5 day meeting in Nairobi, women, land rights and HIV/AIDS built into panel. UNAIDS want panel on property rights and HIV/AIDS, follow up with Maika Fahlen and Miriam Maluwa, Wanen Namara (UNAIDS).
- UNIFEM (Nyaradzai) share ideas between Eastern and Southern Africa. ICASA will publish daily journal on HIV and women at event, can include land rights issues.
- ICASA co-sponsoring panel on care-givers, can link with property, resource allocation - small (10-15 people) consultation on land, HIV/AIDS, PRSPs and NEPAD in Nairobi (October).
- Follow up to regular UNIFEM work on women and land.



- UNIFEM South Africa (Noncebo) work with network / regional platform on women and land rights, will link with them.
- New UN Task Force on women, girls and HIV - property is one of the 5 issues identified - will share these with UN colleagues and workshop. Focus on Southern Africa.
- Cheryl Walker - maintain momentum, follow up to this workshop; use websites - Oxfam land rights, SARPAN Workshop report, 2-page summary of big issues (from workshop and from each sectoral discussion); establish a working group to evolve a dissemination strategy follows up.
- Uganda - EASSI follow up study to pilot presented at workshop. Bunono Ithunga from workshop will strengthen work on HIV education activities for males. Kisasi - Taso group will move on strengthened from the workshop, centre to encourage men to come out and join them, also to begin an income-generating project, strengthen links with Taso.
- Identify specific links that people want to carry on after this workshop - particularly research projects.
- Study possibilities for research; Zambia, South Africa, Swaziland HIV/AIDS land and livelihoods (FAO, CARE, Oxfam, HSRC) shifts in custom and practice.
- Link issues from this workshop with 'impact mitigation of AIDS in agriculture and rural development;' – a double momentum!
- Website to share ideas for research, existing research and projects (Oxfam, SARPAN etc).
- WLSA – ongoing work on customary law and land.
- US\$15 billion – could do advocacy on how to allocate within the 12 countries.
- NEPAD – follow up with secretariat's interest in HIV/AIDS and agriculture - UNIFEM, HSRC.
- South African Department of Land Affairs in process of bringing in resources.

#### **WORKING GROUP 4: WOMEN'S LAND RIGHTS FROM A FOOD SECURITY AND LIVELIHOODS CONTEXT**

##### *Food Security and Livelihoods Approach*

- Food security and livelihoods approach provide an entry point for improving women's land rights
- Strengthens women's claim to land rights as it recognises women as land users
- Strengthens women's lands rights in practice
- Access to land / equal distribution
- Choice and control over the use of land
- Different context: availability of land might force women from the land

##### *Advocacy*

- Organising women at the community level (mass based organisations)
- Strengthen women's capacity in customary settings – negotiating capacity
- Ensuring women's representation on political bodies
- Changing governments /NGOs /CBOs perceptions towards women in relation to livelihoods
- Create decision making bodies – with gender-balanced participation
- Women's land rights issues in development policies - laws and policies need to be developed from practice on the ground

##### *Key elements for strategies*

- Organising groups of women and men and women at all levels with specific focus or activities
- Learn from each other – both good and bad practices
- Interventions need to allow women to benefit
- Connection between local practice and formal law
- Community participation throughout the process
- Knowledge, communication, and education for women and men

##### *Gaps*

- How customary practice is changing with time and analysis
- There isn't enough reflective engagement with communities
- Orientation of national policy and programmes don't enable sustainable livelihoods for the poor
- NGOs are welfarist and don't pursue alternatives to the mainstream ideologies
- Lack of human and financial resources
- NGOs have not integrated a women's land rights approach with livelihoods

- Disconnection between professionalisation and what poor people need
- Not enough strengthening of women's negotiating capacity by providing information and support to help get organised to prioritise and act at all levels
- Conflict between local practices and law
- Focus on strategic issues such as labour practices, GMOs, trade negotiations and specifically build links between NGOs, CBOs, peasant organisations etc.

*Next steps*

- Mapping of who is doing what, where and when
- Changing ways of work by using community approach - bottom-up
- More building organisations and capacity at the local level
- Facilitating a process instead of programmes and research
- Changing the role of NGOs etc. to more supportive by providing knowledge and information
- Advocacy for more resources from governments, donors etc. for livelihoods programmes
- Reviewing livelihoods programmes on integration of the issues discussed and revise
- Identify approaches and what has worked / not worked to strengthen women's livelihoods
- Advocate for gender issues, specifically women's land rights, in political review processes
- Translate constitutions and other policies into practice
- Strategies transforming organisations in these processes

**APPENDIX II: The Key Issues on Women's Land and Property Rights in Southern and Eastern Africa**

<b>Areas</b>	<b>Objective</b>	<b>Key issues</b>	<b>Actors</b>	<b>Strategy</b>	<b>Potential Actions</b>
<b>Policy reform</b>	Secure women's rights to shelter/land and property	-Neo-liberal economic policy -Property and citizenship -Land for livelihood or/and investment	Community Government/ local government NGOs Donors Researchers	Review and analysis on relation between neo-liberal policy and women's land/property rights and livelihood. Participation in advocacy for land policy reform that is protective for women's rights to land	Drafting of collective position paper
<b>Legal reform</b>	Ensure land acts and other family laws have special clause to ensure women's secure rights	-Inheritance rights -property rights in marriage -Forms of tenure (customary-statutory, co-ownership-consent clause) -Multiple tenure systems without harmonisation -Enforcement mechanisms and tools -Social legitimacy	Community Government NGOs Donors International consultants Private sector	Coherent court systems Sensitisation Advocacy	Participation in drafting of enabling clauses for the law
<b>Legal aid and Mediation</b>	Assist women in dispute resolution Provide free legal aid for poor women especially those with HIV/AIDS	-Opportunity and limitation of legal aid -Institutionalisation of legal aid Possible Government funding of legal aid	Community NGOs Government as a new actor?	-Capacity building in formal and informal institutions -Women's capability to use support services	-Establish land mediation forum at various levels -Training of paralegals -Development and distribution of legal materials and sensitisation to all stakeholders -Training
<b>Land literacy</b>	Prevention of disputes Protection of women's rights Information Dissemination	-Institutional capacity building -Education -Development of manuals -Training	Community Government, NGOs Donors	-Normative work sensitisation and training -Improve women's capability to use and benefit from support services	-Production of guidelines -Government consultation -Training of stakeholders at different levels

<b>Strategic litigation</b>	Challenge existing practices by taking up specific test cases	-Strategic selection of cases -Enforcement capability of the state -Domestic law vs. international law	Local community, NGOs Donors	-Use of new international resolutions (OCHA, UN-Habitat) -International lobbying -Strategic use of media	Identify test cases Information dissemination on relevant international laws
<b>Livelihood and food security</b>	Improved livelihood through strengthened rights to housing/land and property	-Access to other resources -Training to maximise the use of available resources -Availability of support services for production (credit, savings schemes, extension, market, inputs, transport, capital, water, etc.) -Availability of basic services (health, school, education, etc.)	Local community NGOs, Government Donors	Holistic approach Involvement of multi-disciplinary expertise Collaboration between local community, local government, grassroots NGO Not charity but capacity building of the poor, local community in managing sustainable livelihood in a long term	Development of programme (support services, health/education, capacity building) Formulation of country programme/projects Identification of partners in various levels and sectors
<b>HIV/AIDS</b>	Ensure sustainable livelihood of HIV/AIDS affected	-Property grabbing -Eviction (forced, de-facto)	Local Community, Government, NGOs Donors	Sensitisation, mediation, support in sustainable livelihood	Government consultation Local level consultation (chiefs, men, judges, land control unit, land tribunal) Training of government officials, workers (health, extension, community)
<b>Land administration</b>	Efficient land administration to protect, enforce, deliver secure land rights/land tenure	Affordability Accessibility Sustainability	Community NGOs Government Private sector Donors	Monitoring land institutions and capacity building of local land institutions	Development of tools Training
<b>Post conflict countries</b>	Ensure women's land/property rights taken into reconstruction strategy and policy	Prioritisation of peace talks without gender consideration	Community NGO, Government Donors	Pro-active civil society in absence of state institutions Taking opportunity of reconstruction, new constitution, policy and law to reflect strong women's interests	Legal literacy Establishment of accessible justice system
<b>Pastoral community</b>	Legitimacy of pastoral livelihood Adoption to changing socio-economic	-Pressure on pastoralist to sedentarise -Lack of evidence on pastoral women's land rights	Community NGOs, Government Donors	Regional exchanges on the issue on women's land and property rights in pastoral communities Advocacy at various levels in	More research to collect data Sensitisation Advocacy on pastoral women's land rights

	conditions and land based livelihood	-Shift of control over land from community based ownership to small group of male dominated elites. -Women's loss of animals, labour and land		different sectors Mainstreaming women's land and property rights in existing pastoral programmes	Education of women in pastoral communities
<b>Peri-urban/urban areas</b>	Secure tenure for housing, urban agriculture and other forms of livelihood	-Eviction from illegal settlement -Conflict in different land use -Unregulated land market -Lack of alternative livelihood -Access to basic services	Community Government, NGOs Donors	Harmonisation of different land uses Mediation Participation of people in illegal settlement in planning	Formulation of urban and peri-urban land policy Development of tools for tenure regulation Employment creation Slum upgrading Affordable delivery of basic services
<b>Orphans' land and property rights</b>	Secure land/property rights and livelihood HIV/AIDS	-Establishment of support network	Community Government, NGOs Donors	Institutional capacity building to absorb orphans Support in livelihood strategy and training	Study on orphans' rights to housing, land and property

### APPENDIX III: Overview of Activities by Different Organisations on Women's Land and Property Rights

Organisation	Activity	Country	Contact	Note
UN HQ	-Task force on women, girls and HIV/AIDS	7 countries in SADC	Nicolette Moodie, UNICEF HQ Nankali Maksud, Regional office in Kenya Nomcebo Manzini, UNIFEM southern Africa	Women's property and inheritance rights as one of the key components
UNHABITAT, Nairobi, Kenya	-Law and land reform review, including women's land, housing and property rights  -Strengthen women's secure tenure component in Global Campaign for Secure Tenure  -Cities Without Slums Programme	Eastern Africa (finalised) Southern Africa, Latin America and Asia, Uganda, Kenya, Senegal, South Africa, Ethiopia, Kenya, Uganda, Tanzania, Malawi, Lesotho, South Africa, Zambia, Mozambique	Marjolein Benschop	Women's land, housing and property rights main focus in Eastern Africa report, and included in future reports Main focus of Global Campaign and Cities Without Slums Programme is the urban poor <a href="http://www.unhabitat.org">www.unhabitat.org</a>
UNIFEM, Eastern and Horn of Africa	-Implementation and impact of PSPS Gender budgeting -Support to Eastern African Legislative Assembly	Kenya, Uganda Tanzania	Nyaradzai Gumbonzvanda	<a href="http://www.unifem.org">www.unifem.org</a>
FAOSAFR	-Land literacy programme -Development of decentralised land management -Intra-regional cooperation for technical assistance -Projects on women's land/property rights and livelihood -Rental market development and pilot project -Organising national workshops on women's land rights -Formulation of regional programme on women's land rights and improved livelihood	Eastern and Southern Africa Eastern and Southern Africa  Kenya (Groots Kenya), Uganda (EASSI) and Namibia (Min of Women's Welfare)  Kenya, Lesotho Namibia, Kenya and Uganda  Regional	Kaori Izumi	<a href="http://www.fao.org">www.fao.org</a> (see the site on Land Tenure and Agrarian Reform Service, Sustainable Development Department)

HSRC – Integrated Rural & Regional Development Research Programme	Research into integrated rural development including gender, HIV/AIDS, land and agrarian reform, non-farm rural livelihoods, regional resource flows.	South Africa, Swaziland, Lesotho, Malawi, Kenya, Zimbabwe, Botswana, Namibia.	Mike de Klerk (Executive Director) Michael Aliber Cherryl Walker Scott Drimie	
SARPN – Southern African Regional Poverty Network	Facility for pro-poor policy debates Repository of poverty related documents from around SADC	Entire SADC region	Scott Drimie	<a href="http://www.sarpn.org.za">www.sarpn.org.za</a>
IFAD	<ul style="list-style-type: none"> <li>- Protecting and defending women’s access to land (and water)</li> <li>- Women and access to technology</li> <li>- Creating space for women’s voice to be heard in land policy process</li> <li>- Project implementation, household food security and HIV/AIDS</li> <li>- Strengthening women’s access to markets</li> </ul>	<ul style="list-style-type: none"> <li>- ongoing: Tanzania, Rwanda, Kenya, future: regional initiative</li> <li>- Kenya</li> <li>- ongoing: Kenya</li> <li>- regional programme</li> <li>- Mozambique, Zambia, Uganda</li> </ul>	Richard Trenchard	Focus in empowerment of rural men/women to overcome their poverty with a strong community development, protecting, strengthening and defending women’s rights, adult literacy programmes, the formation of women’s community groups. <a href="http://www.ifad.org">www.ifad.org</a>
OXFAM GB, UK	Women’s land rights and livelihood Technical advise and facilitation of community consultation on land policy	Global	Robin Palmer	<a href="http://www.oxfam.org.uk/landrights">www.oxfam.org.uk/landrights</a>
NOVIB OXFAM Netherlands	Advocacy and lobbying for the land rights of the poor	Global	Leo Stolk	<a href="http://www.novib.nl">www.novib.nl</a>
Centre for Housing Rights and Eviction (COHRE) The women and Housing Rights Programme	<ul style="list-style-type: none"> <li>-Inheritance Rights of Women Project in sub-Saharan Africa</li> <li>- Legal review of ten countries</li> <li>- Fact finding report- lessons learned and recommendations to countries/</li> <li>- Training on international law on inheritance</li> <li>- Workshop to form network of groups active on inheritance rights</li> <li>- Continued advocacy on inheritance</li> <li>-Partner, Women, Housing, Land and Property Coalition= Women’s Own Space website and network</li> <li>-Ongoing advocacy and lobbying for women’s housing and land rights at all levels.</li> </ul>	<p>Inheritance Rights Project Focus Countries: South Africa, Botswana, Zimbabwe, Swaziland, Senegal, Ethiopia, Rwanda, Botswana, Zambia, Sierra Leone, Nigeria</p> <p>All other activities: Global</p>	Birte Scholz Women and Housing Rights Programme Coordinator, COHRE	Promoting and protecting the human right to adequate housing for women throughout the world from a rights based perspective working with grassroots groups, advocating for adequate housing and respect for women’s right; carrying out fact finding missions, trainings on international human rights law on housing and land, and it uses, research and publication on women’s housing, standard setting on the right to housing for women, and popular

				education on the right to housing. <a href="http://www.cohre.org">www.cohre.org</a>
Huairou Commission	Women Own Space web Networking of grassroots organisations, advocacy and lobbying	Global	Jan Peterson	<a href="http://www.huairou.org">www.huairou.org</a>
Human Rights Watch	Advocacy and lobbying	Global with emphasis on Kenyan, Sub-Saharan Africa	Janet Walsh	<a href="http://www.hrw.org">www.hrw.org</a>
International Commission of Jurist	Support to legal aid, strategic litigation	Eastern and West Africa	Winluck Wahiu	<a href="mailto:info@icj-kenya.org">info@icj-kenya.org</a> <a href="http://www.icj-kenya.org">http://www.icj-kenya.org</a>
Groots Kenya	Community based livelihood project development –rural urban linkage	Kenya	Esther Mwaura Muiiri	<a href="mailto:groots@grootskenya.org">groots@grootskenya.org</a>
WLSA	-Research on women, HIV/AIDS and law- mainstreaming and policy influence -Revisiting Venia Magaya case	Southern Africa  Zimbabwe, global	Agatha Tsitsi Dodo	<a href="mailto:wlsa@mweb.co.zw">wlsa@mweb.co.zw</a>
FIDA, Lesotho	-Research, legal aid, advocacy on women's property rights	Lesotho	Kuena Thabane	<a href="http://mt.thabane.nu.ls">mt.thabane.nu.ls</a>
FIDA, Kenya	HIV/AIDS and land/property into manuals for training of Land Control Board Paralegal training Legal aid	Kenya	Jane Kiragu Christine Ochieng	<a href="mailto:info@fida.co.ke">info@fida.co.ke</a> <a href="mailto:fida@swiftkisumu.com">fida@swiftkisumu.com</a>
Women's Resource Centre, Swaziland	Information collection and dissemination on women's property and land rights Advocacy, lobbying and support to women groups	Swaziland	Iris Dlamini	<a href="mailto:wrcumtapo@africaonline.co.sz">wrcumtapo@africaonline.co.sz</a>
Women's Legal Centre	Advocacy - lobbying parliament for law reform on issues affecting women's rights. Litigation - Conducting impact litigation on women's rights issues. The Centre uses the law to remove barriers preventing women from attaining substantive equality. The Centre also focuses unfair discrimination at work, Muslim Personal Law, violence against women and customary law.	South Africa	Sibongile Ndashe	<a href="http://www.wlce.co.za">www.wlce.co.za</a>
TAWLA	Village legal desk Development of training manuals on legal aid Legal aid to women and children Legal awareness and research	Tanzania	Mary Kessi	<a href="mailto:Tawla@raha.com">Tawla@raha.com</a>



Uganda Land Alliance	Advocacy and lobbying for the land rights of the poor	Uganda	Harriet Busingye	<a href="mailto:ula@africaonline.co.ug">ula@africaonline.co.ug</a>
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**APPENDIX IV: LIST OF WORKSHOP PARTICIPANTS**

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## APPENDIX V: Profiles of Participants at the Women Land Rights Workshop

(Note: The list only includes those who sent their profile to the organisers).

**Abby Sebina Zziwa** (PhD) is an anthropologist based at Makerere Institute of Social Research Makerere University. Main research foci are gender and property rights and currently working on prevalence and economic implications of joint titling in Uganda. She works with districts in updating their land registries through IT and is a member of the technical committee for land systematic demarcation in Uganda. [zziwa@infocom.co.ug](mailto:zziwa@infocom.co.ug)

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**Agatha Tsitsi Dodo** is a sociologist/researcher and is an advocacy and lobbying officer for women and law in Southern Africa Research and education trust. The WLSA is a women's right organisation whose mandate is to carry out socio-legal research with a view to influence and change laws and policies for the betterment of women. [agatha@africaonline.co.zw](mailto:agatha@africaonline.co.zw)

**Ambreena Manji** is a lecturer, University of Warwick in UK. Her research includes the areas of gender and land reform in Southern and Eastern Africa and the role of private sector in land reform. [A.manji@warwick.ac.uk](mailto:A.manji@warwick.ac.uk)

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**Angeline Matoushaya** is a Programme Assistant, FAO Sub-Regional Office for Southern and Eastern Africa, Harare. She assisted Kaori Izumi and Robin Palmer in organising the workshop. [Angelina.Matoushaya@fao.org](mailto:Angelina.Matoushaya@fao.org)

**Birgit Englert** is staff member and PhD student at the Department of African Studies, University of Vienna, Austria. Her main interests are issues of land rights and land reform in Southern and Eastern Africa. Currently her research focuses on gender and land rights in Tanzania. Among other courses she also teaches about land rights in Africa and is the managing editor of the Africanist journal "Stichproben. Wiener Zeitschrift für kritische Afrikastudien" [Birgit.englert@univie.ac.at](mailto:Birgit.englert@univie.ac.at)

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**Cherryl Walker** is currently a Research Fellow with the Human Sciences Research Council in Durban, South Africa. Over the years she has worked as an academic, in government (on South Africa's Commission on Restitution of Land Rights) and in the NGO sector on land and gender issues. She has written extensively on gender issues of land. Currently she is finalising her book on Restitution in South Africa. [Cwalker@hsrc.ac.za](mailto:Cwalker@hsrc.ac.za)

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**Carin Vijfhuizen** is a rural development sociologist and gender specialist (PhD) and works at Wageningen University in the Netherlands. She worked for the past 13 years in Southern Africa (Zambia, Zimbabwe and Mozambique) at universities and projects. Her PhD thesis was recently published by Weaver Press in Harare.

She co-ordinates an IIED-UEM research programme in Mozambique on gender, markets and livelihoods. Initiating research on irrigation, gender and land. [carin.vijfhuizen@wur.nl](mailto:carin.vijfhuizen@wur.nl)

**Constance Niwagaba** is a member of Bunono-Ilanga Group of Women Living with HIV/AIDS in Uganda. She is a treasurer of the group. The group has initiated several activities including sensitisation on HIV/AIDS at schools and church, savings, goat and pig raising project, handicraft, etc. The resolution of the group says 'We are determined to support ourselves and our children until the day we die'. She is a widow and has gone through several court cases on land disputes with her family in law.

**Chris S. Singelengele** works in the organisation Women for Change (WFC) in Lusaka, Zambia. The organisation is involved in gender analysis; advocacy; economic empowerment; human rights; HIV/AIDS and offering consultancy in participatory methods. [wfc@zamnet.zm](mailto:wfc@zamnet.zm)

**Christine Ochieng** is employed as a legal counsel by Federation of women Lawyers FIDA, Kenya; she mainly provides legal advice and legal representation to women. She has assisted the organisation in awareness creation. [aticoch@yahoo.com](mailto:aticoch@yahoo.com) [fida@swiftkisumu.com](mailto:fida@swiftkisumu.com)

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**Edvina Kyoheirwe** is a woman living with HIV/AIDS in Kampala, Uganda. She was a successful farmer and business woman. But when her husband found out he got full blown AIDS, he blamed her for infection and after escalating domestic violence and death threat without any help received from police, she finally fled home with her youngest son. She is now living in Kampala, engaging in petty trade on the street, living on food aid provided by TASO (NGO supporting HIV/AIDS sick people). She has been trying to organise women who are in the same situation as she is.

**Esther Mwaura Muiru** is a founder and coordinator of Groots Kenya which is a network of grassroots community self help groups. The mission is to facilitate grassroots women and their communities to directly participate in development processes. [ester.mwaura@grootskenya.org](mailto:ester.mwaura@grootskenya.org)

**Fiona Flintan** is a specialist in environment and development, particularly social equity issues. Initiating an action research programme in Ethiopia on gender and women's issues in pastoral societies. Other interests include food security, institutional capacity building and conflict resolution. She is the Director, International Famine Centre, Ireland and Ph.D. candidate. [flintan@eircom.net](mailto:flintan@eircom.net).

**Gaolebe Lekula** works in the Ministry of Land and Housing in Botswana as Under-Secretary Lands. He coordinates land tenure policy issues; research and review of policy and he coordinated the election appointment of land board members and liaises between the Ministry and other stakeholders. [smaroba@gov.bw](mailto:smaroba@gov.bw)

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