

Workshop on
*Decentralizing Land, Dispossessing Women?:
Recovering Gender Voices and Experiences of Decentralized Land Reform in Africa*
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CHALLENGES IN ASSERTING WOMEN'S LAND RIGHTS IN SOUTHERN AFRICA

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'Women in Africa toil all their lives on land that they do not own, to produce what they do not control, and at the end of the marriage, through divorce or death, they can be sent away empty-handed.' Mwalimu Julius Nyerere, 1984. ⁱ

'You can see the tactics used by these male conspirators. The men had achieved what they wanted for themselves in the [1998 Uganda] Land Act. The Baganda got their share. The Banyoro got their share. And after the women lost out...none of these men was ready to come our way with support... As with so many things, the women were left out again. Justice for women? Not this time? But when?' Miria Matembe, 2002. ⁱⁱ

'If women want property, then they should not get married.' Robert Mugabe, 1994. ⁱⁱⁱ

'Men, these days, they are a problem.' Anonymous Zimbabwean, 2005. ^{iv}

My orders – the challenges at different levels

I was told that the purpose of this session is to identify the challenges to women's land rights in Southern Africa given the impact of decentralization,^v and I was asked to provide an overview of the key issues and to challenge some assumptions. Should the focus be on:

1. Institutional challenges?
2. Implementation challenges?
3. Policy challenges?
4. Customary law challenges?
5. Or all of the above?

My answer is very simple – it should of course be on all of the above but perhaps with a particular emphasis on *implementation* challenges, for as Martin Adams and I wrote at the end of our 2006-7 review of land issues:

Many countries in Eastern and Southern Africa are clearly struggling to implement laws and policies that they have formulated in recent years. There are many reasons for their difficulties, including over-ambition, lack of capacity, scarcity of financial resources, and the assumption that customary law can be swept away by the stroke of a pen, or women's land rights protected by another. Social reality at the local level is generally very different from what is imagined in the capital.^{vi}

The challenges in asserting women's land rights come at just about every level imaginable:

At the **global** level, where the stock figure of women doing 60-80% of agricultural work in developing countries but owning only 1-2% of titled land is always trotted out.

At the **continental** level, where Africa clearly lags far behind India and parts of Latin America in terms of establishing enforceable inheritance rights for women. In Africa women face particular obstacles, often being regarded legally as minors and generally enjoying only secondary rights through their husbands, if married. Such rights are frequently ill-defined, of uncertain duration and subject to change and to maintaining good relations with others. Women often need to be married – and may remain in oppressive relationships – in order to enjoy access to or rights in land. Patriarchy remains dominant at all levels, while patrilineal traditions, combined with the HIV and AIDS pandemic, make women particularly vulnerable to loss of assets, including land, on the death of her spouse.

As pressure on land increases across the continent, as society becomes more individualised and the economy more privatised, notions of reciprocity and social safety nets within extended families are tending to break down, again to the disadvantage of women. Only in sub-Saharan Africa are HIV infection rates higher for women than for men, and in a variety of ways the pandemic in Africa is making women's land rights even more precarious. Women are especially vulnerable to infection (reflecting a lack of power in the domestic sphere) and, as widows, to near destitution following property grabbing by her husband's relatives. HIV and AIDS also reduce women's capacity to care for the sick and for orphaned children, while her labour time for both productive work and participating in community networks is

further squeezed, at a time when such networks assume more critical importance. *So it is disheartening that so few of the new land laws and policies in Africa directly confront the gendered implications of HIV and AIDS.*^{vii}

At the **regional** level, where Southern Africa is cursed with the HIV and AIDS pandemic and the resulting rampant property grabbing from widows and orphans posing as ‘custom’ but in fact representing rampant greed, a form of gender-based violence, and a violation of human rights. Now, post-Thabo Mbeki, there is an opportunity – but also a major challenge – to accept that many traditional attitudes and customs that may once have been appropriate are now highly inappropriate, dangerous and need to change, and change rapidly, in the new realities resulting from HIV and AIDS. Ways must urgently be found to help people acknowledge and face up to the painful realities of HIV and AIDS and to confront the very difficult issue of stigma.^{viii} As the courageous and indefatigable Kaori Izumi wrote:

Since 2000 I have travelled extensively in southern and east Africa and met many women and children who have lost land, property, and livelihoods. Most of them were HIV positive widows, but others included married or divorced women who had escaped domestic violence, and girls engaging in sex work in order to raise school fees for their younger siblings. Their properties had been taken by their close relatives, by brothers and parents-in-laws, uncles and aunts, grandparents. *What struck me was not only the brutality of their experiences of being evicted and losing their property, and the destitution that had followed, but also the resilience of these women and children, who were determined to struggle for their survival with dignity, providing support to other women and children in similar situations.* The meetings with these women and children motivated me to organize national and regional workshops in South Africa, Zimbabwe, Namibia, and Zambia, where some of them told their stories. As a result of these journeys and workshops, *several reports and books have been published in the hope that the issue of HIV and AIDS and women’s property rights will be taken up by aid agencies as an emergency that requires urgent interventions.*^{ix}

There is a vaguely positive spinoff, in that with the focus on HIV and AIDS, we are beginning to see some interest and awareness by governments on the centrality of property to women’s empowerment, and if that is what it takes to make governments and donors pay attention, so be it. But what happens if the pandemic goes? And we still see too many messages that stigmatize and blame or at best talk only of vulnerability, rather than *the need to protect and promote rights*.

At the **country** level, where despite a few good laws (Mozambique, Botswana) and one excellent Constitution (South Africa – but which may not survive Jacob Zuma), implementation has generally been woeful and certainly not gender sensitive, while the (in)famous Fast Track programme in Zimbabwe has essentially been ‘the terrain of men’, in Prosper Matondi’s fine phrase, hardly surprising given the Mugabe quote cited above.

There is a growing activism around land in the region a whole, for example women farmers organising in Mozambique and Malawi. But these movements are nascent,

still very fragile, and need to be nurtured, but the space remains predominantly controlled by largely male-led groups in all countries across the region.

And as (tragically, the late) Professor Okoth-Ogendo has recently reminded us:

throughout Africa the state remains an important instrument in the suppression of indigenous land rights and cultural resources. This is not only a carryover of colonial perceptions of indigenous property relations but also of the strong belief, without proof or empirical justification, that indigenous [customary] land rights systems are incapable of supporting modern agrarian development.^x

At the **provincial** level, where the rhetoric of decentralisation has only rarely made a difference in terms of access to information and effective decision making. Cheryl Walker recalls from her days as a Land Claims Commissioner in Kwa-Zulu Natal that *Department of Land Affairs officials openly admitted that they just didn't know how 'to do gender'*.^{xi}

At the **district** level, where confusion, rather than clarity, often reigns, frequently coupled with ignorance of new land laws and policies. It was interesting to note in a recent policy brief that the Botswana Land Boards appear to be silent on matters of gender.

And then of course in the **household**, which is not and never was the wonderful, unproblematic, undifferentiated and conflict-free zone so beloved of policy makers. As Amartya Sen wryly noted many years ago, gender struggles at the household level are even more complex than class struggles because, unlike women and men, the capitalist and the worker did not normally live under the same roof!

Lastly, at the level of the **individual**. I feel that one of the reasons why, despite much attention and effort, concrete gains for women have been so few, is precisely *because women suffer overwhelmingly as individuals, and the aid industry is just not geared to helping individuals*, as opposed to groups, and to providing shelter, for example, which is often a critical need for women.

Some historical trends which have not helped women

One of the complexities of gender and land issues is that women's and men's interests within marriages and households are both joint and separate. This is widely recognised by many, yet it has largely been ignored in three significant historical developments:

1. Traditional patriarchal systems in Africa were reconstructed under colonialism in ways that benefited men, disadvantaged women, and strengthened male controls over female labour. Chiefs became colonial functionaries but critically retained powers to allocate land. What is often referred to – and now asserted by men – as 'traditional' (as in South Africa) is in reality the product of considerable change and contestation over time, as the legal scholar and historian Martin Chanock has ably demonstrated.^{xii} But it can now comprise

very strong and powerful vested interests, determined to resist progressive change.^{xiii}

2. Many land reform and land administration programmes over the past 60 years have been premised on the notion of a unitary household in which resources (including title to land) were seen as benefiting the whole family in a quite unproblematic way. Such programmes also regularly ignored the different meanings and values of land, and how different rights to land are allocated, distributed, used and passed on. So women almost always lost out – with the secondary rights that they had previously enjoyed being extinguished. A good example is this of the titling and registration programme in Kenya, begun in the 1960s as a response to Mau Mau, and for long touted as a ‘classic’ model by the World Bank.^{xiv}
3. Today, as part of the current strong global push towards privatisation and land grabbing, which has affected countries such as Mozambique^{xv} and Madagascar,^{xvi} not to mention the biofuels phenomenon^{xvii} with recent headlines such as ‘The Second Scramble for Africa Starts’^{xviii} and ‘AU: Africa not benefiting from foreign land deals’^{xix} which also of course has gender implications^{xx} (see Appendix 1). New land market opportunities have also tended to disadvantage women, as men have generally found it easier to avail themselves of the new openings implicit in for example the striking slogan that once greeted arrivals at Lusaka International Airport – ‘Zambia, a paradise for investors!’.

Some suggested ways forward

Various gatherings have made many worthy recommendations about positive ways forward. Just to take one example, the workshop on women’s land rights in Southern and Eastern Africa, which Kaori Izumi of FAO and I (then still with Oxfam) organised in Pretoria in 2003, concluded that women’s already fragile land rights were being further eroded in a global context of privatisation, of World Bank-sponsored land reforms, of HIV and AIDS, and of changing employment and international trade patterns. Participants felt that there was a need to:

- Learn from and build on positive community practices
- Continue building a movement, sharing experiences and documenting best practices
- Share knowledge of pilots and replications and create innovative ways of doing this
- Build and strengthen coalitions at all levels.

We also felt that organisations needed to reach out beyond the comfort zone of their traditional partners.

We noted the need for training and sensitisation in gender and human rights, for formal justice centres to create awareness and change perceptions, and to improve the many flaws in traditional justice delivery systems. Ideally, this requires a vibrant movement of legal and paralegal NGOs, but even with that ‘while formal rules can be

changed overnight, informal norms change only gradually.’ And the bottom line was that proactive legal change can only go as far as society is prepared to accept.^{xxi}

This was reminiscent of some rhetorical questions I had posed in a short paper I wrote in 2002,^{xxii} in which I stressed that there were several hard choices and conflicting arguments in the area of gendered land rights:

- Should one push for individual land rights for women, or are they more strategically located within family and group rights (including common property rights)?
- Family law or statutory law? Given that statutory law, however well intentioned, can be difficult to enforce, some argue that the critical area to change is family law - on marriage, divorce, inheritance, and consensual unions. Reform of family law might protect the land rights of divorced women and widows; the latter being particularly critical in a context of HIV and AIDS. But others contest this, arguing that family law is perceived as ‘soft’ in the legal world, and that women’s needs are therefore better addressed in ‘harder’ land law.
- Should human rights arguments (equality, dignity, non-discrimination) take precedence over development arguments (investing in women brings higher social and economic returns)?
- Should one press for gender friendly land titling (which may exclude poorer women), or the retention of indigenous / customary law, despite its frequent marginalisation of women as secondary rights holders, and hope to reform it?
- What role can law play in all this? Does it make sense to put one’s faith in the role of law (as many have done in South Africa) to bring about progressive social change?

These questions are still very much with us and I think defy easy generalised answers, but rather need to be addressed as what makes best sense in any particular national or local context. What might make good sense in Botswana, for example, is unlikely to work as well in Mozambique.

In an article published in 2007, Kaori Izumi concluded that:

- Property grabbing should be criminalised with enforceable punishments, and this should be accompanied by large-scale public campaigns to raise awareness of the issue, and to inform people that it is an illegal act.
- The judiciary and police need to be trained on international standards, conventions on women’s rights and the third Millennium Development Goal, which promotes gender equality and the empowerment of women.
- More financial resources and technical expertise should be directed to the judiciary and police to allow them to intervene more effectively in cases of property grabbing.

- Information about inheritance and property rights should be included in the school curriculum so that children are educated on these rights at a younger age.
- Community sensitization is important, especially of key actors such as local chiefs, as chiefs are often the first to hear about cases of property grabbing.
- But most importantly, women themselves should be made aware of their rights and how to defend them. For this to happen, affordable and accessible legal and police support systems should be established.
- The time has come for donors, national governments, NGOs and UN agencies to give their commitment and immediate action to end property grabbing so that women and children can live in peace of mind. ^{xxiii}

All very worthy, but hard to achieve

Such recommendations are all very worthy, but just how difficult it is to make them real was brought home to me in January 2006, when Kaori, whose health had suddenly broken down, asked me to step into her shoes and run a workshop in Lusaka, Zambia on the issue of property grabbing from widows and orphans in Southern and Eastern Africa. For me, it was a memorable, highly moving event at which people told some real horror stories but also, especially some young orphans, spoke with quite breathtaking courage. ^{xxiv} The unspoken theme of the workshop was *there are things that can be done, that there are ways of fighting back*, and Kaori invited women and men from other countries precisely to demonstrate what was possible and *to offer hope* to people – which is a precious commodity, absolutely beyond measure. ^{xxv}

But two things of relevance to our meeting this week also stand out from that workshop. Firstly, that a number of Zambian NGOs, while fully recognising the urgent need to cooperate and to complement each other's work, admitted that this was very difficult to achieve in practice because *they were all competing for scarce donor funds*. Second, everyone stressed the critical importance of *making a will*. So I asked the audience of about 80 - how many of you have actually made a will? About 5 hands went up, 3 of them white, including my own. Draw your own conclusions!

Conclusions from the literature?

In recently reading again through some of the literature on women's land rights, two main conclusions struck me.

- i) First, that *there is a huge contrast between the multiplicity of good advice out there on land administration and the continuation of much very bad practice on the ground*.
- ii) Second, that *it is possible to draw rather negative, indeed bleak, conclusions*, and to assert that despite a long history of struggle for women's land rights across the globe, very few concrete gains have actually been achieved.

On the first issue, late last year the World Bank produced a mammoth 792-page *Gender in Agriculture Sourcebook*, weighing about 5 kilos. ^{xxvi} It contains an excellent Module on *Gender Issues in Land Policy and Administration* which offers much recommended good practice, e.g:

'It is crucial that gender analysis be incorporated (1) from the very beginning of program design, (2) in the conceptualization of the land administration issues, and (3) within the program's objectives. (131)

Land administration programs...require a deep knowledge and clear understanding of customary tenure systems to know how they will both affect and be affected by cultural norms and practices. (127)

Legislative intervention alone cannot provide women with independent and effective land rights if they are not accepted and enforced culturally and socially. (128)

for a law to be enforceable, women need legal awareness, legal information and legal empowerment.' (144)

but its highly respected author, Susana Lastarria-Cornheil, concluded bleakly that:

'Reviews of land programs and projects reveal that very little information and data are systematically collected to clarify the effects on women and their land rights (132) [and] no single land-access project has had unqualified success in allocating land to women and men at equitable levels.' (139) ^{xxvii}

And to give a concrete example which I know well, RALAS, a major, high profile World Bank-funded land administration programme in post-Tsunami Aceh, Indonesia, conspicuously failed to collect any gender-disaggregated data – despite some very clear World Bank guidelines stressing the obvious and critical importance of this! ^{xxviii}

ii) On the bleak conclusion side, it is clear that everywhere women who have struggled for tenure security have been confronted by resistance and by patriarchy in its many forms. This is because in Africa, as in other parts of the world, land is often regarded as a symbol of male dominance, and for women to challenge the status quo is to challenge patriarchal control – and thus other social and political inequalities. So political resistance at many levels is not surprising. Women lobbyists are often told that gender issues will be addressed 'in due time' (which never quite comes) and, especially in Africa, are often demonised as being unduly influenced by 'western' ideas deemed inappropriate to 'traditional culture'.

But there are some interesting and positive recent developments from Eastern Africa which I think are worth drawing attention to.

Fighting on the correct battlefield

In a December 2008 policy brief, the Land and Equity Movement in Uganda (LEMU), ask *Are we fighting the wrong battles?* and propose 'a new paradigm in the struggle

for women's land rights in Uganda', one based 'on a gender analysis rooted in the local culture, with protection enforced from within the village.' Instead of fighting against tradition, LEMU argues, we should be 'fighting for the cultural rights that women feel exist, but which are being violated' and look at how they should be protected through community acceptance. This will involve *'finding ways of harmonising the customary and State judicial systems, so that they work together on agreed rights instead of against each other.'*

LEMU goes on:

'The struggle will be as much for small practical steps as for changes in law: supporting cultural leaders in fighting the myths about women's land rights; making sure that customary and State courts uphold customary land rights in practice; helping couples to have their land boundaries marked, mapped and registered, so that all family members in future would have evidence of who owned which land.'

It concludes that

'It is not naïve in expecting this to happen on its own – the current realities are evidence that the struggle will not be easy. LEMU believes, though, that the struggle can only be successful if we fight on the correct battlefield.'^{xxix}

Pragmatic lessons from a book on Eastern Africa

I was both a contributor to and deeply involved in the making of a 2008 James Currey book, edited by Birgit Englert and Elizabeth Daley, entitled *Women's Land Rights & Privatization in Eastern Africa*,^{xxx} which was, Birgit told me, inspired by the 2003 Pretoria workshop mentioned above. During the editing of the book and at a book launch in Oxford in December 2008 and a Royal Africa Society meeting in London in January 2009,^{xxxi} Birgit, Liz and I debated a number of issues, notably around how best to make women's rights real.

We noted that too many studies of women's land rights present grim factual accounts of their insecure tenure and status as property owners and users, and about the overwhelming negative impact on them of patriarchal structures and processes. *This can lead one to become incredibly pessimistic about the prospects for change, and to a feeling that securing and improving land rights for women may be nothing more than a pipe dream.*

We went on to note the 'received wisdom' that indigenous / customary institutions are by definition bad for women and that reliance on them is detrimental and can lead to loss of rights and increasing tenure insecurity during land tenure reform.

Drawing on the work of Judy Adoko and Simon Levine in Northern Uganda, which echoes some of the bitter controversies surrounding the South African Communal Land Rights Act,^{xxxii} we felt that the key point was that *any strategies to support and promote women's land rights must be suited to the situation on the ground.* So, where existing customary institutions can be used as a vehicle for this, why not use them? Equally, where existing customary institutions have become weakened, why

not pursue alternative strategies such as creating new institutions with mandated numbers of women members – as has been done in Rwanda (see Appendix 2)?

In short, taking a hard line, in principle position on the merits of a particular approach seems less likely to be as effective as *taking a pragmatic approach which looks at the situation on the ground as it is and says ‘what now can we do to maximise the gains for women’?*^{xxxiii}

Similarly, a better approach might be to consider *how custom can be updated and reformed rather than replaced* – on the basis that if custom is what’s there, as in Northern Uganda (see LEMU above), it has to be worked with.

And drawing from that it is clear that in order to best support women’s land rights, *the formulation and implementation of land reforms requires flexibility in approach based on detailed understanding of local cultures and customs and of land rights and responsibilities.* This of course is much easier said than done.

Experience in a number of countries suggests that broad constitutional protections for women’s rights and in favour of gender equity and equality, as in South Africa, are a key component in the struggle for women’s land rights, on top of which the details of land policies and laws can subsequently be built.

Clearly, the law alone is not enough. However, where a new constitution has been subject to national debate and even a referendum, it undoubtedly becomes harder for those in power to resist change that is positive for women. The law alone is not enough, but without the law we have nowhere to start from.

A conclusion of sorts

The newly found focus on food and hunger globally represents a great opportunity to reposition land rights. But if this is not done well we shall be drowned out by the food handouts lobby. The focus on more money for agriculture is also a good advocacy strategy, but to whom do we want the money to go, for which agriculture and on what and whose land? Olivier de Schutter, the UN Special Rapporteur on the Right to Food is about the only person who keeps reminding governments and civil society about the centrality of land rights to resolving the food crisis.^{xxxiv} If we don’t organise there will be another opportunity lost. International NGOs could do a much better job on this issue than they are doing at present.

Gender and land issues are of course hugely complex, sensitive and difficult the world over. There are no easy, painless, single solutions. They are complex because they operate at so many different levels and so require responses at different levels. To confront them requires many things: social mobilisation and collective action; political and legal will; awareness raising of rights that women may possess in theory but not enjoy in practice; addressing gender seriously and integrally in all land policy, administration and reform initiatives; serious alliance building; credible research; above all, passion and commitment.

The struggle will not be easy, as LEMU concludes, but it is a struggle that needs to continue to be fought. *A luta continua!*

APPENDIX 1. WILL WOMEN LOSE EVEN MORE AS A RESULT OF THE BIOFUEL REVOLUTION?

The rapid development of biofuels presents a broad range of opportunities for achieving sustainable energy but it also entails multiple trade-offs and risks. Current biofuels depend on food crops, including corn, sugarcane, soybeans, rapeseed, and palm oil. Expanded production of these crops for biofuels has contributed to some of the rises in food prices. A second concern is the impact on sustainable livelihoods for rural households. *If production and processing of biofuels occur through large-scale, vertically integrated commodity chains, small farmers will be unlikely to benefit. A number of important gender issues may result from the large-scale production of biofuels.*

- Biofuels require the intensive use of resources including land, water, chemical fertilizers, and pesticides to which small farmers have limited access. *Women, and particularly women in women-headed households, will face greater barriers acquiring these resources and participating in biofuel production.*
- The large amount of land required for biofuel production will put pressure on marginal land and common property resources. *The conversion of these lands to biofuel crops might result in the displacement of women's agricultural activities toward lands that are even more marginal, thus decreasing household food security.*
- The potential loss of biodiversity from large-scale monoculture plantations may affect women and men differently. *The establishment of plantations on previously uncultivated land may threaten wild edible plant species. Women often rely on the collection and preparation of wild plant species for food, fodder, and medicine.*
- Livestock farmers will be particularly affected by biofuel production with the conversion of grazing land to crop land and the higher price of livestock feed. *Livestock is extremely important for the food security of poor farmers.*

Additional measures may be necessary for small-scale women and men farmers to be included in medium- or large-scale biofuel crop production, such as policies supporting decentralized production, local use of the energy produced, and organization of cooperatives or other forms of participation. Organizing small-scale women and men producers' groups can enhance local benefits. Cooperatives can play a useful role in linking large firms to independent growers in countries such as Brazil and Mauritius.

Source: Frequently Asked Questions. Critical Issues on Gender in Agriculture,

APPENDIX 2 : WOMEN'S LAND RIGHTS IN RWANDA

In Rwanda, a new Constitution was passed in 2003 that lays down the principle of gender equality in no uncertain terms, and this now sets the parameters of what can and can't be done in all aspects of governing and law-making. For example, the Constitution mandates that 30% of members of all decision-making institutions at all levels of government must be women. Where land administration has now been decentralised to five-person committees at local government level – sectors and cells – this has resulted in 2 of the 5 members being women in literally thousands of local committees in every part of the country. Rwanda has just achieved the remarkable feat of being the first country in the world to elect more than 50% of its parliamentarians as women. It was women MPs who drove through the passing of Rwanda's Inheritance Law in 1999, which legally provides, for the first time, for brothers and sisters to inherit equally from their parents. Seven years later, two studies came to the same conclusion – that as a result of this law, women were increasingly starting to claim their rights and were increasingly succeeding in doing this. One reason for this achievement may have been the high levels of awareness of the law among both men and women across Rwanda, but also to the sensitisation and legal literacy work of a major women's NGO. Thus, secondary legislation passed last year now gives the most vulnerable women in Rwanda, second and subsequent wives in illegal polygamous marriages, the right to register as named sole landowners of their land – as single people – with their polygamous husbands recorded as having interests but not ownership rights in the land. This is what these women and many other women and men suggested should be done during the widespread consultations that took place in 2006 in preparing for the implementation of the Rwandan land reforms, and it was tested in practice in subsequent trials of land registration in 2007.

Source: Liz Daley presentation notes for the Royal Africa Society meeting, 29 January 2009.

ⁱ Cited in *Gender, Property Rights and Livelihoods in the Era of AIDS*, Proceedings Report of FAO Technical Consultation, Rome, 28-30 November 2007, (Rome, 2008), 10.
<ftp://ftp.fao.org/docrep/fao/010/ai521e/ai521e00.pdf>

ⁱⁱ Miria Matembe, 'Moment of Reality – The Land Act 1998', in Matembe (Ed), *Gender, Politics and Constitution Making in Uganda* (Kampala, 2002), 252.

ⁱⁱⁱ Allison Goebel, *Gender and Land Reform: The Zimbabwe Experience* (Montreal, 2005), 32.

^{iv} Goebel, *Gender and Land Reform*, 121.

^v My own take on decentralisation, as I said in my address a year ago at Kopanong, is that many governments in Africa have just gone along with the rhetoric of decentralization because of their dependence on donors, but that they often resist it in practice, especially in connection with land.
http://www.oxfam.org.uk/resources/learning/landrights/downloads/land_reform_in_broader_context_southern_africa_dlrso.rtf

^{vi} Martin Adams & Robin Palmer (eds), *Independent Review of Land Issues, Volume III, 2006-2007, Eastern and Southern Africa*, 2007, 72.
http://www.oxfam.org.uk/resources/learning/landrights/downloads/independent_review_land_issues_eastern_and_southern_africa_2006_07.pdf

^{vii} For one attempt to try to redress this, see LEMU (Land and Equity Movement in Uganda), *Mainstreaming Gender and HIV/AIDS Issues into the Draft National Land Policy*, 2008
<http://land-in-uganda.org/assets/Mainstreaming%20Gender%20and%20HIV-AIDS%20Issues%20into%20the%20Draft%20National%20Lands%20Policy.pdf>

It concluded that 'The main issues that must be incorporated in the NLP include: increasing the participation of women in land dispute resolution in their communities, selection of women and men of integrity to constitute land administration institutions that will investigate and resolve all historical land claims and injustices, provision of legal aid to deal with the ever increasing land litigation, the restoration of the consent clause to cover children, establishment and operationalisation of the Equal Opportunities Commission, enforce affirmative action in favour of women, children and people with disabilities, facilitation of people who have disclosed their HIV status, sensitisation of HIV victims about their land rights, promotion of documentary proof to secure land rights, etc.' vi.

^{viii} For an excellent depiction of stigma, see Jonny Steinberg, *Three-Letter Plague* (Johannesburg and Cape Town, 2008).

^{ix} Kaori Izumi, 'Gender-based violence and property grabbing in Africa: a denial of women's liberty and security', *Gender & Development*, **15**, 1, 2007, 12.
http://www.oxfam.org.uk/resources/learning/landrights/downloads/gbv_&_property_grabbing_in_africa_izumi_gd.pdf

^x H.W.O. Okoth-Ogendo, 'The nature of land rights under indigenous law in Africa', in Aninka Claassens and Ben Cousins (Eds), *Land, Power & Custom: Controversies generated by South Africa's Communal Land Rights Act*, (Cape Town, 2008), 102.

^{xi} Cheryl Walker, 'Piety in the Sky? Gender Policy in Land Reform in South Africa', *Journal of Agrarian Change*, **3**, 1 and 2, April 2003, 125-6.

^{xii} See his *Law, Custom, and Social Change: The Colonial Experience in Malawi and Zambia* (Cambridge, 1985) and *The Making of South African Legal Culture, 1902-1936* (Cambridge, 2007).

^{xiii} Among the 'powerful vested interests' are of course the 'traditional chiefs' in South Africa, many of them the creation of the previous apartheid regime and strongly resistant to democracy at the local level. See Lungisile Ntsebeza, *Democracy Compromised: Chiefs and the Politics of Land in South Africa* (Cape Town, 2005).

^{xiv} See Karuti Kanyinga, 'Kenya's Land Redistribution Experience', in Klaus Deininger (ed), *Agricultural Land Redistribution: Toward a Common Vision* (Washington, 2009), in press.

^{xv} "Mauritians Also Competing For Land in Africa" [Mozambique], *IPS*, 27 February 2009
<http://www.ipsnews.net/africa/nota.asp?idnews=45915>

^{xvi} 'Daewood to cultivate Madagascar land for free', *Financial Times*, 19 November 2008
<http://www.ft.com/cms/s/0/6e894c6a-b65c-11dd-89dd-0000779fd18c.html>

^{xvii} Lino Manuel and Alda Salomao, 'Biofuels and land rights in Mozambique – the ProCana case', *Haramata*, **54**, March 2009, 17-19. <http://www.iied.org/pubs/pdfs/12556IIED.pdf>

'Mozambique Approves Policy on Biofuels', *ICTSD*, 17 April 2009
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^{xviii} Julio Godoy, 'The Second Scramble for Africa Starts', *IPS*, 30 April 2009
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^{xix} 'AU: Africa not benefiting from foreign land deals', *Reuters*, 28 April 2009
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^{xx} *Frequently Asked Questions: Critical Issues on Gender in Agriculture 8. Will women lose even more as a result of the biofuel revolution?* (World Bank, Washington), October 2008.
<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTARD/EXTGENAGRLIVSOUBOOK/0,,contMDK:21927468~pagePK:64168445~piPK:64168309~theSitePK:3817359,00.html>

^{xxi} *Report of the FAO/Oxfam GB Workshop on Women's Land Rights in Southern and Eastern Africa held in Pretoria, South Africa, 17-19 June 2003*
<http://www.oxfam.org.uk/resources/learning/landrights/downloads/wlrseareport.pdf>

^{xxii} *Gendered Land Rights – Process, Struggle, or Lost Cause?*, 28 November 2002
<http://www.oxfam.org.uk/resources/learning/landrights/downloads/genderedrtf.rtf>

^{xxiii} Izumi, 'Gender-based violence', 19-20.

^{xxiv} From another workshop, see this testimony of Grace Waithira Ikumbu from Kenya: 'If we all lived in a world where orphans have no fear of having their land, houses, utensils, and chicken taken away by their grandfathers and their uncles, then we would enjoy nights and days of comfort. If we lived in a world where orphans have no fear of being fought by grandfathers and uncles, then we would enjoy protection. If we lived in a world where orphans have no fear of physical injuries, then we would enjoy our confidence would not be taken away. It would be like our parents were just gone away on safari, leaving us in the care of a responsible community. It is time the society stopped treating orphans as mere children. It is time they got recognised, because of their plight, as children-made-adults-by-death, who have a right to manage their property. As it is, most of us have experienced more than adults who do not have to visit PAs, courts, paralegals, and NGO offices seeking intervention. It is because we basically have no one to look out for us; we have to do it ourselves.' *Report of the Regional Workshop on HIV and AIDS and children's property rights and livelihoods in Southern and East Africa*, 7-8 March 2006, Harare, Zimbabwe, 13-14.
http://www.oxfam.org.uk/resources/learning/landrights/downloads/childrens_property_rights_wshop_report.pdf

^{xxv} *Report of the National Conference: Women's Property Rights and Livelihoods in the Context of HIV and AIDS*, Lusaka, Zambia, 25-27 January 2006
<http://www.fao.org/hiv aids/publications/reportzambia.pdf>

^{xxvi} World Bank, *Gender in Agriculture Sourcebook* (Washington, 2008).
<http://siteresources.worldbank.org/INTGENAGRLIVSOUBOOK/Resources/CompleteBook.pdf>

^{xxvii} 'Module 4, Gender Issues in Land Policy and Administration' in *Gender in Agriculture Sourcebook*, 125-71
<http://siteresources.worldbank.org/INTGENAGRLIVSOUBOOK/Resources/Module4.pdf>

^{xxviii} Robin Palmer, *A History and Celebration of Oxfam's Land Rights Advocacy Work in post-Tsunami Aceh, Indonesia, 2005-7*, 2008, 35-43
http://www.oxfam.org.uk/resources/downloads/reports/oxfam's_land_rights_advocacy_in_post_tsunami_aceh.pdf

^{xxix} LEMU (Land and Equity Movement in Uganda), *Fighting the wrong battles? Towards a new paradigm in the struggle for women's land rights in Uganda*, December 2008,
<http://land-in-uganda.org/assets/Fighting%20the%20Wrong%20Battles.pdf>

^{xxx} The book has also been published in Kenya by East African Educational Publishers, in Tanzania by E & D Vision Publishing Ltd, and in Uganda by Fountain Publishers.

^{xxxi} For the London meeting, see *Securing Women's Land Rights in Africa*, Notes of a Royal Africa Society meeting, 29 January 2009
http://www.oxfam.org.uk/resources/learning/landrights/downloads/securing_wlr_in_africa_ras_mtg_29_jan_09.pdf

^{xxxii} See Claassens and Cousins, *Land, Power & Custom*. For the introduction to this book, see
http://www.oxfam.org.uk/resources/learning/landrights/downloads/land_power_&_custom_sa_clra_intro.pdf

For an alternative perspective on the CLRA, see the views of Sibongile Ndashe, as cited in the Royal Africa Society meeting, *Securing Women's Land Rights in Africa*
http://www.oxfam.org.uk/resources/learning/landrights/downloads/securing_wlr_in_africa_ras_mtg_29_jan_09.pdf

^{xxxiii} This is echoed by an FAO perspective which argues that 'To improve the security of contested and unclear land rights, there is a need for a *pragmatic* (decentralised) process to formalise land rights [which] need to be diversified and adapted to specific contexts [and] to be simplified, with inexpensive procedures, enhanced accessibility and accountability and needs to be supported by 'legal empowerment' – social, legal and political processes driven by national willingness and bottom-up local changes.' *Gender, Property Rights and Livelihoods*, 8.
<ftp://ftp.fao.org/docrep/fao/010/ai521e/ai521e00.pdf>

^{xxxiv} *Land access and rural development: New challenges, New opportunities*, 9th Brussels Development Briefing, 25 February 2009
<http://brusselsbriefings.files.wordpress.com/2009/03/report-en.pdf>

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