

12

WORKING PAPER

Differentiation of women's land tenure security in Southern Africa





Illustrations: © Maria Guardia 2010

The opinions expressed in this report are those of the author and do not necessarily constitute an official position of the International Land Coalition, nor of its members or donors.

ILC would appreciate receiving copies of any publication using this study as a source.

ISBN: 978-92-95093-57-7

© 2011 the International Land Coalition

IDRC  **CRDI**

ILC wishes to thank the IDRC whose support made this Women's Land Rights Initiative research possible.

Differentiation of women's land tenure security in Southern Africa

By:
Gaynor G. Paradza

March 2011

Abstract

This research draws from the findings of the “Securing Women’s Access to Land” (SWAL) project. This working paper — which will be published in an academic journal — is based on research findings from the country studies. The country studies concluded that failure by policy makers to acknowledge differentiation among women was a key reason for women’s continuing land tenure insecurity.

Poor women in developing countries rely on land as source of livelihood. Increasing pressure on land — brought on by globalisation pressures, increased population and privatisation — undermines women’s land tenure security. The comparison of women’s land access is predominantly measured against that of men, and this has been the basis for formulating policy aimed at increasing women’s land tenure security. However, this dichotomy reduces women to a homogenous group which experiences tenure security in an identical manner, so the dichotomy masks several differences which exist *among* women. A focus on the differences among women allows for significant insight to emerge into how women experience tenure access differently, how various policies impact on different women and the specific ways these differences could be used to inform policy formulation and evaluation. Focussing on differentiation among women also illustrates other important factors shaping women’s access to land, normally overlooked when research focuses on differences between men and women. This paper highlights how differentiation is useful to explain women’s differences in land access and how policy aimed at ensuring women’s tenure security could be more effective.

Table of contents

Abstract	ii
Introduction	1
Putting social differentiation in perspective	1
The social basis of differentiating women	2
1. Sources of differentiation among women	3
How the type of land has differentiated impacts on women	3
Intersection of age and gender in differentiating women	5
Life course and women's differentiation	6
Marital status	6
Termination of marriage	7
Economic status and differentiation	10
AIDS as differentiating factor	11
2. Concluding remarks	13
Policy implications of differentiating women's rights to land in southern Africa	13
References	15

Introduction

Land is a basic livelihood asset for poor people in developing countries — particularly for women who have limited access to other livelihood opportunities to diversify from the agricultural sector. Women's obligations to care for the young and ill also limit the extent to which they can diversify from a rural based livelihood. The Acquired Immuno-Deficiency Syndrome (AIDS) pandemic and macroeconomic pressures like the global recession have reduced families' access to non-agricultural income — through loss of employment by retrenched men and the ill people afflicted with AIDS. As governments in developing countries struggle with the demand to care for people affected by and infected with AIDS, women as the traditional carers have assumed an even greater burden of care. This burden of care for the young, elderly and ill has limited women's opportunities to diversify from increasingly risky and non-viable agricultural livelihoods. In southern Africa patriarchy dominates natural resource access structuring in rural areas which are mostly under customary tenure. Patriarchal thought and practise is informed by assumptions about fathers as the natural source of authority and supported by the devolution of varying degrees of power to adult males by the state and other institutions (Chant, 1997). Policies which aim to improve women's access to land have had limited impact.

This paper argues that the limited success of policies to improve women's access to land can be partly attributed to homogenising women and analysing them in relation to men. Gendered policies also assume women have identical and static relations to the land which is usually conceived simply as an agricultural asset. Women's land interests are dynamic and women are heterogeneous therefore, to be effective, policies aimed at improving women's access to land should reflect this heterogeneity: different women experience tenure security differentially. Various challenges and opportunities affect women differently in their diverse positions, so processes that increase security for one category of women might undermine the land rights of another. Policies based on assumptions about most women having a marital

relationship with men simplify this complicated and diverse dynamic which also shapes the way women gain access to land. To avoid over-simplification of the impacts of the various policies which seek to address women's land tenure insecurity, it is important to understand differentiated women's land access.

Putting social differentiation in perspective

Gender is central to understanding the organisation and transformation of landholding in Africa, shaping women's different experiences of tenure insecurity not only as wives but also as sisters, daughters, divorced or widowed heads of households. Gendered patterns refer not only to relations between men and women as husbands and wives but include relations between sisters and brothers, between co-wives, between mother and daughter and others (Peters 1995). The dominant literature that focuses on differentiation of domestic units overemphasises male dominated households and resource access. The literature makes several assumptions about the household form and composition headship, and decision making. For example, where male heads of house are farmers, households are generally classified as 'farming households' regardless of whether other members are farmers or not. As a result women in these households are rendered invisible (Chant 1997). That those women cannot be treated as a homogenous group need not be laboured (Meinzen-Dick *et al* 1997). Household differentiation is useful for explaining resource access and decision-making differences.

The work of Chayanov on the Russian peasant household (Thorner *et al* 1966) forms the basis for most household differentiation analysis. According to Chayanov, differences in households result from demographic differentiation, which correlates the size and relative prosperity of households with

their place in the generational production cycle. Although the literature differs on the number of stages, most models try to identify key life cycle transition points, e.g. marriage, childbearing, child rearing, a period of joint spouse survival without children and eventual death of spouse (Norton 1983).

Cain (1978) studied households in a patrilineal Bangladesh society where private property ownership and land ownership was concentrated among men and inheritance law and customs favoured men. Cain's study established that the length of a patriarch's tenure determines the duration of a household's development cycle. The development cycle is inadequate for understanding differentiation among women as it treats female-headed households as deviant (Francis 2002). Murray's (1987) examination of materials on individuals' entire life cycles gives insight into individual heterogeneity, and demonstrates the development cycle model's limitations in dealing with variation.

Cousins *et al's* (1992) study of household differentiation in communal farming areas in Zimbabwe noted that communal area farmers were not homogenous. The research illustrated that factors such as age, distance from urban areas and articulation of agricultural production and non-agricultural activities differentiated domestic units in customary tenure areas in Zimbabwe. It further noted that older people have larger plots of land than younger people because land was more available for allocation when they were younger. Lineage elites also had more land access because of local-level political capture, as also confirmed by Nyambara (2001).

Borrass and Franco's (2010) study on land concluded that a heterogeneous society which acknowledges social differentiation among communities should inform land policy. The community is usually made up of various classes, defined by resource control which includes, but is not limited to, land. This research highlighted that policies which ignore social differentiation may marginalise the poor and favour the elite. It also stressed the need for policy to effectively recognise the plural interests of so-called 'landless' people, as failure to do so may result in formulated policies only benefitting a section of the community. Although differentiating communities is important to target interventions for secure land tenure more accurately, homogenising women in those

communities ignores differences among them which are themselves important determinants of land access and vulnerability status. The next section illustrates how these differentiating factors intersect with land access to influence policy.

The social basis of differentiating women

Women are not a homogenous group. Class, caste and life cycle stage, marital status, marriage order, type of marriage, economic power and wealth, sex of household head and household composition, relations with other people and stage of household in development cycle are all sources of variation which influence access to land and institutions that govern access. The dominant discourse on women's access to land in customary tenure areas infer that women normatively gain access to land as dependents of their spouses or other male kin. Historically marriage was the most important determinant of a woman's status and a key link in configuring powers that constructed space, identity and women's dependence. Marriage and children increase a woman's status and power (Schmidt 1992). Marital land is allocated to a woman to use for the duration of the marriage (Folta & Deck 1987). The type of marriage, distance from natal home and degree of absorption into marital home also determine land access (Cheater 1986). Marriage and family have diversified due to factors such as HIV and AIDS, globalisation, socio-economic policies and evolving gender relations, and has led to mutations of domestic unit, as witnessed by the increase in single mothers, widows, and child- and grandmother-headed households.

The next section identifies and illustrates factors that can be used as a basis to understand differentiation among women, and therefore, a basis for understanding continuing tenure insecurity among women, drawing up targeted policies and evaluating existing policy. Although several factors that differentiate women were identified in the previous section, the next section focuses on marital status, lifecycle stage, age, burden of care, relationship to those in authority and wealth to illustrate differentiated land interests and tenure security among women in Southern Africa.

1. Sources of differentiation among women

Generally women in rural areas have weaker land tenure status than men because of their position relative to men and the way society structures resource access relations. Adams' (1991a) research on female-headed households in Zimbabwe showed how access to wages, labour and reproductive responsibility differentiated women, thus challenging assumptions that women:

- are confined to subsistence food production and unpaid domestic work
- depend on husbands and fathers and therefore their incomes are a secondary sources of support, and
- land interests evolve around agricultural productivity.

How the type of land has differentiated impacts on women

Women's land tenure status can be differentiated by the type of land in question. While women in customary tenure areas may indeed mainly be viewed as subsistence farmers, further examination shows that even in customary tenure areas, women can be further differentiated. Differentiation varies from women seeking land for basic residence to those who have accumulated large pieces of land over time and who may want recognition from traditional land governance institutions to engage in transactions over that land.

Women seeking only secure residence lack resources to work the land and engage in subsistence farming, so their land interests revolve around securing land for residence and recognition as a member of the community. Recognition allows the woman to negotiate access to other livelihood resources like employment, assistance with child care and illness, moral support and access to transfers delivered to communities by

the state and or non- governmental organisations (NGOs). Because of their limited access to resources to engage in commercial transactions over land, such women would lose out in programmes that facilitate the operation of the land market in customary tenure areas.

Apart from recognition, such women may also gain access to land, residence and community membership by securing medium and long(er) term employment in the communities. Typically such women work as carers or farm labourers and through these channels negotiate longer term tenure through marriage and/or negotiation with their employers and others who control land.

On the other hand, women who control larger pieces of land could secure their land interests in general policies which facilitate property registration and devolve power from male patriarchs to enter into commercial agreements. For example in Malawi, women who previously could only access land by negotiating with male authorities can now — as a result of land governance reforms, purchase customary land on the market. Arguably such developments further marginalise the tenure security of women with limited access to financial capital to enter into such transactions and those whose land access is derived from the rights of others. It is important to note that in the same land tenure regime, women have different positions; policies that overlook differences may further undermine tenure access for some while increasing tenure security for others.

Women also have insecure land tenure on commercial estates (known as commercial farming areas in other regions). In southern Africa, commercial estates consist of vast tracts of land held under freehold and/or long term leasehold title by commercial farmers and/or multinational corporations. The title secures the land interests of the commercial farmer and/or multinational corporation. Women migrate to work

on these commercial concerns to increase their access to financial capital so they can invest in agriculture and, if they have children, meet their education and health care costs.

Farm workers are marginalised and have insecure tenure — usually only for the duration of their employment contract (Magaramombe 2004). Historically, these large concerns employed male labour and provided accommodation and subsidies for them; men also had longer term employment contracts, with retirement and health benefits, sometimes also for their children. For example, Adams (1991a) showed that on Triangle Sugar Estates in Zimbabwe men were preferred as permanent workers, but most workers were women who worked for long periods but were not recognised as the formal labour force. So while these women relied exclusively on commercial estates for employment, they had to secure access to accommodation (usually from permanent male workers). Some women farm labourers were hired and remunerated by permanent male workers and were therefore undocumented and invisible to the company. Their resultant insecure tenure status undermined their capacity to negotiate land to meet a basic need for shelter. However, these casual women labourers were family breadwinners and, as female heads, did not have the support of a male spouse. They stayed on the margins of labour negotiations and interventions intended to improve tenure status on commercial farms.

Andrade *et al* (2010) found a similar biased gendered pattern in farm labourers' access to accommodation, permanent employment and improved conditions of service on commercial sugar estates in Maragara, Mozambique. Similarly, these women workers outnumbered men, but were mostly employed as seasonal and casual workers. This arrangement meant that women's tenure status lasted for the duration of their employment, and in intervening periods they had to negotiate access to shelter from permanent male workers and/or surrounding settlements. The study showed that older women married to permanent workers had more secure tenure as they lived with their husbands in houses provided for employees on the farming estates. Most unrecognised employees were younger women (with an average age of 26 years) who were accommodated on land at the

periphery of the estate and had to build their own shelter and/or rent from permanent workers.

To supplement their income, workers negotiated for land from the Maragra sugar estate (*ibid*). Subsistence land was demarcated and allocated to workers on a relatively longer tenure. Permanent workers had access to land closer to their places of work which they held under a secure lease; other workers — including most seasonal and temporary workers — were allocated land on the fringes of the estate, with no formal demarcation. As the corporation expanded to meet increasing demand for ethanol, subsistence farms were pushed further away from the women's places of residence.

In addition to working on the sugar estate and supplementing their livelihoods with subsistence production, some of the younger women had children to take care of. Due to their employment status and relationship with the employer made, it was difficult for them to enter into negotiations with the sugar estate management to request child care facilities. Their employment contracts rendered them ineligible to join organised labour unions, which further undermined their bargaining position and resulted in a high turnover of young women as they succumbed to the increasingly difficult and insecure land tenure position. Young women were thus vulnerable to exploitation by permanent employees, sometimes entering into transactional sex to secure access to employment and land. Some women married permanent workers as second or third wives, which did not greatly improve their land tenure status as Mozambican law does not recognise polygamous unions.

Because all the above arrangements took place on privately held land, state led policies have limited impact in alleviating the plight of younger women. Policy intervention to secure younger women's land tenure status would involve mediation between workers and the corporation to stabilise the situation of the younger women and consider them in the company's land use decisions. Policy interventions may also involve mechanisms to ensure that these women have a fall back land portion in the customary tenure areas or place an obligation on the company to provide more secure tenure (though this would have to be balanced with the commercial interests of private investors).

Rural development strategies have emerged as opportunities to revive African economies and they are often cited as benefitting rural populations' access to employment and technology. So, for example, in Mozambique subsistence land is being commercialised for ethanol production. In 2007, the government of Mozambique approved the *Green Revolution* strategy to stimulate increased agricultural production, alleviate poverty and stimulate rural development (*ibid*). The programme introduced opportunities for employment, training and access to financial loans for participants to invest in sugarcane production. As part of the programme, peasants were organised into associations to enable them to participate, and women comprised 80% of the association membership. After implementation, it emerged that women's domestic responsibilities to look after their families and produce subsistence food limited their participation in these intensive labour-demanding programmes. This limited women's capacity to benefit from the programmes, and therefore in order to cope, women opted for contract and seasonal employment in the sugar plantations, even though it meant inferior conditions of service and reduced their access to benefits. The programme also increased the demand for land and therefore rents increased, forcing women (who are the majority of tenants) to farm on ever smaller pieces of land.

This shows the importance of engendering policy: costs and benefits are unevenly distributed and, if not taken into account in project planning, can further undermine already fragile land rights disenfranchise already vulnerable members, like women.

Intersection of age and gender in differentiating women

The foregoing discussion showed how in addition to the type of land, marital status and ages often differentiated women's land interests. Cheater's (1981) study in Zimbabwe noted that older women had more decision-making power over land than younger women. Younger women tended to have less secure land status as this was negotiated over time as women fulfilled their traditional roles (e.g. giving birth to

preferably male children) and then, in some societies, allocated her own independent land holding.

In Malawi older women have larger pieces of land, accumulated over time, which they can lease out to land-short people so as to sustain their livelihoods. Younger women in Malawi tend to have smaller pieces of land and rely on borrowed land more than elderly women. Younger women tend to have more dependent land access so their security revolves around the security of those who control the rights from which younger women derive their land rights. Therefore, younger women are over-represented among the landless and are less likely to be engaged full time in subsistence and commercial agriculture.

However, since younger women are more mobile than older women, mobility in search of employment and income earning might potentially increase their capacity to secure land through the market and other cash based transactions. Paradoxically, this mobility leads to them being absent from their home base for extended periods of time, thus rendering them vulnerable to losing their land rights, which is common in areas of high land pressure where competition for land resource is high. For example opportunistic local leaders may dispose of the land on the market or others — such as the male lineage — may take over the land.

Thus, younger women are caught in a vicious cycle where they lack independent means to secure and/or use land, while activities they engage in to secure resources rarely yield adequate returns for them to invest in agriculture and/or livelihood development and move out of this vulnerable position. Seniority presents opportunities for women to resist practices that might threaten their livelihoods such as disposal of land on the market by traditional authorities (Makura-Paradza 2010). But in some communities, senior women are vulnerable to accusations of witchcraft, weakening their negotiating positions and resulting in some being ostracised and losing their land rights (*ibid*).

Related to age the life course is an important variable for understanding differentiation of women and their access to land and tenure security.

Life course and women's differentiation

Life course is also important from the view of resources, in that households with older children may have fewer dependents because older children share domestic burdens and are potential wage earners and providers of remittances (Pankhurst 1991). Older children also potentially create fewer mobility constraints and provide opportunities for women's income-generating activities. Chant (1997:13) cautioned against the universal use of life course as different contexts induce deviations in the normative course. The historical importance of labour for agriculture placed a high premium on large families and the reproduction of labour. Therefore, the life cycle of a woman was centred on the reproductive and postmenopausal stage. Previously, women who became widowed while they were still of childbearing age would remarry and continue bearing children, which ensured continued access to land for farming and rearing children. Young widows were a rare occurrence and women who remarried continued the household development cycle as described by Cain (1978).

The AIDS pandemic has destabilised this life path for women. Men are reluctant to marry women whose husbands are suspected to have died of AIDS because of fear of contracting the disease, and for the same reason widow inheritance is on the decline. This has made young widows a normal and increasingly accepted occurrence in rural Zimbabwe (Huisman 2005), which has transformed the meaning of age and must be incorporated into the differentiation analysis. It means young widows, a previously uncommon category of women, experience vulnerability in different ways to the elderly widows. Younger widows still of reproductive age are more likely to re-marry, but this increases their risk of contracting HIV/AIDS, giving birth to more children without spousal support and displacement from their deceased husband's land.

Marital status

Marital status is another variable which can be used to differentiate women. Adams's (1991a) study of female labour emphasised the need in considering female-headed households to note differences between single, widowed and divorced women and women married with husbands working away from the land. Although marriage is an important relationship through which women gain access to land, the institution is also a source of insecurity for the land tenure status of many women.

Patrilineal systems which privilege male inheritance and land allocation systems demand that, upon marriage, women move to the husband's village where, with their husband, they will be allocated land to build shelter and farm. The man pays *lobola* or bride wealth to the wife's parents to establish his right to take his wife and children to his own village (Ngwira, 2008). A married woman's continued access to land in such a system is conditional upon her bearing children and, in some cases, providing labour to secure household food and raise children. The land these women have access to however is primarily under the control of their husbands, which undermines their control of decisions and their ability to enter into transactions over the land. Married women's land access can also be undermined by their husbands' decisions to dispose of the land on the market and/or marry another woman — both of which would reduce the land under the woman's control and can potentially weaken her tenure. Clauses like spousal consent¹, enacted by the Ugandan government, compel a person entering into land transactions to have the consent of their spouse, which may protect women.

In Malawi, matrilineal communities exist where marital residence is uxirilocal i.e. a man moves to his wife's village upon marriage and no *lobola* is exchanged. Women have custodial ownership of the land and are thus relatively more secure than women married in a patrilineal system, especially

1 The 1996 Constitution of The Republic of Uganda provides for the emancipation of women and this is reflected in the Land (Amendment) Act which in section 38A says that consent of one spouse must be obtained before the other spouse can make any transactions with the family land which includes selling, pledging, mortgaging, exchange or any transfer of that land. A transaction executed in breach of this clause is null and void (FHRI, undated).

on termination of marriage. In practise, many marriages in Malawi are negotiated on neutral ground, which tends to disadvantage women, such as the increasing incidence of a system called *chitengwa* where no *lobola* is paid but gifts are exchanged instead and the woman moves to her husband's village on marriage. This kind of marriage destabilises women's land rights (*ibid*).

Marriages can also be distinguished by their formal legal position, i.e. those married under a formally registered civil marriage and those married under a customary marriage (generally those living outside urban areas), which is an oral agreement which involves the exchange of bride wealth. In the case of a civil marriage, a woman can be registered as a co-owner of her husband's property (PLAAS 2010), including land under title. In customary marriages, women face problems in laying claim to property as formal laws either do not recognise customary marriages and/or marginalise them. This differential treatment of marriages by various laws makes it difficult for married women to secure their land claims and benefit from legislation aimed at enhancing the land and property rights of married women.

In some cases, men knowingly refuse to enter into a civil marriage with a woman preferring to maintain a customary marriage, so as to deny their spouses property rights to which they are entitled under formal law. In Mozambique, women's land rights advocacy group facilitate mass weddings to encourage couples to formally register their marriages. This enables the women to secure their land claim by marriage and it is easier for them to enforce their claims in a court of law.

Other women enter polygamous marriages where the man has more than one wife. The legal regime in some countries, e.g. in Mozambique, allows a man to marry only one wife in a civil marriage and the rest must be customary marriages not recognised by the laws of the country. Therefore the institution of marriage — traditionally the main way women negotiate access to land — is also a source of tenure insecurity. Policies put in place to guarantee married women's land rights will have limited impact unless they take into account the various positions women occupy in different marriage systems. Marriage has also come under pressure from AIDS

deaths and illness, structural adjustment programmes, the economic independence of women and migration.

Termination of marriage

The way a marriage ends also has implications for different women's land tenure status. When spouses separate after bride wealth is paid, it is called a divorce. People divorce because of continuous spousal abuse, when it is believed the wife has bad spirits, if she delivers a baby before the calculated month, when the couple do not conceive children, or if the wife does not behave as expected when the man takes another wife (Folta & Deck 1987). A twelve-year study of 400 households (Kinsey 1995) on a resettlement scheme in Zimbabwe showed that divorce rates trebled over the twelve years, which was ascribed to economic structural adjustment, AIDS and changes in matrimonial legislation. When a marital union breaks down due to divorce, death or abandonment, a woman's use rights on the land and membership of the resident community becomes vulnerable (Huisman 2005). Depending on individual circumstances, divorced women may remain and/or leave the marital residence. In Malawi, Zimbabwe, Mozambique and Madagascar, under a patrilineal system, divorced women are extremely vulnerable. Their usufruct rights to land are revoked; they are denied access to implements and become outsiders in the community. The usufruct rights may be continued but divorced women are left with marginal land or little equipment or cattle (*ibid*). In Malawian matrilineal systems, divorced women maintain their land rights as the man has to leave the women's village. In Zimbabwean land resettlement schemes, divorced women may be given a new piece of land and/or a share of the land they were allocated with their husband. However, this is at the discretion of the land administration authorities Mazhawidza & Manjengwa 2010). In Madagascar, women who divorce after the couple purchased land on the market are entitled to half of the land, while those married under customary laws are entitled to a third of the land (Platform *et al* 2010). The negative consequences of divorce for women's land rights point to the need for an intervention that ensures women's land needs will be provided for in the event of marital dissolution. While top-level interventions are limited,

below we discuss some examples of community level provisions to secure land access for divorced women.

When a male spouse dies the remaining female spouse becomes a widow. A widow's land holding status inevitably changes either in terms of the conditions of tenure and/or the amount of land under their control. Widows in patrilineal systems under customary tenure have two choices upon the loss of their spouse — to stay or to leave. Widows in Malawi and Zimbabwe customary tenure areas under the patrilineal system can successfully negotiate their continued access to land they used with their husband. Negotiations are easier if the widow has children and they never remarry or marry a brother of the deceased husband. If the widows have borne sons, this will affect their land tenure status, as sometimes a son will inherit his late father's land upon his coming of age and may or may not include the widow in his homestead.

In some parts of Madagascar, a man's land passes onto his children upon his death and the widow does not inherit anything (*ibid*). Whereas Zimbabwean custom discriminates against widows with no children, in Madagascar a widow who has no children is entitled to share in the inheritance of her deceased husband's land with his relatives (*ibid*). In Manhica province in Mozambique, a widow can successfully negotiate to stay on the husband's land and continues cultivating as before his death to ensure the future of the children (Andrade *et al* 2010). In a village in Chief Chikwaka's area in Goromonzi communal area in Zimbabwe, widows continued to inhabit the homestead left by their husbands which they managed as household heads — even when they had grown sons in the household (Makura-Paradza 2010); they could even sell inherited land on the market and therefore enjoyed the same tenure status as men (*ibid*).

However, cases have also been recorded in Malawi and Zimbabwe customary tenure areas where, after successfully negotiating access to their marital land, widows lose their land to local leaders who take advantage of the absence of a man on the homestead to either reallocate and/or dispose of the land on the market (*ibid*). Aliber *et al's* (2004) study found that older widows were in a stronger position to stay in their marital homes because of the support they received from well-developed networks and relationships. A widow's

capacity to maintain land holding after the decease of their spouse also depended on their ability to mobilise labour and/or access to financial capital to secure services to work the land on the market.

Widows are more likely to leave the marital village if they are younger as they will be seeking opportunities to remarry. In this case, they abandon their marital homestead and lose their land rights. Widows are also likely to leave and/or be forced out if they are stripped of immovable and moveable property by the husband's relatives in a practise known as property grabbing² (Izumi, 2007:12). A study in Malawi found that 30% of widows experienced property grabbing in Malawi compared to 3% of the widowers (Ngwira 2008). Widows also leave their marital home if they are accused of witchcraft and blamed for their husband's death. Makura-Paradza's (2010) study in Goromonzi found that widows whose deceased husband purchased land in a village were more likely to abandon the property after the death of their spouse, because the widow lacked support in the local community. Widows with young children sometimes left the village as they failed to secure support from their husband's relatives for childcare (especially if they declined to marry one of their deceased husband's brothers), building and maintaining the homestead and agricultural services. In such cases, policies to protect widows' land rights will have little impact on securing women's access to land. Policies which protect widows and orphans' land rights are more effective for women who live in communities that are sensitised to and sympathetic to the cause of women and vulnerable children. Without this wider community support, widows who use confrontational methods to maintain their land rights will be ostracised by a hostile community and may be denied access to common resources like labour, communal grazing and other labour saving arrangements.

Policies aimed at protecting the land rights of such women should look beyond legal provisions to consider how women can access the law and the impact of women's relations with the community. Various initiatives have been put in place to

² Property grabbing happens when an individual is forcibly evicted from their home by an/other family member/s, traditional leaders or neighbours and is often unable to take their possessions with them.

build community support for women facing dispossessions; for example, GROOTs Kenya (a grassroots NGO engaged in community development) initiated a Community Watch Dog Project to:

- document cases of dispossession and
- sensitise communities on women's property rights and consequences of stripping women of their land rights.

In one case, the group successfully negotiated with relatives who had evicted an HIV+ widow to allocate her some land; the community then helped her construct her shelter and also gave support to a local chief who was sympathetic to victims of dispossession (Izumi 2007). In another example, the secretariat of Eduardo Mondlane Cooperative in Mozambique either allows a widow to inherit her husband's land in her own right or allocates land to dispossessed widows whose husbands had land in the co-operative (Andrade *et al*, 2010).

Women displaced from their land after their marriage ends either migrate to commercial centres to seek employment, head for urban areas or return to their village of birth. Displaced women rarely have means to purchase land on the market to establish a new home after displacement. They normally have access to their labour which they can initially exchange for money to establish their own homestead.

It can be difficult for women to return to their natal home after their marital union ends and the issue has not received much attention. In the natal village, women have different ways to access, which differentially impact on women's land tenure status, as shown in Makura-Paradza's (2010) study of Goromonzi communal area in Zimbabwe, where women were either allocated primary land rights if they were related to the village leadership; co-habited with their parents or siblings, and/or occupied homesteads left vacant as a result of death, illnesses and or mobility in response to the changing rural-urban connections. The study showed that it was not possible to generalise land access for women who returned to their village after the end of their marriage: although customary tenure area land and resource governance systems are male biased, within those systems, single women had more room to manoeuvre than previously thought. Returned

women gained residence through kinship, the market and opportunities that arise as a result of the high mortality and morbidity. The returned women's birth right entitled them to land in their natal village in the form of their male kin's obligation to look after their daughters and siblings in times of need.

Women's claims are not handled the same way as men's, but can be enforced socially and customarily. The claims are significant as the women cannot be thrown off the land and can use these claims to negotiate access to other resources and kinship support. This finding contradicts generalisations that claim women who return to their villages of birth have insecure land access. Women seem to have space and seem to be able to enforce entitlement in their natal village; this is more than a moral obligation — it has the characteristic of an entitlement that can be enforced against the natal family. In Madagascar, parents bequeath land to their daughters to use in case of marital failure. However, this land is held in trust by the woman's brothers. A woman who has to return to her village of birth is allocated some subsistence land by her brothers and/or father. However, the land is normally too small for her to meet her subsistence needs and women often have to work as labourers to meet the shortfall (Platform *et al* 2010). A similar provision in Mozambican customs obliges a woman's kin to provide her with land if her marriage fails and she is displaced, e.g. when a woman is expelled from her in-law's house she goes back to her parents' house where she is entitled to a portion of land. This is a common problem Manhiça district, where mainly widows are expelled by their deceased husband's relatives (Andrade *et al* 2010).

Policy intervention to secure the land rights of such women should support customary practises that entitle these women to land access. Policies which encourage individual titling of land and formal registration of exclusive rights to land undermine the availability of this fall-back land for women. The Zimbabwe study (Makura-Paradza's 2010) showed that fall-back land was better protected in villages where illegal transactions in customary tenure land were not tolerated. This finding is consistent with Ngwira's (2008) study in Malawi which found that the penetration of the market undermines kinship based land access, including the

rights of women and the vulnerable whose land tenure is derived from customary arrangements.

However, in Zimbabwe's Gokwe customary tenure area Nyambara (2001) illustrated that the land market was an important source of land access for divorced women who were employed as domestic workers in urban areas. Makura-Paradza (2010) confirmed the importance of employment and the land market for offering alternative ways through which women that did not qualify for land allocation under customs and were not married could gain access to land in customary tenure areas. This included divorced women and those displaced from the former commercial farms after Zimbabwe's Fast Track Land Reform Programme.

Economic status and differentiation

The control of economic resources is a significant determinant of differentiation among women's land tenure security. This is because women use economic resources to negotiate access to more land, to use land and contest threats to their security. Though single women (women who are not married) are found in the lowest and highest classes, they tend to be over-represented among the poor in southern Africa (O'Laughlin 1998:10). Mere ownership and control of land is inadequate to secure women's livelihoods; women must have the means to exploit the land if they are to gainfully use the land, fulfil their marital obligations and protect land from confiscation by opportunistic people. A woman's wealth and means to exploit the land is determined by access to financial capital and/or agricultural assets and labour. Women's capacity to mobilise resources to use the land determines their land tenure security, which may be linked to their marital status. While historically, women with employed husbands had more resources and were better agricultural producers, research has also shown that single women are among both the poorest and the wealthiest women in customary tenure areas.

Women gain economic status from having a regular source of income or from the inheritance of assets from a deceased

spouse. The higher the socio-economic status of a single woman, the more capacity she has to raise children or live independently. Women with no wage-link lack labour, struggle to produce their own subsistence and rely heavily on transfers (Pankhurst 1991). Women who can exploit the land can generate income and accumulate savings which they can use to secure their land through titling and/or defending their land interests. Relatively wealthy households have good farm resources and diversified income. Some households are only interested in subsistence farming or in the future fruits of the land.

Policies aimed at securing women's land access should go beyond just securing land access to encompass broader issues like assets, agricultural expertise and technology to enable women to use the land. Policies should target poorer women so they can improve their tenure status by securing income; policies should also help better-off women to consolidate their income. Such policies would have a positive impact on the women's land tenure status.

A woman's status determines what opportunities she has to access off-farm income and other resources. Age, being elected to local office and/or education determines an individual's access to resources (Cheater 1986). Higher political position or connections with high-ranking men also increase single women's control of resources. Status enables a woman to have control and strengthens her bargaining position during negotiations. Controlling the land means a more secure survival (Schmidt 1992).

Among the Shona of Zimbabwe, the status of a woman increases with age. Post-menopausal women become a type of 'honorary male' (*ibid*). Women spirit mediums also have considerable status in a Shona society (Vijfhuizen 2002). Shona women also gain status as primary educators, marriage councillors, executors of Wills and mothers-in-law (May 1983). Such factors also determine the extent to which women can exploit land resources to sustain their livelihoods (*ibid*) and participate in decision making about land so that they can defend land claims in the places where they live.

Research in a Shona village of Zimbabwe showed that women gain rank with age to the extent that post-menopausal women assume higher rank than some men, as

shown in the women's capacity to inherit land and livestock over the males in a patriarchal system (Makura-Paradza 2010). Education enables women to understand the laws of the land and make demands to claim entitlements and defend rights when these are threatened. Relatively uneducated women have limited access to information — an important asset for maintaining land claims.

Research on the Fast Track Land Reform Programme in Zimbabwe showed that literate women were in a better position to fill in forms, produce business plans, follow bureaucratic procedures and were more likely to possess documents needed to accompany their application for land under the Fast Track Land Reform Programme (Mazhawidza & Manjengwa 2010). Uneducated, marginalised women were not benefiting from the programme. In Madagascar highlands, rich women's land tenure insecurity arose from their failure to formally register land claims while poorer women lacked adequate land to produce subsistence for their families (Platform *et al* 2010).

Policy aimed at encouraging community awareness of the need to register formal land rights would be inadequate to address the needs of the poorer women. A broader policy with local level specifications to take these different experiences of insecurity into account would be more beneficial.

AIDS as differentiating factor

AIDS has introduced another differentiating factor among women by heightening the importance of health. Southern Africa has the highest AIDS infection rate in the world. The pandemic, which causes high mortality, has destroyed economic production and farming systems. Initially the disease mainly affected adult males but as it progressed, women victims increased. Women's land rights were disrupted as marriages were dissolved by the death of the male partner who, in customary tenure areas, held the primary land rights. The number of widows increased and governments, reeling under the increased burden of caring for the ill, ever more relied on women to care for the ill.

AIDS constrained single women's access to resources by increasing dependency and reducing potential access to remittances, and it reduced people's capacity to work the land as they had to care for the ill. Ill women were even more vulnerable as they could not work to produce food for their families and the high death rate depleted labour available to work the land.

Some women lost land as they were evicted after the death of a spouse. Others were denied access to their inheritance rights as they were expected to die shortly. Ill widows are more likely to leave than remain in the marital village. As more men decided not to marry and/or inherit widows suspected to be AIDS victims, these women lost access to land which would have been assured them under the kinship system of widow inheritance. Even when women retained their land, they sometimes abandoned it as they lacked the labour to work it.

Makura-Paradza's (2010) study in communal farming areas of Zimbabwe showed that some women were in a position to accumulate land as a result of the high death rate. The process which the author termed 'upward inheritance' saw elderly women accumulating land as they took over land previously allocated to their now deceased adult children. These women could accumulate land which they in turn leased out to land-short people in exchange for produce and or labour (*ibid*).

As global recession, AIDS and structural adjustment policies combined to take a toll on developing economies, many adult men lost their employment and fell back on the older generation — particularly older women — for support, disrupting normative assumptions about inter-generational support and care relationships and turning children from being a potential source of old-age insurance to a source of insecurity and vulnerability. This increasing reliance of adult male children (who are afflicted with AIDS and unemployment) on their mothers challenges assumptions about gendered resource governance in customary tenure areas.

However, although AIDS increases the vulnerability of an already vulnerable population by increasing the incidence of mortality, marital breakdown and displacement, the vulnerability of single women's land access cannot be attributed

only to AIDS. Policies which aim to alleviate the impact of AIDS on women's land rights should draw on analysis that interrogates the complex dynamics of gendered land access and other fundamental links. So, interventions that focus only on mediating the impacts of HIV and AIDS will have limited impact in alleviating people's vulnerability in rural areas (Paradza forthcoming). Thus, policies to support poor and vulnerable households should not just target younger and traditionally considered active age-cohorts, but should also target the elderly, who typically give support to all other age-groups.

A pathway analysis of single women's livelihood decision-making in Zimbabwe showed that in customary tenure areas, even though conditions were worsening, women outside the conjugal unit can successfully consolidate their asset base. This contradicts studies that conclude that women on their own, especially after the end of marriage, face a downward economic spiral. The trajectories of single women examined through their life stories, show that, although land as an agricultural asset is of declining importance to single women in communal areas, rights to residential land and community membership were vital for negotiating access to livelihood opportunities and provided a fall-back position for dislocated hearth holds

However, land access alone did not guarantee livelihood security, so policy makers must look beyond land access when developing capacity building and support mechanisms. Policies should aim to ensure the economic viability of domestic units by improving women's access to opportunities to earn an income, such as investment in labour saving devices and initiatives that increase the liquidity of the rural areas so that hearth-holds with limited access to wages and or remittances can tap into these (*ibid*).

2. Concluding remarks

Although women are generally disadvantaged in land access compared to men, women's land tenure status is also differentiated among themselves and their land access should not be homogenised by generalisations. This lack of homogeneity among women does not negate the generalisation that development structures and support are biased towards men. However, policies that fail to recognise and account for the differences among women will have limited impact in securing women's access to land.

The diversity of women and their differentiated relationships to the land must be understood in terms of the differential impact of wider processes on their lives. In Malawi, Chipande (1987: 325) reports a policy intervention which focused on women's agricultural participation. The programme worked with women to identify the causes of their problems, and led to the design of smaller and simpler agricultural support programmes and credit packages in response to female headed-households' smaller areas and low incomes. This resulted in increased female participation in innovation adoption and improved crop management.

Generalised interventions that give out the same type and amount of resources to vulnerable households have limited use. As each case is different, policy interventions should include space to incorporate specific local contexts in designing support programmes. To be effective, policies should be as flexible as possible and be based on specific local conditions.

Policy implications of differentiating women's rights to land in southern Africa

This paper has demonstrated that women are socially differentiated in multiple and interlinked ways. The most common differentiations include age, marital status, life course, education, economic status and the type of land to which women have access. Land policy prescriptions that target women should therefore devise policies that are responsive to this differentiation. For instance if land allocation beneficiary selection guidelines set a quota for women, it is important that the selection of candidates is further informed by an analysis of the specific local contexts and the various factors that differentiate the potential women beneficiaries.

Since land policy action is biased towards formalisation of land rights and registration approaches, it is important to accord women a formally recognised status. The identity document and/or marriage certificate are two examples of such documents. The certificate proves marriage and becomes a defining feature in deciding inheritance of land and other property rights for women. In this regard, interventions seeking to promote secure land rights for women should seek to improve accessibility of marriage registration processes to all categories of women. In addition to information awareness programmes that stress the importance of marriage registration among marginalised groups of women and men, appropriate arrangements must be put in place to promote the actual registration of marriages. This requires new partnerships in promoting secure land and property rights for women. Further, debate must be stimulated to promote unified and harmonised marriage arrangements that improve the security of women's land rights.

Despite the challenges to securing land and property rights for women, locally derived and good practice examples that improve women's land and property rights, demonstrate

the resoluteness of local communities to solve the problems confronted by women. The challenge is for policy to identify such practises, document them and share experiences, and where appropriate seek to scale-up such 'little' but powerful interventions.

This paper has shown the strong links between economic empowerment for women and their ability to have access to secure land and property rights. Accordingly, the debate on secure land and property rights for women must expand to include the broader aspects of economic development. Interventions seeking to promote secure land rights for women must be broad enough to include educational development and economic empowerment components that target the socially differentiated women citizenry.

This report has also demonstrated why it is important to have women manning land governance institutions at various levels of governance. In this regard, it is desirable that appropriate incentives are put in place to promote the employment of women in land governance institutions. Special training programmes can be put in place to promote enrolment of women candidates to study land related courses at institutions of higher learning; such courses can cover town planning, land administration, surveying, land reform and land registration, among other issues.

Traditional authority structures remain the central institution in all land debates in rural landscapes in various parts of Africa. Yet, as explained in this paper, in some cases remain they are the main impediment to attaining secure land rights for women. Yet again, in other cases traditional institutions have been more responsive than formal laws. Policy interventions should support the flexibility of traditional institutions while guarding against the erosion of the rights that women enjoy under such systems. Such programmes can cover awareness and training interventions that address issues of good governance and women's land rights, human rights and land rights.

This paper has shown that decentralised land governance institutions do better in promoting secure land rights for women. Broader debates on women should therefore seek to promote decentralised approaches to development. Realising the potential of local organisations and local solutions

to act as catalysts for change, it is important for interventions to identify local organisations that work with communities and build the capacity of such structures to promote secure land rights for marginalised women.

The paper has also highlighted the vulnerable position of women who work on commercial farms where government laws and policies have limited impact. These women face different threats to their land tenure security compared to women on customary tenure and state land for example. The experiences in Mozambique have illustrated that customary tenure offers no protection for communities against the interests of multinational corporations. Given the growing investment in bio-fuels and multinational corporation interest in the agricultural sector, there is urgent need for policy targeting the terms of employment for women working for these multinational corporations. The national government's desire to attract and secure investment should be balanced with an equal investment in policies that protect the rights and livelihoods of women and the poor who, under the current arrangements, are the most exploited.

References

- Adams (1991a) Female wage labour in rural Zimbabwe. *World Development* 19(2/3): 163–177.
- Aliber M, Walker C, Machera M, Kamau P, Omondi C, Kanyinga K (2004) *The Impact of HIV/AIDS on Land Rights: Case Studies from Kenya*. HSRC Press: Cape Town.
- Andrade X, Cristiano A, Casimiro I, Almeida I (2010) Empowering women through access to and control over land in the context of gender biased green revolution processes: Action research Project in Manhiça District, Mozambique. Unpublished *Securing Women's Access to Land (SWAL)* project report.
- Borras M and Franco J (2010) Contemporary discourses and contestations around pro-poor land policies and land governance. *Journal of Agrarian Change* 10(1):1–32.
- Cain M (1978) The Household Life Cycle and Economic Mobility in Rural Bangladesh. *Population and Development Review* 43(3):421–438
- Chant S (1997) *Women headed households: Diversity and Dynamics in the Developing World*. Palgrave Macmillan: Hampshire.
- Cheater A (1986) The role and position of women in of women in pre-colonial Zimbabwe. *Zambezia* XIII(ii): 65–80.
- Chipande G (1987) Innovation adoption among female-headed households: The case of Malawi. *Development and Change* 18(2): 315–327.
- Cousins B, Winer D and Amin N (1992) Social Differentiation in the Communal Lands of Zimbabwe. *Review of African Political Economy* 19(53):5–24.
- FHRI (undated) *Assessing the Implementation of the Spousal Consent Clause of the Land Act 1998, and Upscaling Advocacy for Women's Rights to Access and Control of Land*. Unpublished paper. FHRI: Kampala, available at: <http://procasur.org/ilcwomenland/wp-content/uploads/downloads/2010/03/kayunga.pdf>
- Folta J and E Deck (1987) Elderly black widows in rural Zimbabwe. *Journal of Cross-Cultural Gerontology* 2(4):321–342.
- Francis E (2002) Rural livelihoods, institutions and vulnerability in Northwest Province, South Africa. *Journal of Southern Africa Studies* 28(3):531–551.
- Huisman H (2005) Contextualising chronic exclusion: Female-headed households in semi-arid Zimbabwe. *Tijdschrift voor Economische en Social Geografie* 96(3): 253–263.
- Izumi K (2007) Gender-based violence and property grabbing in Africa: A denial of women's liberty and security. *Gender and Development* 15(1):11–23.
- Kinsey B (1995) Divorce and family structure in a changing environment. *CG Newsletter* 1(3): 1.
- Magaramombe G (2004) The impact of land redistribution on commercial farm workers *in* *Post- Independence Land Reform in Zimbabwe: Controversies and Impact on the Economy*. Masiyiwa S (ed). Friedrich Ebert Stiftung and Institute of Development Studies, University of Zimbabwe: Harare: 35–56.
- Makura-Paradza G. G (2010) Single women, land and livelihood vulnerability in a communal area in Zimbabwe. *African Women Leaders in Agriculture and the Environment (AWLAE) Series 9*. Wageningen Academic Publishers: Wageningen.
- Paradza G *forthcoming* *Single Women's Experiences of Livelihood Conditions, HIV and AIDS in the Rural Areas of Zimbabwe* *in* Niehof A, Rugalema G and Gillespie S (eds) *AIDS and Rural Livelihoods: Diversity and Dynamics in Sub-Saharan Africa*. Earthscan: London.
- May J (1983) *Zimbabwean Women in Customary and Colonial Law*. Mambo Press: Gweru.
- Mazhawidza P and Manjengwa J (2010) The social, political and economic transformative impact of the Fast Track Land Reform Programme on the lives of women farmers in Goromonzi and Vungu-Gweru District in

- Zimbabwe. Unpublished Securing Women's Access to Land (SWAL) project report.
- Meinzen-Dick R, Brown L, Meinzen-Dick, R Suseela, L Brown, S Feldstein, H Sim, Quisumbing (1997) Gender, property rights and natural resources. *World Development* 25(8):1303–1315.
- Murray C (1987) Class, gender and the household: The developmental cycle in southern Africa. *Development and Change* 18(2):235–249.
- Ngwira N (2008) Women's property and inheritance rights and the land reform process in Malawi. *Unpublished paper*. Institute for Policy Research and Analysis for Dialogue: Blantyre, accessed on 14 June at: http://www.sarpn.org.za/documents/d0000585/P522_Malawi_property_rights.pdf
- Norton A (1983) Family life cycle. *Journal of Marriage and Family* 45(2): 267–275.
- Nyambara P (2001) Immigrants, 'traditional' leaders and the Rhodesian State: The power of 'communal' land tenure and the politics of land acquisition in Gokwe, Zimbabwe, 1963-1979. *Journal of Southern African Studies* 27(4): 771–791.
- O'Laughlin B (1998) Missing Men? The Debate over Rural Poverty and Women-Headed Households in Southern Africa. *Journal of Peasant Studies* 25(2):1-48
- Pankhurst D (1991) Constraints and incentives in 'successful' Zimbabwean peasant agriculture: The interaction between gender and class. *Journal of Southern African Studies* (17)4: 611-63.
- Paradza G (2010) Single women's Experiences of livelihood conditions, HIV and AIDS in the rural areas of Zimbabwe in Niehof A, Rugalema G and Gillespie S (eds) *AIDS and Rural Livelihoods: Dynamics and Diversity in Sub-Saharan Africa*. Earth Scan: London.
- Peters P (1995) Manoeuvres and debates in the interpretation of land rights in Botswana. *Journal of the International African Affairs Institute* 62(3): 413–434.
- PLAAS 2010 Securing Women's Access to Land in Southern Africa. Synthesis Report (unpublished)
- Platform SIF, FVTM, RESEA SOA, HARDI and FOFIFA (2010) Promoting Women's access to and control over land in the central highlands of Madagascar. Unpublished Securing Women's Access to Land (SWAL) project report.
- Schmidt E (1992) Peasants, traders and wives. Shona Women in the History of Zimbabwe, 1870-1939. Baobab: Harare.
- Thorner D, B Kerblay and R Smith (1966) *AV Chayanov on the Theory of the Peasant Economy*. Irwin Inc: Illinois.
- Vijfhuizen C (2002) *The People You Live With: Gender Identities and Social Practices, Beliefs and Power in the Livelihoods of Ndau Women and Men in a Village with an Irrigation Scheme in Zimbabwe*. Weaver Press: Harare.



Our Mission

A global alliance of civil society and intergovernmental organisations working together to promote secure and equitable access to and control over land for poor women and men through advocacy, dialogue, knowledge sharing and capacity building.

Our Vision

Secure and equitable access to and control over land reduces poverty and contributes to identity, dignity and inclusion.

International Land Coalition Secretariat

Via Paolo di Dono, 44
00142 – Rome, Italy
tel.: +39 06 5459 2445
fax: +39 06 5459 3628
info@landcoalition.org
www.landcoalition.org

This work was carried out as part of a 3-year collaborative project entitled “Securing Women’s Access to Land: Linking Research and Action,” coordinated by the International Land Coalition (ILC), the Makerere Institute for Social Research (MISR) of Makerere University in Uganda, and the Institute for Poverty, Land and Agrarian Studies (PLAAS) of the University of Western Cape in South Africa.

Its overarching aim was to learn from women and respond to their needs through action-oriented research. The purpose of the research carried out under this project was not only to provide an evidence-base for advocacy on women’s rights, but also to strengthen the research and advocacy capacity of civil society organizations, and to build a platform to advocate for a transformative agenda that supports rural poor women to improve their access to and control over land and other natural resources, including the building of linkages with the wider advocacy relationships and programmes of the ILC.

This report is part of a wider initiative on Women’s Land Rights (WLR). If you would like further information on the initiative and on the collaborating partners, please feel free to contact the International Land Coalition.