

## WOMEN'S LAND RIGHTS IN SOUTHERN AND EASTERN AFRICA

A short report on the FAO/Oxfam GB Workshop  
held in Pretoria, South Africa, 17-19 June 2003

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### 1. WHY A SUCCESSFUL WORKSHOP?

This workshop was planned and organised by Kaori Izumi, from the FAO's 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. Discussions and debates covered a wide range of countries and experiences, and the workshop was, by common consent, a resounding success for a number of reasons - including intensive prior preparations, a passionate commitment to the issues from those attending and the fact that people clearly came determined to learn from others. The range of participants was unusually broad - 75 in all, including NGO, grassroots, government and UN people, researchers, activists and lawyers, and two Ugandan women living with HIV/AIDS - and as nobody knew everybody, it was not hierarchical and a sense of collective responsibility was quickly established.

This short report tries to capture some of the rich flavour of the presentations and discussions. It is inevitably highly selective. The full report of the workshop has been posted on two websites (see box at the end).

### 2. WHY THIS WORKSHOP?

The main rationale for this workshop was the continuing chronic lack of security of women's land rights - despite a great deal of intensive advocacy work on the subject, allied to much compelling gendered economics research throwing revealing light on the invisible work of women. So the challenge was – and remains – **how to secure land rights for women not merely on paper, but also – critically - how to turn them into reality on the ground**. The participants came together to reflect on past achievements and failures, and to establish global and multi-sectoral alliances and multiple strategies as a means of breaking out of this impasse.

### 3. WHAT WERE THE MAIN THEMES?

A number of presentations were made under these broad themes: women's land and property rights (including co-ownership in Uganda); legal issues, including legal aid; natural resources; inheritance rights; post-conflict contexts; pastoralist societies; HIV/AIDS; land administration; rights to housing.

### 4. KEY ISSUES RAISED IN PRESENTATIONS AND DISCUSSIONS

There was general consensus that *women's already fragile land rights were being further eroded* in a global context of privatisation, World Bank-sponsored land reforms, HIV/AIDS, changing employment and international trade patterns, and the food crisis in parts of Southern and Eastern Africa. There was also consensus that the struggle to secure land rights for women should not be isolated from the struggle to secure them for disempowered communities in general.

In the opening presentation by Cheryl Walker and elsewhere the importance was repeatedly stressed of the *enormously heterogeneous contexts and their dynamics*, e.g.

- the different geographical, historical, political and legal realities which shape land rights in (and within) any given country;

- the different relationship of women to land according to key factors such as class, marital status and age;
- changing marriage patterns and household dynamics and uneven processes of social change.

It was pointed out that *ways in which women could mobilise in defence of their rights varied greatly*, in relation to their social status and family networks, but also to their access to state services and the attitudes of state officials.

The *low level of knowledge about their rights* and the lack of resources to pursue them often narrow women's possibilities of accessing their rights to land and housing.

*'Formal' property rights administration systems* are generally neither transparent nor accessible to slum dwellers and the poor in general because of their high cost.

There is a need to *provide training and sensitisation in gender and human rights to the formal justice structures* to create awareness and change perceptions and to improve the many flaws in traditional justice delivery structures.

In this respect, there was considerable interest in the work of the *women lawyers' association, FIDA*, and its use of *paralegals* doing 'first aid in law' resolving disputes and trying, among many other things, to prevent women/widows being dispossessed of land and other resources by their husbands or his relatives. *Sensitive ways have to be found to provide these services*, as women seeking assistance might not be ready to take the risk of public exposure.

It was stressed that a *human rights approach to housing and land rights is more effective* and less contradictory than an approach which advocates land rights for women on the basis of the high percentage of work they do both within the household and on the land.

*Work on the ground should be done with a human rights perspective and work at the human rights level done with a development perspective.*

*NGOs that reach the grassroots play an important role in helping women exercise their rights.* Their efforts though depend largely on the *support from donors whose commitment is often short-term* and whose agendas leave little space for input from below.

There is need for *international organisations* to build on existing experiences rather than try to build things themselves.

Even *within UN agencies* it was said to be an *uphill struggle getting gender and land and property issues on the agenda*; those within the UN asked for support through other channels to apply pressure to highlight the importance of these issues.

As African governments seem to be more sensitive to international criticism than to criticism from within, efforts to *domesticate international rights through litigation* could be well worth trying.

Due to their important roles with regards implementation of new land laws, *banks and the juridical system are possible lobby targets* which have yet to receive the attention they deserve.

Another aspect raised was the need to develop strategies that *preserve women's gains during conflict situations*, because while conflict tends to weaken patriarchy at first, as communities stabilise, patriarchy begins to re-surface in other forms.

*The lack of knowledge about women's land rights in pastoral communities* was found to be especially severe, and NGOs face special difficulties engaging with them. Pastoralists find it more and more difficult to defend their land rights within a general context of privatisation and increasing pressures to sedentarise.

*Slum upgrading* needs to be done in ways that, rather than evicting people, enables them to stay. Despite their obvious problems, slums can - under certain circumstances - also provide opportunities for women which are denied elsewhere - a space for organising, for accessing land, escaping from domestic violence, and for obtaining a livelihood.

The need to *take the consequences of HIV/AIDS into consideration in all actions and policies concerning land rights for women* was a dominant concern. HIV/AIDS was undermining tenure security, but, as recent research in Kenya has shown, it does not necessarily lead to a universal loss of land or land rights, as this is influenced by many other factors such as the severity of the epidemic and the stigma associated with it, cultural traditions and the tenure status of those affected.

There was agreement on the importance of *collecting, analysing and disseminating gender-disaggregated data and information* and integrating them in all planning and policy formulation.

## **5. KEY ISSUES RAISED IN THE WORKING GROUPS**

On the final day the workshop participants split into four working groups. Some of the key issues agreed on in discussion are briefly summarised below:

### ***Working Group 1: land rights and legal reform***

While the important role that litigation and test cases (e.g. in South Africa) can play was acknowledged, there was also a lot of scepticism about the role that law can play in changing realities on the ground, and much discussion of non-law strategies based at the local level. The need to build on existing networks and to draw on positive community practice were emphasized, as was the need to address the issue of political will more widely.

### ***Working Group 2: legal aid and land administration practice***

Mediation was discussed as a possible alternative to legal aid. Given the inadequate number of lawyers dealing with women's land issues, the importance of paralegals was stressed, though there were sometimes problems due to their inadequate training. There was also agreement on the need for greater involvement of government in the legal aid sector, which is currently run by NGOs whose capacities are often very limited. It was seen as important to be in touch with and to lobby international bodies such as the United Nations and the African Union. Given the diversity of land administrations and urban/rural and statutory/customary dichotomies, there was also a need to provide specific responses in specific contexts.

### ***Working Group 3: women's land rights in an HIV/AIDS context***

The dynamics of customary practices and activities carried out by affected people themselves should form the basis on which to build and these need to be brought more to the attention of donors. There was a danger of privileging people affected by HIV/AIDS which might further

increase their exclusion from society. So there was a need to focus on the wider context of vulnerability, to ensure that e.g. non-AIDS affected widows were not excluded. There was also a need for investment in social services so as to lessen the financial burdens of the illness which often lead to distress sales of land.

***Working Group 4: women's land rights from a food security and livelihoods context***

As in the other groups, the need to look at and learn from what is happening on the ground was stressed in order to see how women can get power in negotiation within customary settings and how customary practice is actually changing in different contexts. Thus the connection between the local and the policy level is of utmost significance. It is also important to identify approaches which have helped - or have not helped - to strengthen women's livelihoods.

**6. THE FOLLOW UP**

Participants were agreed that the workshop should *not just be a one off*, but a stepping stone leading to concrete ways in which individuals and organisations could continue to inform and learn from each other. The different levels represented in the workshop agreed the need to seek ways of *building multi-sectoral alliances and of working in complementary ways*.

The full workshop report details a number of *key action points*, grouped under advocacy, research, networking and dissemination, capacity enhancement, and existing opportunities. There is also a list of some *concrete follow up activities* proposed by different organisations and a helpful appendix comprising an '*overview of activities by different organisations on women's land and property rights*,' divided into organisation, activity, country, contact, notes.

The establishment of the *mailing list 'WomensLandRights'* via the Oxfam GB server after the workshop was one first step. Members use it to communicate about issues of relevance to women's land rights, e.g. the lobbying around the Communal Land Rights Bill in South Africa. At the moment membership of the list server is confined to workshop participants.

There have also been a number of *exchange visits* built on contacts made during the workshop.

It was agreed that there is a need to *continue building a movement* around these issues and for organisations to *move beyond their traditional partners* and seek out others doing similar work. There is also a need to continue sharing experiences, to generate best practices, to share knowledge e.g. of pilots and replications, and to create innovative ways of doing this.

Nobody underestimated *the difficulties of achieving concrete gains* in the highly contested arena of women's land and property rights in Southern and Eastern Africa, but the workshop helped to clarify many issues, and also to *build solidarity, reinforce commitment and identify future priorities*. All participants expressed a strong desire to build on the success of what had been a thoroughly enjoyable event.