



Improving access to land and strengthening land rights of women in Africa



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Publications Section
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Definitions of some terms

Term:	Definition
Land Tenure:	A set of rules and institutions whether legally or customarily defined which govern the relationship among people, as individuals or groups, with respect to land.
Security of tenure:	The certainty that a person's rights to land will be recognized by others and protected by the State in cases of specific challenges.
Land rights:	The allocation of rights in land to an individual or community; usually, land rights consist in a bundle of rights, including ownership rights, use rights, control rights, etc.
Customary land tenure:	Refers to a system of land holding rights which are governed by traditional norms and practices prevailing in a particular area.
Land ownership:	The right which provides full control over a land parcel, including ability to use, lease or transfer this land, as long as those activities are allowed by law. In statutory tenure it is often associated with freehold.
Statutory land tenure system:	Set of rules as defined by state laws which define how lands are possessed, used, leveraged or sold by land rights holders. The concept of statutory land tenure system is used in opposition to the one of customary land tenure system.
Land Use rights:	Rights to develop the land for different purposes including agricultural, industrial, recreational, residential or other. Agricultural land use rights include the right for an individual or community to graze, grow subsistence crops, gather minor forestry products, etc.
Control rights:	Rights to make decisions about how the land should be used including deciding what crops should be planted, and to benefit financially from the sale of crops, etc.
Land information system:	A system for acquiring, managing, processing, storing and distributing information about land. It is usually parcel-based.
Landlessness	The fact of having no land of their own for farming or livelihood.
Legal Pluralism	This is the existence of multiple legal systems within one country. Plural legal systems are particularly prevalent in former colonies, where the law of a former colonial authority may exist alongside traditional systems
Gender-neutral policy/ law	The lack of bias to either men or women in a policy/law
Patriarchal:	Social organization in which men are taken to be leaders/decision-makers on clan/family matters.

Source: Adapted from FAO (2002) and IFAD, 2008(b).

Executive Summary

In recent times, the debate on women's access to and their control over land and natural resources, has generated much discussion amongst key stakeholders, in particular women's rights activists and civil society organizations. The argument is that improving women's land rights would contribute to wider social, political and economic equality. However, this goal is hampered by many challenges, including: a) discriminatory customary land tenure systems; b) various policy gaps; c) lack of rigorous and effective implementation of progressive provisions and; d) general lack of awareness by most women of statutory provisions that can strengthen their land rights.

The overarching aim of this study is to enhance the generation and dissemination of knowledge and to build evidence on the need to strengthen women's land rights for economic development, improved livelihoods, environmental sustainability and enhanced governance. Its specific objectives are to: i) clarify the inter-relations between women's land rights and socio-economic development, peace and security and environmental sustainability in Africa; ii) highlight the economic and social impacts of the discrimination against women with regard to access, control and ownership of land; iii) identify, document and disseminate promising practices related to strengthening women's land rights; iv) examine possible benchmarks and indicators to track progress made in strengthening women's land rights in the context of the implementation of the AU Declaration on land and; v) provide concrete recommendations on how to further promote dialogue, advocacy, partnerships and capacity development in support of women's land rights in Africa.

To meet the above objectives, the study used secondary data to qualitatively analyse thematic areas that had been identified by LPI regional assessment studies in Central, Eastern, North, Southern and West Africa, and a synthesis report on land policy in Africa¹ relating to securing women's access to and control over land.

The study begins with an introductory note and background outlining the rationale, objectives and methodology used. The second section looks at the situational analysis on women's land rights in Africa which includes: land in the development context, legal and policy situation; programmes and implementation related to women's land rights; land administration and management; women's participation in decision-making over land matters and women landlessness. Section three analyses the thematic areas informed by case studies namely: women and customary land tenure systems; women, HIV/AIDS and land; women land, agriculture and natural resource management; land rights in the context of statutory law, peri-urban/urban agriculture, large scale land based investments and women land and conflict. The study findings indicate that women are now recognized as urban farmers who play significant roles in urban food production and contribute to both urban household and market economies. It also recognizes that women benefit from urban agricultural activities that allow them to successfully combine their multiple roles in subsistence, production and in environmental management. The study also appreciates that researchers have documented the

¹ AUC-ECA-AfDB Consortium (2010). Regional Assessment Studies on Land Policy in Central, Eastern, North, Southern and West Africa: Synthesis Report.

constraints hindering women's participation in urban agricultural activities and the strategies that they use to overcome these constraints.

The fourth section deals with the capacity development initiatives and notable practices aimed at enhancing women's land rights. The findings indicate that there are existing programmes that are aimed at enhancing women's land rights which include sensitisation, awareness raising, information dissemination activities and legal empowerment. The activities consist of dissemination of land laws, registration processes and the advantages of such processes, piloting and documenting appropriate methodologies that strengthen women's land rights; participatory research and analysis at country level and sharing of lessons learned at country, regional and international level.

Section five of the study examines the benchmarks and indicators for tracking progress made in strengthening women's land rights in Africa. The findings highlight several questions, for example, what are the modes of access to land that women cannot exercise in specific countries, regions or zones of intervention? What roles do women play in institutions for land management and/or arbitration of land conflicts? What access do women really have in the local land market? A raft of indicators are identified in the study namely: reduction of intra-family conflicts; number of women in influential land administration structures; number of women owning land in their own right; number of widows remaining on family land, number and type of conflicts related to land involving women at village level— indicating who is involved and number of certificates — out of the total number — entitled to women and number of the co-titling land titles.

The final section draws conclusions and makes recommendations on how to strengthen women's land rights in Africa. We offer the following key recommendations:

- Commitments entered by African countries to implement the AU Declaration on issues and challenges and the Framework and Guidelines on Land Policy in Africa developed by LPI should be made practical and implemented;
- Countries should make sure that international laws and conventions guaranteeing women's access to and control over land and natural resources are integrated in their national legislations and consistently implemented;
- End land rights discrimination in national legislations relating to land and other sectors through legal reform and effective implementation and enforcement mechanisms;
- Improve women's access to land and ensure the availability of land suitable for farming activities (arable land);
- Governments should establish gender responsive land administration systems that enhance women's participation at all levels and mainstream gender in land administration systems;
- Working on building capacity of rural women's organizations at local level, facilitating establishment of forums and networks on women's land rights at national and regional levels would help to move forward the women's land rights agenda;

- Improve access to land and enhance security of tenure for women through formulation of better policies;
- Promote and enhance community management of common property resources and ensure women's participation and include women in land titling and registration programmes;
- Improve women's access to credit, access to education and health services;
- National and Regional initiatives should be undertaken to address socio-economic issues related to women's equal access to and control over land through advocacy and awareness creation programmes;
- Region wide research should be conducted on women's land rights to find out country specific issues and to design workable strategies to overcome those issues;
- Need to carryout baselines to form the basis for future review of improvements in women's land rights; and
- Monitor and evaluate the progress made in enhancing women's land rights and put a system to control the impact of large-scale land transactions on African men and women.

1. Introduction

The Land Policy Initiative (LPI) was established in 2006 as a joint programme of the tripartite consortium constituted by the African Union Commission (AUC), the United Nations Economic Commission for Africa (ECA) and the African Development Bank (AfDB). In its first phase (2006–2009), LPI developed the Framework and Guidelines on Land Policy in Africa (F&G), to facilitate land policy development, implementation and monitoring.

The F&G was developed in collaboration with the Regional Economic Communities (RECs), through a highly consultative process and a rigorous roadmap of activities, including regional assessments and multi-stakeholder consultation workshops on land policy. It was reviewed and adopted by the African ministers responsible for land in Addis Ababa, Ethiopia, in April 2009. It was then endorsed by the highest level of African governance, the AU Heads of State and Government, through a Declaration on Land Issues and challenges in Africa, during the 13th Assembly of the African Union in Sirte, Libya, in July 2009. The launching of the implementation of the AU Declaration on Land at the Conference of African Ministers of Agriculture in Lilongwe, Malawi, in October, 2010, marked the beginning of the second phase of LPI, dedicated to the implementation of the AU Declaration on land.

The Regional Assessment Studies on Land Policy conducted for Central, Eastern, North, Southern and West Africa by LPI between 2007–2008 highlighted the issue of access to land and security of land rights for African women as a key constraint to the continent's socio-economic development². The Assessment identified some of the key issues relating to women's land rights as: women and customary land rights regimes; women's land rights in the context of statutory law; women, land and agriculture and women's land rights in the context of rapid change, which are analysed in this study.

Africa is the second largest continent with a total land area of 30,500,000 km², which is one-fifth of the world's surface area. Land is a precious resource for human survival. It provides space for human settlement and various forms of enterprises and supports other forms of terrestrial and aquatic life. Land contains minerals, fossil fuel and water resources and is also part of human history and identity.

By December 2011, Africa's population stood at just over one billion; 51 per cent being female and 49 per cent male. Women contribute 60–80 per cent³ of the labour used to produce food both for household consumption and for sale. Despite the major contribution of women to agricultural production in sub-Saharan Africa, their access to, and control over land remains minimal⁴. Thus, the need to secure land use and property rights for women in Africa is crucial for the economic development of the region and for improved food security and poverty reduction. Providing women with control over land is key towards the fight against gender inequality, empowering women and promoting democracy and human rights.

2 AUC-ECA-AfDB Consortium (2010), Regional Assessment Studies on Land Policy in Central, Eastern, North, Southern and West Africa: Synthesis Report.

3 Source: <http://www.fao.org/sd/fsdirect/fbdirect/FSP001.htm>

4 Source: <http://www.fao.org/docrep/X0250E/x0250e03.htm#>

The study on *Improving access to land and strengthening land rights of women in Africa* was commissioned by LPI as one important component of the implementation process of the AU Declaration on land. LPI has included this important issue in its strategic plan, aiming to achieve the following in support of women's land rights:

- Promote knowledge generation, information sharing and networking at all levels in order to promote land policies that are sensitive to the specific needs of African women;
- Facilitate dialogue on women's land rights issues with a view to raising awareness on the importance of addressing related challenges that hamper socio-economic development, peace and security and environmental sustainability;
- Advocate for women's land rights in the context of land policy development and implementation, and indeed in the context of implementing programs in land based sectors of Africa's economies;
- Coordinate and galvanize the efforts of partners towards effective synergies and partnerships for addressing women's land rights;
- Facilitate capacity building at all levels in support of women's land rights in the context of land policy development and implementation in Africa;
- Develop monitoring and evaluation tools in support of addressing women's land rights issues in land policy development and implementation;
- Provide technical support and advisory services to RECs and member states who are in need of support to integrate/address women's land rights issues in land policy development and implementation;
- Facilitate resource mobilization in support of efforts to address women's land rights in land policy related research, advocacy, capacity building, technical support and advisory services.

The overarching objective of the study is to enhance knowledge (generation and dissemination), build evidence and raise awareness on the need to strengthen women's land rights for sustainable socio-economic development, improved livelihoods, environmental sustainability and enhanced governance of land and land-based natural resources.

The specific objectives of the study are:

- To clarify the inter-relations between women's land rights and socio-economic development, peace and security and environmental sustainability in Africa, highlighting the impacts of the discrimination against women with regard to access, control and ownership of land;
- To identify, document and disseminate promising practices related to strengthening women's land rights;

- To examine possible benchmarks and indicators to track progress being made in strengthening women's land rights in the context of the implementation of the AU Declaration on land;
- To provide concrete recommendations on how to further promote dialogue, advocacy, partnerships and capacity development in support of women's land rights in Africa.

1.1. Methodology

The study was essentially conducted through desk reviews of materials sourced from the Internet and documents provided by LPI. The consultants also conducted interviews with key informants working on land issues (mainly in their base countries), including gathering information on what partners and key stakeholders have achieved in strengthening or improving land rights for women in Africa. In addition, they conducted expert interviews with selected resource persons with regard to what strategies/ promising initiatives they have used in improving women's land rights.

The consultants have used a consultative approach in identifying inter-relations between women's land rights and socio-economic development, peace and security and environment sustainability in Africa. This report is therefore based largely on qualitative information. Nonetheless, it brings together useful information needed to improve women's land rights in Africa

1.2. Limitation of the Study

This study examines women's land rights in Africa. However, it is important to note that several countries' situations were not analysed due to logistical challenges and lack of accessible documented information on women's land rights⁵.

5 Countries like Algeria and Libya were not exhaustively analysed due to lack of information.

2. Situational Analysis

2.1 Women's Land Rights in the Development Context

There is an increasing body of literature that has produced tangible evidence highlighting the insecure position of women's land rights. The existing gender inequality in access to, and control over land and natural resources is an obstacle to the sustainable management of natural resources and socio-economic development. Land is one of the cornerstones of economic development, on which farmers, pastoralists and other communities base their livelihoods. Land is also a significant component of business assets, playing a significant role in investment strategies that require security of land tenure and solid land policies. Thus, securing land rights can have a profound impact on economic development. Land in rural areas is both a means of agricultural production, livestock rearing and a place for gathering natural products that are critical in local economies, such as wood-cutting, wild harvesting, grazing, fishing, hunting, etc. Furthermore, land is a source of identity and cultural heritage.

Unequal rights to land disadvantage women, perpetuate poverty and entrench gender inequality in Africa. Gender has become a critical issue in women's land rights because of the direct relationship between accessing land resources, having secure land rights, achieving food security and overcoming poverty. Women produce more than 80 per cent of food in Africa, yet they own only one per cent of the land⁶. Evidence shows that women's right to land reduces domestic violence⁷. Agricultural production and food security also increases when women are granted tenure security⁸. Therefore, improving women's access to and control over land is crucial to socio-economic development of Africa.

Some donor-funded development projects tend to overlook women's land rights. For example, when irrigation was introduced through a development project in the Gambia, 87 percent of the improved land was registered in men's names, while only 10 percent were allocated to women, even though women were recognized to be the main rice producers on swamp lands.

2.2 Legal and Policy Situation Relating to Women's Land Rights in Africa

The legal status of rural women in Africa is determined by different laws at several levels, including, international law, national law, customary law and norms of religious origin, that exist in an intertwined manner in communities.

There are a number of international and regional instruments on women's rights that African countries have ratified and committed themselves to implement, to mention a few: the Universal Dec-

6 The State of Food and Agriculture in Africa, 2010 –2011 (FAO, 2011), part I, "Women in Agriculture: Closing the gender gap for development".

7 Action Aid, "Securing Women's rights to land and Livelihoods: A key to ending hunger and fighting AIDs", Briefing Paper (p.7, 19-20).

8 Action Aid, *Ibid*, p 7-8.

laration of Human Rights (1948); the International Covenant on Civil and Political Rights (1966); the Beijing Declaration (1995); the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2003). All these instruments have vast coverage on women's equal rights with men on owning, administering and transferring property including land. The instruments also include articles on determination of governments to ensure women's equal access to and control over economic resources including land and women's equal rights to inherit their parents' property and equal share on marital property during marriage and at its dissolution.

The recommendation of the International Conference on Agrarian Reform and Rural Development (ICARRD) of 2005 specifies that land restitution policy must be non-discriminatory. Agenda 21 (1992) calls upon governments to strengthen legal frameworks for land management, access to land and land ownership, particularly for women, and to protect and formalise women's land tenure rights. The World Food Summit Action Plan (1996) also requires governments to ensure gender equality and women empowerment by introducing and enforcing gender-sensitive legislation providing women with secure and equal access to and control over land and other productive resources. Above all, African countries have committed to achieving the Millennium Development Goals (MDGs 2000). Ensuring women's equal access to, and control over land is critical to achieve particularly MDGs 1 and 3.

National legal systems in Africa vary greatly from country to country due to socio-cultural, political, global and external influences. In most African countries, colonial powers exported their legal systems to their colonies, which continue to affect women's land rights. Global factors such as socialism have also had an impact on countries that have at one point or other followed the ideology. Globalization also has great impact on women's land rights.

In many African countries, implementation of land policies and laws tends to be affected by customary laws, which are applied even where inconsistent with statutory laws. Customary laws may affect women's rights to land, particularly with respect to marriage and inheritance. The legal status of rural women is also affected by religious norms, which govern matters such as family relations and inheritance and affect the existence or implementation of women's rights. These norms are either recognized in legislation or followed in practice in many countries, often intertwined with local customs.

Furthermore, land policy is highly affected by socio-cultural issues in Africa. For example, since systems of land ownership are embedded in patriarchy, land policies often reflect patriarchal ideology that justifies subordination of women and creates social injustices and inequalities.

herefore, co-existence of different normative and institutional systems, as well as diverse statute, religious, customary and local norms that govern women's access to land, further limit women's land rights. Women's land rights provided in statute may be undermined by traditional, religious or personal laws.

Several countries in Africa have either formulated their land policies or are in the process of doing so. Reforms that seek to formalise land rights must intentionally consider the economic, social, and political dimensions of property rights to ensure that women are not left worse off by the process. At the same time, to be effective in the long term, the reforms must consider the social as well as legal legitimacy of the change they seek.

While African countries have achieved different legal and policy strides in addressing the land issue, studies have shown that even where laws are equitable, women may not be aware of their legal rights. In addition, implementation may still be gender-biased, and law enforcement may be grossly inadequate or prejudiced against women⁹. In Kenya, for example, laws technically allow women to own land, yet nearly all land is registered in the names of men. As such, concerted effort and diligent implementation of the newly enacted land laws to benefit the women is needed.

It is important to examine legislations in African countries that affect women's land tenure rights with a specific reference to the types of rights that exist and how those rights are held, including whether women can hold property in their own names. Legal situation of women's land rights should be looked at beyond land laws—family laws and inheritance laws are particularly critical to the land rights of women.

2.3 Programmes Related to women's land rights

The international community has increased funding towards skills building and strengthening of institutions that work in the arena of women's land and property rights¹⁰. There has also been investment in literacy campaigns to increase awareness on women's land rights. For example, the International Fund for Agricultural Development (IFAD), has developed the Women's Land Rights Project, which: raises awareness and capacity building and training for its headquarters and field based staff; mainstreams the strengthening of women's land rights through policy dialogue at country level; participatory research and analysis at country/project level; piloting and documenting of appropriate methodologies which strengthen women's land rights and, sharing of lessons learned at country, regional and international levels. The Food and Agricultural Organization of the United Nations (FAO), Action Aid International and Oxfam also have a number of projects in many African countries with regards to advocacy and capacity building focusing on women's empowerment, women's land rights, agriculture and natural resource management towards reducing poverty and ensuring food security.

Five case studies conducted in Burundi, Niger, Rwanda, , Tanzania and El Salvador analysed aspects related to interventions that vary from legal support (Burundi), to technical assistance for leasing agreements (El Salvador); from trying out and analysing a methodology to support all the landowners, and providing a flexible mechanism for the acquisition of land certificates that is accessible to vulnerable farmers and is suitable for large-scale replication (Niger) and land registration processes (Rwanda) to

9 Dorothy Muniyako, "Kenyan women press for land rights: Law practices lock out key food farmers", *African Farmer* No 8–9 (April 1994).

10 UNIFEM and the Canadian International Development Agency, launched a Fund for Women's Property and Inheritance Rights in the Context of HIV/AIDS. The Fund assists grassroots and community-based organizations or networks in sub-Saharan Africa working to improve women's access to property and inheritance rights within the context of HIV/AIDS.

village land use planning (Tanzania)¹¹. El Salvador is included as an example is because the case studies were carried out together with the African countries studies.

A project in Rwanda implemented by Rwanda Initiative for Sustainable Development (RISD) showed the effectiveness of the sensitisation, awareness raising and information dissemination activities carried out by various actors at project and government level on women's land rights, the land laws, on the registration process and on the advantages that these could bring to women as well as men in their daily lives. Both men and women were informed of their rights and what the registration process could bring in terms of security of rights and potential benefits on their livelihood, e.g. facilitating their access to credit¹².

The women's lands rights initiative of the International Land Coalition (ILC) has three areas of activities intended to promote women's land rights. One of these is in respect of promoting women's land rights in CEDAW Committee General Recommendations on the Rights of Women. ILC and partners involved are working to ensure that women's land rights are a key element of the recommendations.

ILC Women's Land Rights National Engagement Strategies is also working in Togo and Madagascar, to support targeted activities to promote women's land rights and/or a gender responsive approach using the Gender Evaluation Criteria.

Furthermore, ILC has, through its learning and capacity building activities, promoted the uptake of the Gender Evaluation Criteria by supporting members and partners to use the tool in their context. These initiatives can strengthen women's access to land including joint initiatives with other partners.

2.4 Land Administration and Management and Women's Land Rights

In order for land to play a key role in socio-economic growth and poverty alleviation, a functioning land administration system must support secure, easily transferable land rights and be capable of: (1) maintaining comprehensive, clear, accessible land records, (2) creating mechanisms for the efficient and effective transfer of land for a reasonable fee and (3) providing accessible avenues for handling land disputes fairly, predictably, and in a timely fashion¹³. Securing the existing tenure rights in an accessible manner would be key to a functioning land administration system. Most African countries' systems do not currently support these elements — either in design or in practice. The systems suffer from an incomplete design, incomplete (or non-existent) data on land holdings, lack of records, cumbersome, time consuming, and imperfectly understood transaction processes, high transactions costs, lack of information and processes to determine land values, and lack of institutional capacity to create and maintain records to manage transfers¹⁴.

11 Source: http://www.ifad.org/english/land/women_WomenAndLand_SynthesisReport_Eng.pdf-Internet Explorer.

12 F. Carpano, "Strengthening Women's Access to Land into IFAD projects: The Rwanda experience".

13 World Bank, 2003. Land Policies for Growth and Poverty Reduction (Washington DC: The World Bank), at 79-98. Strengthening Land Tenure and Property Rights Land Law and Policy. See Robin Nielsen, 2007. Background Report: Land Dispute Systems in Angola (on file with RDJ).

14 CARE-Angola, 2005.

The informal systems of land administration and management operate in a void that makes women's participation or leadership particularly difficult. It is imperative to assess whether principles of gender equity are broadly embraced, socially or legally accepted, and promoted at the institutional level (such as land registries, courts, conflict resolution institutions, and local land administration agencies); assess the gender balance within land administration agencies; and examine the rules, institutions, and players involved in customary, religious, and informal frameworks — particularly those regarding inheritance and divorce.

Establishing land administration and management systems is an important aspect of land policy formulation and implementation. Hence, formal structure and administration body is established by government to implement the land policy. Most research on women's land rights in Africa shows that land governance lacks gender responsiveness and hardly addresses women specific issues at the level of implementation. The International Labour Organization (ILO) points out that gender mainstreaming requires transformation of unequal social and institutional structures into equal and just structures for both men and women. Implementation of laws becomes a challenge in countries where legal frameworks are consistently gender-neutral because gender responsive regulations and implementation strategies are not put in place. Dual land administration system, customary and statutory, which is operational in all African countries, further complicates the matter.

2.5 Women's Participation in Decision Making over Land Matters

While in some African countries women's land rights are enshrined in the constitution or land law, in reality this does not bring feasible outcomes with respect to equitable access and control over land, due to poor implementation and enforcement of the laws. It has been argued that gender-equitable representation in institutions may increase the likelihood of achieving gender-equitable outcomes from the processes of land tenure governance. Women still lack decision-making power. Effective land administration requires women's participation at policy formulation and implementation level, on an equal footing with men to ensure gender-equitable land tenure systems. Participation of women in local land management and administration committees, including in land dispute resolution and management committees, is a basic requirement for women's empowerment, as it enables them to take part in community level decision making processes.

Meaningful representation is an important step towards helping women gain access to established rights. It is not just a matter of placing women in positions to add to numbers, but to ensure that their voices are heard. Women must be an integral part of the implementation of land reform programmes, land administration structures and land allocation processes. Training community members as paralegals, topographers and land conflict mediators can help build community skills and increase opportunities for women's participation in land governance.

Women's organizations can be effective tools in promoting local participation, building consensus and raising consciousness at all levels, especially as women are generally not well represented in decision-making bodies, and they are often instrumental in pressuring for government programmes to include women as equal participants. Rwanda is a good example of increasing women's participation in decision-making through quotas.

The reality in most land administration systems —as is the case with other institutions—is that the structure is gendered. Land administration has traditionally been male-dominated, with women being poorly represented at all levels. For example, Ethiopia has a decentralized land administration and management system that stems from federal to the lower administrative level in the regions where land administration policy is being implemented. Although women are supposed to be represented in Land Administration Committees established at community level, their representation is low, in defiance of policies and guidelines issued. In Uganda, there is also decentralization of land services and devolution of land management. Although, women have a presence in local land administration, they have less visibility and a more limited role¹⁵, limiting their knowledge on the processes, and awareness of their rights to land.

The Liberian Constitution guarantees equal protection for women and men. However, under Article 11 which deals with the fundamental rights, there is no explicit definition of discrimination against women. Although women constitute 49 per cent of the country's population, the opportunity to participate at all levels of the decision-making processes including land matters is not commensurate with that number. This is due to structural barriers, including a dual legal system, traditional views on marriage, lack of ownership of land and property, as well as poverty. Limited education and institutionalized violence also obstruct greater participation by women and maintain inequality between them and men.

In Tanzania, the Land Act of 1999 requires that a “fair balance” of men and women is ensured in the National Land Advisory Council, a principle that is not fully adhered to in practice. Like in most African countries, Zambian women are not well represented in decision-making institutions, a fact that is also reflected in land institutions. The country has no provisions for gender balance in the different institutions responsible for land administration or land dispute settlement at the national and local levels.

2.6 Women Landlessness

Although statistics on landlessness in Africa are scanty, the problem is real and increasing, and contributes significantly to maintaining the poverty cycle. It also challenges sustainable socio-economic development.

During the colonial era, expropriation of land by colonial masters, introduction of tenure systems alien to Africa and concentration of African population to designated areas¹⁶, significantly contributed to landlessness in Africa. In recent times, the development of extractive industries such as mining, introduction of land markets, and large-scale agriculture, biofuel plantations and tourism, are displacing people in large numbers, many of them women and children.

Throughout Africa, the vast majority of poor women (most of whom depend on land for their livelihood), are either landless or have limited and insecure rights to land. Women become landless due

15 Josephine Ahikire, 'Women and Land', In Focus (IDRC Publication) 2011.

16 These included Bantustans in South Africa, Native lands in Zambia and Zimbabwe.

to a variety of reasons, one of them being conflict. For example, in Eritrea, women became landless when they returned home after civil conflict. In Sierra Leone and Sudan, women IDPs face similar problem. Landlessness also became an issue in Libya after the conflict. The 2007–2008 Kenyan post-election violence rendered many people, many of them women, landless.

HIV/AIDS is another factor for landlessness, which presents a double tragedy to infected and affected women. Because of the stigma associated with the pandemic, widows are often accused of causing the death of their spouses and are soft targets for land deprivation by relatives of their deceased husbands. Those looking after HIV/AIDS patients do not have sufficient time to cultivate their land and over time, as finances to tend to the needs of essentials sick deplete, they either rent out their land or sell it at throw away prices. In the end, they become landless and confined to the vicious cycle of poverty.

In Uganda, women landlessness has been cited as ‘an increasing phenomenon’¹⁷. In Malawi, a resettlement project recognised existence of landless and land-poor households, and assisted them to acquire and own land. By design, at least 30 percent of beneficiary households were women.

In South Africa the apartheid regime created Bantustans for black African communities. As a result, many people were deprived of their land and source of livelihood. To date, the South African government is still grappling with restitution, meeting redistribution targets and reforming tenure arrangements. The racial skewed and highly concentrated pattern of land ownership and control has not been substantially undone in the 19 years since liberation. Customary and traditional practices also result in landlessness in cases where women are denied inheritance right to parent’s land and are evicted from marital home after divorce or being widowed.

Land redistribution initiatives in South Africa and Zimbabwe were in part intended to address skewed distribution inflicted by minority settler white communities on majority black African communities, a majority of whom were women. However, they have moved very slowly, creating doubt regarding the achievement of their intended purpose¹⁸. In Zimbabwe, the land reform programme, particularly the ‘Fast Track Phase’, was muddled with “political interference and the A2 farms’ low uptake rate may suggest opportunistic behaviour”. The impact of land reform on women was marginal, as only 18 per cent of female applicants benefited from A1 model (communal farming) while another 12 per cent benefited from A2 model (commercial farming)¹⁹. The lacklustre implementation of countries’ commitments is creating landlessness in some countries even where land is in abundance; and women are the most affected. The emergence of Landless People Movement (LPM) in South Africa

17 J.H. Ainembabazi, Landlessness within the vicious cycle of poverty in Uganda rural farm households: Why and how it is born? Research Series, No. 49, Economic Policy Research Centre, Makerere University Campus, Kampala.

18 An African National Congress conference in 2007 noted the slow pace of land redistribution and identified ‘Willing buyer, willing seller’ concept as among the principal contributing factor and has since resolved to replace it with ‘just and equitable principle’ in the Constitution

19 S. Pazvakavamba and V. Hungwe, “Land Redistribution in Zimbabwe” in Binswanger-Mkhize, H.P., Bourguignon, C. and Brink, R. van den (editors) (2009) Agricultural Land Redistribution: Towards greater Consensus, The World Bank

and like-minded organizations in Africa fighting for land rights of the marginalized people should be a wake-up call to authorities to take decisive action to address the situation before it gets worse. It can be argued that land occupations/invasions in different countries, moves in the African National Congress (ANC) in South Africa to consider land expropriation without compensation, fast track land reform in Zimbabwe and local protests are clear indications that the problem of landlessness needs to be addressed urgently.

2.7 Women and Slum Upgrading

In most societies, women and men tend to have different roles, responsibilities, needs, priorities and perceptions. As a result, slum upgrading generally affects women and men differently. Experience has shown that making a conscious effort to incorporate the gender dimensions of slum upgrading results in a more successful initiative. When slum upgrading takes place, women are likely to be disadvantaged by the process due to men's vested interests, which in most cases edge out women, rendering them landless.

Women play a vital role in slum upgrading. Increasingly, more and more slum households are headed by women. Many are women with children whose husbands have left them behind to look for work elsewhere. In other cases, women have fled to the slums to escape domestic violence or difficult situations created by divorce or marital disputes discrimination in rural areas. The ever increasing number of single mothers demands an urgent and proactive response to the plight of such group of people in African slum areas. A key aspect of slum upgrading is community participation, and women are at the heart of the community, they are mostly the ones who save money, look after the children, and care for the sick or elderly. The skills they use to run households can be applied on a community-wide scale to run a savings scheme, for example, or manage a community construction project.

Box 1: Kibera slum upgrading programme: Nairobi, Kenya

Kibera in Nairobi is the largest informal settlement in Kenya, and the second largest in Africa. Kibera covers an area of 256 ha and is home to approximately 800,000 people, a quarter of Nairobi's population. Kibera's land is officially government-owned and the residents are squatters. Insecure tenure places tenants and structure owners (like non-land-owning landlords) in a vulnerable situation. The broader issue of gender, and the resulting vulnerability, is also a factor. While both men and women living in slums face hardships, the latter—especially widows, single and teenage mothers—are particularly susceptible. They are more likely to be victims of violence or subject to cultural norms that do not give them the same legal rights or status as men. In addition, women are more vulnerable to poverty because they often have limited access to land control and assets outside of marriage or within family ties.

Women's voices must be taken into consideration when planning or implementing slum upgrading programmes as they are mostly affected by the changes.

3. Thematic Analysis (informed by case studies)

3.1 Historical Context of Land Administration in Africa

Before colonization, land in Africa was administered under customary law based on prevailing cultural and traditional practices. Partition and subsequent colonization of Africa saw the introduction of foreign land administration systems (such as the common law) by the colonialists. Such systems were deemed superior to customary law, and ever since, there has been erosion of customary land by converting it into statutory land. The other outcome of colonization is the dual system of land administration in Africa, namely, statutory land and customary land.

Many African countries, with the exception of Rwanda and Eritrea²⁰, have a dual system of land administration, statutory and customary tenure, recognized by law. *Statutory land* has formal registered title deeds and is administered by the ministry of lands directly, or by councils under delegated powers. Statutory land is considered by many to be superior and more secure to customary tenure. As a result, there is a tendency to convert customary land to statutory tenure. The administration of statutory land is centralized and rigid, the cost of hiring a licensed surveyor to produce a deep plan is prohibitive and the applicant has to travel long distances to lodge the necessary documents. It also takes considerable time for the title to be processed. These factors disadvantage the rural poor who might not understand the process or afford the accompanying costs.

Customary tenure, however, is administered according to unwritten customary laws based on traditions and culture prevailing in a particular area. Customary tenure has always been in existence in Africa and when statutory land administration was introduced by colonial governments, conversion of customary land into statutory took effect. Wily (2012) notes that reasons for customary land tenure continued existence include:

- a) Gap between what national law dictates and what continues to exist on the ground; best illustrated in overlapping state and community tenure over public lands;
- b) The reluctance of African governments to formally extinguish customary rights as a genus, and rather to reinterpret what these mean; this allows customary norms and interests in land to continue until they clash directly with incoming state or private-sector interests;
- c) The limited reach of conversionary titling programs; and
- d) The continuing relevance of customary norms to existing patterns of land use and rights and the way they tightly interweave with social relations.”

Customary tenure administration is by nature decentralized as it is implemented on a local level. It is flexible and evolves with time. It also provides a safety net to those in need of land.

²⁰ Rwanda and Eritrea abolished customary tenure. See Liz Alden Wily (2012), Rights to Resources in Crisis: Reviewing the Fate of Customary Tenure in Africa - Brief #1 of 5 for details.

One main setback of customary tenure is that it marginalizes women, especially in terms of land ownership and control. The other important limitation is perceived lack of security of tenure. Many scholars have suggested that customary tenure is not conducive for investment because of insecure tenure which limits commercialization, and produces uncertainty and frustrates rural land markets. Lack of a conventional title is a serious setback as one is not sure if he/she would be able to reap the benefits of the investment. However, Deininger²¹ argues, "...legal recognition of existing rights and institutions, subject to minimum conditions, is generally more effective than premature attempts at establishing formalised structures". Thus, customary tenure security should not be seen through a piece of paper only but through the institutional governance structure and acceptability of one's use rights by one's neighbours.

Some countries, for example Mozambique (Land Act, 1997), Uganda (Land Act, 1998), Tanzania (Village Land Act, 1999), South Sudan (Land Act, 2009) Botswana (Tribal Land Act, 1968 as amended) and Malawi (Land Act, 2013), have taken progressive steps whereby customary rights to land are recognized by law as customary ownership with secure tenure and can be leased or used as collateral. With this there will be no need to convert customary tenure to statutory tenure for investment purposes.

3.2 Women's Position Under Customary Land Tenure

Seventy-five percent (75%) of land in Africa is under customary tenure²², administered by unwritten law based on tradition and cultural norms prevailing in an area for a particular tribe of people. Although there are many indigenous regulatory systems in Africa, there are basically two types of land and property inheritance regimes: Patrilineal systems where male lineage holds power and inherits property and matrilineal systems, where the female lineage has right to inheritance. However, within the kinship from the female, there is social organization whereby males are in control of clan/family land allocation. The actual land allocation is based on available land and the need and is not necessarily biased towards women. In effect, women are not denied their land rights based on cultural norms. These systems guide handling of family/clan land and resolution of land disputes at chiefdom's level. Under patrilineal system, male members of the family are allocated land whenever they need it, although this is sometimes conditional. Women members in such communities hold secondary rights to land. These are rights that are derived from the male community member's primary land rights. As a result, when women change marital status by marriage, death or divorce, they have to renegotiate secondary land rights from the primary male land right holder. In essence, women are treated as people in transit from their natal homes to join their spouses, a notion that disfranchises women from enjoying equal land rights with men.

21 K. Deininger (2003), Land Policies for Growth and Poverty Reduction, A World Bank Policy Research Report, The World Bank and Oxford University Press.

22 C. Sage, 'Breaking Inequality Traps' in SIDA, Quick Guide to What and How: increasing women's access to land, Women's Economic Empowerment Series, 2005.

Both patrilineal and matrilineal systems are however patriarchal in nature. This is a social organization in which male control over the affairs of the tribe, clan and family is recognized and protected by traditional customs and culture. Thus, men dominate in decision-making and women are largely seen as implementers of such decisions. Women tend to be side-lined when it comes to accessing and owning land in their own right but through male members of the family. Thus, both systems treat women as second class citizens. Indeed ‘women do not own or inherit land, partly because of the perception that women are part of the wealth of the community and therefore cannot be the locus of land grants’²³.

Age-long traditions dictate that a woman is there to help a man in his quest to fend for the family. In reality, women perform most household chores, and provide as much as 60—80 per cent of the labour to produce food for household consumption and sale²⁴. However, women own only one per cent of the land²⁵. Women’s land rights are often secondary, derivative and temporary, obtained through marriage, male children, or kinship with men. The situation is tenuous, as it depends on the goodwill of men and can be terminated at any time. Indeed Tandon²⁶ summarized women’s plight on land rights well when she said:

“...land relations in particular, are based on laws, customs and practices that marginalize and disempower women in terms of their rights and capacity to own, manage and transfer land. It stands to reason then, when land pressure escalates, (which it is) women as a group are subjected to exclusionary pressures by their male relatives or community members.”

Continued discrimination of women under customary law is a direct contravention of international and regional conventions and/or protocols, national constitutions, laws and policies which are geared to promote gender equality including: Elimination of All forms of Discrimination Against Women (CEDAW). See Annex 1 for African countries that have endorsed this convention through signing, ratification or accession;

- Constitutive Act (Article 4 (l)) to gender equality and the AU Protocol on the Rights of Women in Africa (2003), ratified by 30 states to date;
- AU Declaration on Gender Equality in Africa (2004): AU Heads of State and Government committed to “Actively promote the implementation of legislation to strengthen women’s land, property and inheritance rights including their rights to housing”;
- Sub-regional protocols/declarations e.g. Southern Africa Development Community (SADC) Protocol on Gender;
- National constitutions and policies;

23 Kameri-Mbote, 2005.

24 Source: <http://www.fao.org/sd/fsdirect/fbdirect/FSP001.htm>

25 Peter Bennett, “Women’s rights and access to land in Africa”, *New Agriculturist* (2010).

26 N. Tandon, “Equality’ is not enough”, *Food security and farming: women’s rights in rural Africa*, Issue 582, Pamabazuka News, <http://pambazuka.org/en/category/features/81685>, UNIDS Press Release 2013.

Most customary practices contravene national legal provisions as well as international commitments aimed at women's rights in general and land rights in particular, from two perspectives: weak implementation and monitoring systems in member states and inadequate awareness by traditional leadership on the legal provisions that are designed to eliminate discrimination against women in any form and age-long submissiveness stance by women on cultural practices which impinge on their rights. In some instances, widows may be allowed to keep the land they were cultivating with their deceased husbands with the understanding that they will lose such rights upon remarrying. It should also be noted that some countries have exclusionary clauses in the constitution that uphold customary law provisions even where they contradict the constitution.

Most AU member states are yet to domesticate international commitments, for effective adherence. AU does not have enforcement mechanisms to ensure compliance by member states. As such, all stakeholders should take concrete steps, for example, AU member states should harmonize common and customary laws (where this is not already done) and where there is conflict, common law should prevail, and domesticate international commitments. AU should ensure compliance by member states to the international commitments, member states should not have the freedom to either comply or not.

Women are a heterogeneous group consisting of those who are married, widows, divorced, separated, single women and single mothers, disabled women and the girl child women. These characteristics influence the type of land rights a woman has and the extent to which she can mobilize existing legal provisions to secure her land²⁷. . As such, policies that treat all women the same marginalise them²⁸. Indeed, a case study in Malawi observed that the focus on women as a homogenous group by various institutions and laws involved in adjudicating land access meant that a one-size-fits-all policy was adopted for women that did not represent the different experiences of women in terms of land access. It concluded that failure to account for variation in women's experience in land tenure, limited policy effectiveness and inhibited the policymaker's ability to design more responsive policy interventions²⁹.

Traditional customs and cultural practices also affect women land rights differently. For example, married women under patrilineal system are land-secure as long as the marriage lasts. Divorce or the demise of a husband places a woman in a precarious situation, as already discussed in other sections of this report. Under matrilineal system, land belongs to women, and the land rights of married women are threatened, not by their spouses, but by their own relatives, especially the men.

27 Maggie Kathewera-Banda et al., Women's access to land and household bargaining power: a comprehensive action-research project in patrilineal and matrilineal societies in Malawi, ILC.

28 G.G. Paradza, "Securing women's land rights in Eastern Africa: Time for a paradigm shift", Policy Brief, March 2011, ILC, Rome.

29 PLAAS, "Securing women's access to land: Linking research and action. An overview of action-research projects in Southern Africa", PLAAS, March 2011.

3.3 Factors Affecting Women's Land Rights Under Customary Tenure

Under customary law women's access to, and ownership of land is impacted by a number of factors, some of which are discussed in the following sections.

3.3.1 Constitutional Bias

In recent times, an increasing number of countries have recognized women's equal rights in their constitutions, thus complying with international human rights standards and obligations, for example the UN Human Rights Charter and CEDAW. However, some constitutions are neutral, meaning that while they do not specifically mention 'equal rights', they do not discriminate based on gender. Others, such as those of Lesotho, Zambia and Zimbabwe, have discriminatory provisions in customary and personal law matters such as inheritance. In some countries, for example Uganda, Malawi, Mozambique and South Africa, there are constitutional provisions that prohibit discrimination, including in customary law and practice³⁰. Clearly, these are progressive constitutional provisions. How they translate in practice is what, in part, this study is exploring.

3.3.2 Stereotype

The patriarchal setting in Africa, whereby men dominate in matters concerning land, makes it difficult, if not impossible, for women to access and own land in their own right. Women are allocated land by men within their clan or through their male spouses. The other equally important factor is the general perception in Africa that a 'woman's place is in kitchen'. In some communities, such as the Maasai, women are seen as commodities and as such they cannot own another commodity, land. Kameri-Mbote (ibid) concluded that 'women do not own or inherit land, partly because of the perception that women are part of the wealth of the community and therefore cannot be the locus of land grants'. To proponents of such thinking, the need for women to be accorded equal land rights with men does not arise. In other situations women are treated as minors who should always be guided and or protected by men. As such women tend not to attend meetings together with men or to speak their mind. These mindsets have prevailed at all levels of society for long. As a result, they have been erroneously accepted and rarely challenged until in recent times when women's rights issues are slowly coming to the forefront. For example, in Botswana, 46.6 per cent of households are headed by women. This prompted nongovernmental organizations (NGOs), and women advocacy groups to press for the legal recognition of women's land rights, resulting in the amendment to the Tribal Land Act in 1993, which substituted the word 'tribesmen' with 'citizen'. The amended Act permits any citizen, regardless of tribal affiliation, to apply for any land even beyond their tribal regions. This change represented an important step towards gender equality before the law, as it also extends the right to apply for land to women.

30 UN Habitat, Progress Report on Removing Discrimination Against Women in respect of Property and Inheritance: Tools on improving Women's Secure Tenure, series 1, Number 2, (2006).

Gender equality before the law was reinforced in October 2012, by Botswana's High Court in its determination of a case in favour of a group of sisters, all aged over 65, who were claiming family property, but had been challenged by their 63-year-old nephew. The presiding judge noted that: "Discrimination against gender has no place in our modern day society," and urged "the government to take all discriminatory laws off the statute. He further noted that local customary laws that gave a son preferential rights to inherit the family home were not in line with the country's constitution, which guarantees gender equality.

3.3.3 Male-dominated customary land administration structures

Customary land administration is dominated by men even where the traditional leader is female. In such a case, the leader is normally surrounded by male elders, who advise her on matters of the chiefdom including customary land administration. In view of what has been discussed under Section 3.3.2, men would like to maintain the status quo. The patriarchal system prevalent in Africa has also engendered submissiveness in decision-making over land matters to men. And because women do not have a voice in determining their future, they tend to be reactive and not proactive to change³¹ and as a result, men see this as a challenge to their 'supremacy' and resist such a move.

As land allocation under customary tenure is usually a prerogative of men, they tend to own more and better quality land than women. In 1995, a FAO report noted that in Benin the average size of women's landholdings was 0.98 hectares (compared to 1.76 for men); in Tanzania it was 0.53 hectares (compared to 0.73 for men); while in Zimbabwe it was 1.86 hectares (compared to 2.73 for men).

3.3.4 Lack of awareness of legal provisions

Although most countries in Africa have constitutions that ascribe to equality between men and women, and land laws that are either gender-neutral or affirmative on women's land rights, generally the general public is not aware or conversant with such provisions. This is because most land policies and land laws are in languages not understood by majority of people (even though they are official languages). In addition, there are minimal deliberate efforts made by the State to sensitize the general public on what these documents say about peoples' land rights in general, and women land rights in particular. Where such attempts have been made, the information is published in newspapers and in languages not understood by the majority. In many African countries, government gazettes are the official channels for communicating bills and laws. Although these publications are in official languages, the information is not easily accessible and understood by the general public due to high illiteracy levels (see section 3.3.7 below). In some instances, governments post documents on official websites. However, limited Internet access and high illiteracy levels reduce the impact of such initiatives. Lack of awareness amongst women of the legal provisions which support their land rights makes it difficult for them to claim their land rights and break out of the vicious circle of land deprivation.

31 Tandon, *Ibid*, 2012.

In many cases, civil society organizations, which could help to raise awareness, have limited human and financial capacity. There are signs of progress, albeit slow. For example, Action Aid has helped to raise awareness on women's land rights in many African countries. Land alliances (such Zambia Land Alliance, Kenya Land Alliance and LandNet in Malawi, etc.) are engaging relevant authorities to eliminate discriminatory practices against women. In Kenya, GROOTS has supported community-based watchdog groups to advocate for, and protect women's property rights in general, and land rights in particular. This was done in part by engaging community leadership and respected tribal elders and providing alternative dispute resolution mechanism. As a result, widows living with HIV/AIDS who had been evicted were able to regain control over land and family property³².

3.3.5 Gap between high-level commitments and implementation

Fifty-one (51) of the fifty-four (54) African countries³³ have endorsed CEDAW. In addition, AU member states have made commitments to the Constitutive Act (Article 4 (I)) to gender equality and AU Protocol on the Rights of Women in Africa (2003). Furthermore, national constitutions ascribe to equal rights between men and women. Implementation of these high-level commitments remains a challenge because "the principle is not prioritised as a policy objective, nor is serious attention paid to how to carry through these commitments in practice, outside of a small number of dedicated projects"³⁴ (Walker, 2001b in Walker 2003³⁵). As high-level commitments are not known by the general public and not domesticated into national laws, their impact has been negligible.

3.3.6 Inadequate political will

Most African countries have national constitutions and land laws that uphold equal rights principle between men and women. However, implementation of such provisions remains wanting, often due to inadequate funding (because this is not a priority) and human resource deficiencies. These challenges can be addressed if governments are fully committed to the cause. Tandon (2012) argues that:

"Land rights are essentially political issues; but where women's land rights are concerned, the solutions take on a legal dimension. A technical solution to a political problem has its shortcomings, because 'lack of political will' often means that a legal statute is rendered useless – or worse, overridden entirely."

Limited progress in the implementation could also mean that African governments are not entirely in agreement with the equal rights principle but have it in their statutes under pressure from, and to appease international community³⁶.

32 Elizabeth Daley, et.al. Women's land rights and gender justice inland governance: pillars in the promotion and protection of women's human rights in rural areas. ILC, 2013.

33 Only Somalia, Sudan and South Sudan have not yet ratified the CEDAW.

34 Walker, 2001b.

35 Although statement was made on the basis of "Land Reform in Southern and Eastern Africa: Key issues for strengthening women's access to and rights in land" study, it can be extrapolated to cover much if not all of Africa.

36 It should be noted that land reform initiatives in Africa are often donor-funded with some strings attached. The recipient has to comply or funds will be withdrawn.

Inadequate political will is also evident in traditional leadership. Traditional customs and cultural norms are not static; they evolve with time. In the process, some cultural practices that are out of sync with contemporary reality tend to be adopted, and traditional leaders, as custodians of culture play a pivotal role in this regard. Men seem to be having difficulties in accepting women's equal rights to land, because of many misconceptions such as, women will become disrespectful of their husbands; men will lose their clout on land matters to women; once women have land they become economically independent and less dependent on men and therefore men will no longer be able to control them. To the contrary, many studies have shown that where women have access to and own land, they tend to put the land into good use to improve the well-being of their families especially where they are provided with technical and material inputs, although such services tend to be biased towards men³⁷. In so doing women are able to improve the well-being of their families.

Traditional leaders, most of whom are men, are apprehensive, and therefore extremely cautious, of the so called 'cultural liberalization'. This fear of the unknown must be addressed through political will and civic education, among other avenues. An example of where this has worked is Rwanda where political will was harnessed and successfully mobilized; women have managed to have secure land tenure.

3.3.7 High illiteracy levels amongst African women

In a 2005 report, UNESCO reported that sub-Saharan Africa, alongside South and West Asia, had the lowest literacy levels with around one-third of the men and half of all the women being illiterate. Out of 11 countries with adult literacy rates below 50 per cent, 10 were from Africa namely: Benin, Burkina Faso, Chad, Ethiopia, Gambia, Guinea, Mali, Niger, Senegal and Sierra Leone. The eleventh country was Haiti. Although the regional average for Africa is low, there are some countries that have made significant progress. For example, Botswana, Cape Verde, Congo Brazzaville, Equatorial Guinea, Gabon, Kenya, Namibia, Mauritius, Seychelles, Swaziland, South Africa, Tunisia, and Zimbabwe, have in recent years achieved over 80 per cent literacy rates, with Equatorial Guinea topping the list at 94 per cent.

The high illiteracy rate among African women, coupled with inadequate awareness raising by African governments and civil society on people's land rights in general and those of women in particular, negatively affects their ability to access information and exercise their rights. This affects their livelihood and vulnerability to poverty. Therefore, African governments need to take deliberate steps towards improving literacy levels generally, but especially for women and the girl child, for example, by increasing budgetary allocation to the education sector and by creating conducive learning environment.

³⁷ Source: <http://www.fao.org/docrep/V2715E/V2715E00.htm> for details.

3.3.8 Declining influence of customary laws and practices

The major colonial influences on customary laws and practices in Africa include individualisation of land tenure and introduction of land markets. In a typical African setting, land belonged to the community, and the system protected and provided for women in terms of accessing land and other natural resources. The Tanzania National Land Policy summarizes women's plight on land aptly, stating:

"Under customary land law, women generally have inferior land rights relative to men, and their access to land is indirect and insecure. Traditional provisions, which used to protect women's land use rights, have been eroded. In allocating land village councils have been guided by custom and have continued to discriminate against women by allocating land to heads of household who are usually men" (Para 4.2.5 of the National Land Policy 1995).

However, with individualised land holding and land market pressures, the forms of solidarity and cohesion in the traditional system, and the protection it had gave to women no longer exist, even where statutory laws provide for women's rights to land, housing and property³⁸. Thus, with individualised land ownership, women are disadvantaged, mainly because land is registered in the names of men. Even where joint or co-ownership is permissible by law, many land registries register land in the name of a man as head of a household.

4. Women's land rights in the context of statutory law

Securing women's land rights, in law and in practice, is an essential step towards their empowerment, economic wellbeing and social status. Laws alone are not enough to secure women's access to, and ownership of land. Their effectiveness depends on awareness about them, the abilities to invoke them, the general governance environment, and the extent to which cultural norms and traditions are practised and followed instead of formal laws.

Just as important as laws, but often overlooked, are the regulations for their implementation. Beyond a normative declaration of women's and men's equal rights to land, like those often contained in a general land law, rules, regulations, and procedures can have the biggest impact on women's land rights in practice³⁹. Statutory law, if enforced, can support women's secure rights to land, but enforcing the law can be difficult because the justice system is often inaccessible and costly, and high land values provide an incentive for illegal land grabbing. Beyond general proclamation of equal rights to access and own land, certain legislations have specific positive action provisions. However, the main issue remains implementation. Statutory law is relatively easier to enforce in urban rather than rural areas. For women to benefit from provisions under statutory law, they have to be statutorily married and registered as individuals. This marginalizes many women who are in marital relationships like polygamy and co-habitation, which are not statutorily recognized.

The law as an instrument of social change needs to be supported by an efficient enforcement system and by legal rights awareness campaigns to promote change of attitudes among women and men and to enable beneficiaries to pursue land claims. Legal rights can be positive for women, since they change their bargaining position within their natal and marital households. Related to the changes in the law, some governments have harmonised other laws that affect women's land rights (for example, marriage and inheritance laws), through land laws to ensure that women can fully utilize the provision of owning land provided by the land law. Mozambique is a good example, where the land law and other laws have been harmonised to improve land rights of women.⁴⁰

4.1 Constitutional Provisions on Women's Land Rights

In Kenya, the Constitution (2010) addresses women's plight to land ownership and creates the necessary legal and institutional framework to ensure full realisation of women's right to land and other related resources. The Land Acts⁴¹, which were enacted in 2012, also have promising provisions (for example, spousal consent in land transactions, equal recognition of men and women and co-ownership), which, if implemented can strengthen women's land rights. It is important to note that good land laws often remain unapplied because of the lack of secondary legislation

39 UN WOMEN Women's land rights in the context of land tenure reform: legal considerations.

40 G. Mutangadura, Women and Land Tenure rights in Southern Africa: A human rights approach, UNECA-Southern Africa office, Lusaka Zambia.

41 Land Registration Act, Land Act and Land Commission Act 2012.

and regulations and procedures for their implementation. It is therefore essential to improve land law enforcement and develop gender-equitable regulations, procedures and strategies for implementation⁴².

The Kenyan Constitution and the National Land policy (2009) have adopted the AU - Framework and Guidelines on land policy, by recognizing women's rights as well as ensuring equitable access to land by the landless, women, youth, displaced persons and other vulnerable groups. However, the implementation of these provisions is yet to show their effectiveness in enhancing and strengthening women's land rights.

Effective land rights are highly dependent on measures broadening access to justice and rule of law to women who, to a large extent, have been excluded. Case law in Kenya, South Africa, Tanzania and Zimbabwe, shows how individual women, with the assistance of civil society, have been able to use litigation as a means of improving the protection of women's property rights.

A study on the impact of statutory land policies and land reform in Uganda's Kapchorwa and Luwero districts showed that women have limited knowledge of their property rights under the legal system. In addition, gaps in the legal system prevent inheritance and co-ownership of property acquired in marriage. This calls for legal empowerment to enable them claim their rights.

For example, in Uganda, studies reflect that a gap exists between written law and practice. This lack of implementation is caused by many factors, such as socio-cultural and traditional norms being the major ones this was the main reason for lack of implementation of the Uganda Land Act of 1998 "consent clause". In Eritrea and Ethiopia, the policy implementation bodies are structured in the government system and are entrenched from higher to lower administrative levels.

The 1995 Constitution of Uganda provides for equality of all citizens regardless of sex with respect to land. Uganda is also noted for its 1998 Land Act debate on the inclusion of a clause on spousal co-ownership. Although this clause was not realized during the final stage of the legislative process⁴³ an amendment was made to the Land Act in 2004, giving some protection to women by requiring spousal consent to transactions of family land. The impact of this amendment on women's land rights is yet to be seen. The Uganda National Land Policy, which was approved in 2013, states that the country will maintain multiple tenure systems and that the government shall ensure women's equal rights to land before marriage, in marriage, after marriage, and at succession. The land sector strategic plan recognizes tenure security of women and one of its strategies is to mainstream gender in all land sector activities.

In Tanzania, the current legislation guarantees equal rights for both women and men to buy, own, use and transact in land. However, customary norms in rural areas are still biased against women – wives, widows, sisters, daughters, divorced and separated women – limiting their ownership of, and control over land. The 1999 land laws in Tanzania push for equal treatment between men and

42 Source: <ftp://ftp.fao.org/docrep/fao/011/i0506e/i0506e00.pdf>

43 *McAuslan, Bringing the Law Back In Focus: Essays on Land and Law, 2003.*

women and aim at safeguarding women's land rights by ensuring female representation in land administration bodies. This is done through direct elections, appointing special seats, or affirmative action. However, this poses new challenges for women empowerment, gender equality and political accountability. Some of the key concerns include: the background of the women who are elected, how are they elected, and to whom they see themselves as accountable. The goal should be to ensure that poor and often illiterate women have a voice in these institutions.

The 1978 Land Use Act () of Nigeria was enacted to deal with the problem of uncontrolled speculations in urban lands, make land easily accessible to every Nigerian irrespective of gender, unify tenure system in the country ensure equity and justice in land allocation and distribution and, amongst others, prevent fragmentation of rural lands arising from the application of the traditional principle of inheritance.

In practice, however, women in most communities in Nigeria are denied rights to land and the provisions of the Land Use Act do not guarantee equal access as was envisaged. It also does not guarantee adequate compensation for land compulsorily acquired; rather it reinforces discriminatory customary and cultural practices that deny women access to land, an important means of production. The Act vested the ownership of land rights in the state to ensure equal access to land but this has not helped much⁴⁴.

In Ghana, Article 35(1) of the 1992 Constitution enjoins the state to promote the integration of all peoples and prohibits discrimination and prejudice on grounds of origin, circumstances of birth, ethnicity, gender and other beliefs. The Constitution's Article 36 (7) also requires the state to guarantee the ownership of property and the rights of inheritance of all. However, the country's land tenure and administration system faces serious problems, which undermine these Constitutional guarantees. The Ghana National Land Policy (1999) has identified a number of difficulties relating to land tenure and administration, for example, insecurity of tenure of certain groups. The interests and the impact of land administration and land tenure of women have not been mentioned, a problem that needs to be addressed.

South Sudan, the newest nation in the world which attained independence on 9 July 2011, has one of the most progressive Constitutions and a Land Act that recognizes equal rights of access of men and women to land. Although the Constitution, the Land Act and the newly adopted Land Policy, assert that women can own land, customary law does not recognize women's property ownership. However, neither customary nor formal institutions enforce women's land ownership.

Women's access to land and property has not been an issue in the past in South Sudan as it was considered to be guaranteed through marriage and family. However, as a result of the two decade conflict between the North and South Sudan, during which a huge number of males died, 45—50 percent of the returnee households are female headed

44 Akin L. Mabogunje, Land Management in Nigeria: Issues, Opportunities and Threats", Paper presented at the National Conference on Land Management and Taxation, Department of Estate Management, University of Lagos, July 16, 2002.

With the commencement of repatriation, resettlement and restitution programmes, the issue of women's access to land and property rights has become contentious and needs to be addressed in the context of the prevailing customary practices in South Sudan. The major challenge is the implementation of the progressive provisions in the Constitution and in the Land Act 2009 to benefit women.

The Liberian Constitution currently deals with property ownership under sections 22, 23 and 24. Specifically, sections 22 and 23 guarantee that "every person shall have the right to own property alone as well as in association with others." On the face of it, this should guarantee women and men equal rights in property ownership and opportunities and spaces for women to acquire and own property should be the same as of men. However, the reality is different.

In the Islamic countries of North Africa and sub-Saharan Africa, Muslim populations enforce the Islamic law in inheritance matters. The *risala*, in its epistle on the elements of dogma and of Islamic law, states clearly the methods of sharing inherited properties, including land. The spirit of this law is based on sharing, which grants a share to a woman and two shares to a man. Although this law creates inequality in land ownership, at least it recognizes a woman's right to inherit land, contrary to the practices based on customs, which simply exclude women from inheriting land.

However, many religious leaders in charge of sharing inheritance refuse to enforce this law by giving priority to customs, arguing that the share of sisters should be put into the hands of brothers until they return to their natal homes (in case of divorce, for example). In many cases, this share will never be handed back to the women. In the past, in Niger, Nigeria, etc., some claims, by sisters or their children, for inheritance shares that had been granted more than 20 years have yet to be verified.

The Constitution of Egypt, enacted in 1971 and later amended in 2007, states that Islam is a state religion and Islamic law (Sharia) is the principal source of legislation. The Egyptian government has issued a number of land reform legislations focused on efficient utilisation of existing land and water resources at different times. None of the laws have reference to gender issues and women's land rights.

In Ethiopia, land reform was carried out on the bases of Marxist-Leninist rhetoric following the overthrow of the imperial regime. The Military government issued proclamation on rural land⁴⁵, turning it to public ownership by abolishing private ownership nationalising rural land and outlawing transfer of land by sale, lease, mortgages or similar means. This ended the feudal landholding system in Ethiopia. The current government, which came to power in 1991, framed land policy in the constitution stating that land belongs to the State and every rural resident who wants to live on farming land is to be granted free access to land. The Constitution grants women equal rights on land and they can acquire, administer, control, use and transfer property including land. The 1998 and the amended 2005 Rural Land Proclamation states the same. Regions are mandated to issue land policies based on the federal proclamation taking in to account their respective socio-economic situations.

45 Provincial Military Administration Council, Proclamation No. 31/1975. Proclamation to Provide Public Ownership of Rural Land, Negarit Gazeta, Vol. 35No. 15.

The 1997 Constitution of Eritrea states that land and all natural resources belong to the State. It explicitly provides that women and men are equal and prohibits discrimination. The land proclamation issued in 1994 is consistent with the Constitution, and it declares non-discrimination on the basis of sex and full respect to women's equal rights to land by considering different categories of women: wives, single, divorcee and widows. This law gives impetus to women's land rights if implemented well. In addition, although the Eritrean land proclamation provides women with equal rights to inheritance, the Sharia law by which the Muslim population is governed discriminates against women.

The Constitution of Libya, enacted in 1969, states that Islam is the State religion and that all citizens are equal before the law. In fact, Libya acceded to CEDAW with reservations to Articles that could not be applied alongside Sharia law. The Libyan Interim Constitution currently declares the principle of non-discrimination and equal rights of all citizens regardless of sex, granting women full participation in political, economic and the social sphere. However, adherence to Islamic principles does not ensure women's equal rights to have access and control over land.

The 1991 Constitution of Sierra Leone prohibits discrimination on the basis of sex. In 2007, the government enacted the Devolution of Estate Act, abolishing many discriminatory provisions and legal barriers affecting women's rights to property including land. A law that ensures women's rights to marital property, particularly land was also enacted and penalties were imposed for evicting a spouse from the marital home. However, the vast majority of Sierra Leonean women live under traditional law structures that simply ignore statutory law. The country is in the process of formulating a comprehensive national land policy and a reformed legal framework that is aimed at enhancing security of land tenure for all citizens, and establishment of an improved land administration system.

Somalia adopted its Constitution in 1979, when the country was a socialist State. The Constitution provided a number of articles that guaranteed social, cultural and political rights including equality of the sexes. However, the Constitution does not ensure women's equal rights on property inheritance; inheritance is governed by the Shari'a law as the Constitution explicitly states that Islam is the State religion. Land policy has not been formulated in Somalia so far because of the lack of Government for a long period.

The 1998 Constitution of Sudan imposes Islamic tenets that reduce women's rights to land ownership. Land rights are regulated by customary laws that give land ownership to men and women's access to land is by virtue of marriage and inheritance from their parents or kin.

The issue of women's land rights is becoming complicated because of the conflict, which has reduced individual ownership of land by women.

A snapshot on some countries' constitutions shows that governments have on paper constitutional provisions which uphold equal rights and which do not discriminate against women. This is commendable. However, while the law has the potential of addressing social injustices, there are limitations to its role in addressing women's land rights as is clearly evident from the literature gathered through this study. There is a huge gap between laws, policies and legal proclamations and their

implementation. This is apparent, in some countries, for example Uganda, which have progressive laws and policies on paper, but which remain unimplemented due to inadequate political will by the Government. Lessons from other East African countries demonstrate that without clear plans and dedicated resources for implementation and awareness raising of policies, they do little for the empowerment of women and other marginalised groups.

While African countries have different statutory laws, constitutional rights and national land policy reforms, women face similar struggles in accessing, controlling and benefiting from land. Their success or failure depends on the strategies that they employ. One way to address inequities is to take into account the contribution of women to the household, child-rearing, agricultural and income generating activities as input towards the ownership of property⁴⁶. It might also be worth taking into account the limits of law in engendering social transformation and the need to engage in other types of strategies to bridge the gap between laws and practice.

4.2 Legal Pluralism

Many African countries maintain plural systems of land tenure mainly comprising the customary land tenure systems and the formal land administration systems which often overlap and contradict each other. Recognizing legal pluralism is critical to understanding the dynamics of women's land struggles, and in exploring positive action and support women in their struggles, contestations and resistance. Both statutory and customary laws bring together laws, norms, rules and sanctions. Statutory legal arrangements range from constitutional rights pertaining to land, property, marriage, divorce and ownership, to land acts and laws, to provisions enabling the participation of women in land governance bodies.

The conflict between statutory law and customary law can be addressed at the constitutional protection level and at the implementation level taking into consideration international human rights standards. For example, the Ugandan constitution provides that "cultural and customary values which are consistent with fundamental rights and freedoms, human dignity, democracy and with the constitution may be developed and incorporated in aspects of Ugandan life". However, it also provides that "laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status, are prohibited by this constitution."

Land rights are governed by different nested, and often contradictory or ambiguous laws and legal provisions. Policy makers need to recognize that legal pluralism creates complexities in land reforms and administrations as well as discrepancies between constitutional, statutory and customary law. This needs to be addressed and harmonized if women's rights to land are to be protected and access improved. Managing these systems to ensure security of tenure for all sections of the society has been a formidable challenge to the legal systems in African Countries.

In some cases women resort to customary law as a strategy when the statutory law is not working in their favour. This is due to the fact that actors and structures of the statutory law might be inacces-

46 Kameri-Mbote, 2006.

sible to the women in certain cases. It has been documented that women face a myriad challenges ranging from the complexity of the processes involved in land administration, lack of finances for court cases to illiteracy.

In conclusion, there is a need to embrace a human rights based approach (HRBA) as an overarching framework so that women's land rights and needs can be prioritized. The characteristics of HRBA include universality, inalienability, indivisibility, equality and non-discrimination, participation and inclusion amongst others which are key to women's realization of rights.

Snapshot of some countries constitution on equal rights.

Angola: Angola's Constitutional establishes a right of nondiscrimination on the basis of sex (Article 18) and provides for the equality of men and women within the family. (Article 29).

Eritrea: The 1997 constitution of Eritrea states government's commitment to create a society in which women and men shall interact on basis of mutual respect, solidarity and equality.

Burkina Faso: the Constitution affirms the principle of gender equality in all matters

Ethiopia: The 1995 constitution provides women with equal rights with men in owning, administering and transferring property including land. It also states that women enjoy equal rights with men in political, economic and social spheres and that there should not be any sort of discrimination on the basis of sex.

Botswana: The Botswana constitution Section 15 of the Constitution states that there shall be no discrimination on the basis of sex.

Lesotho: The Constitution provides for fundamental human rights to all people regardless of sex or status

Malawi: Article 24. (1) of the Constitution accords women the right to full and equal protection by the law, and have the right not to be discriminated against on the basis of their gender or marital status. Article 24 (2) states that any law that discriminates against women on the basis of gender or marital status shall be invalid and legislation shall be passed to eliminate customs and practices that discriminate against women

Mozambique: Article 67 of the Constitution recognises equality between men and women. The Family Law of 2003 provides for joint registration of property for married people.

Namibia: Article 10 (1) stipulates that all persons are equal before the law. Article 14 (1) explicitly recognises women's equal rights before, during and upon dissolution of marriage.

South Africa: 1996 Constitution of South Africa upholds the principle of gender equality. The Bill of Rights of the Constitution states that everyone is equal before the law and has the right to equal protection and benefit of the law.

Swaziland: The 2005 Constitution states that all persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.

Zambia: Article 11 (1) recognizes and declares every person in Zambia to be entitled to the fundamental rights and freedoms of the individual, whatever "his sex".

Zimbabwe: The Constitution amended in 1996 prohibits discrimination based on gender.

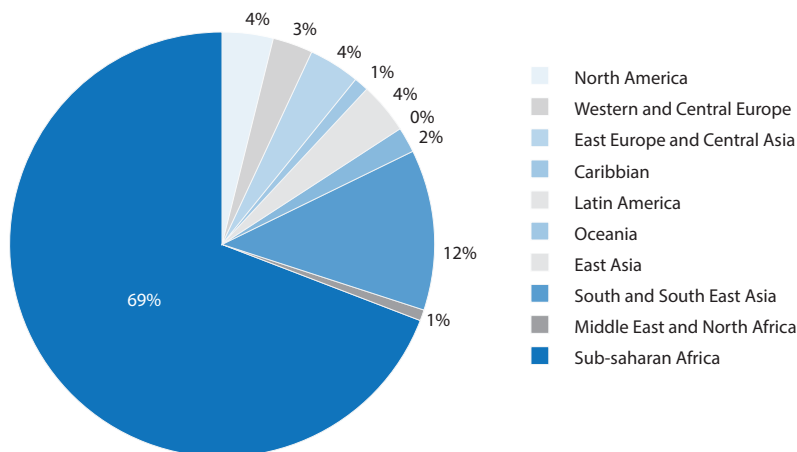
5. HIV and Women's Access to Land

In 2011, UNAIDS estimated that there were 34 million people living with HIV. Of this figure, 23.5 million resided in sub-Saharan Africa, representing 69 per cent of the global HIV burden. UNAIDS noted that in 2009, 'about 34 per cent of all people living with HIV resided in the 10 countries of southern Africa⁴⁷'. Swaziland which has the highest adult HIV prevalence in the world; an estimated 25.9 per cent of people in the country were living with HIV in 2009. It is closely followed by Botswana with prevalence rate estimated at 24.8 per cent.

The HIV pandemic is engendered, with women being disproportionately impacted. The vulnerability of women and girls to HIV remains particularly high in sub-Saharan Africa: about 76 per cent of all HIV-positive women in the world live in this region. Further 58 per cent of all people living with HIV in sub-Saharan Africa are women⁴⁸.

UNAIDS 2013 statistics on new infections on HIV showed that some African countries have registered significant decrease in new infections. This trends contrasted by an increase in HIV infection rate from 6.4 per cent to 7.3 per cent in Uganda in 2012. Apart from Uganda, Chad is the only other African country where the number of HIV cases is rising (Beadle, 2012).

Chart 1: HIV/AIDS prevalence rate by region, as at December 2012



In 2005, Human Rights Watch noted that the government of Uganda had shifted its focus "towards abstinence-only prevention programmes, alongside a general complacency or 'AIDS-fatigue'" which reduced the practice of safe sex. In addition, in 2008, AllAfrica.com suggested that "greater access to antiretroviral drug treatment (ART)" reduced people's fear and urgency to get tested for HIV, thereby increasing the likelihood of people engaging in risky behaviour.

47 Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia, Zimbabwe.

48 Source: UNAIDS World AIDS Day Report, 2012

In the 1990s, Uganda was the beacon of hope in sub-Saharan Africa as its effort to fight HIV and AIDS led to drastic reduction in new infection rate. The reversal noted above is a reminder to all concerned to remain vigilant and not to be complacent if the fight against the HIV/AIDS is to be won.

Hopeful signs on the fight against HIV/AIDS from Africa

- Some sub-Saharan countries which have the highest HIV prevalence in the world, rates of new HIV infections have been cut dramatically since 2001; by 73% in Malawi, 71% in Botswana, 68% in Namibia, 58% in Zambia, 50% in Zimbabwe and 41% in South Africa and Swaziland.
- But Uganda and Chad are the only countries in Africa which have registered increase in new HIV infections, 2;
- Sub-Saharan Africa has reduced AIDS-related deaths by one third in the last six years and increased the number of people on antiretroviral treatment by 59% in the last two years alone.
- Half of the global reductions in new HIV infections in the last two years have been among new born children.

Adapted from UNAIDS Press Release 2013 and Beadle, Amanda P. (2012)

5.1 Impact of HIV and AIDS on Women's Ability to Access, Own and Control Land

Stigmatization of HIV means that many infected persons are discriminated against. In South Africa, "disclosing one's HIV status is not always in one's best interest, as it can lead to rejection, abandonment, and other sources of lost social support"⁴⁹. Other negative impact of HIV and AIDS were when families became secretive about infection due to fear, shame, and ridicule by communities around them. Women are particularly vulnerable to such acts because of their social status in society.

With respect to accessing, owning and controlling land, women with HIV and AIDS are negatively affected because of a number of reasons among them:

- Current land policies do not specifically consider the needs of HIV/AIDS women who are a majority of HIV-positive adult people in sub-Saharan Africa.
- They are usually thought to be the ones who brought the disease in the family.
- Misconception that once one is HIV-positive he/she will soon die.
- That a person with HIV and AIDS does not have energy or means to use land effectively.

Research has shown that HIV/AIDS affected households generally have less access to labour, less capital to invest in agriculture, and are less productive due to limited financial and human resource capacity. This is because such families spend much of their time attending to the sick and most of their financial resources on treatment or food for HIV and AIDS patients. Therefore, the issue of land use becomes extremely important as a result of the epidemic's impact on mortality, morbidity and

⁴⁹ J. Iwelunmor, et al., "Family Systems and HIV/AIDS in South Africa", NIP Public Access Author Manuscript, Pennsylvania State University.

resultant loss of skills, knowledge and the diversion of scarce resources to the immediate needs of the HIV/AIDS patients. HIV and AIDS affected families devise a range of multiple livelihood strategies, resulting in changes in land use and 'land ownership regime' as they fight for survival. For example, such families may cultivate less land because their bodies cannot cope with strenuous farming operations, or in severe cases of HIV/AIDS, children especially girls may be withdrawn from school to work in the farm or help to care for affected family members⁵⁰.

To raise money for expenses related to the disease, affected households may rent out part of their land, or even sell it at extremely low prices, becoming landless and condemning themselves to poverty.

Women's land rights are particularly negatively affected because widows are often dispossessed of the property of deceased spouses, thus losing their source of livelihood. This happens even where inheritance laws protect women from such vices because in many rural areas, customary law rules supreme. . In particular, the dispossession of AIDS-widows is 'increasingly becoming a problem in areas with patrilineal inheritance' systems⁵¹. Widows and children in such situations often became destitute. In a bid to survive such women and girl children may resort to prostitution and unsafe sex thereby exposing themselves to more risks of contracting the HIV or opportunistic diseases associated with the HIV infections.

Another factor which affects HIV positive women's ability to access, own or retain family land is commercialization of land. As land is treated as a commodity, once a male spouse dies, his relatives see an opportunity to make money by selling his land. The situation is compounded by the increasing land pressure due to expanding human population and rising large-scale land acquisition by foreigners and foreign direct investments, among others factors.

Inadequate capacity of government organs for the effective implementation of laws designed to protect and enhance women's land rights is another factor affecting women's rights to land. This is due to slow training programmes and deaths of government personnel due to HIV/AIDS related illnesses.

50 A.P. Chuks, The Effects of HIV/AIDS Pandemic on Agricultural Production as Perceived by Farmers in the Central Agricultural Zone of Delta State, Nigeria, Middle-East Journal of Scientific Research 3 (2): 90-95, 2008.

51 S. Drimie, "The Impact of HIV/AIDS on rural households and Land issues in Southern and Eastern Africa", background paper for FAO, Sub-regional office for Southern and Eastern Africa.

6. Women, land, agriculture and Natural Resource Management

6.1 Women, Agricultural and Land

The major objectives of land policy are to create an enabling environment for economic growth, improved livelihoods, environmental sustainability and peace and security, through equity in land access, ownership and control. Despite women's critical role and contribution to the agricultural sector and food security, women across Africa are discriminated against in terms of their access to and control over land, and income produced from it.

African countries have committed themselves to ensure women's rights with respect to agriculture and natural resource management. Rural women are not a homogeneous group --there is diversity among them and the ways they use land and natural resources. Differences in class, age and marital status, living with HIV/AIDS or being internally displaced, have serious impacts on rural women's access, control, ownership, use and their relationship to land and natural resources. This should be given due consideration in policy formulation and implementation by involving all the stakeholders in an inclusive manner.

Agriculture and rural life remain the backbone of African societies. Majority of the African population live in rural areas and rely on agricultural production, for domestic food consumption and as a source of income. Agricultural products are a basis for export economies for most African countries.

A common characteristic of agriculture in Africa is that smallholder agriculture dominates agricultural production. Smallholder production focuses on subsistence production in which women play a significant role. However, agriculture is characterised by gender inequality – gendered access to resource particularly land and control over it– reflecting unjust resource system. It is important to note that allocation of land is also gendered in that women in most cases tend to be allocated smaller, lower quality, marginalised land, which needs more investments to improve its productivity.

Access to communal land is also a challenge to women although they used to get access to community owned forests and grazing lands land scarcity due to population pressure has gradually deprived this right.

Gender issues cut across virtually all aspects of agriculture. Throughout the world, women constitute a large portion of the economically active population engaged in agriculture, as farmers and as farm workers, and spend majority of their working time in agriculture. Extensive survey on the feminisation of agriculture in Latin America documents the rise in female agricultural labour, both as workers on their own farms and as participants in the agricultural wage labour force⁵². Women comprise, on average, 43 per cent of the agricultural labour force in developing countries, ranging

52 C. D. Deere, "*Land rights* in Paraguay, Peru, and Brazil", a study undertaken for the World Bank.

from 20 per cent in Latin America to 50 per cent in Eastern Asia and sub-Saharan Africa⁵³. However, this contribution is not accounted for in the economy as agricultural censuses overlook women's work in agriculture.

Women mostly do not have direct access to agricultural land in countries under this assessment—they only get access to family holdings or clan holdings through marriage, resulting in precarious use rights. Widows exceptionally get direct access to land, although customary and traditional practices affect them in some countries. In Egypt and Libya, women's agricultural land is managed by male relatives. In Somalia, land belongs to sons and mothers therefore farm on their son's land. Land tenure systems that support gender equity can increase women's power in agricultural production, enhance economic empowerment and foster better status in social relationships.

Women benefit less from agricultural credit, extension services and modern agricultural inputs, with negative impact on farm productivity. A 2011 SOFA Report on *Women in agriculture: Closing the Gender Gap for Development* states that women could increase yields on their farms by 20–30 per cent, raising total agricultural output in developing countries by 2.5—4 per cent, if they had the same access to productive resources and agricultural inputs as men do.

In Egypt and Libya, productive land is very scarce and water availability is critical. Large proportion of land lies in exclusively arid areas. In Libya, only 8.8 per cent of the total area of land is arable, offering employment to only 1.7 per cent of the population⁵⁴. In comparison to Eastern and Western African countries, women's engagement in agricultural production in these two countries is low. Egyptians have associated themselves with the River Nile and with agriculture since time immemorial. Women's labour is critical to agricultural production, but although they play a significant role in subsistence agriculture, they have limited involvement in large-scale farming as few of them own land for commercial use.

Agriculture is an important sector in Sierra Leone, accounting for 58 per cent of gross domestic product (GDP), 4% percent of total exports and 80 per cent of the total population's employment. Subsistence agriculture dominates the sector. The agricultural sector grew by about 14 per cent in 2007, and 5 per cent in 2008. Women constitute 80 per cent of the agricultural workforce contributing, directly to 40 per cent of the national revenue⁵⁵.

Agricultural land is 70.2 per cent of the total land area in Somalia⁵⁶. Most of the land is used for permanent pasture (69 per cent), and only 1.7 per cent of the total land area is cultivated. The main source of revenue for majority of the population is agriculture, with livestock being the most important segment, accounting for about 40 per cent of GDP. Live animals, along with hides and skins, are significant. The agricultural sector accounts for 71 per cent of the employment in Somalia. Women play a critical role in agriculture and livestock management. However, livestock ownership and mar-

53 S FA Report 2011.

54 FAO, *Agricultural Source Book*

55 United States, State Department, *Investment Climate Statement*, 2011

56 FAO, 2009, *Ibid*

keting is engendered, with women marketing small ruminants while men market the big stocks that carry high market prices.

Sudan has a large area of land suitable for agriculture, about 57.5 per cent of the total area⁵⁷. Agricultural production remains the country's most-important sector, employing 80 per cent of the workforce and contributing 39 per cent of GDP and about 95 per cent of all exports. Women play a significant role in subsistence agriculture under the customary system since they do not have easy access to irrigated land.

Uganda has favourable soil and climatic conditions that contributed to the country's agricultural development. Agricultural land is 69.9 per cent of the total land area⁵⁸. Most areas of Uganda usually receive plenty of rain, which has allowed continuous cultivation in the southern part. Women undertake about 85 per cent of the sowing in Uganda, in addition to other farm activities.

6.2 Women and Natural Resources

Rights to natural resources are extremely important for rural women. This is because women's livelihoods crucially depend upon these resources. Natural resource rights vary from country to country based on the land tenure system. Legislations concerning natural resources other than land usually do not explicitly address gender issues, although there are few exceptions.

Natural resources such as water and forests are basic to security of rural women's livelihoods. There are also different natural resources on which rural people make a living, such as terrestrial and aquatic resources, fishing, trees, and aqua farming (e.g. fish, shrimp and seaweed). As the case with land, complex gender issues exist in the tenure of natural resources. It is widely acknowledged that despite women's relationship with natural resources, they tend to remain outside the associated decision-making processes. For example, although women are most affected by access to potable water, they often remain on the periphery of local water management institutions, such as water users' associations.

Studies have shown that local people, particularly women, have specialised knowledge, traditions, and self-interest that make them the most efficient managers of the resources they use. In some cases, co-management of common property resources by communities and governments may be the most effective strategy for improved management or an intermediate step to exclusive management by local communities⁵⁹. Effective measures should be taken to ensure women's full participation in community resource management by ensuring that they have representation on, and a voice in, local management committees.

57 FAO 2009, Ibid

58 FAO, 2009, Ibid

59 (Berkes and Feeney, 1990).

6.2.1 *Water*

Water is necessary for a wide range of agricultural, livestock, industrial and domestic activities. As a result of unequal distribution of water resources across the continent, water is a scarce resource in many African countries. The water world changes according to seasonal rhythms, human modifications, such as dam building and irrigation schemes, and consequences of climate change have impacts on water systems, affecting people generally and women in particular. Access to water sources has caused an additional burden on women by forcing them to travel long distance to fetch water as they are the ones responsible for providing water for human and animal use in many households.

There is a strong link between water rights and land rights. Access to water for domestic use, pastoral water rights and customary access rights to water for irrigation, all depend on having secure rights over land. Water tenure mostly focuses on legal (formal) water rights, (for example in large-scale irrigation schemes), ignoring customary water rights, which affect women as they are the ones who source water for the homesteads. Reforms that change the land tenure system ignoring the water use system often impact women's resource rights and livelihoods negatively, as is the case in Sudan and Sierra Leone⁶⁰. It should be noted that in Northern Africa, land rights strongly depend on water rights.

6.2.2 *Forestry*

In many countries, access to forest resources is determined by gender-based differences in knowledge about natural resources and ways of using them. Women and men differ in the nature and extent of their dependence on and use of local forests, due to engendered divisions of labour and in some cases customary norms that regulate access to, and use of forest resources. Rural women rely on forests for products such as firewood, fodder, honey or medicinal herbs, while men use forests for hunting, domestic construction, making charcoal, wood curving and commercial purposes. Forests are useful for women for they create opportunity for income generation. Women earn income from sale of firewood, and charcoal and incense in some countries like Ethiopia and Somalia.

Women have weaker control over forest resources although studies show that they are good forest managers. The gender role makes them more attached to forest resources and play key role in conservation programmes when given the opportunity. For example, in parts of India and Nepal forest management groups with a high proportion of women in their executive committee have shown significantly greater improvements in forest condition than other groups⁶¹.

60 Adams, Berkoff and Daley, *Land-Water Interactions: Opportunities and Threats to Water Entitlements of the Poor in Africa for Productive Use*.

61 B. Agarwal, *A Field of One's Own: Gender and Land Rights in South Asia*. (Cambridge University Press).

6.2.3 Fisheries

Fisheries and aquaculture production, processing and marketing activities worldwide provide direct employment and cash income to many people. Gender issues are central to governance of tenure in fisheries because of its impact on access to the places where different fishing activities are carried out. The role of women in the fisheries sector is unrecognized. Fisherwomen's interests are rarely represented among managers, policymakers and legislators. Women also have a prominent role in small-scale fisheries sector in preparatory work, such as mending nets, and in post-harvest processing and marketing. Land tenure has impact on access to the places where different fishing activities are carried out. For example, case studies in the Philippines found that encroachment on common property foreshores by private developments in tourism and commercial aquaculture (fish ponds and shrimp farms) affected women more severely than men due to their greater reliance on the foreshores land and on coastal mangrove forests to meet household food and fuel consumption needs⁶². In Libya, the fishery sector is dominated by foreign investors from Tunisia, Greece and Spain. Hence, women do not benefit from fishing activities.

6.2.4. Climate change and women's land rights

Climate change represents one of the world's greatest human development challenges. Global temperatures and sea levels are rising and will continue to do so throughout the 21st century. Human activity, particularly deforestation and the burning of fossil fuels, is driving this change by increasing atmospheric concentrations of carbon dioxide and other greenhouse gases. As a result, the world is experiencing greater weather extremes, changes in rainfall patterns, heat and cold waves, and increasing droughts and floods. These phenomena have a negative impact on the environment and on people's lives and livelihoods. Marginalised groups who are in most cases women, in the poorest regions are particularly affected, even as they are least responsible for these changes.

Gender vulnerabilities are exacerbated by climate change and women are more at risk due to factors related to income, decision-making power, access to meteorological data, health choices and outcomes, education and training. They can also reveal more specific cases of discrimination and risk related to climate change and policy responses, such as higher rates of gender-based violence, different school enrolment rates, unequal access to public services and poorly targeted assistance in the aftermath of climate shocks.

62 Daley, *Ibid*, 2011.

7. Women land rights in urban/peri-urban agriculture

Urban and peri-urban agriculture (UPA) occurs within and surrounding the boundaries of cities throughout the world and includes products from crop and livestock agriculture, fisheries and forestry. It also includes non-wood forest products, as well as technical services provided by agriculture, fisheries and forestry departments. Often, multiple farming and gardening systems exist in and near a single city⁶³. Poor men and women engage in UPA to increase household food security and to generate income. UPA is a real economic opportunity as cities offer dynamic food market. Urban land pressures creates high demand for land.

Approximately 800 million urban citizens worldwide are involved in UPA in some way⁶⁴. Dar es Salaam, Tanzania, one of the fastest-growing cities in sub-Saharan Africa, faces several problems associated with such growth, including food insecurity, poor access to clean water, inadequate housing, unemployment and lack of education, and difficulties providing basic services and infrastructure. Agriculture addresses some of these concerns by serving as an important source of locally available produce and employing a substantial number of people, with 68 percent of the households in the city reported to be involved⁶⁵. In Kampala, Uganda, 35 percent of the households are involved in UPA⁶⁶. A high percentage of Accra residents in Ghana are involved in urban agriculture.

The involvement of so many people in UPA indicates its centrality amongst informal sector activities⁶⁷.

However, although UPA has many benefits, it is often associated with health risks, such as the use of polluted urban water to water crops.. Another key challenge for UPA in Africa is that in most cases it is being implemented within a scenario of semi-official recognition, with limited active support from city authorities, or even in conflict with planners or health authorities with respect to land tenure and water use. The issue is how to convince the policy makers and the municipal authorities with evidence based data on the importance of urban agriculture and how it enhances food security.

7.1 Gender Aspects of Urban/Peri-urban Agriculture

Women play an important role in household food supply, through their labour, decision-making about production, consumption and division of food and through the income they generate, which is often used to buy food. Various studies have shown that women's income has a greater positive impact on the health and nutritional status of the children than of that of men. Women (especially widows) and the elderly, are powerless in many urban societies.

63 FAO, Gender Issues in Land Tenure. Paper presented at the High Level Consultation on Rural Women and Information. Food and Agriculture Organization of the United Nations - FAO: 4-6 October 1999, Rome.

64 J. Smit, A. Ratta, & J. Nasr, Urban agriculture: food, jobs and sustainable cities. Publication.Series for Habitat II, Vol. I. New York, United Nations Development Programme (UNDP), 1996.

65 C. Sawio, Managing urban agriculture in Dar es Salaam. Cities feeding people, Report 20. Ottawa, Canada, IDRC.

66 Daniel G. Maxwell, Alternative food security strategy: a household analysis of urban agriculture in Kampala. World Development 23(10):1669-1681.

67 Sources: UNDP, 1996; Lee-Smith and Memon, 1994; Diallo, 1993; Mougeot, 1993; Maxwell and Zziwa, 1992; Freeman, 1991.

Women tend to dominate urban cultivation because they are marginalised in other forms of employment in the formal sector of the urban economy. In some cases, for example in Southern Africa, urban agriculture is even synonymous with “farming by women”, indicating that this is a very typical female undertaking.

Urban agriculture is also relatively accessible to women in that it utilises indigenous practices and low-cost inputs that are attainable and affordable to women with limited incomes, skills, and resources. For example, women backload fuel wood from peri-urban areas in Ethiopia to satisfy energy needs for cooking and food processing⁶⁸ or collect and prepare wild vegetables to contribute to household nutrition for urbanites in Lesotho⁶⁹.

In Nigeria, urban agriculture tends to be associated with lack of formal sector employment and is aimed primarily at the production of food for home consumption, enabling households to save on food expenditure. Because women have to take a centre stage in developmental activities in order “to cope with problems of identity which affect them in particular, and because food production forms part of their traditional roles in family units”, interventions that promote urban agriculture for the purpose of improving human nutrition should target them. In order to improve human nutrition, women’s access to land and tenure security should be enhanced and assured⁷⁰.

7.2 Constraints Facing Women Urban Farmers

The most overarching barrier to women urban farmers is the opposition to city farming activities by local authorities. Urban agriculture is often perceived as an activity of rural life that simply does not belong to the city limits and poses a potential health nuisance or threat to urban dwellers. It is also thought to be of marginal importance to the urban economy⁷¹ and is not considered a legitimate form of urban land use. Other constraints include hostile or unsupportive policy for urban agriculture, which is detrimental to women farmers, and the higher value of traditional urban activities in comparison to agriculture.

Women urban farmers also face local obstacles with respect to land, labour, agricultural inputs, and environmental conditions. Women often lack money to purchase seed and fertilizer. Access to water is also a key constraint to productive capacity and successful gardens are often limited to the rainy season.

68 FekerteHaile, “Women fuel wood carriers in Addis Ababa and the peri-urban forest”. Report to the International Development Research Centre (IDRC) and National Urban Planning Institute (NUPI). Geneva: International Labour Organization, 1999.

69 Mapetla Matšelisio, Hopolang Phororo and Gisela Prasad, “Urbanization, gender and environment: the role of wild vegetables”. Paper presented at the International Seminar on Gender, Urbanization and Environment. Nairobi, Kenya. 13-16 June 1994.

70 W. Van Averbeke, “Urban farming in the informal settlements of Atteridgeville”. Pretoria: Centre for organic and Smallholder Agriculture.

71 Maxwell, *Ibid*, 1995.

7.3 Women Urban Farmers' Strategies in Urban Farming

Women urban farmers across Africa employ various strategies to deal with the constraints mentioned above. For example, elderly women in Nairobi grow beans, kale, cabbage, and bananas in the slum areas and along roadsides, while also keeping dairy cows to produce milk, during severe economic conditions⁷².

In Kampala, women have formed associations to improve their welfare and involvement in urban agriculture. Some women's associations pool funds to assist each other. Other women, led by a local council woman representative, meet on a monthly basis to discuss strategies for their farming social support organization. With a focus to better their lives, these women, belonging to different ethnic groups and cultures, came together with common aims on urban farming and developed a farmers' association⁷³.

In the Gambia, government support for horticultural production has harnessed the community activism of women, who have formed a peri-urban farming cooperative. The cooperative obtained a loan of 10,000 dalasi and managed to pay back the entire amount within nine weeks of the first harvest of chilli peppers⁷⁴.

72 Linda K Ethangatta, Households headed by elderly women in the slums of Kawangware and Kibagare in the city of Nairobi: poverty and environmental concerns. Paper presented at the International Seminar on Gender, Urbanization and Environment, 13-16 June 1994. Nairobi: Mazingira Institute.

73 A. Nuwagaba, et al. Improving urban Poor's access to land for (peri) urban agriculture in Kampala, Uganda. Unpublished Paper, 2004.

74 Hazel R. Barrett and Angela W. Brown, Women's horticulture in the peri-urban zone, the Gambia. *Geography* 73(319):158-160, 1988.

8. Women land rights and large-scale land based investments in Africa

African countries are aware of the increasing investment opportunities in agriculture driven by new global markets, the continent's own growing demands and the resulting increases in the value of land, water and other natural resources. They also acknowledge the many challenges in the quest to promote land based investments that ensure its rich land and natural resources are fully utilised to promote equitable economic growth, peace and prosperity for its people.

In the absence of adequate legislation, populations do not benefit from any protection and proposed benefits derived from such transaction. In most cases, women lose out due to their precarious position in terms of access to land and participation in decision making.

Land deals are often multi-level agreements between government, banks and financial intermediaries, with overlaying and complex levels of legalities over ownership. As details of the agreements are not easily accessible, farmer associations face difficulties if they want to challenge the terms. The domestic legal rights of the poor do not guarantee that legal recourse might address their issues. On the contrary, international law will often prevail over domestic law, /providing additional rights to foreign investors⁷⁵.

Women have fragile access to land and most investors who acquire land for large scale investment do not take into consideration the interests of the women who work on the land to provide food for a larger part of the families and populations. This has consequences that not only impact on women but also on communities as a whole. It is therefore imperative to pay attention to the principles enumerated in the Nairobi Action Plan on Large Scale land Investments in Africa, to ensure such investments are to the benefit of the people in Africa.

8.1 Discourses of LSLBI

In general, governments claim that large-scale agricultural investments constitute: (a) a source of income for the state, (b) an opportunity to modernize agricultural production and strengthening of local market, an improvement of the rate of land exploitation, (c) a promotion of employment for youth in rural areas, and (d) a reduction of rural exodus.

The lack of long-term land use in many African countries is an excuse to sell or lease large areas to local and outside natural or legal persons for a long period. Such persons may have the means to develop the land usually for commercial crops to the detriment of food needs in the country. At times however, such large tracks of land are acquired for speculation purposes. This happens because land authorities rarely conduct thorough checks on would be investors in land. Leasing out land for commercial purpose and arbitrary land sale also deprives women of their land, depriving

⁷⁵ Tandon, Ibid, 2010.

them of money paid as compensation. Women may also lose the land that they previously cultivated through changing patterns of land use particularly introduction of agricultural “modernization”⁷⁶.

8.1.1 Impact of large scale investments in land on African women's rights

The acquisition of land occurs over a long period of time covering: (a) negotiation of the agreement, (b) transfer of land rights and (c) agricultural production. The latter is often progressive as the initial production may concern only a small percentage of the acquired lands. There is often a time elapse between the period of land transfer and the realization of production. Women are slightly involved at the different stages. The majority of people living below poverty line in Africa, as in other parts of the world, are female farmers. Global climate change worsens the impact of the pressure on them as they are already vulnerable.

Women's land rights are less guaranteed and easy targets for violation. Women are marginalized among the marginalized. Women have both a restricted and “secondary” access to land because this is done through men. The same holds true for land use. Even though women form the majority of farmers in Africa they suffer a double jeopardy in respect of land access, that is, from the village of origin or residence (men, elders, and community leaders) and from the global village (wealthy foreign physical and legal persons).

8.1.2 Main actors and their responsibilities

The recognition of the Human right to development is a step in the right direction but while exercising this right, there is a need to make those who engage in activities in the name of development to be accountable to internationally recognised standards which protect peoples' rights and their environments. The actors should adhere to the set standards and not infringe on other peoples' rights especially the vulnerable and the marginalised.

“Land transactions are an opportunity for the effectiveness of the right to development”

UN General Assembly adopted the declaration on the right to development on December 4, 1986. Considered that the human being is the central subject of the development process and its main beneficiary Reaffirmed that the right to development is an inalienable and equality of chances is a prerogative for nations and individuals Consequently proclaimed that: “States have the right and obligation to elaborate appropriate national development policies with the objective to constantly improve the well-being of the entire population and all individuals... ensure equal opportunities for all, as far as access to basic resources is concerned ... and a fair distribution of income. Effective measures must be taken to ensure an active participation of women to the development process. Appropriate economic and social reforms must be undertaken to eliminate all forms of social injustice” pursue development with all human and natural resources, the first being the Land, that is the poor man's wealth.

76 A. Whitehead and D. Tsikata, “Policy Discourses on Women's Land Rights in Sub-Saharan Africa: The Implications of the Re-turn to the Customary.” *Journal of Agrarian Change* 3(12):57-112.

Governments strengthen land rights for communities and their members (men and women) by acknowledging customary land regimes and setting minimum guidelines for its administration, customary law notwithstanding. Among the requirement should be open forum consultation between the would-be investor with community members to be affected, including women. In addition, it is absolutely necessary that people be informed throughout the negotiation process. The benefits of this strategy will accrue to the communities, should the transaction succeed.

Local authorities, communities and civil society must also play their role to make land transactions equitable by:

- Acknowledging customary land rights of land users (men or women), mostly during the issuing of certificates and contracts for land use;
- Ensuring that men and women participate in the consultation and negotiation process;
- Emphasizing capacity building for good land governance and on how to provide legal support and advice.

In conclusion, large scale land based investments are a challenge for the achievement of MDGs 1 and 3, reduction of extreme poverty and hunger and the promotion of gender equality and empowerment of women as they limit the equitable access to and control of resources by the actors of the rural area in general and women producers in particular.

A study commissioned by LPI on LSLBI⁷⁷ makes several recommendations, among others the legal recognition of the land rights of local populations, in particular over the commons. The AU framework and guidelines espouses a continental land regime which prioritizes security of tenure for all categories of land rights. Ensuring 'good' formalization, with voice for women and recognition of their rights and assertion of other vulnerable rights holders is key. Member States should ensure the protection of land rights of communities in the context of investments.

The synthesis report further recommends the regulation of LSLBI to ensure respect for human and property rights, particularly for women, pastoralists and marginal populations. It urges for urgent development of frameworks that provide agreed benchmarks for responsible investment.

LSLBI should be looked into holistically, taking into consideration land policy and land use plans principles that facilitate equitable access and secure land rights for communities, including women and local and foreign investors, in the medium term. One of the ways forward is to effectively implement the Nairobi Action Plan on LSLBI.

There is need of an inter-African multidisciplinary and intergenerational approach based on gender to control the negotiation process and land transaction modalities. 'Educate (African men and women) or perish:' this should have been the motto for African rulers and subjects⁷⁸.

⁷⁷ LPI, Ibid 2013.

⁷⁸ See the mottos of endogenous development historian, theoretician, and practitioner Joseph Ki-Zerbo: "On ne développe" and "Eduquer ou périr"

9. Women, land and conflicts

Land conflicts occur in the absence of a system of land management that is equitable, in terms of access and control. Customary land rights did not anticipate clan ownership of land with equitable access for all its members considered to be owners with usufruct rights in a collective system founded on common interests.

Land pressure was a determinant in the transformation of customary rules which underwent distortions in the quest for better social adaptation. These transformations gave rise to conflicts of interest in which the more disadvantaged actors claimed their rights of access on the basis of customary rights that had become obsolete for managing land rights and settling conflicts.

Today, one single principle of customary management seems to emerge in Africa. The principle is based on an appropriation of agricultural land by men and access in usufruct by women within their families of origin and/or marriage. Hence, land takes on a masculine imprint and in African societies, and forms a part of the heritage around which the whole patriarchal, and even the matriarchal, system is constructed. These customary land rights that are being dismantled always persist alongside the legal rules over which they largely predominate.

Ethnic problems and the return of refugees are responsible for several land conflicts that affect everyone, men as well as women. Land conflicts related to ethnicity are an ancient phenomenon in the Great Lakes Region, notably in North-Kivu, in eastern RDC, in the territory of Kalehe, the Hills...

(Action for Peace and Concord - APC- and the Life and Peace Institute, 2009).

The first land conflicts, no doubt, concerned the boundaries of family parcels and those of areas under different uses, giving rise to inter-family conflicts between the landowners, for example, farmers and herders for the control of water and pasture land. These conflicts resulted in incompatibility between the interests and needs of different users. These types of conflicts that do not directly concern women will not be dealt with in this context.

There is a new generation of land conflicts which are latent but even more untenable that has appeared within families, and there are many which concern women directly. They originate from negligence in terms of the lack of priority to rural women producers as users of family land. For the purposes of analysis, these conflicts which are all categorised according to their causes in direct relationship with the violation of rights have consequences that are expressed in different forms of violence.

9.1 Eviction of women with Rights from Family Land

The new local systems that emerged from the customary system lent themselves to too many disputes in their transformation and implementation and gave rise to forms of violence including:

- Expulsion of women from the land and from marital and family clans;
- Eviction from land on the basis of new discriminatory rights systems.

The many cases recognized as being a transgression of customs confirm the inefficiency of the new customary rules and the pressing need for more appropriate action on the land question. In the Great Lakes Region, land issues represent the most cases before local structures and legal bodies (80 per cent to 90 per cent of grievances in Burundi concern the legal clinics). These changing customs do not always favour equitable access to the land.

This changing situation, which guarantees the superimposition of various rights on the same space and which is itself based on internal consensus among the rights-holders, gives rise to family conflicts resulting to threats of poison and sorcery among male family members, etc.

Case reported by Catherine ANDRÉ (in Evolution of land rights in Rwanda: an invisible hand)

The second wife of a polygamous husband claimed from her brother the right to farm a plot which had belonged to their father following her repudiation by her husband. She requested the land for herself and her daughters, her sons remaining with her husband. Her elder brother refused to take care of her subsistence and give her a plot for her own use, sending her back to her husband. He sent her back to her brother whose customary duty was to provide for her subsistence. This woman, even though a legitimate heir of her father, has not managed to accede to the land that their deceased father left them and even less to that of her ex-husband of whom her children were the legitimate heirs.

Within families, the solidarity among brothers and sisters has become fragile in the face of the quest for land and falls apart under even minimal threat, real or otherwise. The interwoven nature of farming units and dwellings provides a double character to these fraternal alliances: the loss of a farm plot also means the loss of a dwelling unit, as brothers often refuse to receive their sisters in the family home especially if they arrive with their sons.

Various cases suggest a lack of respect for customs that were never supposed to regulate such a context of land pressure and even a total deviation from current practices that border on intra-family land fraud.

9.2 Social Change: New Discriminatory Standards for Access to, and Control of Land

The standardisation of discrimination is a strategy for the social acceptance of these discriminations in order that they cease to generate conflicts. Normalisation is built on the repetition of the same facts and when the dominant group decides implicitly, in the respect for their common

interests, to transform or build standards, the process is imposed over a more or less long period. The lower the numerical representation of the discriminated group, the faster the changes.

- The criteria of recognition of identity in terms of belonging to a family makes it possible to discriminate in terms of access to land against the more vulnerable, such as women in polygamous marriages, those cohabitating, and children born out of wedlock. Women in polygamous marriages and their children are rejected by both their natal and matrimonial families. This standard is in the process of being built and imposed in the Great Lakes Region.
- Systematically calling into question all the transactions of the deceased land owner leads to a reduction of the family land (through gifts, sale or loans) by the heirs, often giving rise to new conflicts and a degradation of family relationships. The “wishes of the deceased” are disappearing in agricultural and urban land ownership and this practice is becoming a new social standard.
- Practices authorised by religion in Muslim areas among the Hausa of Niger and doubtless in northern Nigeria, which sometimes completely reduce the mobility of young women through “cloistering”, are being transformed and displaced uniquely into the arena of land tenure, becoming the “cloistering of the fields” by forbidding women access to family land in their marital families, freeing the spouses from the difficult obligation of providing a farm plot to their wives for her own needs.

Family conflicts around land based on gender are specific conflicts that do not seek to break up intra-family relationships, but which can, in the case of extreme shortages of the land resource, end in physical violence with the expulsion of sisters-in-law with or without their children. Between spouses, land conflicts are built around the abuse of rights: refusal to respect traditions; change or transformation of traditions are required and develop continually. And women attempt to return to the land, often through their families of origin is often met with stiff resistance from her own relatives, notably, brothers.

Similarly changes relating to development can be sources of conflicts. This is the case with agricultural programmes, improvement schemes that enhance “ancestral” lands. Generally, the Government undertakes a redefinition of power over land and of the modalities of access, creating new opportunities for some (men) and closing off already precarious openings for others (women).

9.3 Repatriation

In Niger, where there is increasing heavy pressure on the agricultural land especially in the southern band of the country, religious syncretism works in favour of access (half of the man’s share) by women to the inherited property in this transformation of customary laws. Over the last 15 years, intra-family land conflicts between brothers and sisters and mothers have been observed to be less exacerbated and are often managed within families. They are due to:

- Delays in the division of inherited lands which are justified by: i) loans contracted by the deceased have not been settled, ii) the absence of an heir who is working in another country, for example; and iii) other grey areas relating to the status of fields that have been rented out, pawned, etcetera;
- Claims and challenges of divisions which took place several years beforehand (beyond the prescribed period allowed by law), during the course of which women did not receive their half-share. Claims on fields inherited more than 20 years ago are being made by either by the women themselves or by their children⁷⁹.

Inheritance (from the father) is the only remaining way for women to access land. It has been observed that in spite of the existence of laws in their favour, women still do not inherit land. The case above where women inherit land was possible because it was based on religious arguments, which make it possible to observe a new transformation of practices in land ownership that favour a cautious return of women to the land. This shows that “traditions” definitely play an important role in the access of women to agricultural land but that religions can also influence favourable change in a rural environment which ignores government laws.

9.4 Actions for Land Improvement and Irrigation

They are generally based on the withdrawal of land by governments and redistribution to family heads, women being dispensed with by the redistribution criteria. For example, in Morocco, the land tenure issues became an acute problem during the recent movement to privatize collective lands. These lands had been collectively parcels assigned to the tribes, in the name of the tribe, but members of the tribe had only the right of enjoyment and not of ownership (12 million hectares of collective land, 9 million inhabitants living there, belonging to 4500 tribes). To encourage investment in irrigable land, the Government promoted the privatization of these lands, which cannot be divided up and which can only be inherited by one heir. However, the sale of land is regulated by customary rights that are 14 centuries old, which also exclude women from access to and ownership of land. As the rural women members of the tribes had always lived from their labour on the collective lands, they were dispossessed of their sources of revenues and were not compensated⁸⁰. Forty km away from the capital of Rabat, the women of the Hebdada tribe have challenged this injustice and their protest movement is spreading⁸⁰.

Sexist restrictions on access also exist for the purchase of land which constitutes an open mode for all men and women who have the economic capacity. However, this opportunity also comes under control when it consists of agricultural land either by lack of access to the property market as in most countries, or through legitimate systems of eviction supported by Governments.

79 Marthe Diarra, Evaluation genre de la situation socio foncière dans six communautés de la région de Maradi, Care International au Niger, August 2010.

80 Emmanuel Leroueil, la singularité du féminisme africain, 2011, 2 pages.

“A new form of land tenure”

Five years ago, I accepted 3 hectares as a pledge; we are now up to 90.000 F; and then I also have 4 hectares which I purchased 6 years ago : there too, it was a pledge, which extended over the years, the pledger requesting more money each year: I called a halt to the pledge at the amount of 115.000 F; the pledger comes from a neighboring village, he pledged his fields because of the famine but he was never able to reimburse; finally, I purchased another field of 3 hectares last year (2005) at 120.000 F, from a young man who migrated to Libya.”

Délou W, Sherkin Hausa in Niger

In most Sahelian countries, women purchase land through male intermediaries. This exclusion from the property market leads to conflicts due to attempts by the intermediary purchaser to take over the land. Conflicts also arise in polygamous households, as women are apprehensive of sharing land that they have purchased, with the sons of their co-wives after the death of their spouses.

In the Great Lakes Region, land purchased by couples is managed as property inherited from parents, making it possible for brothers to drive away their sisters-in-law who have also contributed to its purchase. In Burundi, women associations are negotiating the differentiation between land that has been purchased, and family land. While they accept that female family members will not inherit family land, they propose that land that has been purchased be equitably shared among the children of the household. Government land policies should provide specific measures for land purchased by couples, to extract them from the multiple customary systems that have been undergoing perpetual modifications, making them even more inequitable than before.

9.5 Land Tenure Security: Lack of Comprehension and Lack of Information

Statutory laws become the cause of land conflicts when they contradict traditions. When women are informed, they claim their ownership rights or access to land on the basis of statutory law in order to ensure the security of their land tenure.

Security of land tenure gives rise to clarifications on the status of the plot to secure and put an end to the superimposition of rights on it in order to do away with certain precarious modes of access by the most vulnerable, for example women. Incidents of land granted to women within the marital family (in areas where this is possible) being automatically withdrawn perpetuates the exclusion of women from access to family land

The security of women's access to and ownership of land through family tenure (in the name of the head of the household) or individual tenure of land with ownership certificates and land titles is a reality with the accompaniment of development projects⁸¹ on the basis of opportunities offered by the statute laws of countries and current practices

Concerning family access (household property), there are high risks of women being dispossessed of this asset by in-laws upon the death of their spouses, in as much as the certificate is established only in the name of the deceased. The absence of updated certificates of land tenure following new transactions (division of the inheritance, sale, etc.) of plots carries the risk of new inter-family and intra-family conflicts.

In conclusion, the multiple consequences of intra-family conflicts over land, sabotage “the solidarity of the lineage which are replaced by limited intra-household solidarities that give rise to conflicts among brothers on the lack of respect of the boundaries of the plot, on the lack of enjoyment of the customary rights of sisters, on the challenges over grants made by relatives, on the refusal to grant a part of the inheritance to children born out of wedlock, on claims made by relatives who have returned to the country, etc.⁸².

These conflicts are most often considered to be the main cause of inter-family or inter-ethnic confrontations. In the Great Lakes Region and in South Sudan, land conflicts result in serious disputes, sometimes leading to pitched battles, poisonings imprisonments, or even deaths in extreme cases. Moreover, these conflicts lead to a socialisation of the exclusion of women from land in terms of access, control and management of conflicts.

The women who are the primary victims of land conflicts are absent from the management of land conflicts. They are excluded from public decision-making, including in the area of the management of conflicts related to natural resources for cultural reasons, as well as the masculine character that accompanies land resources and their control. Women are rarely members of committees for the management of peace in Mali and they are inactive members of basic land commissions in Niger. This is due to the fact that the meetings are often attended by older members of the community who have retired from farming.

82 *Marthe Diarra, Ibid, 2010.*

10. Capacity Development Initiatives to Enhance Women's Land Rights in Africa

Many African governments have constitutional provisions for equal rights between men and women, as well as land policies that uphold women's land rights. However, implementation remains a challenge for a number of reasons among which are:

- Lack of, or inadequate capacity by government institutions charged with responsibility of implementing such provisions and land policy;
- Ignorance by women thereby negating their ability to claim their land rights; and
- Conflict between constitution and/or statutory laws on one hand, and customary practices on the ground, on the other.

In recent years, international bodies have recognized the threats posed by the limited access to land by women in sub-Saharan Africa. Various NGOs are now active in the region on the question of women's land rights. Programmes focusing on land policy formulation and implementation are being supported by development partners and women's land rights issue is central in these programmes. The World Bank, FAO, UNDP, UN WOMEN, Oxfam, CIDA Canada, Sida Sweden, CARE International, Action Aid International, USAID, EU, DFID, etc., are examples of development partners operating in different countries under this assessment. These partners are actively supporting land and agriculture related programmes and projects in different countries. For example FAO and UNDP are assisting Somalia, whereas Ethiopia is supported by World Bank, USAID, DIFD, etc.

Local NGOs such as the Uganda Land Alliance (Uganda), Zambia Land Alliance (Zambia), LandNet (Malawi), Ethiopian Women Lawyers Association (Ethiopia), Federation of Women Lawyers in Kenya, the Legal Assistance Centre in Namibia, Malawi's Women Legal Resource Centre, and the Women's Legal Aid Centre in Tanzania are also influential in pushing forward the women's land rights agendas in their respective countries. Women's organizations at grassroots level also have sound contributions in many countries (for example Sierra Leone) and are also weak or non-existent in some countries (for example Libya). Existence of strong grassroots women's organizations is crucial particularly to narrow the gap between policy and implementation.

In Kenya, the USAID Women's Property Ownership and Inheritance Rights Project advocated for women's property rights through highly respected local tribal elders, helping widows with HIV who had been previously evicted from their homes to regain control over land and family property. In some cases, the program assisted with legal costs for women seeking redress through the courts as a way of creating awareness of the legal system as another alternative for dispute resolution.

Many donors supporting land reform tend to have capacity building component mostly at national level at the expense of district and community levels. World Bank, USAID, DFID, EU, GIZ and SIDA have supported capacity building as part of land reform process in various African countries. Given that around 75 per cent of land in Africa is under customary tenure, lack of capacity at that level is a serious blow to women's land rights. Traditional leaders and land governance structures at that level ought to be knowledgeable of land laws as they relate to women's land rights so that they can discharge their land administration duties with due diligence.

This gap could probably be fulfilled by civil society organizations in collaboration with women's rights organizations. Already a number of CSOs⁸³ are working on this front but their efforts are often hampered by weak human capacity and limited financial resources. Many non-governmental organizations, such as Action Aid International through regional-wide programmes such as Women's Land Rights (WOLAR) has managed to raise awareness and train people on women's land rights issues in many African countries. However, given the magnitude of marginalisation of women on land matters, to have adequate capacity in all institutions dealing with land administration and raise awareness of the general public to the extent that women can demand their land rights and challenge any decision to the contrary, demand concerted efforts. This is a challenge to all who are working towards achieving equality in land access and ownership between men and women.

The positive developments range from promoting a gender-sensitive legal framework and providing advice for women seeking land rights to country-wide campaign to establish community-level education, raising awareness of human rights, inheritance and property rights, and providing para-legal services for advocacy, counselling and case referral.

83 These include land alliances/networks, Women and Law in Southern Africa (WILSA) etc.

11. Notable practices aimed at enhancing women's land rights

Some countries in Africa have taken bold steps to enhance women's land rights. Some of the steps are:

11.1 Affirmative policy by government

In some countries, for example Botswana, Malawi and Tanzania, governments have set numbers or percentages of women to sit on land boards, land tribunals or land committees at various levels.

In Malawi a recently implemented resettlement project had set 30 per cent of beneficiary households to be women headed.

In Zambia the government adopted affirmative policy through the National Gender Policy of 2000 in which it set aside 30 per cent of all available land for distribution to be allocated to women while the remaining 70 per cent is allocated to men and women fairly.

In Burkina Faso, the land policy as well as the law embraces affirmative action policy in allocation of land to vulnerable groups which includes women on a case by case basis.

11.2 Decentralised and democratised customary land administration

Decentralisation and democratisation of customary land administration where committees and not only royalties should administer customary land. This is the case in Botswana, Namibia, Uganda, Tanzania, Malawi (on paper, as system is not operational pending enactment of a new land law) and other countries. This should enhance protective attributes to women accessing land based on customary tenure.

11.3 Traditional leaders become drivers for women's land rights

A women's land rights project which was implemented in 12 chiefdoms in Zambia brought on board traditional leaders as champions in the advocacy of women land rights. The project also instituted direct consultative forum between chiefs and women where they could discuss the plight of women in terms of their land rights. Any qualified person including women can register customary grants. This is happening in some countries, for example Botswana and Ethiopia.

11.4 Land registration and certification in Ethiopia

Land registration and certification in Ethiopia is a step forward in women's land rights. The whole process is transparent and is owned by communities. The situation has created awareness in areas of women's land rights among various stakeholders, including women themselves. Raising claim on land was a taboo in some regions in the past years. More women are now highly empowered to

participate in community decision-making processes, and this has been improving gradually. The process is cost effective and on a fast track. For example, issuance of first level certificate ranges from 99 per cent in Amhara to 92 per cent in Southern Nations, Nationalities and Peoples region (SNNPR) Number of second level certificates issued is: 1612 parcels in Amhara, 45078 parcels in Oromia, (36521 for male headed households and 8553 for female headed households), 54,735 parcels in SNNPR (for 25111 male headed and 4697 female headed households), and 44524 parcels in Tigray (for 15131 male headed and 8889 female headed household). Female second level certificate holders' account for 19 per cent in Oromia, 16 per cent in SNNPR and 37 per cent in Tigray⁸⁴. The second level certification has shown progress in ensuring rural women's land rights as indicated in the case study.

11.5 Women's Movement in Uganda

Women activists in Uganda have confronted repressive customary land practices; women have been at the forefront through organizations such as the Uganda Land Alliance (ULA) and Uganda Women's Network (UWONET) in the struggle for approval of the co-ownership clause by the legislative body. The ULA coordinated efforts of lobbying legislators and campaigned for co-ownership, by producing information, education and communication (IEC) materials, used to raise awareness of the general public on the need for such a clause. The Uganda Association of Women Lawyers Action for Development, conducted legal education in collaboration with the Uganda Land Alliance, and female journalists used the media to present the case. The Ugandan Forum for Women in Democracy contacted international NGOs and alerted them about the struggle. The ULA carried out a survey and conducted focus group discussions throughout the country to gather views on women's land rights and engaged rural women to describe their plight to politicians and the public. Women activists held numerous public events and demonstrations to publicize the issues. The campaign fostered more networking between women's organizations, more coalition building with non-gender specific movements, and more aggressive lobbying of legislators. The effort paid off as the legislators obliged.

11.6 Policy Implementation in Burkina Faso

In Burkina Faso, one of the leading principles of the National Policy for Land Tenure Security in the Rural Area (PNSFMR), prepared in August 2007, is focused on the concerns and needs of vulnerable groups on irrigated lands. It was decided that quotas will be allocated on a case by case basis depending on the perimeters. The institutional plan designed for the implementation of the national policy on gender is composed of:

- Decision-making and orientation bodies (at national, regional, communal levels);
- Permanent coordination, institutional/ministerial committees for the promotion of gender to ensure that gender is taken into account in institutions' and ministries' plans and programmes.

84

Source: Ministry of Agriculture, Rural Land and Administration and Use Directorate.

A monitoring and evaluation system, including a national gender observatory hosted by the National Institute of Statistics and Demography (INSD) and a national body of collegial and independent representatives of the administration, the private sector, civil society (NGO, organizations, opinion leaders, and religious and traditional leaders) playing a monitoring and oversight role.

11.7 The Gambian Experience

The Gambian irrigated rice projects have been hailed as a good practice with regard to women's land rights. The "success" of conferring onto women rights to irrigated rice land is a reversal of previous negative effects of the projects. Currently, most women have long-term user rights to their rice plots. Even in cases of divorce and the wife is not from the village she was married, she is entitled to keep using the land. Vegetable growing women on the North bank gained access to land by buying or renting land that men use for other crops during the rainy season for the dry season production. Although men formally control this land, women are able to pass the user rights to the land to their daughters.

11.8 The Role of Civil Society

In Cameroon, the network for the defence of women's rights and gender equality (RDFES) a group of women's NGOs has issued a memorandum denouncing customary law. In addition the local partner Abri International, CONGEH (Coalition des Organisations Non Gouvernementales (ONG) and the Organisations Communautaires de Base (OCB) of Cameroun (operating in the field of human settlements), a coalition of more than 30 community organizations, is particularly concerned with equal access to land and housing for women and it reaches out for the effectiveness of the right of family members suffering from AIDS. Through consultation clinics that are organized by Abri international through the international coalition for shelter — Women's network and shelter ("Coalition internationale pour l'habitat—Réseau femmes et habitat, CIH- RFH) in Francophone Africa, useful information is circulated and interests are protected.

Le Cercle des filles et femmes actives pour l'amélioration des conditions socio-économiques des filles et des femmes au Cameroun (CEFAP— LADIES CIRLCE) seeks capacity building for rural women to reduce gender inequalities in terms of access to land and improve the management of resources as far as farming at household level is concerned. Rural women at Tonga, West Cameroon, benefit from the following activities:

- Training of rural women lawyers
- Functional literacy
- Involvement of volunteer and men sensitive to gender equality in sensitization and advocacy activities targeting traditional communities and authorities
- Organization of field trips
- Multiplication of educational chats around the theme "Gender and land tenure"

- Set up of mechanisms allowing women to form cooperatives for access to land by loan or purchase
- Mobilization of organizations and preparation of a national forum on gender issues and land tenure to launch an advocacy programme at national level. Then, involving traditional leaders and government bodies.

11.9 Advocacy in Tunisia

In Tunisia, the Centre for Research, Documentation and Information on Women (CREDIF), is an institute for observation and permanent evaluation of the condition of Tunisian women and the evolution of gender relations. In 2001, an annual prize was created to reward the best regional programmes or initiatives in favour of rural women.

Campaign for equality in inheritance is the product of a joint commitment of the Tunisian Association of Democratic Women (Association Tunisienne des Femmes Démocrates, ATFD) and Tunisian Association for research on Development (Association des Femmes Tunisienne pour la Recherche sur le Développement, AFTURD). The association was initiated after a sensitization campaign that was launched in 1999 in the form of a national petition as well as discussions, meetings and workshops on writings in different stages. The campaigns target political decision makers and actors of civil society with a simulation in 15 arguments that equality in inheritance is possible in Tunisia.

11.10 Gender and management of land conflicts in Burundi, the DRC, Uganda and Rwanda

Today intra-household conflicts increasingly attract the attention of the public and are being dealt with by NGOs, associations and governments through various project activities, such as dissemination of information on rights, including land rights, cadastral operations and assistance in the application of land tenure policies with attempts to involve women in local committees. On the whole, these different actions can reduce the dichotomy between rights and customs by providing information to civil society, government institutions and other direct actors in the implementation of the legal opportunities offered. This constitutes a stage in the social transformation towards equality of land rights and avoids certain discriminatory practices, often presented under a “cultural” label, by ensuring coherence and harmony between the practice and the spirit of legislation that is favourable to women’s access to land without any form of differentiation based on sex.

The knowledge of our rights to land is one thing, but exercising these rights is a personal choice, as is the way of exercising them. Each woman is a specific case and will exercise her rights in a manner that is the most suitable and appropriate for her family context. Why does everyone fear the worst as a consequence of the exercise of our rights to land?

Focus on women in Bururi, November, 2010

Several methods for the prevention and peaceful management of land conflicts are generally in progress, but the cases that specifically address gender issues are still scattered. This observation is based on a blending of several cases to result in a favourable approach to the peaceful management of intra-household conflicts.

Legal support by the PTRCP/IFAD: The dissemination of information on women's land rights for all the actors by direct targeting in terms of information and training relating to the legislation and opportunities offered for all the actors working on land rights: elected representatives, the bashingantahe⁸⁵, the criminal investigators, the police officers, etc. in order that they grasp the challenges of informed participation and support. The broad dissemination of information on human rights has made it possible to bring to light the close links existing among succession rights, marriage rights and land rights. This approach favours recourse by women to modern organizations that also listen to them with a "favourable ear". Durable solutions are dependent on: i) facilitated access to recourse in terms of social distance (close support: a legal clinic, or a strategic group) and of cost (legal support funds), ii) monitoring of judgments to ensure their effective execution in the field.

The implication of women leaders as a strategic group⁸⁶ in the process of managing land conflicts in the local arbitration committees is a determining factor in the quest for greater equity in the prevention and management of conflicts. National associations play a key role in advocating for specific measures in favour of women: i) in Uganda, ULA exerted pressure for title to land ownership to be established in the names of both men and women, ii) in Mozambique, civil society groups facilitated the adoption of a law in 1997 that guaranteed women access to lands and property. The title to land ownership could be established in the name of a man, but he would not have the right to sell it without the agreement of the heirs. In Madagascar, the Federation of Rural Malagasy Women has worked hard for the gendered titling of agricultural land, etc.

In many cases, a poor understanding of land rights by women has made it difficult for them to claim their rights through the available legal opportunities. A general observation is that actions to secure land tenure together with the dissemination of information on existing equitable laws and the necessary procedures for appeal have proven to be powerful means for reducing land conflicts and reconciling the poor and marginalized with legal institutions and their representatives. Women's associations may play an important role in providing guidance and information on women's land rights.

The participation of women in the decision-making process is the basis for best practices in the management of land conflicts. An analysis of this variable is currently lacking and would have made it possible to assess the degree of resistance to the equitable application of land laws and the capacity of members involved (women and men or strategic groups) in arbitration committees to defend the rights of women.

85 A traditional conflict management institution.

86 Here this corresponds to the definition given by Olivier de Sardan (1995) which is "an aggregation of individuals which face globally a "problem", with the same attitude, determined largely by a similar social relationship to this problem.

Analyses that have emerged from work on conflict management converge around the same position⁸⁷. These citizen actions involve public actors, unfortunately in informal contexts. The decentralisation of territories and services would make it possible to provide a formal status to this collaboration and to innovations which introduce new practices that aim at securing the land rights for rural populations. Through these informal practices, there is clearly a challenge to an imposed order of an unwelcomed or unresolved colonial heritage. For example, jurists in the Democratic Republic of Congo (DRC), are obliged to be creative and innovative in order to provide legal security to peasant farmers.

Another study carried out in Burundi in 2010 mentioned that “customary practices in the management of land conflicts are currently changing in favour of women who dare to exercise their rights in this area. . .” Indeed, a number of cases submitted to the courts over the last few years reflect their disagreement with “constantly changing customs” which are based on the principle of the exclusion of women from access to their inheritance. However, on the whole, decisions have been taken which demonstrate that in case law the complete exclusion of daughters in matters of inheritance has been undermined in spite of the continuing persistence of the practice of exclusion

Claims are based as much on the validation of sources “called customary” as on case law that integrates favourable legal and political orientations and models that are acceptable for customs that show, in the case of Rwanda and Burundi, a certain cultural homogeneity. Case law is still powerless in extreme situations such as those of women who are not married legally, but it is evolving according to the pace of social change by working in the area of what is “socially possible”⁸⁸.

In conclusion, the solution to land conflicts is hybrid, that is, it involves current statutory law and traditional law. This legal dualism appears to be the major issue identified in studies carried out in Rwanda and Burundi. Marko Lankhorst, the coordinator in Rwanda for RCN Justice & Democratie, introduced conflict resolution at the local level in Rwanda by referring to the importance of the role of the Abunzis, the customary jurisdiction, in mediations with the people” (see Conference in the RDC on June 14, 2010 of RCN Justice & Democratie).

11.11 Notable Examples from other Countries

In Sierra Leone, the state-led small-holder commercialization program (SCP) policy in the agricultural sector is promoting women’s land rights through their participation in community based organizations for production, processing and marketing, and group ownership rights to land.

In Mozambique, FAO, the Ministry of Justice, and the Juridical and Judicial Training Centre (CFJI), provided paralegal training courses for women which were successful in empowering women. Paralegals sensitized communities on the benefits of gender equality and provided women with information on how to claim their land rights.

87 Séverin Mugangu Matabaro mentions that many initiatives have also emerged to address the land issue in such a way as to arrive at solutions that are socially acceptable and appeasing.

88 Marthe Diarra, *Ibid*, 2010.

In Kenya, grassroots communities assisted by GROOTS have formed community land and property watchdog groups (WDGs) to protect widows and orphans from losing their land and property through disinheritance and asset stripping. GROOTS also supported community-based watchdog groups to protect women's land rights, providing alternative dispute resolution, legal aid, and access to justice systems. This has helped many widows who had inheritance challenges.

In Togo, the Women in Law and Development in Africa Network (WILDAF), organized meetings with local authorities and administrators, providing education on women's land rights and trained women agricultural workers as paralegals to support rural communities

Countries should emulate best practices and tailor them to suit their situations to avoid resistance.

12. Benchmarks and indicators for tracking progress made in strengthening women's Land Rights

12.1 Monitoring Progress on Achieving Women's Land Rights

As many African states have constitutions that uphold equal rights and non-discriminatory principles, the need to monitor implementation in regard to women's land rights becomes imperative. This should be coordinated by an existing national institution within government. All institutions promoting women's land rights should collect disaggregated data by gender and submit it to the national-level coordinating institution. The data should cover the following areas:

- People accessing and owning land;
- Number of women holding positions in land governance structures at all level – national-, district- and community levels;
- Degree of landlessness among women segregated by single women and widows;

A report based on the data collected should be published and disseminated periodically and contacts should be established with women who own land for provision of technical and support services. Civil society organizations should use such information to engage duty bearers in order to address any shortfalls which may be observed.

12.2 Benchmarks

The Nairobi Action Plan on Large Scale Land-Based Investments in Africa provides for the establishment of a "monitoring and reporting mechanism for tracking large-scale land based investments with a view to ensuring that these ventures are beneficial to national economic development and local communities, including women. ...". There is a need for both qualitative and quantitative indicators at national and at community levels. The other indicators that can be used to monitor the progress made in strengthening women's land rights are:

- Number of women in influential land administration structures
- Number of women owning land in their own right
- Number of women accessing land in their own right
- Number of widows remaining on family land upon death of their spouses.
- Number and type of conflicts related to land involving women at village level – indicating who is involved.
- Number of certificates – out of the total number – entitled to women.
- Number of the co-titling land titles.

- Effective composition of village and District organs by sex.
- Number of literacy courses, with participants disaggregated by sex and age.

Number of training to government officers at district and village level and number of participants disaggregated by sex and by position.

It is necessary to benchmark and track progress in attitudinal changes and evolution of the status of women alongside changes in law and administrative reforms. The benchmarks and indicators need to take note of the differences in customary and statutory systems of land tenure.

It is also important to continue using the existing systems frameworks like APRM, CAADP M&E and Gender Evaluation Criteria.

13. Conclusion and Recommendations for Strengthening Women's land rights In Africa

It is evident that land is a key resource for all because of the close link between it and livelihoods. This study revealed that despite legal protections, women are largely disadvantaged in terms of accessing or acquiring land in Africa. A variety of factors affecting access to land, including socio-economic status, insecurity (both historic and modern), and government policies and practices, which have aggravated vulnerability among already disenfranchised groups.

The study further points out gender disparity in access to and control over land in all the countries under this assessment. Issues related to land policy range from its absence in some countries, to gaps in implementation in others. However, there are positive steps in various countries to amend their policies and laws to address the issues of gender inequality. These issues need to be addressed effectively to ensure women's access to and control over land is realized in these countries.

The assessment also revealed that the customary land tenure system, which remains relevant even within the statutory system, has affected women disproportionately in terms of limiting their access, control and ownership of land by virtue of their gender.

Further the issue of large scale land based investments has its negative and positive impacts on women's access to land. It is noted that if the regulation and procedures for such kind of investments are put in place and implemented well to the benefit of the populations, the negative impacts can be minimized. Conflict is also a major issue and women must be involved in its prevention and resolution strategies since they are the one who suffer most from it.

Therefore strengthening women's land rights can be achieved by formulating land policies in countries where such policies are non-existent, reviewing policies that are inconsistent with international and regional women's rights instruments, mainstreaming gender in land policy and land administration system, carrying out advocacy and awareness creation activities on women's land rights, establishing strong women's movement and networks, and further research.

13.1 Recommendations

The following are the recommendations based on the findings of the study:

- Commitments entered by African countries to implement the AU Declaration on issues and challenges and the Framework and Guidelines on Land Policy in Africa developed by LPI should be expedited and AU and LPI should develop monitoring mechanisms;
- Countries should make sure that international laws and conventions guaranteeing women's access to and control over land and natural resources are integrated in their national legislations and consistently implemented;

- End land rights discrimination against women in national legislations through legal reform and effective implementation and enforcement mechanisms.
- Governments should establish gender responsive land administration systems that enhance women's participation at all levels and mainstream gender in land administration systems;
- Build capacity of rural women's organizations at national, regional and local levels through establishment of forums and networks on women's land rights. Improve access to land and enhance security of tenure for women through formulation of pro-poor policies.
- Promote and enhance community management of common property resources and ensure women's participation and include women in land titling and registration programmes
- Improve women's access to credit, access to education and health services.
- Governments should develop advocacy and awareness raising strategies which should be implemented in collaboration with non-state actors through a variety of outlet channels such as radio, television, drama and cultural functions, among others.
- Governments should develop and implement policies to regulate large-scale land transactions in Africa.
- Government should empower women by improving literacy levels of women and the girl child to enable them effectively participate in development initiative in their areas and to claim and defends their rights.

Both national governments and donor agencies have a role to play in adopting and implementing the types of policy recommendations suggested here. Government leadership is required for initiating legislative changes and ensuring enforcement of women's rights, while donor support is needed for the greater investments required in the areas outlined above. Donor financial support is particularly important at this time because developing-country budgets, especially in sub-Saharan Africa, are severely strained by debt repayment requirements. In the current context of declining foreign assistance budgets, the objective of strengthening women's land rights should have wide appeal because it simultaneously addresses poverty, environmental protection, demographic objectives, and women's health and social status. Additional resources directed toward each of these areas and the social sectors in general would both benefit women and promote sustainable development.

On the whole the transformation of women's land rights in various cultural contexts does not yet require a concern for harmonizing practices, but all initiatives should be oriented towards the same principle of reducing the dichotomy between rights and traditions. As Matabaro suggests, programmes which work towards strengthening women's land rights should be based on the general orientation of laws and texts that are favourable to women's empowerment in order to support the evolution of traditions that are already changing and to develop new standards of land tenure that are more equitable and more just.

Bibliography

ARD Inc. Strengthening Land Tenure and Property Rights in Angola: Land law and policy overview of legal framework. 2007.

ACP, Life and Peace Institute, Conflits fonciers et dynamique de cohabitation en territoire Kalehe, Sud Kivu en Est RDC 2012, Série des Grands Lacs, 54 pages

Action Aid Uganda and Uganda Land Alliance (2008), Biting the feeding hand. Voices of women on land.

Adams, Berkoff & Daley (2006). Land-Water Interactions: Opportunities and Threats to Water Entitlements of the Poor in Africa for Productive Use.

African National Congress, Recommendations from the 4th National Policy Conference, June 2012

African Union, African Development Bank, Economic Commission for Africa. Land Policy in Africa: Eastern and Western Africa Regional assessment. 2010.

African Union, African Development Bank, Economic Commission for Africa. Regional Assessment Studies on Land Policy: Central, Eastern, North, Southern and West Africa: Synthesis. 2011.

Agarwal, B. A Field of One's Own: Gender and Land Rights in South Asia. Cambridge, Cambridge University Press, 1995.

Agrawal, B. Participatory Exclusions, Community Forestry, and Gender: An Analysis for South Asia and a Conceptual Framework. 2009.

Ahikire, J. Women and Land in Focus. IDRC/CRDI, 2011.

Ainembabazi, J.H. Landlessness within the vicious cycle of poverty in Uganda rural farm households: Why and how it is born? Research Series No. 49, Economic Policy Research Centre, Makerere University Campus, Kampala, 2007.

AllAfrica. 'Uganda: Stick to condom use', 2008.

Almaz W.T. Women's Access to and control over land in the current Land Administration System in two Rural Kebeles in Ada'a Woreda of Oromia Region, MA thesis, Addis Ababa University, Addis Ababa, Ethiopia, 2007.

Asiimwe, J. Practitioner's Note: Making Women's Land Rights a Reality in Uganda: Advocacy for Co-Ownership by Spouses. Yale Human Rights and Development Law Journal (2001a) 4: 171–187.

Asiimwe, J. The Uganda Women's Movement and the Land Struggle. In: A. Tripp and J. Kwesiga (eds), The Women's Movement in Uganda: History, Challenges and Prospects. Kampala, Fountain Publishers, 2002.

Askale Teklu. Land Registration and Women's Land Rights in Amhara Region, Ethiopia. Securing Land Rights in Africa. International Institute for Environment and Development: London, 2005.

AFEBEO Rapport de l'étude sur la problématique de la non-succession des filles au Burundi, 2008.

COULIBALY Amara, « Gestion des conflits fonciers dans le nord ivoirien », Université de Bouaké, in Colloque international "Les frontières de la question foncière, Montpellier, 2006, 19 p.

- Barrett, Hazel R. and Angela W. Brown. Women's horticulture in the peri-urban zone, the Gambia. *Geography* (1988)73(319):158–160.
- Beadle, A.P. 2012. HIV Rate Rises In Uganda After AIDS Prevention Strategies Shifted Focus Abstinence-Only Policies. <http://thinkprogress.org/health/2012/08/03/637971/hiv-rate-rises-in-uganda/> (accessed July 10, 2013)
- Bereke Ogba Michael. *Agronomy in State Irrigated Areas of Eritrea; the State of Eritrea*, Ministry of Agriculture Department of Regulatory Services of Plant Health Division.
- Bosworth, J.L. *Land Tenure Systems in Sub-Saharan Africa*. Faculty of Social Studies. Oxford, Oxford University, 1995.
- Carpano F. *Strengthening Women's Access to Land into IFAD projects: The Rwanda Experience*, 2011.
- Chris Huggins and Benson Ochieng. *Paradigms, Processes and Practices of Land Reform in Post-conflict Sub-Saharan Africa*.
- Catherine ANDRE, *Evolutions des droits fonciers au Rwanda: une main invisible?*, Faculté universitaire Notre Dame de La Paix à Namur in *Croissance, répartition, environnement quelle régulation pour un développement durable?* Louvain La Neuve, 1994, 21 pages.
- Chuks, A.P. The Effects of HIV/AIDS Pandemic on Agricultural Production as Perceived by Farmers in the Central Agricultural Zone of Delta State, Nigeria, *Middle-East Journal of Scientific Research* (2008) 3(2): 90–95.
- Daley, Elizabeth et.al. (2013) *Women's land rights and gender justice inland governance: pillars in the promotion and protection of women's human rights in rural areas*. ILC
- Deininger, K. *Land Policies for Growth and Poverty Reduction*, A World Bank Policy Research Report, The World Bank and Oxford University Press, 2003.
- Domenico Polloni. *Les terres et la transition soudanaise vers la paix*, in *Relief*, 2 pages.
- De Satge, R and Kleinbooi, K, with Tanner, C. *Decentralised Land Governance: Case Studies and Local voices from Botswana, Madagascar and Mozambique*, Institute for Poverty, Land and Agrarian Studies, University of Western Cape, South Africa, 2011.
- Drimie, S. *The Impact of HIV/AIDS on rural households and Land issues in Southern and Eastern Africa: A background paper for FAO*, Sub-regional office for Southern and Eastern Africa, 2002.
- Daley, E. *Gendered impacts of commercial pressures on land*, 2011. Retrieved on December 14, 2012 from www.landcoalition.org/
- Davison, J. *Land and Women's Agricultural Production: The Context in Agriculture, Women and Land The African Experience*. J Davison (ed), West view Press, Boulder and London, 1988.
- Deere, C. D. *Land rights in Paraguay, Peru, and Brazil a study undertaken for the World Bank*.
- Ethangatta, Linda K. *Households headed by elderly women in the slums of Kawangware and Kibagare in the city of Nairobi: poverty and environmental concerns*. Paper presented at the International Seminar on Gender, Urbanization and Environment, 13–16 June 1994. Nairobi: Mazingira Institute.
- Emmanuel Leroueil, *la singularité du féminisme africain*, 2011, 2 pages.

Elizabeth Daley (Mokoro Ltd) and Clara Miyoung Park (FAO). *Governing Land for Women and Men, Gender and Voluntary Guidelines on Responsible Governance of Tenure of Land and other Natural Resources*, 2011.

Ethiopia. Federal Democratic Republic of Ethiopia. *Rural Land Administration and Use Proclamation*. Proclamation No. 89/1997, Federal Negarit Gazeta, Addis Ababa, 1997.

Ethiopia. Federal Democratic Republic of Ethiopia. *Rural Land Administration and Use Proclamation No. 456/2005*. The Federal Negarit Gazeta 11th year No.44. Addis Ababa, 2005.

Ethiopia. *MDGs Report Trends and prospects on meeting MDGs by 2015* Ministry of Finance and Economic Development, 2010.

FAO (Food and Agriculture Organization of the United Nations) *Gender and Law: FAO Legislative Study 76 Ver. 1*. FAO Rome, 2005

FAO. (Food and Agriculture Organization of the United Nations). *Gender Issues in Land Tenure*. Paper presented at the High Level Consultation on Rural Women and Information. Food and Agriculture Organization of the United Nations (FAO), 4–6 October 1999, Rome.

FAO (Food and Agriculture Organization of the United Nations). *Land Tenure Studies 3: Land tenure and rural development*, Rome, 2002.

FAO (Food and Agriculture Organization of the United Nations). *Law and sustainable development since Rio: Legal trends in agriculture and natural resource management*, FAO Legislative Study, No. 73. Rome, 2002.

FAO (Food and Agriculture Organization of the United Nations). *Agricultural Source Book*, 2009.

FAO (Food and Agriculture Organization of the United Nations), IFAD (International Fund for Agricultural Research), World Bank. *Women's rights and access to land. Gender in agriculture sourcebook*, 2008.

FAO (Food and Agriculture Organization of the United Nations). *Compulsory acquisition of land and compensation*. Land Tenure Studies No. 10. Rome, 2008a. <ftp://ftp.fao.org/docrep/fao/011/i0506e/i0506e00.pdf>

Freeman, Donald B. 1993. *Survival strategies or business training ground? The significance of urban agriculture for the advancement of women in African cities*. *African Studies Review* 36(3):1-22.

Haile, Fekerte. *Women fuelwood carriers in Addis Ababa and the periurban forest*. Report to the International Development Research Centre (IDRC) and National Urban Planning Institute (NUPI). Geneva: International Labour Organization, 1991.

Hovorka, Alice J. *Gender Resources for Development Research and Programming in Urban Agriculture*. Cities Feeding People Series, Report No. 26. Ottawa, Canada: IDRC, 1998.

Hodgson, D.L. "Women's Rights as Human Rights: Women in Law and Development in Africa (WILDAF)." *Africa Today* (2002) 49(2): 3–26.

Huirou Commission. *Women HIV Land working draft- black and white version pdf*, 2010.

Human Rights Watch. *The Less They Know, the Better*, 2005.

IDR/Peter Bennett. *Women's rights and access to land in Africa*. *New Agriculturist* (2010).

- IFAD (International Fund for Agricultural Development). Improving access to land and tenure security: Policy, Rome, 2008.
- Iwelunmor J. et al. Family Systems and HIV/AIDS in South Africa, NIP Public Access Author Manuscript, Pennsylvania State University, 2006.
- Kaiganaine J. Interview with Kensup manager. UN-Habitat. Nairobi, Kenya, 2009.
- Kameri-Mbote Patricia, Gender Issues in Land Tenure under Customary Law. Land Rights for African Development, 11
- Kameri-Mbote Patricia, Women, Land Rights and the Environment: the Kenyan experience. Development, 49(3), 43- 48.
- Kathewera-Banda Maggie et al. Women's access to land and household bargaining power: a comprehensive action-research project in patrilineal and matrilineal societies in Malawi, ILC, 2011.
- Ki-Zerbo Françoise (1997) Les sources du droit chez les Diola du Sénégal, Karthala, Paris, 1997.
- Ki-Zerbo Françoise (2004), Les femmes rurales et l'accès à l'information et aux institutions pour la sécurisation des droits fonciers. Etude de cas au Burkina Faso », Organisation des Nations Unies pour l'Alimentation et l'Agriculture (FAO), Janvier 2004.
- Knight, R.S. Statutory recognition of customary land rights in Africa: An investigation into best practices for law making and implementation, FAO legislative study 105, 2010.
- Land, property and displacement in post-revolution Libya. Retrieved on 30 November 2012.
- Liz Alden Wily Rights to Resources in Crisis: Reviewing the Fate of Customary Tenure in Africa - Brief #1 of 5 for details.
- Lucy Hamilton et Aly Dama, genre et gestion des conflits liés aux ressources naturelles à Nioro au Sahel du Mali, International Institute for Environment and Development, Dossier 116, mars 2003, 32 pages.
- Mgugu, A.T. Land reform implementation processes: Experiences from Zimbabwe, paper presented at SADC Multi-stakeholder Land Conference for Southern Africa — Land Reform for Poverty Reduction, Gaborone, Botswana, 2008.
- Mutangadura, G. Women and Land Tenure rights in Southern Africa: A human rights approach, UNECA-Southern Africa office, Lusaka Zambia.
- Munyakho, Dorothy. "Kenyan women press for land rights: Law practices lock out key food farmers" African Farmer (April 1994): 8-9.
- Mapetla, Matšelisio, Hopolang Phororo, and Gisela Prasad. 1994. Urbanization, gender and environment: the role of wild vegetables. Paper presented at the International Seminar on Gender, Urbanization and Environment. Nairobi, Kenya, 13-16 June 1994.
- Maxwell, Daniel G. Alternative food security strategy: a household analysis of urban agriculture in Kampala. World Development (1995) 23(10):1669-1681.
- Mc Auslan*. Bringing the Law Back In Focus: Essays on Land and Law, 2003.
- Mohamed Elamin Abdelrahman. Land Use and Misuse Problems in Sudan, 2006.

- Makumi Mwagiru. Women's Land and Property Rights in Three Eastern Africa Countries. Centre for Conflict Research University of Nairobi, 1998.
- Marthe Diarra, Evaluation genre de la situation socio foncière dans six communautés de la région de Maradi, aout 2010, Care International au Niger.
- Marthe Diarra, Meilleur accès des femmes à la terre au Burundi, FIDA, novembre 2010, 27 pages.
- Marthe Diarra, Meilleur accès des femmes à la terre au Niger, FIDA mai 2010, 36 pages.
- Marthe Diarra, Femmes et accès à la propriété foncière en Afrique de l'Ouest, International Development Research Center, mai 2006.
- Marthe Diarra et Marie Monimart, Landless women, hopeless women? International Institute for Environment and Development, Issue paper no. 143, October 2006, 59 pages.
- Marthe Diarra and Marie Monimart, Femmes et Terroir. Care International in Niger, 2009.
- Marthe Diarra, Evaluation genre de la situation socio foncière dans six communautés de la région de Maradi, aout 2010, Care International au Niger.
- Olivier de Sardan J.-P., 1995. Anthropologie et développement. Essai en socio-anthropologie du développement social, éditions APAD & Karthala, coll. Hommes et Sociétés, Paris, 221 p.*
- MUGANGUMATABARO Séverin, la crise foncière à l'Est de la RDC, mars 2008, 28 pages.
- Gratien Nzayanga, Rapport d'évaluation des activités IEC et des performances des femmes leaders dans la zone d'intervention du PTRPC, mars 2010.
- Mutangadura G. Women and Land Tenure Rights in Southern Africa: A human rights-based approach, 2004.
- Motukuri, B., Carpano, F., 2006, Women's Access to Land in Eastern and Southern Africa Region – An Analysis of IFAD-Supported Operations and the Existing Literature, IFAD
- Nielsen, R. Women land rights in Post conflict Angola, RDI Report 125, 2008.
- Negib Bouderbala, Les systèmes de propriété foncière au Maghreb: cas du Maroc, Institut Vétérinaire Hassan II Rabat, 66 pages.
- Negemiye Scholastique (Maitre), Rapport provisoire sur l'évaluation des activités de l'appui légal du PTRPC, mars 2010.
- Nidhi Tandon. New agribusiness investments mean wholesale sell-out for women farmers'. Gender and Development, 2010, 18 (3):503–514.
- Niza and Action Aid International. Women's Land Rights in Southern Africa: Consolidated baseline findings from Malawi, Mozambique, South Africa, Zambia and Zimbabwe, 2009.
- Nkwae, B. Botswana's Experience on Recognizing Traditional Land Rights on a Large Scale, Dept. of Civil Engineering-Geometrics Section, University of Botswana, Gaborone, 2004.
- Mahasin Khidir. "Women's Participation in Agricultural Activities in the Sudan,"
- Unpublished PhD thesis, University of Khartoum, 1981.

Mabogunje, Akin L. Land Management in Nigeria: Issues, Opportunities and Threats". Paper presented at the National Conference on Land Management and Taxation, Department of

Estate Management, University of Lagos, 16 July 2002.

Nuwagaba, A. et al. Improving urban Poor's access to land for (peri) urban agriculture in Kampala, Uganda. Unpublished Paper, 2004. <http://hdl.handle.net/10625/29140>

OUA (Organization of African Unity). Human and Peoples' Rights on the Rights of Women in Africa. African Commission on Human and Peoples' Rights Protocol to the African Charter. *The 2nd Ordinary Session of the Assembly of the Union, Maputo, 2003. Retrieved on 5 December 2012 from <http://www.africa-union.org>.*

Paradza, G.G. Securing women's land rights in Eastern Africa: Time for a paradigm shift, Policy Brief, March 2011, ILC, Rome, 2011.

Pazvakavamba, S. and Hungwe, V. "Land Redistribution in Zimbabwe". In: Binswanger-Mkhize, H.P., Bourguignon, C. and Brink, R. van den (eds), *Agricultural Land Redistribution: Towards greater Consensus*, The World Bank, Washington, D.C., 2009.

Poverty Land and Agrarian Studies, Securing women's access to land: Linking research and action. An overview of action-research projects in Southern Africa, PLAAS, March 2011.

Ouédraogo, Hubert M.G. Mission d'appui à la sécurisation foncière, PAIVA Burundi, FIDA, 2010.

Oxfam-France, Privés de terre, privés d'avenir. Changement climatique, accaparement des terres. L'agriculture paysanne des pays du sud

en danger. Agissons! http://www.oxfamfrance.org/IMG/pdf/Dossier_complementaire_Prives-de-terre-privés-d-avenir_100909_web.pdf.

Pretty, J. and I. Gujit 1992, 'Primary Environmental Care: an Alternative Paradigm for Development Assistance' in *Environment and Urbanisation*, vol. 4,

Provincial Military Administration Council. Proclamation No. 31/1975. Proclamation to provide Public Ownership of Rural Land, *Negarit Gazeta*, Vol. 35, No. 15, 1975.

Parker, D.C.A Qualitative Study of the Impact of HIV/AIDS on Agricultural Households in South-eastern Uganda, *International Journal of Environmental Research and Public Health* (2009)6: 2113–2138.

Rapport cumulé des activités d'appui légal Bururi; exercice 2007–2009 (mars 2010) Rapport de formation sur le code foncier, avril- mai 2008.

Stephen Dale. Women and Land: Case study — Kenya, Tanzania, Uganda. IDRC, 2010, 4 pages.

Séverin Mugangu Matabaro, La crise foncière à l'est de la RDC. March 2008, pages 385 - 413.

Sanja Kelly and Julia Breslin. Women's Rights in the Middle East and North Africa: Progress Amid Resistance, ed. (New York, NY: Freedom House; Lanham, MD: Rowman & Littlefield, 2010).

Sawio. C. Managing urban agriculture in Dar Es Salaam. Cities feeding people, Report 20, 1998.

Ottawa, Canada, IDRC.

Sara Pantuliano. The land question: Sudan's peace nemesis HPG Working Paper, 2007.

- Sebina-Zziwa A. J.N. Gender Perspectives on Land Ownership and Inheritance in Uganda. Access to Land and Other Natural Resources in Uganda, Research Paper 16, Makerere Institute of Social Research, Research and development Project, Makerere University, Kampala and the Land Tenure Center University of Wisconsin: Madison, 1995.
- Smit, J., Ratta, A. & Nasr, J. 1996. Urban agriculture: food, jobs and sustainable cities. Publication Series for Habitat II, Vol. I. New York, United Nations Development Programme (UNDP)
- SOFA Report 2011 Women in Agriculture: Closing the gender gap for development. Retrieved on December 4, 2012 from www.fao.org/docrep/013/i2050e/i2050e00.htm
- Tandon N. 'Equality' is not enough, Food security and farming: women's rights in rural Africa, 2012-04-26, Issue 582, Pamabazuka News, <http://pamabazuka.org/en/category/features/81685>, UNIDS Press Release 2013.
- Tekle T. Women's Access to Land and Property Rights in Eritrea. Towards Good Practice: Women's Land and Property Rights in Situations of Conflict and Reconstruction, 2002.
- Tigistu Gebremeskel Abza. Experience and Future Direction in Ethiopian Rural Land Administration. Paper Presented at the Annual World Bank Conference on Land and Poverty Washington D.C., 2011.
- Tsehinesh Tekle. Women's Access to Land and Property Rights in Eritrea, 1998.
- Toulmin, C. Securing land rights for the poor in Africa key to growth, peace and sustainable development, Commission on Legal Empowerment of the Poor, 2006.
- Uganda. The Uganda National Land Policy Final Draft. Ministry of Lands, Housing and Urban Development, 2011.
- UN Habitat. Progress Report on Removing Discrimination Against Women in respect of Property and Inheritance: Tools on improving Women's Secure Tenure, series 1, Number 2, 2006.
- UNAIDS (Joint United Nations Programme on HIV/AIDS). 2011 World AIDS Day Report.
- UNAIDS (Joint United Nations Programme on HIV/AIDS). 2012 World AIDS Day Report.
- UNECA (United Nations Economic Commission for Africa). Background Document on Land Policy in Africa: A framework to strengthen Land Rights Enhancing productivity and Secure Livelihoods. Addis Ababa, Ethiopia, 2011.
- UNESCO (United Nations Educational, Scientific and Cultural Organization). Institute for Statistics, Adult and Youth Literacy, September 2012.
- Van Averbek, W. Urban farming in the informal settlements of Atteridgeville. Pretoria: Centre for organic and Smallholder Agriculture, 2007.
- Walker, C. Land Reform in Southern and Eastern Africa: Key issues for strengthening women's access to and rights in land — Report on a desktop study commissioned by FAO. FAO Sub-regional office for Southern and Eastern Africa, Harare, Zimbabwe, 2002.
- Whitehead, A. and D. Tsikata. Policy Discourses on Women's Land Rights in Sub-Saharan Africa: The Implications of the Re-turn to the Customary. *Journal of Agrarian Change* (2003) 3(12): 57–112.

Worku Zerai. Women and Land Rights in Eritrea, East African Support Initiative for the Advancement of Women (EASSI), 2002.

List of Legislations

Egypt (1971).The Constitution of Egypt.

Eritrea (1994). Land Proclamation of Eritrea.

Eritrea (1997). The Constitution of Eritrea

Ethiopia (1995).Federal Democratic Republic of Ethiopia. Proclamation No. 1/1995.Proclamation of the Constitution of the Federal Democratic Republic of Ethiopia, Addis Ababa.

Kenya (2010). The Kenyan Constitution.

Libya (1969).Constitution of Libya

Liberia (1986) Constitution of Liberia.

Ghana (1992) Constitution of Ghana.

Sierra Leone (1991). Constitution of Sierra Leone (accessed 20 November 2012).

Somalia, (1979). Constitution of Somalia.

Sudan (1998). Constitution of Sudan.

Tanzania (1977) Constitution of Tanzania

Uganda (1995).Constitution of Uganda.