

**Women's Property  
and Inheritance  
Rights:**

**Improving Lives in  
Changing Times**

***Final Synthesis and  
Conference  
Proceedings Paper***

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# **Women's Property and Inheritance Rights: Improving Lives in a Changing Time**

by

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Development Alternatives, Inc.

March 2003





## PREFACE

Since its inception in 1974, the Office of Women in Development (EGAT/WID) at the United States Agency for International Development (USAID) has recognized that development work is most effective when local residents are involved in formulating and implementing strategies. Harnessing the knowledge, skills, and motivation of women and men “on the ground” is essential to ensure that development projects are both appropriate and sustainable.

This premise guides EGAT/WID’s NGO Small Grants Program, which, in the year 2000, provided funding for local non-governmental organizations (NGOs) working to improve women’s economic and social status. Following a rigorous application and review process, 22 small grants were awarded to support 21 organizations in Africa and Asia that are working to strengthen women’s rights in the area of property and inheritance.<sup>1</sup>

The grantees are active in four countries in Africa (Kenya, Malawi, Namibia, and Tanzania) and four countries in Asia (Bangladesh, Cambodia, Nepal, and Sri Lanka). They took two central approaches. First, activities that advocate, report on, or seek to inform women and/or governmental officials (executive branch or parliamentarians) and judicial and legal professionals about women’s property and inheritance rights. Second, activities that focus on a consolidated effort or approach among the NGO and government community to address issues of property and inheritance rights.

From June 18-21, 2002, representatives of the grantee organizations gathered in Nairobi, Kenya for the NGO Small Grants Program’s “Conference on Women’s Property and Inheritance Rights,” to discuss the goals, structure, and outcomes of their work. As detailed in the following pages, their efforts to date are impressive. The conference provided participants with a unique opportunity to discuss the many complex issues surrounding property and inheritance rights and to share information on these concerns in diverse contexts. Importantly, participants were able to learn from each other and to gather ideas on effective approaches and strategies. Both the formal work accomplished and the informal contacts established offer great promise for future progress in promoting and guaranteeing women’s property and inheritance rights.

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<sup>1</sup> Grants were also awarded to improve women’s economic status in Latin America. For information on these program activities, visit <[www.usaid.gov/wid/activities/ngosg.htm](http://www.usaid.gov/wid/activities/ngosg.htm)>.



## TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY</b>	<b>v</b>
<b>CHAPTER ONE</b>	
<b>ISSUES BACKGROUND</b>	<b>1</b>
A GLOBAL OVERVIEW .....	1
CHANGING SYSTEMS.....	2
IMPACT OF GENDER BIAS.....	3
INTERNATIONAL NORMS AND NATIONAL LEGAL FRAMEWORKS .....	4
THE AFRICAN CONTEXT .....	5
THE ASIAN CONTEXT.....	7
A NOTE ON HIV/AIDS .....	9
<b>CHAPTER TWO</b>	
<b>ORGANIZATIONAL INTERVENTIONS</b>	<b>11</b>
RESEARCH AND DOCUMENTATION PROJECTS .....	12
Presenting Organizations .....	12
Findings.....	13
SUPPORT FOR POLICY CHANGE THROUGH AWARENESS BUILDING AND.....	14
TRAINING FOR POLICYMAKERS .....	14
Presenting Organizations .....	15
Findings.....	16
EDUCATION AND AWARENESS-BUILDING PROJECTS .....	17
Presenting Organizations .....	17
Findings.....	20
<b>CHAPTER THREE</b>	
<b>KEY DISCUSSIONS</b>	<b>23</b>
OVERARCHING THEMES.....	23
WORKING GROUP PRESENTATIONS.....	23
<b>CHAPTER FOUR</b>	
<b>UPHOLDING INTERNATIONAL HUMAN RIGHTS LAW:</b>	
<b>EIGHT AREAS FOR ACTION</b>	<b>29</b>
RESEARCH .....	30
EDUCATION AND AWARENESS-BUILDING.....	31
LEGAL AID SERVICES AND SUPPORT.....	31
ADVOCACY AND LOBBYING.....	32
NETWORKING .....	33
LEGAL AND INSTITUTIONAL REFORM .....	33
POVERTY ALLEVIATION AND ECONOMIC REFORM.....	34
FUNDING CONSTRAINTS.....	34

<b>ANNEX A: LIST OF CONFERENCE PARTICIPANTS</b>	<b>A-1</b>
<b>ANNEX B: WORKING GROUP ACTION PLANS</b>	<b>B-1</b>
<b>ANNEX C: LEARNING ON-SITE</b>	<b>C-1</b>
<b>ANNEX D: PROJECT DESCRIPTIONS</b>	<b>D-1</b>
<b>ANNEX E: CONFERENCE AGENDA</b>	<b>E-1</b>



## EXECUTIVE SUMMARY

Women are increasingly active in virtually every economic sector. In addition to producing much of the world's food, women hold primary responsibility for gathering the water and fuel used daily by their families. Women make up an increasing proportion of the world's formal labor force and heads of households.

Yet despite these patterns, women own only an estimated 1-2 percent of all titled land worldwide and are frequently denied the right to inherit property. There are numerous cultural, social, political, and legal factors that influence women's lack of property and inheritance rights, and specific patterns of ownership and disenfranchisement vary widely. Lack of control over both productive and non-productive resources in both rural and urban settings places women at a strong disadvantage in terms of securing a place to live, maintaining a basis for survival, and accessing economic opportunities. For instance, the widespread lack of official title to land and property among women means that they have virtually no collateral with which to obtain loans and credit. These factors exacerbate women's generally low status and high levels of poverty when compared to men. Furthermore, women's lack of property and inheritance rights has been increasingly linked to development-related problems faced by countries across the globe, including low levels of education, hunger, and poor health.

The importance of securing women's property and inheritance rights has been recognized in a growing number of national laws, as well as in international legal instruments in the context of both development and equality (e.g., in the International Covenants on Economic, Social, and Cultural Rights and on Civil and Political Rights and the Platform of Action adopted at the 1995 Beijing World Conference on Women).

With this progress in mind, proponents of women's property and inheritance rights have identified remaining barriers to change:

- Inadequate laws and systems of enforcement;
- A lack of awareness that laws do exist and insufficient understanding of options for legal redress and the resolution of disputes;
- The prevalence of traditional attitudes and practices, many of which directly contradict statutory laws and established civil rights; and
- It is these three key areas that the organizations involved in the EGAT/WID NGO Small Grants Program have addressed.

Ranging from academic institutions to grassroots service programs, the grantees were as diverse as the types of approaches and initiatives they pursued. For purposes of presentation and analysis, however, this report groups the interventions in three broad categories: research and documentation, awareness building and training for policy makers, and education and awareness-building.

Collectively, the grantees have helped to draft new and reform existing legislation; assisted hundreds of women in pursuing legal channels to resolve their disputes; created and broadcast radio and TV programs; conducted workshops and training sessions for policymakers, local leaders, organizations, and individuals; and launched creative, effective public education and media campaigns.

The grantee organizations confronted a wide range of challenges in their work, spurring both new initiatives and approaches for future activities. Key conclusions stemming from their efforts include:

- Ensuring women's rights is part of the democratization process.
- Many women lack awareness that statutory laws apply to them.
- Improvement will only come if attitudes towards women and social norms are addressed.
- Efforts to improve property and inheritance rights are hindered by a general lack of political will and the slow pace of legal change.
- Gender concerns are most effectively addressed when they are linked to broader discussions on national development.
- Change must begin at the local level, and effort should be made to reach isolated communities.

Participants at the NGO Small Grants Program's "Conference on Women's Property and Inheritance Rights" in Nairobi addressed these and other lessons in working group discussions and strategy sessions. The central subjects were: customary practices and statutory law; developing a supportive policy environment; options for mediation and enforcement; changing attitudes and practices; and the impact of the HIV/AIDS epidemic. In addition, local grantees organized site visits which enabled participants to gain first-hand insight on legal, political, and social/cultural aspects of women's property and inheritance rights in Kenya.

The result of these conference activities (under the guidance of a recommendations task force) was an extensive set of "next steps" to guide future efforts to uphold women's property and inheritance rights. Eight areas for action were delineated: research; education and awareness-building; legal aid services and support; advocacy and lobbying; networking; legal and institutional reform; poverty alleviation and economic reform; and funding constraints.

The work of the participating grantees under the NGO Small Grants Program has contributed to a firm groundwork for change in these and other areas. In short, both the individual organizations and the program in its entirety have furthered the realization of women's property and inheritance rights, and as a result, the well-being of individuals and the development of nations.

## CHAPTER ONE ISSUES BACKGROUND

*Women's rights in, access to, and control over land, housing, and property is a determining factor in women's overall living conditions, particularly in developing countries. It is essential to women's everyday survival, economic security, and physical safety and, some would argue, it is the most critical factor in women's empowerment and their struggle for equality in gender relations.*

—United Nations Centre for Human Settlement, Nairobi, 1999

### A GLOBAL OVERVIEW

Working in fields, factories, and home-based businesses across the globe, women are key producers of food and goods. As such, they play a critical role in the sustenance of their families, communities, and nations. Globalization and industrialization have brought increasing numbers of women into waged labor sectors; today, women make up one-third of the formal labor force in most regions of the world.<sup>2</sup>

At the same time, rural women alone are responsible for half of the world's food production and between 60 and 80 percent of food production in most developing countries.<sup>3</sup> The persistence of traditional divisions of labor, whereby women hold primary responsibility for producing food, as well as for gathering the water and fuel used by their families, is a key reason why so many women are involved in agriculture.<sup>4</sup> An additional factor is the increasing migration of many men from rural to urban areas in search of employment, with women remaining behind in rural areas.<sup>5</sup> A significant result of this trend is a growing number of households headed and managed by women. In the countries included in the NGO Small Grants Program, the proportion of female-headed households officially ranges from 9 percent (Bangladesh) to 39 percent (Namibia).<sup>6</sup>

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<sup>2</sup> Exceptions are northern Africa and western Asia. United Nations Statistics Division. *The World's Women 2000*. Chapter 5 (Work) highlights. <<http://unstats.un.org/unsd/demographic/ww2000/work2000.htm>>.

<sup>3</sup> "Gender and food security: agriculture." Food and Agriculture Organization Web site brief. <<http://www.fao.org/Gender/en/agri-e.htm>>.

<sup>4</sup> The proportion of the female labor force employed in agriculture (versus other sectors) in the countries involved in the NGO Small Grants Program ranges from 21 percent (Kenya) to 96 percent (Malawi). The World Bank, <http://genderstats.worldbank.org>.

<sup>5</sup> Many countries have also experienced a disproportionate decline in their male populations due to war and the spread of HIV/AIDS. This is particularly the case in Africa. As a key example, FAO notes that between 1970 and 1990, the rural male population in Malawi dropped nearly 22 percent; the corresponding figure for rural women was just over 5 percent. See "The feminization of agriculture" at <<http://www.fao.org/Gender/en/agrib2-e.htm>>.

<sup>6</sup> United Nations Statistics Division. *World's Women 2000*, Table 2B. [www.un.org/Depts/unsd/ww2000/tables.htm](http://www.un.org/Depts/unsd/ww2000/tables.htm).

Yet despite these patterns, estimates by the United Nations indicate that women own only 1-2 percent of all titled land worldwide. This lack of control over “immovable property,” i.e., land and houses, is mirrored by gender-based inequities in ownership of “movable” property, such as businesses, equipment, furniture, clothing and personal items, household goods, and capital. These patterns place women at a strong disadvantage in terms of securing a place to live, maintaining resources for their livelihoods and, in many cases, basic survival.

## **CHANGING SYSTEMS**

Although women’s lack of formal control over land and resources has long historical roots, it has become particularly problematic as economies and societies undergo extensive change. In subsistence production systems, access to land was often determined by status within the family rather than actual ownership rights; both men and women therefore had “user rights” to produce food for their families. Under colonialist regimes, the concepts of formal title to land and property and individual ownership were introduced for the first time in many cultures.

Marjolein Benschop of the United Nations Human Settlements Program (or UN Habitat) has written about the impact of such historical shifts: “While traditionally, women in East Africa merely had access to land through male relatives, social rules guarded against exclusion of women from land. Colonial influences such as individualization of land tenure and changing gender relations contributed to an erosion of the traditional protection mechanisms. Women’s position became more vulnerable.”<sup>7</sup>

Furthermore, the process of titling has been administered with strong gender bias, with women usually denied equal ownership rights. In addition, property and inheritance claims are generally processed through loosely organized administrative bodies consisting of local leaders and clerks with limited legal training. Most of these decision makers are men, and claims are often decided in an ad hoc manner based on personal views and interests rather than consistent legal precedent.

More recently, processes of industrialization and globalization have disrupted longstanding livelihoods and systems of production, forcing many families to focus more on income-generating activities than on subsistence practices. The gradual but dramatic shift from subsistence agricultural to cash crop production in much of the world has had a strong impact on women. As mentioned above, women have long held primary responsibility for raising food and for gathering water and fuel to feed and sustain families. The land on which they used to produce crops and raise livestock has gradually been converted to public control as part of monetized economies. As a result, remaining social systems affording women informal rights to control land and property have been severely shaken, at the same time that disputes over property—now afforded a monetary value—have become more prevalent.

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<sup>7</sup> Marjolein Benschop, *Rights and Reality: Are women’s equal rights to land, housing, and property implemented in East Africa?* United Nations Human Settlements Program. April 2002, p. vi.

These systemic shifts have compounded existing cultural and social biases against women's rights to inherit or ability to manage property. Because of the worldwide prevalence of patrilineal inheritance customs, both productive resources (e.g., land and livestock) and property such as household goods have ended up in the hands of men and not women. When only men have rights of inheritance or family succession, women have little opportunity to improve their status or living conditions within the family and community.<sup>8</sup> Consequently, they are rendered dependent on male relatives for survival and have little say over how property is used to generate income or to support families.

### IMPACT OF GENDER BIAS

Ongoing adherence to male-dominated traditions of property ownership has generally meant that women cannot take advantage of the wide range of benefits associated with ownership and control of property. Land and other forms of property (e.g., livestock and machinery) not only provide sustenance, but can be the basis for income generation and is often a marker of social status. Furthermore, in many countries, title to land is a prerequisite for securing loans and credit for other activities, from building a house to starting a business.

Development experts increasingly link women's lack of land and property rights to problems facing nations as a whole, in particular a lack of education, homelessness, hunger, poverty, and poor health. Evidence from around the world indicates that women dedicate most of the earnings they control to fulfill household needs, while men often spend much of their income on personal items. In fact, NGO and international agency representatives testified at the World Food Summit in June 2002 that ensuring women's land and property rights is essential to enabling them to better provide for their children, which would in turn help to mitigate world hunger.<sup>9</sup>

One of the hidden sources of economic growth and development is Africa's women. According to some studies, providing African women with equal education and access to productive outputs could raise economic growth by as much as one percentage point.

—USAID/Kenya, Mission Director  
Kiertsak Toh, closing remarks, NGO  
Small Grants Program conference

Furthermore, the continued disenfranchisement of half of many populations poses a barrier to overall socioeconomic progress. Eve Crowley of the Land Tenure Service at FAO states that: "Poverty is inversely correlated with household land ownership. The landless are more vulnerable, especially in famines, and have higher infant mortality rates. Women and children suffer disproportionately from shocks when their rights to household resources, including land, are mediated through men. Direct access to land minimizes women's risk of impoverishment and improves the physical well-being and prospects for her children."<sup>10</sup>

<sup>8</sup> Because property is generally kept within families, women's lack of succession rights means that they marry into other families and therefore have no control over the property of their birth families.

<sup>9</sup> Luke Baker, "Land for women answer to hunger, food summit told." Reuters News Service, June 13, 2002.

<sup>10</sup> Eve Crowley, "Empowering Women to Achieve Food Security." International Food Policy Research Institute Focus Brief no.2. August 2001.

## INTERNATIONAL NORMS AND NATIONAL LEGAL FRAMEWORKS

The significance of women's property and inheritance rights has been recognized in a variety of international legal instruments. Foremost among these are the International Covenants on Economic, Social, and Cultural Rights and on Civil and Political Rights; the Platform for Action adopted at the 1995 Fourth World Conference on Women; the United Nations Convention on the Rights of the Child; United Nations Commission on Human Rights resolution 2002/49; and the Convention on the Elimination of All Forms of Discrimination Against Women. In a review by U.N. Habitat of numerous international declarations and documents, several aspects related to property and inheritance rights were identified, including women's rights to:

- Be free from discrimination;
- Have an adequate standard of living and adequate housing;
- Maintain financial independence;
- Earn a livelihood; and
- Own, manage, and dispose of property.<sup>11</sup>

Placing specific concerns in a human rights framework is useful to NGOs, policymakers, legal professionals, and individuals worldwide working to promote women's property and inheritance rights. Reference to international laws and declarations can give a campaign, case, or proposed legislation more weight and promote accountability, particularly when these documents have been signed and ratified by national governments.

Translating established rights into reality is an enormous challenge. National governments often view international norms as contradictory to their own interests and may resist applying universal rights to their own social, economic, and cultural systems. In addition, even ratification of a treaty does not mean that its provisions are immediately applicable on a national level.<sup>12</sup> In the cases when a government has passed laws or revised a country's constitution to be more in line with principles of equal rights, implementing these changes requires effort on many levels. A lack of awareness and inadequate systems of enforcement (e.g., legal representation and courts) hampers the fulfillment of many human and civil rights. Furthermore, some national laws do not take women's particular circumstances or concerns into consideration, or may have clearly discriminatory provisions.

Struggles over land and other property often take place on the local level, within communities and families. In such a context, traditional customs and beliefs remain strong, which in turn often means that male-dominated systems are prevalent. As a result, there can be considerable resistance on the part of individuals and communities to women gaining knowledge about and asserting their rights. The conflict between statutory and customary

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<sup>11</sup> United Nations Centre for Human Settlements. *Women's Rights to Land, Housing and Property in Post-conflict Situations and During Reconstruction: A Global Overview*. Nairobi: UNCHS, 1999, p. 22.

<sup>12</sup> In most countries with a British common law tradition (e.g., Kenya and Tanzania), treaties must be "domesticated," or integrated, into national or municipal laws before they can be applied and enforced. See Marjolein Benschop, *Rights and Reality: Are women's equal rights to land, housing, and property implemented in East Africa?* United Nations Human Settlements Program. April 2002, p.34.

laws poses a significant challenge for the NGO grantees, and emerged as a central theme in both project reports and conference discussions.

Following are summaries of the legal contexts that prevail in the areas represented by the NGO Small Grants Program. It is clear that both similarities and variations exist among and within countries, regions, and continents. However, for purposes of presentation, circumstances in African and Asian grantee countries are discussed in their entirety.<sup>13</sup>

## THE AFRICAN CONTEXT

The four African countries represented in the NGO Small Grants Program (Kenya, Malawi, Namibia, and Tanzania) are governed through a combination of statutory, colonial, tribal, Hindu, and Muslim laws. Although statutory laws (e.g., national constitutions or labor laws) often prohibit discrimination against women and uphold the equality of women and men, there are many legal exceptions with regard to the “personal laws” that apply to marriage and family matters. As a result, the widespread application of customary laws effectively prevents many girls and women from owning, retaining, or inheriting property.

Another problem is that statutory laws in Africa contain “gray areas” that can be difficult to interpret or apply. Kenya’s Constitution, for example, dictates that any Kenyan of sound mind over the age of 18 may own property. However, one section also instructs that “...courts shall be guided by African customary law in civil cases...so far as it is applicable and not repugnant to justice or morality,” a type of interpretation that many courts are unable to make.<sup>14</sup> Similarly, in Tanzania, even when courts agree to hear cases involving women’s property rights, they often employ a “mode of life” test when faced with contradictions between customary and statutory laws. This means that the former may be applied when plaintiffs and defendants are members of a community where traditional laws are established and accepted.

Although there are many variations among the African countries that participated in the NGO Small Grants Program, several prevalent customs and practices can be identified:

- Property is viewed only as men’s and under the care of a male guardian, be he father, husband, brother, or brother-in-law.
- Women have security of land tenure only as wives or daughters, and can lose access to land upon death of or divorce from a spouse.
- Non-land property (e.g., furniture, kitchenware, and tools) is considered to be a family asset; daughters are typically not inheritors.

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<sup>13</sup> Unless otherwise noted, the information contained in this section is from country profiles of legal systems and norms prepared for the Nairobi conference.

<sup>14</sup> Section 3(2) of the Judicature Act (Cap. 8 Laws of Kenya). Discussed in “A Gender Perspective of the Property and Inheritance Act in Kenya,” the Collaborative Centre for Gender and Development, Nairobi. Meeting paper, prepared 2001.

- As long as a husband’s family has paid “lobola” (dowry) to his wife’s family, wives are not to gain any additional property or wealth.
- Upon divorce, a wife can keep her own personal effects (e.g., clothing and gifts), but everything else—including livestock, businesses, and even children—remain with the husband.
- Widows are not able to sell or exchange property, and are not to remarry.
- Polygamy is still practiced among some tribes, which can result in an unfair distribution of property among wives following the death of a husband, or render some women destitute when resources are limited.

These practices are often at the root of “property grabbing” by a widow’s in-laws. This widespread occurrence means that women may lose everything, from household items to the house itself, or be blocked from working land or accessing resources, such as water. Furthermore, wife inheritance is still practiced in some parts of Africa. According to this custom, a widow is married off to her deceased husband’s brother or other male relative, effectively becoming part of her former husband’s estate while also losing all land and property to in-laws.<sup>15</sup>

Reconciling such entrenched norms of behavior with national laws is clearly not easy, and the outcomes may vary. For example, even though the Kenyan Registered Land Act of 1963 provides land title to individuals, women are often not registered as landowners because traditionally only men are viewed as heads of households. As a result, family members can evict women with impunity.

In addition, the religious and social customs of ethnic groups often prevail. Hindu law—by which family property is communal and individual interests are not defined—may be applied in countries where the Hindu religion is practiced. Similarly, Muslim populations may look to the Koran to govern such matters as property and inheritance. (Such is the case in Tanzania, where 35 percent of the population on the mainland and 99 percent on the island of Zanzibar are Muslim.<sup>16</sup>)

In some cases, the state itself may officially exempt ethnic groups from statutory laws. For example, in 1981 Kenya passed the Law of Succession Act (LSA) to unify inheritance laws throughout the country. However, in 1990 an amendment was added to exempt Muslims and allow them to follow the Koran.<sup>17</sup> This has in effect sanctioned several discriminatory practices, including that girls inherit half of what boys do; the estate rights of widows are

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<sup>15</sup> Interestingly, husband inheritance (by a younger sister, niece, or cousin) is also practiced in some areas, as noted by the Namibian researchers participating in the NGO Small Grants Program.

<sup>16</sup> Central Intelligence Agency fact book; [www.oecd.gov/cia/publications/factbook/](http://www.oecd.gov/cia/publications/factbook/)

<sup>17</sup> Kenya country profile, Emory University Islamic Family Law Web site  
<http://www.law.emory.edu/ifl/index2.html>.



terminated upon remarriage; and wives receive much less than husbands upon the death of a spouse.

Generally speaking, married women have more rights than unmarried women, and those married through a civil process are better protected than those wed only according to local customs. In Namibia, for example, only 30 percent of the adult population is formally married under either system; those involved in informal relationships (such as the 12-15 percent of adults in cohabitation arrangements) have no legal recourse when their rights are violated.<sup>18</sup> These patterns led to the passage of the Namibian Married Persons Equality Act in 1996, which applies to both customary and civil marriage. The Act does not specify that men are the heads of households, and it allows men and women to decide to own property and control assets either jointly or separately. The free choice of men and women with regard to which provision should apply is, however, severely compromised by the persistence of a colonial-era law, the 1928 Native Administration Proclamation. The Proclamation divides Namibia into two administrative zones, each of which is governed by different laws. Consequently, any civil marriage between two black residents north of the dividing line is automatically “out of community of property,” (i.e., with separate control) and any marriage south of the line is “in community of property” (i.e., with joint control), unless parties specifically make a declaration otherwise before marriage takes place.<sup>19</sup>

In Malawi, strengthening the existence and application of wills is essential to providing women with a uniform legal basis. The 1937 Wills and Inheritance Act dictates that property must be distributed according to the wishes of the deceased. If no will exists, the norms of the relevant customary marriage take over, some of which (even under matrilineal marriage systems) leave little to women and children if a husband dies.<sup>20</sup> Knowledge of these provisions is often limited, however.

## THE ASIAN CONTEXT

National constitutions in the four Asian countries represented in the NGO Small Grants Program (Bangladesh, Cambodia, Nepal, and Sri Lanka) guarantee women equality and equal protection. In addition, there is a clear legal basis for promoting women’s property and inheritance rights.

In Cambodia, for example, women can legally take out loans and sign contracts independently of their husbands; family law requires mutual consent in marriage and equal access to divorce; the Constitution values household work as equal to work done outside the home (a crucial aspect in divorce settlement cases); and both a civil code and a land law are

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<sup>18</sup> Diane Hubbard, *Law for All, Volume 3 (Family Law)*. Out of Africa Publishers and the Namibia Institute for Democracy, 2001, p. 4.

<sup>19</sup> Evelyn Zimba, “Marital property regimes in Namibia.” Presentation on behalf of the LAC, Windhoek, Nairobi small grants conference. Legal Assistance Centre, “A Summary of the Married Persons Equality Act.” Windhoek, 2001.

<sup>20</sup> *Empowering Widows in Development; brief on Inheritance Rights in Malawi*. See <[www.oneworld.org/empoweringwidows/lawfile/malawi.html](http://www.oneworld.org/empoweringwidows/lawfile/malawi.html)>.

widely applied to resolve property and inheritance disputes. In Nepal, a bill was recently passed by the parliament that accepts daughters as rightful inheritors; gives widows and divorced women full inheritance rights; and strengthens wives' rights to access and own deceased husbands' property.<sup>21</sup>

Even these examples of success, however, are incomplete. Nepal's law retains discriminatory practices (including the acceptance of bigamy and a requirement that daughters return their inheritance upon marriage). Cambodia's laws do not require child support from men following divorce or (more commonly) desertion; this legal loophole is closely linked to poverty and destitution among women and children. In addition, the country's judicial system is still being rebuilt following its dismantling in 1975. (As discussed below in the section on grantee interventions, these aspects are the focus of ongoing work by individuals, NGOs, and policymakers.)

As is the case in Africa, gaps and legal loopholes exist that compromise the overarching intent of non-discrimination with regard to property rights. In many circumstances, religious and traditional practices often prevail with regard to family concerns, and clear distinctions along gender lines are often drawn.

In Bangladesh, for example, 83 percent of the population is Muslim.<sup>22</sup> Muslim law stipulates that daughters inherit half as much as sons and, in the absence of a son, daughters can inherit only as a residuary (i.e., only after all debts and other obligations are settled). Wives inherit half the proportion of wealth as do husbands when a spouse dies.

Women are not regarded as legal guardians under Islamic law, prompting many cases where children are taken away by in-laws in the case of a father's death (in the case of divorce, women can retain custody of sons until age seven and daughters until puberty). Similarly, Hindu law denies full inheritance rights to widows and daughters, there are no provisions for divorce, and fathers are viewed as the natural, legal guardians of children.

The legal situation is even more complex in Sri Lanka. Influenced by a combination of English, Roman-Dutch, Islamic, and customary practices, the country's personal laws are inconsistent between regions and population groups. The colonial-era Land Development Ordinance of 1936 is still in effect. Originally adopted in order to grant land to peasants, the

### Closing Legal Gaps

The Sri Lankan government has recognized the problems resulting from the existence of varied and sometimes contradictory legal provisions, in terms of both women's equal rights and restraints on investment in property and, subsequently, overall national development. This awareness prompted the adoption of the Registration Title Act in 1998.

As stated by the Honorable W.K.K. Kumarasiri, Secretary of Sri Lanka's Ministry of Lands, in opening remarks at the NGO Small Grants Program conference, the Act "provides methodologies to convert the various tenure systems and restrictive rights of properties to a more simple certificate of title registration... Women will be able to deal and transfer properties and use their properties as collateral for economic development in the same way that men do."

—Paper on file with Project Director

<sup>21</sup> Bill 2054, Eleventh Amendment to the Country Code.

<sup>22</sup> Central Intelligence Agency fact book; [www.ocdi.gov/cia/publications/factbook/](http://www.ocdi.gov/cia/publications/factbook/)

Ordinance vests land only in the name of the head of the household, which most often means in the name of the husband without mention of the wife's name on the deed.<sup>23</sup>

In addition, those Sinhalese people in Sri Lanka who adhere to Kandyan law generally do not recognize women's rights in matters of marriage, divorce, property, and inheritance. Tamils from the Jaffna peninsula follow Thesavalamai law, whereby women cannot sell, transfer, or gift their property without the written consent of their husbands.<sup>24</sup>

### Countering Stereotypes and Myths

If women gain property and inheritance rights...

- **Common View:** Divorces will increase if women are empowered.  
*Response: This won't happen if marriages are based on love and respect. Property rights can't harm a good marriage.*
- **Common View:** There will be an increase in court cases and the legal system will be burdened.  
*Response: Whether or not cases end up in court depends on the family and specific situation. Many families settle property disputes on their own; why would this change?*
- **Common View:** Women can't manage property because they are uneducated and inexperienced in such matters.  
*Response: If this is really the case, then we should make sure that women are educated and empowered. It's a question of equality and making sure that both men and women have access to the resources needed to own and manage property.*
- **Common View:** We don't need a law; a will system that applies to women would be enough.  
*Response: The ultimate goal is a good will system, but other steps are needed immediately. Many people are poor and own very little land. We are still living in a patriarchal society, and much change is needed to ensure that daughters are respected and viewed as equal members of the family.*

*Excerpts from educational materials produced by the Forum for Women, Law, and Development (Nepal)*

All the preceding examples reflect the ways in which political will is needed to ensure that laws are implemented fairly and applied across the board, even in multiethnic contexts. Effort is also needed to change personal attitudes towards and to make gender relations more equitable. Many commonly held views effectively restrict women's development and equality, and can pose barriers to the application of laws on the local level.

### A NOTE ON HIV/AIDS

Many social and economic trends around the world are increasingly influenced by the spread of HIV/AIDS. Growing numbers of people around the world are infected with HIV, and, in some countries, many of the new cases occur among girls and women. Although Africa is clearly affected by HIV/AIDS more than any other continent, there are some indications that

<sup>23</sup> Vehilihini Development Centre, presentation paper for the NGO Small Grants Program conference.

<sup>24</sup> Jayanthi Liyanage, "Inheriting nothing." Sunday Observer Online, March 10, 2002.  
[www.sundayobserver.lk/2002/03/10/fea17.html](http://www.sundayobserver.lk/2002/03/10/fea17.html)

the epidemic is also gaining momentum across Asia. In the countries involved in the NGO Small Grants Program, the current proportion of the adult population infected with HIV is under 0.1 percent in Bangladesh; 3 percent in Cambodia; 15 percent in Kenya; 15 percent in Malawi; 23 percent in Namibia; 0.5 percent in Nepal; 0.1 percent in Sri Lanka; and 8 percent in Tanzania.<sup>25</sup>

As discussed further in the section on grantee interventions, it is imperative to consider HIV/AIDS in the context of property and inheritance rights. Among its many impacts, the epidemic has disrupted household structures, and in turn both highlighted old and raised new issues related to property and inheritance. Key among these is the rapidly growing number of disputes over property because so many people, including male heads of households, are dying prematurely.<sup>26</sup> Subsequently, women's poverty and low social status stemming from a lack of property rights are tragically compounded when they themselves become ill; many may even be left destitute without shelter or care. There is also increasing awareness of the need to ensure that orphans—including girls—have some sort of security (i.e., in the form of land and property) when their parents die.

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<sup>25</sup> Joint United Nations Programme on HIV/AIDS. Country epidemiological fact sheets at <[www.unaids.org](http://www.unaids.org)>.

<sup>26</sup> Polygamy and wife inheritance are also being questioned in the context of the HIV/AIDS epidemic, since both practices potentially spread the disease among multiple sexual partners.

## CHAPTER TWO ORGANIZATIONAL INTERVENTIONS

Through grassroots organizing, work with policymakers, mass media programming, and legal rights awareness training, the NGOs involved in the NGO Small Grants Program have made enormous strides in promoting and securing women's property and inheritance rights. Taken together, their accomplishments include:

- A dozen new pieces of legislation drafted;
- Nearly 900 cases on women's property and inheritance rights supported with legal assistance;
- Complementary funding provided by 12 donors;
- 75 TV and radio programs broadcast;
- 1,000 workshops conducted; and
- Nearly 49,000 women and 16,000 men trained in how to redress property and inheritance concerns.

As detailed below, the nature of the grantees varied, from academic institutions to grassroots service providers. Similarly, the types of interventions pursued were quite diverse, with a mix of target populations and approaches. The grantee interventions presented here are grouped in three broad categories, in keeping with the central type of work conducted and the presentations made at the Nairobi conference: research and documentation; awareness building and training for policy makers; and education and awareness building.

At the NGO Small Grants Program conference, grantee organizations were asked to present a key element of their work, which herein has also determined the aspect they are associated with. The examples provided, however, tell just one part of the extensive, committed work of each organization under the NGO Small Grants Program. (For more information on the grantee organizations, visit [www.usaid.gov/wid/activities/ngosg.htm](http://www.usaid.gov/wid/activities/ngosg.htm).)

### Valuable Allies

Following the death of her husband, an elderly retired schoolteacher in Kandy, Sri Lanka, lost the land that had been her home. A mason hired by her husband to build their house claimed the small plot of land that she lived on; when she refused to leave it, he took her to court and won the case.

Since 1996, the woman has gone to court nine times without success. Upon hearing of the woman's case, EMACE, a grantee organization conducting free legal aid clinics in Kandy, contacted the woman and offered her free legal assistance.

After three visits to EMACE, the woman was quite satisfied with the assistance provided. Many other lawyers, she said, simply "eat fire," a reference to charging high fees for little service. In contrast, EMACE's legal aid clinic has enabled her to better understand her legal options and to be represented by an advocate who has the client's best interest in mind.

Currently the decision in this case is under appeal. For this woman and many others like her, working with a local organization that is accessible, supportive, and committed to gender-sensitive interpretation of the law is not only helpful, but can be a life-changing experience.

—As presented by Meloney Lindberg, NGO Small Grants Program Director, in opening remarks at the conference

## RESEARCH AND DOCUMENTATION PROJECTS

The first “building block” for other activities, research and documentation help to define and analyze social practice; identify the impact of laws and policy; and clarify individual and community attitudes and behavior. The NGOs pursuing this approach have succeeded in developing a solid foundation from which to promote change. In all these projects, collection of data and analysis of research findings spurred recommendations and plans for further action in other arenas.

### Presenting Organizations

The objectives and approaches of the four organizations conducting research and documentation projects were:

- **Centre for Women’s Research (CENWOR), Sri Lanka.** To research and document the impact of Sri Lanka’s three sets of personal/family laws (Kandyan, Thesavalamai, and Sharia) on women’s legal rights. Research findings will be used to lobby policymakers for revision of laws, create awareness among women regarding their situation vis-à-vis these laws, and assist local NGOs in advocating for equal rights. The project involved a review of laws, a field study in five locations, and the development of case studies. More than 250 women from different social and ethnic groups were interviewed. Researchers also met with women and men in the Tea Plantation areas (where Kandyan law is often in effect) and in parts of Colombo (where families relocated from the north practice Sharia Muslim Law).
- **Chancellor College Gender Studies and Outreach Unit, University of Malawi.** To gather information on customs, values, and laws related to women’s property and inheritance rights; and to develop an information, education, and communications package to address key problems and needs. The project will inform policymakers, administrators of death benefits, and the general public about current problems and trends associated with women’s property and inheritance rights. The research—which considers the nature and role of custom, formal law, legal administration, and welfare impacts in relation to women’s property and inheritance rights—will contribute to the review and debate of legislation addressing gender-discriminatory practices.
- **Legal Assistance Centre (LAC), Namibia.** To conduct a comparative analysis of existing laws through research and community consultations; and to draft an alternative bill for local discussions and submission to the Ministry of Justice. Two reports have been developed: one that makes recommendations on reform of laws related to marital property, and a second on the property consequences of cohabitation. Other activities include a synthesis of research findings and development of a draft bill for discussion with community and women leaders to test its relevance and gather their input. LAC will also submit the bill to the Law Reform and Development Commission, a body within the Ministry of Justice that works to ensure that all Namibian laws since Independence comply with the national constitution.

- **University of Namibia.** To conduct research on women’s property and inheritance rights; and to produce a report with recommendations to policymakers, judges, government administrators, NGOs, and donors. The research project encompasses six regions of the country, selected to provide a range of cultural contexts and succession practices. Research was conducted through interviews with traditional authorities, community leaders, and heads of religious and educational institutions, and through focus group discussions with members of local communities. Topics included property ownership and inheritance practices.

## Findings

In presenting their research and documentation work at the NGO Small Grants Program conference, representatives from many participating organizations expressed some of the same overarching ideas, as follows:

- **The coexistence of divergent sets of laws results in discrimination against women.** Interviews with local leaders and various groups of women and men pointed to both formal and informal systems of determining lines of descent and inheritance. The multi-regional, multiethnic research conducted by the University of Namibia illustrates such complexities, depending on whether a patrilineal or matrilineal culture, or combination of both traditions, is followed. For example, in many settings, children are the primary responsibility of mothers, but, upon divorce, fathers can gain their custody by awarding cows to a woman’s family.
- **There is a pervasive lack of awareness among women that statutory laws apply to them.** Due primarily to a lack of education and empowerment, women are often unaware of the laws under which they married and those pertaining to inheritance and succession. CENWOR’s in-depth interviews and case studies in five rural and urban districts in Sri Lanka reveal that many women have in fact purchased property or had land gifted by parents and are committed to the idea of dividing land equally among their children. Once aware of the rights of women and girls, some parents have even taken the step of writing property in their children’s name with a life interest designated for themselves.
- **Attitudes towards women and persistent social norms pose barriers to change.** Women are often not perceived as independent beings with entitlements and rights, and stereotypes of women as weak and subordinate remain widespread. The persistence of traditional law in matters related to family and personal relations exemplifies how entrenched such beliefs are. Chancellor College’s field research in Malawi highlights how frequently women who seek their rights are feared and reviled, and in some cases are even accused in court of practicing witchcraft. The problem of stigma is compounded by corruption in Administrator General offices, where employees handling property and inheritance cases may demand sexual favors from women in exchange for disbursing benefits.

- **Efforts to improve property and inheritance rights are hindered by a general lack of political will and the slow pace of legal change.** The impact of colonialism remains strong, as manifested in anachronistic laws governing control over land and property. At the same time, efforts to eliminate this legacy offer an opening for property and inheritance rights advocates. For example, based on its research on the 1928 Native Proclamation (see section on the African legal context), the Legal Assistance Centre is pursuing a case in the Namibian High Court to overturn the law (see box). Unfortunately, such efforts are often stymied by the fact that property and inheritance rights are generally not a priority for courts. In addition, the high cost of legal services can inhibit action by individuals, while some lawyers litigate cases only to have the chance to appropriate a share of property from clients following a legal victory.
- **Through laws and customs, formal and informal marriage arrangements have complex impacts on women’s ability to own and inherit property.** The many forms that marriage can take, the basis (or lack) of marriage contracts, the practice of wife inheritance, the growing prevalence of cohabitation, norms dictating dowry, and the ongoing practice of polygamy strongly influence both customary and legal partnerships and outcomes related to property and inheritance. Such issues warrant more research and analysis in specific contexts.

#### The Life of a Widow

After Tipolina’s husband died, his relatives and the village headman told her that she and her daughter had to move so one of the relatives could inherit the property.

Tipolina resisted, claiming that she was married “in community of property” and therefore had rights to her late husband’s assets. However, upon seeking assistance from LAC, she discovered that her marriage was “out of community of property” because she and her husband lived north of the police zone established under the colonialist Native Administration Proclamation.

Further, the same law makes it impossible for Tipolina to inherit property because her husband was classified as “native.” Her marriage was therefore subject to customary laws in their area, which prohibit inheritance by women.

With help from LAC, Tipolina has brought her case to the High Court of Namibia, claiming that the Native Proclamation is unconstitutional because it violates her and her daughter’s dignity, right to acquire and own property, and right to be treated equally without discrimination on the basis of race. This is one of the most significant gender-related constitutional challenges in Namibia to date.

*—Based on conference presentation by the Legal Assistance Center*

### SUPPORT FOR POLICY CHANGE THROUGH AWARENESS BUILDING AND TRAINING FOR POLICYMAKERS

The primary challenge for organizations and individuals working on policy issues is to link specific cases and circumstances into a broader context. By doing this, it is more likely that women’s property and inheritance rights—which are linked to national concerns such as poverty and land distribution—will gain the attention of policymakers and the judiciary. At



the same time, it is critical to ensure that those people most affected by these policies feel that they have a stake and a voice in their formulation.

## Presenting Organizations

The grantee organizations focusing on policy work aim to make property and inheritance rights a highly visible issue both in courts and legislatures, while also “translating” laws and policies so that they make sense to local communities. The goals and approaches of the five grantees pursuing policy change were:

- **Collaborative Centre for Gender and Democracy (CCGD), Kenya.** To conduct a gender analysis of the Kenyan Property and Inheritance Act and review its implementation; to increase awareness of and present recommendations to key policymakers; and to influence the Kenyan constitutional review process. The Centre included recommendations on land and property rights in a document on women’s issues submitted to the Constitution of Kenya Review Commission and provided input to commissions reviewing land law and affirmative action. A section on land and property rights was also written for the organization’s training guide *Women and Constitution Making*, which is used to enhance women’s participation in the Kenyan constitutional review process.
- **Federation of Women Lawyers (FIDA), Kenya.** To increase women’s knowledge of property rights issues, laws on matrimonial property, and inheritance and succession rights; and to train women to disseminate information on these topics in their communities. Through human rights workshops, FIDA has trained women and men on policies and laws related to property and inheritance rights and provided legal assistance in dozens of court cases, many of which have resulted from increased awareness gained by women through FIDA-sponsored training. FIDA also helped organize a national conference on “Women and Land and Property Rights in Kenya;” developed a resolution on women and property rights for national policy commissions; and contributed to the Kenyan report to the UN Commission on the Status of Women. FIDA has also been conducting a review of current legislation and drafting a bill to replace the Married Women’s Property Act of 1882, which will incorporate findings and recommendations informed by their field-based work.
- **Forum for Women, Law, and Development (FWLD), Nepal.** To conduct an advocacy program on women’s property and inheritance rights; to train lawyers on the issue; and to produce an advocacy kit for policymakers, media, NGOs, human rights activists, and others. FWLD has formed a joint working committee with the Legal Aid Consultancy Centre (LACC) (see below) and has produced an advocacy kit, based in part on feedback from discussions held with activists. The kit has been distributed to all 265 members of Nepal’s Parliament, as well as the media, NGOs, and human rights activists. FWLD has also trained lawyers to carry out grassroots advocacy with local leaders, social workers, teachers, and farmers, formed a district coordination committee (in which at least half of the members are women), and has identified individuals affected by discriminatory laws.

- **Legal Aid Consultancy Centre (LACC), Nepal.** To foster awareness of the country's new bill on women's property and inheritance rights; and to develop materials and conduct training sessions on the law for a wide range of stakeholders, including village leaders, district officers, attorneys, parliamentarians, police, organizational representatives, and local women. Two complementary grants supported LACC's national and local awareness-raising campaign on the draft bill. Training sessions were arranged in each district for village leaders, Chief District Officers, police, and women. Developed and distributed jointly with FWLD (see above), the training curriculum covers the Nepali Constitution, history and provisions of the new bill, discriminatory laws, the will system, international human rights laws, and women's rights. Eight programs have been held for 460 judges, members of parliament, and others to advocate for the passage of the new bill.
- **International Commission of Jurists (ICJ), Kenya.** To measure the impact of women's property and inheritance rights; to develop national legal standards; and to strengthen partnership with the judicial branch of the Kenyan government. ICJ promotes gender-sensitive interpretation of Kenyan law and the revision of laws that contradict the principles of the international Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). ICJ has researched cases related to women's property and inheritance rights in Kenya and compiled a legal analysis of cases related to the Succession Act of Kenya, customary law, and CEDAW that was distributed to 300 judicial officers and lawyers. In addition, ICJ has conducted consensus workshops to establish partnerships with judges and lawyers and to inform members and officers of the judiciary about CEDAW.

## Findings

Through their conference presentations, the grantees identified common themes and concerns:

- **Integrating gender perspectives into discussions on national development can help clarify their importance.** Advocacy and training materials developed and disseminated jointly by FWLD and LACC, for example, are based on the premise that women's property and inheritance rights affect everyone. In the words of Sabin Shresta, the FWLD conference presenter, "If women are not mainstreamed into development, development won't work. Women and men need to demand human rights together."
- **The work of women lobbyists and policymakers often has a positive effect on the promotion of more equitable property inheritance and ownership.** Because of this, many grantees have targeted women policymakers. For example, CCGD met with women leaders at the Commission of Inquiry into the Land Law System of Kenya to ascertain their views regarding property and inheritance rights, to build women's capacities to present their views on these issues, and to mobilize their participation in the national constitutional review process. LACC has also focused on women parliamentarians as "champions" of the draft property and inheritance rights bill in Nepal.

- **There is a strong need for organizations to coordinate with each other so that limited resources are used efficiently and effectively, and to enhance knowledge and oversight.** Groups should work together to first ensure that inadequate or discriminatory laws are changed; once this is accomplished, specific efforts can be implemented to make sure that the laws are applied in a consistent manner that benefits women. An example of this is FIDA's collaboration with other groups, including the Attorney General's office, political parties and parliamentarians, commissions on law and constitutional reform, the media, professional associations, and women's organizations, to draft a Kenyan bill to replace the Married Women's Property Act of 1882.
- **Paying attention to women's rights is part of the democratization process.** Political changes occurring in many of the countries where the grantee organizations work provide an opening to raise property and inheritance rights concerns in the context of democratization and strengthening civil society. The successful work of grantees illustrates the potential impact of increasing education and awareness and fostering social mobilization. This is particularly clear in Kenya, in light of the ongoing constitutional review process. ICJ's work (including its meetings with the Kenya Judges and Magistrates Association and training of judicial officers and legal practitioners on women's property and inheritance rights) is in this sense part of a long-term process of developing a viable, fair legal system.

### EDUCATION AND AWARENESS-BUILDING PROJECTS

One of the key hurdles in promoting women's property and inheritance rights is ensuring that laws and regulations are implemented fairly. For this to happen, social norms, traditions, and attitudes that have existed for generations must shift and there must be "buy in" on the part of those individuals and communities most affected by subsequent change. Such long-term processes cannot occur without widespread understanding of both the conditions facing women and the importance of fulfilling their rights. In this sense, education and awareness-raising efforts must take place on two levels: among policymakers/the judiciary (see policy change section above), and among the population at large.

#### Presenting Organizations

Though quite diverse and specific to particular cultural, social, and political contexts, projects in this area all aimed to address aspects that might be established legally but are not exercised in practice. The goals and approaches of the 12 grantee organizations focusing on education and awareness projects were as follows:

- **Centre for Development Services (CDS), Bangladesh.** To conduct an interactive, informative media campaign on women's property and inheritance rights; and to mobilize and train women to redress violations through advocacy. CDS has conducted research to identify discriminatory laws and customary practices that inhibit women from claiming

property. Community-based “mobilizers” trained by CDS have conducted awareness-raising sessions that integrate messages on property and inheritance rights with street theater and folk songs. The mobilizers also provide information on changes made in personal laws in 1961 to mediation committees and local leaders to improve the resolution of local land disputes.

- **Education Centre for Women in Democracy (ECWD), Kenya.** To build the capacity of the organization’s network of volunteers and paralegals in order to inform women of their rights; and to respond to disputes with legal counseling and assistance. ECWD conducted a survey in three provinces to assess barriers to the realization of women’s property and inheritance rights, and then incorporated findings into education tools for intervention locally. ECWD provided training on inheritance and property rights to affiliated paralegal and human rights education monitors and instituted human rights-oriented awareness-raising activities for members of community-based women’s organizations. The project also developed a rural radio program to inform listeners about women’s legal rights.
- **EMACE Foundation, Sri Lanka.** To educate women about their legal rights; to lobby for government policy change; and to mobilize and train advocates to provide advice through free legal clinics. EMACE established free 24-hour hotlines in rural provinces, which to date field about 50 calls per month concerning property and inheritance rights. EMACE also responds to written requests for assistance, while two of the organization’s regional offices provide free legal advisory services. Awareness-raising workshops have been conducted in the areas where the legal clinics are operated in partnership with other local groups; both community residents and leaders have participated in such sessions.
- **ENVIROCARE, Tanzania.** To create awareness among women and communities about women’s property and inheritance rights; and to conduct training-of-trainers sessions and village-wide activities. ENVIROCARE conducted a series of training-of-trainers sessions in local communities focusing on human rights education and advocacy, with an emphasis on women’s property and inheritance rights. Trained personnel subsequently served as paralegals who offer local women advice and guidance when property disputes arise. ENVIROCARE also developed a popular “moot court” activity to inform and train lawyers and judicial officers about women’s property and inheritance rights under existing laws and potential clashes between statutory and customary law.
- **Khan Foundation, Bangladesh.** To increase the knowledge and abilities of locally elected women to advocate on property and inheritance issues. The Khan Foundation provided information and skills training to 400 locally elected women so that they would be able to help promote awareness and action on issues and laws pertaining to property and inheritance rights. Participants in the program were also introduced to the Women’s Lawyers Network, which is funded by the Khan Foundation and can serve as a free legal resource at the local level. The Khan Foundation also produced useful materials for participants to use and distribute in their local communities.

- **Madaripur Legal Aid Association (MLAA), Bangladesh.** To create a network of informed Muslim women leaders who can address gender equity issues and property and inheritance rights. MLAA has developed a unified network of women leaders from grassroots women's groups, with which it provides information and logistical support for the promotion of women's rights. MLAA conducted a field survey to assess awareness of property and inheritance rights and Muslim inheritance law among local women. The survey results were used to develop informational materials. To date, about 300 leaders have been trained and 10,000 women informed of their rights.
- **Namibia Development Trust (NDT).** To collectively educate and empower rural women so that they can challenge discriminatory traditional and customary practices related to property and inheritance. In collaboration with the University of Namibia, the Trust conducted research on attitudes towards property ownership and inheritance in local communities and provided training on advocacy and lobbying skills for women. Findings were integrated into a script for theater and radio plays on property and inheritance to spark community discussions and initiatives on women's property and inheritance rights. NDT also analyzed community awareness of customary law and documented cases involving women's property and inheritance disputes.
- **Vehilihini Development Centre (VDC), Sri Lanka.** To identify provisions of the country's Land Development Ordinance (LDO, established by the British in 1935) that discriminate against women; and to conduct awareness-raising workshops on this problem. Through research, VDC identified several discriminatory provisions of the LDO and then formed three local groups of activists and volunteers to participate in awareness-raising workshops and to learn how to pass knowledge on to others. Local government employees were trained to better enforce the LDO. Finally, VDC conducted educational sessions with unmarried adolescent girls on property and inheritance and the LDO.
- **Women's Media Centre (WMC), Cambodia.** To produce and broadcast TV and radio public service announcements on issues related to women's property and inheritance rights. To date, WMC has produced and broadcast four spots on women's participation in the drafting of new laws and women's rights in relation to alimony, divorce, and property ownership and inheritance. WMC also produced a 40-minute television drama addressing these and other issues (e.g., domestic violence). WMC collaborated with the Cambodia Bar Association, the Ministry of Culture and Fine Arts, and local NGOs to develop its media campaign and to ensure that the messages were appropriate, accurate, and easy to understand.
- **Women in Need (WIN), Sri Lanka.** To conduct research on customary practices under Kandyan and Muslim law; to take action on subsequent cases; and to mobilize policymakers to change discriminatory practices. Drawing on its extensive activities related to domestic violence and the protection of women's and children's rights, WIN organized nine one-day awareness-raising workshops on property and inheritance issues. These included a panel of lawyers who discussed General Law, Muslim Law, and Kandyan Law and addressed participants' questions about property and inheritance issues, as well as workshops attended by local government officials, including police.

- **Women for Prosperity (WFP), Cambodia.** To increase women’s knowledge of national and international laws pertaining to property and inheritance rights; and to empower women to use the law as a resource. WFP developed and held three-day training workshops in four provinces, in which men and women learned about laws that potentially or directly have an impact on women’s human rights. Among the topics covered was the 2001 national Land Law, which directly addresses women’s property and inheritance rights. WFP plans to complement these workshops by forming support groups, which will ensure that awareness-raising efforts reach broad segments of communities.
- **Women’s Voice, Malawi.** To foster mass awareness of women’s property and inheritance rights and the rule of law; to mobilize rural communities to address rights violations through advocacy, counseling, and case referral. Through education campaigns and awareness-raising exercises, Women’s Voice has taught more than 10,000 women and men throughout Malawi about the importance of having a will. An estimated 500 wills were written as a result. The project involves community-based trainers coordinated by Women’s Voice paralegals and uses traditional media and training methods (e.g., song, poetry, drama, and spoken presentations). Women’s Voice has also made an effort to engage traditional authorities, chiefs, and other men in the project.

## Findings

In presenting their research and documentation work at the NGO Small Grants Program conference, the grantee organizations focused on several similar themes:

- **Change starts at the local level.** Basing projects in local communities serves several purposes. First, this approach results in greater levels of education and empowerment among individuals and communities; local activities often have a “spillover effect” in terms of engaging local organizations and actors, which in turn increases the likelihood that a project will be sustainable in the long-term. Second, locally-based methods are highly cost-effective. Grantees also emphasized the importance of education and awareness projects in increasing the self-esteem of women, which can in turn lead to more participation in local events and decision-making processes, as well as increased reporting of domestic violence.<sup>27</sup>

As stated in Women’s Voice presentation at the conference, “if we do not get people to be aware of the issues, then zero work is done.” The organization decided to focus its work on key issues—lack of awareness about Malawi’s Will and Inheritance Act and the related importance of writing wills to protect property and inheritance rights—and to “base its programme on real-life situations...in the villages.” The organization promoted

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<sup>27</sup> Several grantees emphasized how the empowerment of women can have the unintended consequence of creating friction with men, who may then try to punish spouses for their activism, deny them property inheritance or ownership, or purposely exclude women from public arenas.

a straightforward and universally applicable motto wherever it worked: “If you don’t have a will, don’t die!”

The central approach of Women in Need under the NGO Small Grants Program was to link with local Sri Lankan organizations and agencies, which are viewed by the organization as crucial since practices and attitudes vary from region to region and community to community. The local collaborators also serve a vital function as reference points for residents wanting more information or assistance. As stated by WIN at the conference, this approach also “gives community-based organizations an opportunity to become strengthened, thereby creating a higher probability of future inputs to communities.”

- **Creative messages that are tailored to the beliefs and traditions of local populations will more likely be heard, understood, and applied to daily life.** Although generalized written materials and discussions of laws and customs are important steps toward enhanced awareness, these alone are insufficient. Folk theater that includes elements of community life, traditional songs in which lyrics have been changed to contain a rights-related message, mock trials and funerals, and personal testimonies have proven to be essential to increasing knowledge and spurring change. For example, the Namibia Development Trust’s play portraying the experiences of women whose property and inheritance rights have been violated was shown to more than 900 people in nine villages and broadcast widely via radio.

Creative approaches also spark discussion and elucidate priority areas in which people need information and assistance. ENVIROCARE’s “moot court” project presented complex legal issues and processes in an accessible and engaging manner, bringing the organization and local residents together to illustrate and discuss issues related to property and inheritance in Tanzania. As a result, participants and audiences alike learned a great deal and were open to messages because of this “hands-on,” visual approach.

- **Effort should be made to reach isolated communities.** Residents in many communities may be unaware of their legal rights because they do not have access to educational and informational resources. Through the NGO Small Grants Program, several organizations headquartered in cities worked through regional and field offices to reach remote areas, as did the Khan Foundation through a network of women lawyers working in districts throughout Bangladesh.

#### **Assessing the Impact of Information**

The Women’s Media Centre (Cambodia) conducted a survey to determine the effectiveness of its radio and television broadcasts. A total of 80 individuals aged 15-65 (local residents, government officials, and state employees, among others) responded, indicating that:

- 100 percent either knew of or had watched the WMC spots
- 60 percent had discussed some of the topics presented during the series with friends, colleagues, and relatives, and felt that they had gained greater understanding about the rights of divorced women
- Most respondents believed that women should have priority in families with regard to inheritance rights.

—Based on conference presentation of WMC’s “Audience Response Survey”

Using modern communications technology can also expand the reach of a program. For example, ECWD's radio program is part of the organization's "Participatory Audio-visual Civic Education" approach. Program scripts for "You and Your Law" focus on topics such as wife inheritance, behaviors and attitudes that limit women's ability to assert their rights, and HIV/AIDS. They are based on dialogue between legal advisors and local women in one area, and then broadcast weekly throughout Kenya via radio. Similarly, EMACE's hotline specifically targeted uneducated, economically deprived women in rural communities in Sri Lanka. The hotline (publicized through advertising and information campaigns, as well as word of mouth) allows women to seek free legal advice and discuss their property and inheritance disputes over the phone, thus avoiding prohibitively expensive and lengthy trips to cities.

- **Overcoming socioeconomic realities is a major challenge.** Basic economic conditions often determine the course of disputes over land and property. Land and property often provide not only a means of existence, but also status and power. In poor settings, a woman's ability to retain residence on and control over even a small plot of land and simple shelter can mean the difference between subsistence and destitution. When competition for land and resources is fierce, family members may make stronger demands to repossess property or not divide it among daughters as well as sons (i.e., to more children than "necessary").

Taking socioeconomic factors into account is part of the work of many grantee organizations. For example, when the Madaripur Legal Aid Association worked to build networks of women leaders in local villages, it had to take low literacy rates in target areas into account. According to the organization, only about 32 percent of rural women in Bangladesh are literate, making the distribution of written materials difficult.

In the same vein, Vehilihini Development Centre organized a mass campaign for International Women's Day that brought 800 women to Colombo to deliver a petition to the Land Ministry demanding amendments to the outdated Land Ordinance, taking advantage of potential shifts during social reform in Sri Lanka. This and other organizational efforts were premised on the link between women's property and inheritance rights and widespread social and economic problems among rural women.

- **Principles of equality should be emphasized.** Pervasive inequality between the sexes drives the work of many grantee organizations seeking to change attitudes and behavior. The Centre for Development Services, for example, took a human rights-based approach in its project, emphasizing how virtually every aspect of inheritance traditions in Bangladesh affords girls and women half of what boys and men receive. CDS aims to ensure that the next generation of women is more aware of their rights, and can in turn address violations and, ultimately, live as equals with full protection of the law.

Equality and justice also motivated Women for Prosperity to consistently include men in awareness training activities. The organization emphasizes the need for men to better understand why women's equal rights are so important for both families and society, as well as the responsibility of men and women to work together to achieve this goal.



## **CHAPTER THREE KEY DISCUSSIONS**

### **OVERARCHING THEMES**

All the organizations involved in the NGO Small Grants Program clearly understand and underscore how each of the three paths of action—research and documentation, support for policy change through awareness building and training for policymakers, and education and awareness-building—overlaps and reinforces the others. In this sense, the grantee projects were developed and implemented along a continuum of approaches. Each element is clarified and strengthened through consideration of the others: research helps to make a strong case for policy change, while public education creates momentum for policy and legal change and fosters processes to which governments are held accountable to their commitments to gender equality and women’s human rights.

Greater awareness and mobilization in local communities can result in the election of leaders concerned with women’s rights, which can in turn lead to policy changes. Further, effective ways to change laws can be identified through the documentation of cases, while methods of shifting deeply held patriarchal values can be discovered through context-specific research.

Throughout the “Women’s Property and Inheritance Rights” conference, participants continually emphasized the critical roles of certain groups of people. Trained paralegals, for example, offer women in local communities guidance and representation vis à vis authorities, and thereby contribute to both the education and policy change arenas. The same is true for trainers-of-trainers and mobilizers, who simultaneously bring new knowledge and ideas to communities while being a part of them. Finally, documentation of the work of these groups and others—as evidenced in grantee reports to EGAT/WID—can foster support for further education or policy-related activities.

A final theme widely voiced at the conference was the importance of keeping pace with change. As awareness of property and inheritance rights spreads and policies gradually change, there is increasing need for the types of educational and legal services provided by many of the grantee organizations. Maintaining an adequate “supply” of these services to match growing demand is a key challenge for the future.

### **WORKING GROUP PRESENTATIONS**

Early on at the NGO Small Grants Program conference, grantee representatives formed five working groups to define specific and realistic steps, achievable in five years, in the process of promoting women’s property and inheritance rights. The working group process also facilitated the identification of common problems and solutions that cut across cultural and national boundaries. An overall goal and sets of these challenges/actions were identified by

each of the working groups. (Note that many of these are already being pursued, as discussed above in the section on grantee presentations.)

Following are summaries of the discussions of each working group, which were elaborated in several sessions and then presented for all conference participants. (Each group's Action Plan can be found in Annex D.)

### 1. Customary Practice and Statutory Law

This working group explored various points where traditions and laws intersect, why preference may be given to one over the other in certain contexts, and how communities can address the gap between the two elements in ways that uphold women's rights.

Throughout the working group sessions, participants emphasized that it is essential to go to communities first in order to transform public views and attitudes, which will in turn facilitate lobbying of policymakers from a strong position based on public support.

The group defined their ultimate long-term goal as the elimination of discrimination against women in statutory law, customary law, and practice. The key hurdles to achieving this were identified as the prevalence of traditionalist-minded policymakers; corruption among police and lawyers; and insufficient funding to support paralegal training and public education.

An additional issue is the continual need to integrate traditions with new concepts in a positive, acceptable way. As pivotal actors in the household and family sphere, women are often the "bearers" of culture, and therefore well-positioned to be agents of change now and in the future. Working group participants agreed that "culture" is not a static term, but that it is constantly transformed by overarching changes (e.g., economic development and education). In turn, traditional norms and values are an important, flexible basis on which to develop acceptable, sustainable strategies, and should therefore not be destroyed but transformed. One example of how this can be done is to continue to support traditional marriages, but to make sure that such unions are registered with the state (thereby granting partners protection under the law) and that both men and women have legal wills.

### 2. Developing a Supportive Policy Environment

This working group examined the elements of a policy environment that is supportive of women's property and inheritance rights. The two central elements are the kinds of laws and services required and the level of inputs (e.g., human resources, financial capital, and political will) needed to ensure the sustainability of policies and projects to bring them about.

#### When New Meets Old

*Examples of strategies to balance modern and traditional perspectives*

- Men who want to practice polygamy should be required to adequately provide for all their wives and children. The first wife's permission should be required in order for additional marriages to take place.
- Many religious and cultural traditions underscore the importance of human dignity and treating others fairly; such principles should be linked to women whenever possible.
- Traditional and community events can serve as venues at which to talk about property and inheritance.
- Many religious tenets can be interpreted as supportive of women's rights.

The group defined the long-term goal as the development of equitable property laws and effective implementing agencies. Several potential barriers in this process were identified, including the fact that not all women leaders and politicians are supportive of women’s issues and the lack of financing among many women running for elected office. In addition, in-depth institutional reform is often needed in government agencies, rather than just piecemeal improvements. Other key concerns are how to harness the media to lend policy change efforts legitimacy; the difficulty of persuading voters to care about candidates’ positions on women’s rights; and the tendency for only the most visible organizations and agencies to receive funding.

Finally, participants underscored the need to involve men as full partners in the realization of women’s property and inheritance rights, keeping in mind that many people in decision-making positions are not necessarily aware of or concerned with gender-related issues. The experiences of many grantees—particularly those involved with education and awareness-raising projects—underscores how unusual allies can emerge from unexpected places, so no one should be ruled out as a potential locus for change.

### Thorny Issues

*Selected questions asked in response to presentation of the Policy Environment Working Group*

- How can we promote gender sensitization in a conservative judiciary composed mostly of men, when women judges dismiss women plaintiffs to preserve their reputation of being unbiased?
- Should land always be registered jointly in marriages? Who gets title in polygamous marriages?
- How can we reach the judiciary and policymakers before their positions and perspectives become entrenched, i.e., at law schools and universities?
- Are there ways to measure positive changes among policymakers and in the courts even when specific changes in laws and policies don’t occur?

### Paralegals in Mediation

*Selected recommendations made in discussions of the Mediation and Enforcement Working Group*

- Mediators should always be people who will remain in the community, even if they receive training elsewhere.
- Paralegals must be trained in when and how to refer to lawyers when confronted with certain issues.
- Indicators should be established regarding when an issue should be referred to the next level, i.e., to or beyond a paralegal.
- As long as the current number of trained, locally-based paralegals is not high enough to accommodate the need, mediation processes should involve various members of the community.

### 3. Options for Mediation and Enforcement

This working group examined the ways in which courts and community institutions might work collaboratively to manage a burgeoning number of property and inheritance claims. Consideration was given to both the challenges posed and the opportunities presented as legal awareness and actions become more widespread. Although the demand for dispute resolution appears to be outstripping the needed “supply” of paralegals, lawyers, and agency personnel, growing awareness of women’s property and inheritance rights simultaneously creates the possibility of developing new ways to address claims and enforce decisions.

The group defined the long-term goal for courts, organizations, and community-based entities as the development of collaborative initiatives, involving community-based institutions and formal courts, to

effectively address women's property and inheritance issues.

Key hurdles to overcome were identified, including the fact that formal courts are often located far from rural areas, which means that the process of legal redress can be prohibitively expensive and rife with delays. Problems may also arise when local institutions are not gender-balanced, neutral, or rights-oriented in their make up and approach. (For example, some chiefs and village elders prefer to relate in an authoritarian manner or may be easily bribed). In addition, alternative dispute resolution is not legal and binding in some countries. Finally, people may resist opening up their cases to the scrutiny of neighbors.

#### **4. Changing Attitudes and Practices**

This working group considered which key actors to engage in strategies for changing deeply rooted, pervasive attitudes and practices, and delineated several practical actions for education, awareness-building, and normative change. The group defined the long-term goal for organizations, families, communities, and local leaders as the achievement of higher levels of sensitization among male and female policymakers, lawyers and judges, law enforcement officials, and individuals.

Specific barriers will have to be addressed in order to realize this goal. An overarching, critical hurdle involves the many aspects of patriarchy. Patriarchal norms, beliefs, and systems have generally evolved over long periods of time, and are therefore difficult to dismantle or modify. While some men may be changing their mindset and opinions, other target groups may not be committed to the process of empowering women. Further, each setting has unique constructs of gender and attitudes towards women.

Cases in which women's property and inheritance rights are violated usually involve relatives seeking to control land or keep wives and daughters in subordinate positions within the family. At the same time, however, families can play a positive role, and are a natural focus of initiatives to change attitudes and social practices.

One example of this is in a community in Kenya, where many fathers decided to give a fair share of property to daughters, based on principles of fairness. Their strategy for "saving face" within the community was to charge daughters a minimal amount, thus officially making the transaction a sale rather than an official shift in family tradition.

In another setting, the Namibia Development Trust found that many older men in local areas (e.g., village elders and fathers and grandfathers of women) had over time come to recognize the importance of women's property and inheritance rights to family and community well-being. In some cases, these individuals spoke of the hardship that had been imposed on their own daughters, and expressed the hope for change in the future.

#### **5. Impact of the HIV/AIDS Epidemic**

This working group explored how the growing prevalence of HIV/AIDS affects household composition and community attitudes on property and inheritance. The group also focused on

the potential of developing two-pronged interventions that simultaneously build awareness around HIV/AIDS and women's property and inheritance rights.

In countries where HIV/AIDS is widespread, the disease can be linked to many social and economic conditions. Women already face severe constraints on their time, financial resources, and social status; when they contract HIV/AIDS or must take care of ill family members, their burdens increase and their conditions and well-being deteriorate. Furthermore, HIV-positive women face strong social stigma and are often marginalized within the community, while girls are frequently removed from school when fees become too costly for families who have lost critical income earners to illness or death.

Key obstacles to mitigating the impact of HIV/AIDS include women and girls' lack of status and power to negotiate safe sex with partners. Economic fluctuations also influence disease-related trends; for example, in many countries spouses are separated when one, usually the husband, moves elsewhere to work. This can spur extramarital affairs and visits to prostitutes, and in turn the contraction of HIV and its spread back to wives and children. Another tragic problem is the lack of any form of "life insurance" or security for the children of parents who are infected with or die from HIV/AIDS; many of these children and youth become orphans. Finally, current systems of caretaking are inadequate; there is a strong need for home-based care with sufficient levels of material and personal resources.

With these and other factors in mind, the working group determined that organizations, policymakers, communities, and individuals should focus on a central goal: empowering women so that they are less vulnerable to the impacts of HIV/AIDS and have greater control over preventing their own infection.



## CHAPTER FOUR

### UPHOLDING INTERNATIONAL HUMAN RIGHTS LAW: EIGHT AREAS FOR ACTION<sup>28</sup>

*Our work has led to a spark of hope; we look forward to seeing the flame build into recognition and respect of women's property and inheritance rights.*

*—Masud Karim, Madaripur Legal Aid Association (remarks at the conference)*

*We are here to celebrate our achievements. The necessary momentum has been generated, and it would therefore be highly irresponsible to stop our work now. We must keep moving ahead.*

*—Ronny Dempers, Namibia Development Trust (remarks at the conference)*

A review by UN-Habitat of the international human rights instruments, resolutions, and documents within which women's rights to land, housing, and property are situated reveal that under the international human rights system:

- Women have the right to be free from discrimination;
- Women have the right to an adequate standard of living;
- Women have the right to adequate housing;
- Women have the right to enjoy financial independence and to earn a livelihood; and therefore; and
- Women have the right to own, manage, enjoy, and dispose of property.<sup>29</sup>

The interpretation and realization of such rights remains unsettled due to variations in forms of law governing property issues (e.g., Shariah law) and the ways in which statutory and customary laws interact and conflict.

Furthermore, the right to land and the right to inheritance do not appear as independent rights in international human rights law, so progress toward the right to housing may inform the broader struggle for women's rights to land, housing, and property.

Findings and results from the activities of the projects represented here contribute to a better understanding of the discriminatory legal ambiguities and cultural practices that continue to undercut women's rights and impede their economic empowerment. They also underscore the need for greater political commitment to the issues and the importance of increasing women's participation in public decisions and policymaking.

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<sup>28</sup> Prior to the conference, the NGO Small Grants Program staff formed a Task Force to develop recommendations for continued work on women's property and inheritance rights. The group held lengthy, in-depth discussions in Nairobi and presented its findings at a final conference session. This section is based on the conference presentation prepared by the Task Force.

<sup>29</sup> UNCHS, "Women's Rights to Land, Housing and Property in Post-conflict Situations and During Reconstruction: A Global Overview," UNCHS (Nairobi), 1999, p.22.

The NGO Small Grants Program as a whole has contributed to greater understanding of the legal and cultural complexities underpinning the quest for women's property and inheritance rights. The program has also elucidated the wide range of initiatives that currently exist, as well as the areas where further work is needed. Fortunately, it is abundantly evident that strong commitment exists among many organizations, advocates, agencies, and officials to make women's rights a reality.

Particular actors to target (e.g., policymakers, lawyers and judges, village elders, and community leaders) and a set of necessary actions can be identified in each of these areas. Taken together, they will promote the broad goal of women's equal rights and empowerment in crucial matters of property and inheritance. Importantly, these steps are firmly encouraged and supported in international laws and declarations, lending them greater clarity and force.

## **RESEARCH**

Many conference participants have called for expanded research and better documentation on numerous issues, including attitudes and behavior, cultural practices, existing laws, and the impact of HIV/AIDS. The importance of ongoing research was also emphasized at the 58th (April 2002) session of the United Nations Commission on Human Rights, which observed that the complexity of issues involving women's ownership of, access to, and control over land, property, and adequate housing makes the need for more substantive research all the more evident.<sup>30</sup>

Such research should be designed to:

- Identify and prioritize short-term, medium-term, and long-term interventions to address remaining barriers to the realization of property and inheritance rights.
- Assess the impact of current activities to address women's legal needs (e.g., the performance of and obstacles facing paralegal systems).
- Evaluate discrepancies between current national laws and international human rights instruments such as the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
- Document the impact of specific discriminatory customary practices on women's access to land and property.
- Evaluate the current and future roles of all stakeholders involved in either the exercise or elimination of discriminatory customary practices.

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<sup>30</sup> United Nations. 2002. Women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing. Report of the Secretary-General submitted in accordance with Commission resolution 2001/34, UN document E/CN.4/2002/53. New York: United Nations, p. 22, paragraph 77.



- Study the links between HIV/AIDS, women’s livelihoods, and property and inheritance issues.
- Identify key messages to be used in policy advocacy and media and information campaigns.

## **EDUCATION AND AWARENESS-BUILDING**

All grantees and working groups highlighted how education, training, and awareness-building can build better understanding of the impact of discriminatory property and inheritance practices on women. Here too, the U.N. Commission on Human Rights reported during its 58th session that “education and awareness raising among both men and women on the status of women’s equal ownership of, access to, and control over land...are essential to the realization of these rights for women.”

The Commission also recognized that civil society (including women’s organizations) has a key role to play in this regard, and called for greater efforts by governments, international organizations, and NGOs to expand information and human rights education on women’s property and inheritance issues.<sup>31</sup> Target groups for such work include political candidates and party leadership; parliamentarians; voters; law enforcement and service agencies (including the judiciary); paralegals; and youth/school classes.

Education and awareness-raising activities could be strengthened and expanded to ensure that these target groups:

- Develop a common understanding of the law and human rights.
- Understand the forms of legal support that are available and how to access them.
- Foster an environment conducive to realizing human rights.
- Form a lobby group that can participate in networks and coordinated alliances to bring pressure to bear on policymakers.
- Encourage knowledge about relevant legal procedures and about one’s rights and the ability to claim them.

## **LEGAL AID SERVICES AND SUPPORT**

As awareness of human rights associated with land, property, and inheritance grows, there is increased demand for assistance to realize those rights and counter discriminatory legal and

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<sup>31</sup> CHR Resolution 2002/49; for the full text of the resolution, see [http://www.unhcr.ch/Huridocda/Huridocda.nsf/\(Symbol\)/E.CN.4.RES.2002.49.En?Opendocument](http://www.unhcr.ch/Huridocda/Huridocda.nsf/(Symbol)/E.CN.4.RES.2002.49.En?Opendocument).

cultural practices. The current level of services is insufficient to meet women's needs. Three key actions can help increase the level of legal support services for women seeking to resolve property and inheritance disputes:

- Provide information and service-oriented resources that enable women to access courts and legal systems.
- Establish national legal support programs (e.g., a national paralegal network).
- Develop and implement alternative service and outreach mechanisms (e.g., hotlines for information and referral).

### **ADVOCACY AND LOBBYING**

Advocacy and lobbying are essential to building political will to support women's property and inheritance rights. Such activities can focus on diverse groups, including traditional authorities, elected officials, professional groups (including the media), religious leaders, NGOs, law enforcement officials, and legal service providers.

Advocacy and lobbying activities can aim to:

- Promote government accountability by monitoring compliance with international human rights treaties.
- Support the use of local bodies in mediation and alternative dispute resolution.
- Reform, amend, and replace laws to ensure compliance with the provisions of CEDAW; promote the integration of CEDAW and other human rights conventions into national laws.
- Increase the number of women in political, law enforcement, and judiciary positions.
- Improve and expand the education of girls; revise curricula to reflect the rights of girls and women.
- Build alliances among civil society, governmental, international, and other groups to develop and implement a common agenda.
- Encourage local efforts to provide legal services, which would make such services both more widespread and sustainable in the long-term.
- Include gender concerns in the formation and analysis of macroeconomic policies, national budgets, and fiscal policies.

## NETWORKING

The Beijing Declaration adopted at the 1995 Fourth World Conference on Women emphasized the important role that civil society, in cooperation with governments, plays in the implementation of the Beijing Platform for Action. One element of the Platform for Action is the realization of women's property and inheritance rights, which can be addressed by national and international organizations; donors and other funders; and regional entities.

Activities on the part of such groups should aim to:

- Build an international network concerned with women's property and inheritance rights.
- Promote access to resources.
- Build coalitions to share tasks and workload.
- Promote a supportive policy environment in specific settings.
- Effectively use media outlets to disseminate information.

## LEGAL AND INSTITUTIONAL REFORM

United Nations Commission on Human Rights Resolution 2002/49 affirms that “discrimination in law against women with respect to having access to, acquiring, and securing land, property, and housing, as well as financing of land, property, and housing, constitutes a violation of women's human right to protection against discrimination.” The resolution also encourages “Governments to support the transformation of customs and traditions that discriminate against women and deny women security of tenure and equal ownership of, access to, and control over land and equal rights to own property and to adequate housing.” Similarly, the Beijing Platform for Action calls on governments to revise laws and administrative practices to ensure women's equal rights and access to economic resources.<sup>32</sup>

Recent research by Marjolein Benschop on women's rights to land, housing, and property in East Africa suggests ways in which national constitutions and other laws can be reviewed and amended to ensure compliance with CEDAW and other human rights treaties.<sup>33</sup> In addition, the reports of grantees suggest that efforts to reform institutions (or create them where none exist) should focus on a range of entities, including law enforcement agencies, the judiciary, educational institutions, and legal aid resource centers.

Reform efforts can help to achieve several important aspects:

- Guidelines to reconcile customary practices and statutory law.
- Increased access to both courts and forums for alternative dispute mediation and resolution.

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<sup>32</sup> Strategic Objective A.2.

<sup>33</sup> Benschop, Marjolein. “Rights and Reality: Are women's equal rights to land, housing and property implemented in East Africa?” UN Human Settlements Program, Nairobi. 2002.

- Greater participation of women in the judiciary and in public office.
- Registration of all marriages (including customary ones).

## **POVERTY ALLEVIATION AND ECONOMIC REFORM**

Throughout this report—and in the work of many grantee organizations—a direct link has been drawn between the realization of women’s property and inheritance rights and women’s overall economic empowerment. Reducing the cycle of poverty and disenfranchisement requires actions on several fronts, including:

- Provide adequate support services to ensure effective legal representation among women on all socioeconomic levels.
- Ensure gender-sensitive program budgeting on both the national and local level.
- Improve access to small-scale and microenterprise credit facilities for women, as well as loans and credit with which to purchase land and enhance economic opportunities.
- Consider options for providing financial support to women seeking public office.

## **FUNDING CONSTRAINTS**

Funding constraints figure strongly in the plans and ambitions of grantee organizations, as well as on the part of some local and national governments. A lack of financial resources limits the reach and duration of services and threatens the long-term viability of programs.

New programs to promote effective, enduring policy and legal reform will require increased levels of funding. In turn, longer timeframes should be established to allow for the implementation of comprehensive, effective approaches. Conference participants suggested taking a collective approach to fundraising that would link several different projects within a broader program framework (for example by forming regional networks).

In conclusion, the results of and lessons drawn from the grantees and other conference participants offer great promise for improving the lives of women, conditions in communities, and the prosperity of nations. The success of EGAT/WID’s NGO Small Grants Program on women’s property and inheritance rights affirms one of the key principles of the Beijing Declaration. This document states that sustainable, equitable development “requires the involvement of women in economic and social development, equal opportunities, and the full and equal participation of women and men as agents and beneficiaries of people-centered sustainable development.”<sup>34</sup>

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<sup>34</sup> The Beijing Declaration and The Platform for Action, Fourth World Conference on Women, Beijing, China, 4-15 September 1995. New York: United Nations. 1996, p. 8, paragraph 16.

With this goal of sustainable, equitable development in mind, the grantees involved in this project—and many other organizations and institutions like them—have contributed to the well-being of individuals and communities. In turn, they have positively influenced critical development processes worldwide.



**ANNEX A**

**LIST OF CONFERENCE PARTICIPANTS**





## LIST OF CONFERENCE PARTICIPANTS

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**ANNEX B**  
**WORKING GROUP ACTION PLANS**



## WORKING GROUP ACTION PLANS

### Working Group 1: Customary Practice and Statutory Law

**Challenge #1:** Traditional attitudes and religious law play a strong role in determining the lives of women.

**Actions:**

- Conduct research on traditions and religious customs that negatively impact women's property and inheritance rights.
- Disseminate research findings to the media via reports and articles.
- Conduct training sessions for stakeholders (i.e., policymakers, traditional and religious leaders, elders) to inform and sensitize them and to identify strategies for change.
- Interpret traditions in such a way that they are more consistent with current views and statutory laws.
- Train paralegals on women's rights and ways to challenge laws.
- Lobby for the amendment or repeal of discriminatory laws and challenge laws that conflict with national constitutions in court (i.e., create legal precedents).

**Challenge #2:** Weak political will and a lack of women policymakers in central and local governments.

**Actions:**

- Build coalitions among NGOs to share advocacy tasks.
- Lobby elected bodies for ratification and/or implementation of international human rights laws.
- Contribute to and comment on country reports issued to international agencies.

**Challenge #3:** Low legal literacy rates among women.

**Actions:**

- Train women and men through workshops, presentations, and entertaining programs.
- Publish legal information through simple language and relevant concepts.
- Lobby for increased education for girls and women.
- Involve youth in community activities.
- Raise funds to ensure the long-term sustainability of activities.

### Working Group 2: Developing a Supportive Policy Environment

**Challenge #1:** Lack of political will.

**Actions:**

- Conduct voter education and media campaigns that link women's property and inheritance rights with other social, economic, and political concerns.
- Conduct sessions to inform, sensitize, and mobilize policymakers and lawyers.
- Educate political leaders and parties at all levels on women's rights and the law, since policy-related problems are often due to a lack of knowledge and understanding.
- Lobby parliamentarians to influence the enactment of equal inheritance laws.
- Train policy-implementing agencies, such as land ministries and the judiciary.
- Improve the advocacy and lobbying skills of NGOs.

**Challenge #2:** A dearth of women in decision-making positions.

**Actions:**

- Lobby for affirmative action in parliaments.
- Create a technical team to advise women politicians and other leaders in local and central governments on women's property and inheritance rights and related issues.
- Train and encourage aspiring female (and sympathetic male) candidates.
- Lobby political parties to sponsor women candidates.
- Educate, sensitize, and lobby electoral commissions for the removal of electoral processes and conduct (e.g., sexual harassment) that inhibit women's participation in politics.
- Conduct voter education campaigns on the importance of fair gender representation in politics and the policies of women candidates.

**Challenge #3:** Inadequate capacity for policy work within implementing agencies

**Actions:**

- Identify problems in key implementing agencies (e.g., courts, parliament, land ministry).
- Network to establish a common understanding of policy change goals among relevant civil society organizations.
- Create a network of people within key policy-implementing agencies who are concerned with women's property and inheritance rights.
- Lobby for budget-making processes that are inclusive of women and greater support for programs and services of key concern to women.
- Establish paralegal teams in both urban and rural areas to make legal processes understandable and accessible to all people.
- Develop effective systems to disseminate timely, up-to-date information on women's property and inheritance rights to key agency representatives.
- Establish a committee to ensure distribution of resources to implementing agencies to foster work on property and inheritance issues.



### **Working Group 3: Options for Mediation and Enforcement**

**Challenge #1:** Individuals and agencies tasked with law enforcement often lack knowledge and sensitivity about women's property and inheritance issues.

**Actions:**

- Train judicial and law enforcement officials.
- Involve judicial and law enforcement agencies in training seminars.
- Recruit more women to work on all levels of the judiciary and law enforcement agencies.
- Lobby for reduced delays in court procedures.

**Challenge #2:** Local institutions lack the mandate to handle property and inheritance disputes.

**Actions:**

- Train paralegals and community leaders as mediators.
- Increase the exposure of local representatives to successful mediation systems through internships and exchange visits.
- Develop grassroots-level mediation networks for both men and women.
- Lobby for a legal provision granting local institutions a mandate to mediate in property and inheritance disputes.

**Challenge #3:** Pervasive discrepancies between statutory and customary laws.

**Actions:**

- Conduct research on existing gaps, including surveys in specific contexts; perform comparative analyses to highlight discrepancies.
- Conduct education and media campaigns to publicize results.
- Lobby for change in the application of the law.
- Organize consensus-building forums to find ways to resolve discrepancies.
- Develop guidelines for effective reconciliation of customary and statutory provisions.

### **Working Group 4: Changing Attitudes and Practices**

**Challenge #1:** Resistance from authorities and policymakers to promote gender-sensitive norms.

**Actions:**

- Conduct field research on customary practices related to property and inheritance systems, family law, and land tenure.

- Engage a range of groups (including traditional and local leaders, mediation boards, councils of elders, and community-based organizations) in discussions and strategy development.

**Challenge #2:** Many women have limited knowledge of their rights.

**Actions:**

- Develop and conduct awareness-raising programs.
- Establish information exchange networks to share ideas, experiences, and strategies.
- Develop and disseminate materials and media (i.e., TV and radio) programs
- Integrate key messages into traditional/local skits and songs.

**Challenge #3:** Many laws are gender-insensitive.

**Actions:**

- Organize rallies, lobby days, seminars, and workshops to protest against laws and analyze their negative implications.
- Train representatives from community-based and non-governmental organizations about the laws and how to both lobby legislators for change and assist local residents in their legal cases.

**Challenge #4:** Lack of monitoring and evaluation processes to determine the long-term effects of projects.

**Actions:**

- Develop a set of progress indicators
- Return to study areas one or more years after an intervention to conduct interviews and research.

## **Working Group 5: Impact of the HIV/AIDS Epidemic**

**Challenge #1:** Insufficient resources for research and programs.

**Actions:**

- Raise funds to conduct research and media campaigns on women and HIV/AIDS.
- Network with donors, NGOs, government officials, and community-based organizations to develop strategies.
- Interact with and educate funders to highlight and create momentum for projects on the links between poverty, women's rights, and HIV/AIDS.

**Challenge #2:** A lack of hard data about HIV/AIDS.

**Actions:**

- Conduct community-based research on the socioeconomic status of women; patterns in the spread of HIV/AIDS; and cultural beliefs that discriminate against women who are infected or have been widowed as a result of the disease (e.g., that she is a witch who cursed her husband).
- Conduct a thorough literature review on the lack of laws or discriminatory laws related to women's rights and low socioeconomic status.
- Establish a framework for gender analysis that could be applied to understand trends related to HIV/AIDS.

**Challenge #3:** Insufficient information on the part of key actors.

**Actions:**

- Develop strategies to convince traditional leaders—as custodians of values and norms—to address socio-cultural barriers to women's status and health.
- Inform community-based women's groups about their legal rights.
- Conduct education campaigns on gender equality, disease trends, and women's rights in schools, community centers, and other local venues using information, education, and communication materials. These efforts should include men to as large a degree possible.
- Establish community resource centers to disseminate information and promote action on women and HIV/AIDS.

**Challenge #4:** Faulty policies and laws.

**Actions:**

- Identify discriminatory aspects of statutory and customary laws.
- Lobby for the amendment or repeal of such discriminatory laws.
- Work to enforce and implement improved laws.

**Challenge #5:** Economic constraints for women.

**Actions:**

- Develop community self-help programs for women, in particular those based on income-generating activities.
- Develop and promote adult literacy and skills development programs.
- Establish family-based and cooperative savings programs and community banks to make financial services more available to women.
- Create small and microenterprise credit facilities that target women.



**ANNEX C**  
**LEARNING ON SITE**



## LEARNING ON SITE

One day of the conference was devoted to site visits organized by Nairobi-based grantees. The life stories, experiences, and professional perspectives related by individuals at the site visits highlighted personal dimensions of and legal and political trends related to property and inheritance issues. Participants gained insight into both women's lives and their well-being and the potential that exists to mobilize for change.

The grantees organizing the site visits pursue a range of strategies in their work, including paralegal training, media programs, and legal work. Each of these methods has been successful in several ways, and can serve as models for efforts by other organizations in a range of settings. The objectives and outcomes of the site visits are summarized below.

### Site Visit 1: Local Groups and Training Methods

This visit was sponsored by the Education Centre for Women in Democracy (ECWD). As mentioned previously, ECWD's small grant supported training on inheritance and property rights to affiliated paralegal and human rights education monitors and awareness-raising activities for members of community-based women's organizations. The organization also developed a rural radio program to inform listeners about women's legal rights.

The site visit centered around presentations by widow support groups from rural districts. Members of these groups had traveled to Nairobi to meet with conference participants at ECWD's offices. They performed songs and dramatic skits used in their community education activities depicting the problems that widows face from relatives who try to prevent them from retaining land and property following the deaths of their husbands. Other aspects touched upon in the performances included the disenfranchisement of women by local authorities; the impact of HIV/AIDS; and the practice of wife inheritance.

The producers of Sayere Radio were also on hand during the site visit to tape a segment for their weekly radio program, "You and Your Law." In this session, a lawyer involved with ECWD, held dialogues with several members of the widows groups. Each woman explained

#### Advice on the Air

**Problem:** A 26 year-old widow lives with her three children on a small plot of land that she has cultivated for many years. Her husband recently died, along with two of his brothers and their wives. The land is officially owned by her father-in-law, who has decided to sell it to a third party. The widow, her children, and her nieces and nephews, face destitution if they are forced to leave the land.

**Advice:** Visit the local office of the Land Control Board, which must review all land transfers. There is a good chance that you can block the sale because you live on and work the land, and the fates of several children are at stake.

**Problem:** A widow and her children can obtain water only by crossing land owned by her deceased husband's relatives. These relatives have blocked access to the river, leaving the family dependent on rainwater.

**Advice:** Take your case to court to obtain a restraining order on the relatives. Alternatively, have a paralegal help negotiate an agreement with your relatives to access the river.

—*Stories and responses from "You and Your Law"*

the specific issues she faced with regard to property grabbing by relatives. The lawyer then offered specific advice for potential legal or administrative action on the part of the victim (see box for examples).<sup>35</sup>

Both the drama performances and the personal recitations by widows made a strong impression on conference participants. The central message in all the presentations was the importance of providing assistance to women on the local level. Paralegals clearly play a vital role in informing women of their rights. Subsequently, women gain a tremendous sense of empowerment, both individually and collectively, when they realize that they have legal rights and can take action accordingly.

### **Site Visit 2: Advocacy through Media Campaigns**

This visit was sponsored by the Federation of Women Lawyers (FIDA). As described, under the NGO Small Grants Program, FIDA trained women and men on policies and laws related to property and inheritance rights and contributed to national-level consultations and reviews related to women. This visit focused on a vital aspect of this type of work: reaching and influencing the media.

Conference participants met members of the print, radio, and television media. Presentations and discussions centered around what makes a story; how to get it in the media; how to conduct a media campaign; and how to liaise with media (e.g., through press releases and meetings). Emphasis was placed on the best strategies to make the media care about property and inheritance rights, which often seem like amorphous concerns in relation to the daily “breaking news.”

FIDA representatives and members of the media present at the site visit offered a list of important tips for organizations to follow:

- The media cares about what politicians are doing; link stories to latest legislative and judicial actions or parliamentary/government statements.
- Personal stories and human interest angles play well in the media; develop these to foster interest in your work.
- Research is important; make sure that stories fed to the press are accurate.
- Appoint one central spokesperson from the organization to avoid issuing conflicting messages; the organizational writer or speaker should be knowledgeable about the specific issue at hand.
- Find out who is responsible for covering the issues you’re working on; focus on them to maximize the possibility of getting attention.
- Invite media contacts to tea or lunch to familiarize them with your organization’s work and issues of concern.
- Never lie to the media; always be truthful about your organization’s work and operations.

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<sup>35</sup> The radio program was taped in Swahili, with selected elements translated into English for conference participants.



- Assume that nothing is ever “off the record.”
- Don’t make reporters/editors work hard to develop a piece; prepare research, materials, and stories that you want them to publish.
- Be visual; graphics and pictures tell stories on their own
- Try to get non-profit discount rates to place more advertisements and public service announcements.
- When writing press releases, focus on the “Five Ws” (what, where, when, why, who); keep language simple and accurate; limit the release (as well as interviews) to five essential points.

### Site Visit 3: Responses of the Judiciary and Policymakers

Two grantees, the International Commission of Jurists, Kenya (ICJ) and the Collaborative Centre for Gender and Development (CCGD), arranged this site visit. Conference participants had the opportunity to discuss property and inheritance rights with members of Kenya’s judicial system, who provided information on Kenya’s legal framework and possible ways to address the problems and successes of individuals claiming their rights. Speakers addressed two key issues: the conflict between statutory and customary laws, and the difficulties associated with interpretation and administration of laws.

An independent lawyer and member of FIDA explained how the Kenyan judicial system is characterized by outdated laws in several areas, in particular with regard to property and marriage. For example, women have to prove that they are legally married to uphold their rights. However, many couples (even those who live in urban areas) enter into ritual, customary marriages; it is common for men to later deny these marriages in order to not lose property or pay child support. This situation may be compounded by the fact that, in some cases, to gain rights to property, a contribution to the estate must be proven; this is difficult for many women, whose work is often informal within the household. Furthermore, only the High Court has jurisdiction over many types of cases, which is problematic for many Kenyans living far from Nairobi. Working to increase the knowledge and sensitivity of judges and lawyers to international conventions is also critical.

Two administrative chiefs from the Kenyan government offered insight into the implementation of laws on the local level. Chiefs have the ability to determine law and order in communities and have the right to arrest those causing disputes and to try and settle them locally. Chiefs are also consulted on any land sales and take part in events such as marriages and funerals. The administrative chiefs noted that most cases brought to district courts

#### Changing Houses

A recent court ruling in Kenya has set a precedent for HIV–positive women, who are often dispossessed by husbands and relatives.

A woman with HIV was kicked out of the house and sent to live in the servants’ quarters by her husband. She took her case to the Court of Appeals, which determined that she had paid for 50 percent of the mortgage. The court also took note of the woman’s poor health, the young age of her children (of whom the woman was the primary caretaker), and her key role in the household.

The final ruling sent the wife back to her main house and ordered her husband to leave the premises.

involve domestic, neighborhood, and land and property disputes. Further, the decisions and beliefs of administrative chiefs can conflict with local cultural expectations; for example, more chiefs are “saying no” to the practice of wife inheritance, and, as such, they represent important agents of change at the community level.

A woman judge on Kenya’s Court of Appeals discussed efforts to increase attention to children’s and women’s issues within the legal system. She emphasized how under the Kenyan legal system, women inherit property by being daughters or wives, i.e., the ability to acquire property independently is very limited. Furthermore, Kenyan women cannot confer property to children; this is considered to be the sole right of fathers.

Together, the speakers indicated key aspects that need to change in order to uphold the rights of women, including several points for legal reform, as follows:

- More precedent-setting cases involving women’s rights are needed.
- Definitions of the financial contribution of women must be expanded to include such responsibilities as household maintenance and child-rearing.
- International conventions must be ratified and courts should be able to make decisions in national cases on the basis of international law.
- The outdated, colonial-era Married Women’s Property Act of 1882 should be repealed or amended.
- Effort must be made to increase the registration of marriages and to encourage women to include their husbands’ names on identification cards (in order to establish the existence of a formal marital relationship and the paternity of newborns).
- Court guidelines and data collection must be strengthened so that cases proceed more quickly and accurately.
- Small claims courts and case filing procedures should be established in local areas to give more people access to the legal system.

**ANNEX D**  
**PROJECT DESCRIPTIONS**





## USAID Office of Women in Development's Small Grants Supporting Women's NGOs Project

### Women's Property and Inheritance Rights: Africa

Eight countries in Africa and Asia were selected as target countries to receive grants to support activities addressing women's property and inheritance rights. The first are activities that advocate, report on, or seek to inform women and/or governmental officials (executive branch or parliamentarians) and judicial and legal professionals of women's property and inheritance rights. The second are activities that focus on a consolidated effort or approach among the NGO and government community to address issues of property and inheritance rights in a targeted country.

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## Kenya

### **The Collaborative Centre for Gender and Development May, 2001 - May, 2002**

The goal of this grant is to promote growth and ensure equitable distribution of resources through reviewing the Property Rights Act, sensitizing policy makers on the impact of inequitable economic distribution, and making gender-sensitive recommendations on property and inheritance rights. In addition to lobbying policy makers, the NGO will also hold meetings with women leaders to ascertain their views regarding property and inheritance rights and will provide training on the rights to which they are entitled. Activities will be implemented in Nairobi, Kenya with input from women throughout the country.

### **The Education Centre for Women in Democracy May, 2001 - September, 2002**

This grant will train paralegal and human rights education monitors in order to minimize women's human rights violations. In addition, the NGO will conduct women's rights awareness raising activities and will develop modules and tools for interventions relating to women's property and inheritance rights in rural communities. Activities will be implemented in Nyanza, Rift Valley and Western Provinces, Kenya.

### **Federation of Women Lawyers June, 2001 - October, 2002**

The grant aims to increase women's knowledge regarding property rights issues; laws regulating matrimonial property; and inheritance and succession rights. The NGO will focus on those women who are unable to have legal rights to land. It will monitor, report and document cases of involuntary displacement of persons from ancestral land as happens during implementation of certain projects such as large-scale mining. Activities will be implemented in Central Kenya, Western Kenya, Nyanza and Rift Valley.

### **International Commission of Jurists - Kenya Section May, 2001 - July, 2002**

The grant will develop strategies and mechanisms for strengthening women's property and inheritance rights in Kenya. The objectives of the grant are to mainstream the use of information to measure the impact of women's property and inheritance rights development, develop national legal standards through comparative and other learning processes and strengthen partnerships between the International Commission of Jurists (Kenya Section) and the Judicial branch of Kenya. Activities will be implemented in Nairobi, Kenya.

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# AFRICA

## Tanzania

Women's Property and Inheritance Rights: Africa

### **Environmental, Human Rights Care and Gender Organization** **May, 2001 - August, 2002**

The grant will raise awareness of women's property and inheritance rights by increasing the capacity of women to monitor, protect and demand their rights and lobby the government for changes in discriminatory laws. Special focus will be on customary law and its effects on women with respect to property inheritance. Activities will be implemented in the rural districts of Hai and Moshi in the Kilimanjaro Region.

## Malawi

### **Gender Studies and Outreach Unit at Chancellor College, University of Malawi** **June, 2001 - June, 2002**

The grant will gather information on customs, values, perceptions, and laws that challenge the property and inheritance rights of women. The findings will be used to develop an Information, Education and Communication (IEC) package that can be used to address priority problems that adversely impact women and children. The grant will also sensitise and educate community members, most specifically women and those directly involved in the distribution of property regarding existing property and inheritance laws. Activities will be implemented in districts selected in collaboration with Women's Voice, another grantee in Malawi.

### **Women's Voice** **May, 2001- July, 2002**

This grant will focus on raising awareness of property and inheritance rights of women and the rule of law while mobilizing and supporting community action to respond to violations and property grabbing. The grant will also offer counseling to victims and referral to institutions that will provide redress for cases that cannot be handled within the community. Activities will be implemented in the rural districts of Nkhatabay, Mzuzu, Lilongwe, Mchinji and Chiradzulu, Malawi.

## Namibia

### **Legal Assistance Center** **June, 2001 - August, 2002**

This grant will prepare a report making law reform recommendations on the issue of marital property under both civil and customary law. An additional report will be prepared on the property consequences of cohabitation, which is a growing family arrangement in Namibia. Both reports will include draft bills for government consideration that cover women's property and inheritance rights. Activities will be implemented in rural and urban locations within Namibia.

### **Namibia Development Trust** **June, 2001 - July, 2002**

The grant aims to educate and empower rural women in northern Namibia regarding inheritance and property rights. The grant will address property rights and access and land ownership and provide basic advocacy and lobbying skills training for women. In addition, the grant seeks to establish local and regional based women's platforms for effective lobbying for women's rights issues, analyze community awareness of customary law and define avenues for change and document and publicize cases where women have been denied rights to inherit and own property. Activities will be implemented in the Ohangwena Region of Namibia.

### **The University of Namibia** **June, 2001- October, 2002**

The grant will research women's property and inheritance rights in Namibia in order to produce a research report to be used by the government, non-governmental organizations (NGOs), donors and community-based organizations (CBOs). The research will result in publications that will inform policy makers and the general public about the current status of women in relation to current property and inheritance laws. It will also recommend reforms of current laws. Activities will be implemented in the regions of Caprivi, Omusati, Omaheke, Karas and Windhoek.



For more information on the NGO Small Grants Program, see  
<http://www.usaid.gov/wid> or contact  
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### Women's Property and Inheritance Rights: Asia

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## Bangladesh

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### **Centre for Development Services** May, 2001 - September, 2002

The objectives of this grant are to raise awareness of women's property and inheritance rights through an interactive and informative media campaign; and, to mobilize and train women to redress these violations through advocacy. Activities will be implemented in Baraigram, Natore district.

### **Khan Foundation** May, 2001 - April, 2002

This grant will conduct an awareness program for women elected officials from 4 districts on women's inheritance and property rights in order for them to serve as skilled advocates in promoting legal reform. Activities will be implemented in Dhaka, Rajshahi, Khulna and Chittagong.

### **Madaripur Legal Aid Association** May, 2001 - September, 2002

This grant will create a network of well-educated and informed Muslim women to address issues of gender equity in women's inheritance and property rights. The NGO will focus on creating a single network from 30 grassroots organizations, leader and entrepreneurs in southern Bangladesh. Activities will be implemented in Madaripur and Shariatpur districts.

## Cambodia

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### **Women for Prosperity** May, 2001 - April, 2002

The objectives of this grant are to: provide an assessment of the judiciary's handling of women's property and inheritance rights; promote awareness of women's property and inheritance rights; and to advocate for changes in the law to reflect gender equity. Activities will be implemented in Battambang, Banteay Mean Chey, Kampong Cham and Takeo provinces.

### **Women's Media Center of Cambodia** May, 2001 - April, 2002

The objectives of this grant are to: raise awareness among Cambodian women about women's property and inheritance rights; and, to encourage the codification and enforcement of property laws to protect women's rights. The NGO will develop and broadcast four radio and television spots, as well as a 40-minute drama to raise public awareness. Activities will be implemented in Phnom Penh but reach the Cambodian public within the country.

## Nepal

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### **Forum for Women Law and Development**

**May, 2001 - April, 2002**

This grant will focus on lobbying and conducting an advocacy program on women's property and inheritance rights in 10 districts. Activities include: development of an advocacy package; training of advocates; and implementation of a media campaign. Grant activities will be implemented in Kalali, Doti, Banke, Dang, Rupandehi, Nawalparasi, Khabhre, Dolakha, Dhankuta, and Morang districts.

### **Legal Aid Consultancy Centre**

**May, 2001 - August, 2002**

The main objective of the grant is to raise awareness and advocate for the enactment of a Women's Equal Property and Inheritance Act. The NGO will develop advocacy materials, conduct training sessions, and disseminate information to decision-makers, government officials, community leaders and civic organizations. Legal Aid Consultancy Centre has been awarded two complementary grants to implement activities in both the Capitol, Kathmandu and in rural areas. Activities will be implemented in Jhapa, Ilam, Makwanpur, Sunsari, Saptari, Syangja Chitwan, Bhaktapur, Lalitpur and Kathmandu.

## Sri Lanka

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### **Centre for Women's Research**

**June, 2001 - August, 2002**

The objective of this grant is to research and document the impact of Sri Lanka's three sets of law – the Kandyan Law, Thesavalamai Law, Sharia Muslim Law – on women's legal rights. The research findings will be used to lobby policy makers for revision of the laws, create awareness among women regarding their situation vis-à-vis these laws, and assist local NGOs in advocating for equal rights. Activities will be implemented in four communities, Sinhala, Tamil, Muslim and Kandyan Sinhala.

### **EMACE Foundation**

**June, 2001 - May, 2002**

The main objectives of this grant are to: educate women about their legal rights regarding property and inheritance; to lobby for change in government policy; and to mobilize and train advocates to provide legal advice to women about their inheritance and property rights through free legal clinics. Activities will be implemented in three rural areas.

### **Vehilihini Development Centre**

**May, 2001 - September, 2002**

The objective of this grant is to raise awareness about the Land Development Ordinance of 1935 (LDO) and its effect on women's inheritance and property rights. This project will initiate an advocacy campaign to reform the law and practice. The target area for this grant is Monaragalla district, a predominantly rural farming area.

### **Women in Need**

**June, 2001 - September, 2002**

The main objectives of this grant are to: conduct research on discriminatory customary practices, especially under Kandyan and Muslim Law; initiate legal action in selected cases; conduct awareness programs on property and inheritance rights to CBOs, NGOs and GOs; and, mobilize organizations to address discrimination issues.



For more information on the NGO Small Grants Program, see <http://www.usaid.gov/wid> or contact USAID's Activity Manager Shirley Toth in the EGAT/WID office: [stoth@usaid.gov](mailto:stoth@usaid.gov) or DAI's Project Director, Meloney Lindberg: [Meloney\\_Lindberg@dai.com](mailto:Meloney_Lindberg@dai.com)



**ANNEX E**  
**CONFERENCE AGENDA**



## Day One: Tuesday, June 18th, 2002

<b>8:00-9:00</b>	<b>Registration</b>
<b>9:00-9:30</b>	<b>Welcome and Opening Remarks</b> Sharon Phillipps, EGAT/WID, U.S. Agency for International Development (USAID) Speaker: Honorable W.K.K. Kumarasiri, Secretary, Ministry of Lands, Sri Lanka
<b>9:30-10:00</b>	<b>The State of Property and Inheritance Rights in Africa and Asia</b> Meloney Lindberg, NGO Small Grants Program This session will provide a framework for the NGO Small Grants Program highlighting USAID's goal of strengthening democracy and good governance and the collective experiences of grantee organizations.
<b>10:00-10:10</b>	<b>Introduction: Approaches to Address Women's Property and Inheritance Rights</b> Richard Strickland, NGO Small Grants Program Three panels will discuss approaches addressing property and inheritance issues. Unique activities within each approach will be presented by the grantee organization. The three approaches are: <ul style="list-style-type: none"> <li>• Research and Documentation Projects</li> <li>• Policy Change Projects</li> <li>• Education and Awareness Building Projects</li> </ul>
<b>10:10-11:00</b>	<b>Approach I: Research and Documentation Projects</b> Moderator: Njoki Wainaina, Consultant <b>Grantee Presentations:</b> <ul style="list-style-type: none"> <li>• <i>CENWOR, Sri Lanka</i>: Research to better understand prevailing perceptions</li> <li>• <i>University of Namibia and Legal Assistance Centre, Namibia</i>: Multi-district survey documenting attitudes, perceptions, and practices regarding women's property and inheritance rights</li> <li>• <i>Chancellor College, University of Malawi</i>: Upholding Women's Property and Inheritance Rights in Malawi: Issues and Prospects</li> </ul>
<b>11:00 – 11:10</b>	<i>Break</i>
<b>11:10 -12:10</b>	<b>Approach II: Policy Change Projects</b> Moderator: Mariam Yunusa, UN-HABITAT <b>Grantee Presentations:</b> <ul style="list-style-type: none"> <li>• <i>International Commission of Jurists/Kenya</i>: Training of Judges</li> <li>• <i>Forum for Women, Law and Development, Nepal</i>: Women's Property Rights Bill Advocacy Kit</li> <li>• <i>Legal Aid Assistance Centre, Nepal</i>: Women's Property Rights Bill Lobbying Efforts</li> <li>• <i>FIDA, Kenya</i>: Replacement of Married Women's Property Act of 1882</li> <li>• <i>Collaborative Centre for Gender and Development, Kenya</i>: Applying gender analysis to transform research into action</li> </ul>
<b>12:10 -1:15</b>	<i>Lunch</i>
<b>1:15 - 2:30</b>	<b>Approach III: Education and Awareness Building Projects</b> Moderator: Kamalini Fernando, USAID/Sri Lanka <b>Grantee Presentations Group I:</b> <ul style="list-style-type: none"> <li>• <i>Education Centre for Women in Democracy, Kenya</i>: Property Rights Radio Campaign</li> <li>• <i>Vehilihini Development Center, Sri Lanka</i>: Mass Campaign for International Women's Day</li> <li>• <i>Khan Foundation, Bangladesh</i>: Women Elected Leaders</li> <li>• <i>Women's Media Centre, Cambodia</i>: National TV Drama</li> <li>• <i>Namibia Development Trust, Namibia</i>: Drama at the Community Level</li> <li>• <i>Madaripur Legal Aid Association, Bangladesh</i>: Women's Muslim Network</li> </ul>

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2:30 – 2:45 *Break*

2:45 – 4:00

Moderator: Richard Strickland, NGO Small Grants Program

**Grantee Presentations Group II:**

- *Women's Voice, Malawi*: Will-writing Campaign
- *Centre for Development Services, Bangladesh*: Community Theatre
- *EMACE, Sri Lanka*: Legal Assistance Hotline
- *Women for Prosperity, Cambodia*: Including Men in Awareness Training
- *Women in Need, Sri Lanka*: Partnering with Community-based Organizations
- *ENVIROCARE, Tanzania*: Moot Court

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4:00 - 6:00

**Working Groups: Defining Next Steps**

***Customary Practice and Statutory Law***

Co-facilitators: Marjolein Benschop, UN-HABITAT

Erika Kirwen, NGO Small Grants Program

This working group will explore various points where custom and law intersect, why preference may be given to one over another, and how communities may work to address the gap in ways that uphold women's rights.

***Options for Mediation and Enforcement***

Co-facilitators: Wachira Maina, USAID/Kenya

Judith Dunbar, NGO Small Grants Program

This working group will consider the challenges and opportunities in which courts and community institutions might work collaboratively to manage the growing number of claims.

***Developing a Supportive Policy Environment***

Co-facilitators: Njoki Wainaina, Consultant

Belinda Bernard, NGO Small Grants Program

This working group will examine the elements of a policy environment supportive of women's property and inheritance rights, including the kinds of laws and services required and the levels of inputs in terms of human resources, financial capital, and political will needed to ensure sustainability.

***Changing Attitudes and Practices***

Co-facilitators: Kamalini Fernando, USAID/Sri Lanka

Meloney Lindberg, NGO Small Grants Program

This working group will consider key actors to engage in such strategies and define practical actions for education, awareness building, and normative change.

***Impact of the AIDS Epidemic***

Co-facilitators: Karusa Kiragu, Population Council

Kristen Skonieczny, NGO Small Grants Program

This working group will explore the impact of AIDS on household composition, community attitudes regarding the property-related rights of women and children, and the potential for developing multifaceted interventions that build community awareness about AIDS and women's inheritance rights.

***Conference Recommendations Task Force***

Co-facilitators: Richard Strickland, NGO Small Grants Program

Heather Rome, NGO Small Grants Program

This will operate as a standing group throughout the course of the week, gathering information and ideas for constructing specific policy and program recommendations relevant to the promotion of women's property and inheritance rights.

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Evening

***Open***

*Breakout rooms will be available for working groups in the evening.*

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## Day Two: Wednesday, June 19th, 2002

**7:30 – 8:15**    **Poster Session Set-up (grantees only)**

**8:30 – 10:00**    **Working Groups develop Actions Agendas for presentation**

**9:30 – 10:00**    **Funders' Coffee (by invitation only)**

**10:00 – 10:15**    *Break*

**10:15 – 10:30**    **Summary of Working Groups**  
 Presenter: Sharon Phillipps, EGAT/WID, USAID

**10:30 – 11:30**

*Concurrent Sessions*

**Customary Practice and Statutory Law**  
 Facilitator: Marjolein Benschop, UN-HABITAT

**Options for Mediation and Enforcement**  
 Facilitator: Wachira Maina, USAID/Kenya

**11:30 – 12:30**

*Concurrent Sessions*

**Developing a Supportive Policy Environment**  
 Facilitator: Njoki Wainaina, Consultant

**Changing Attitudes and Practices**  
 Facilitator: Kamalini Fernando, USAID/Sri Lanka

**12:30 – 2:00**    *Lunch*  
*Presentation: Marjolein Benschop, Rights & Reality: Are women's rights to land, housing and property implemented in East Africa?*

**2:00 – 3:00**    **Impact of the HIV/AIDS Epidemic**  
 Facilitator: Karusa Kiragu, Population Council

**3:00 – 3:15**    *Break*

**3:15 – 5:00**    **A Funders' Roundtable**  
 Moderator: Meloney Lindberg, NGO Small Grants Program  
 Martin Oloo, Aga Khan Foundation  
 Simone Ellis Oluoch-Olunya, DFID East Africa Kenya  
 Anne Nyabera, Heinrich Boell Foundation  
 Florence N. Njenga, JICA Kenya  
 Marren Akatsa-Bukachi, Royal Netherlands Embassy  
 Chris Williams, UN-HABITAT Office for Africa and the Arab States  
 Bedan Gichanga, U.S. Agency for International Development

**5:00 – 6:30**    **Wrap-up and Reception**  
 A poster session showcasing grantees' work and materials will be available during the reception.

**END OF DAY TWO**

## Day Three: Thursday, June 20<sup>th</sup>, 2002

8:00 - 3:30

### **Site Visit 1 – Local Women’s Groups and Training Methods**

Host: The Education Centre for Women in Democracy

Facilitator: Meloney Lindberg, NGO Small Grants Program

This site visit will introduce conference participants to women’s groups whose members have experienced difficulties realizing their property and inheritance rights. Members will be able to tell their stories and will discuss problems and causes with the participants.

*Women’s organizations range from religious groups to HIV/AIDS support groups to community organizations. It is often through these types of organizations that problems are identified and information is passed along. A number of grant organizations in Africa and Asia have been working directly with women’s groups in their efforts to increase awareness of women’s property and inheritance rights issues using various methods including training-of-trainers, paralegal training, question and answer sessions, radio, dramas, and theater. Each of these methods has been successful in unique ways and has allowed the individual woman to identify problems and to act upon a desired solution at either the community or judicial level.*

### **Site Visit 2 – Advocacy through Media Campaigns**

Host: Federation of Women Lawyers

Facilitator: Carolyn Knapp, NGO Small Grants Program

This site visit will introduce conference participants to members of the media (print, radio, and television). Participants will be able to learn what is needed for press releases, what makes a story, and how to get stories in the media.

*One of the many steps of advocacy uses the media as a tool for “getting the message out.” Information, statements, press releases and notices can reach a much broader and larger audience if disbursed via the radio, newspaper or television. To successfully use this tool, it is essential to be aware of what makes a captivating story, how to create a press release, when to submit articles for print and how to get an individual’s story or event featured. Members of the local media will be present to discuss the necessities of working with the press.*

### **Site Visit 3 – Responses of the Judiciary and Policy-makers**

Co-hosts: The Collaborative Centre for Gender and Development and the International Commission of Jurists, Kenya

Facilitator: Richard Strickland, NGO Small Grants Program

This site visit will allow conference participants to discuss property and inheritance rights with members of Kenya’s judicial system. Policy-makers, lawyers and representatives of the court will provide information on Kenya’s legal framework and address the problems and successes of individuals attempting to claim their rights.

*National policies, constitutions and laws provide the legal framework for property and inheritance rights. However, the judicial system provides the environment in which these rights are realized. Judicial systems in many countries have dedicated more resources in order to understand and implement these laws, some of which date back to the late 1800s. However, other issues such as court case overload, the cost of court fees, judicial red tape, and locations of the courts also become obstacles for women trying to access the court. Members of the judicial system will address these issues in the context of Kenyan law.*

Evening

**Open**

**END OF DAY THREE**

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**Day Four: Friday, June 21st, 2002**

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**8:30-9:45****Site Visit Discussion**

Moderator: Erika Kirwen, NGO Small Grants Program

Each group will discuss the details of the visit and lessons to be learned. Group discussion follows.

**9:45-10:00***Break***10:00-10:45****Conference Recommendations Task Force**

Moderator: Richard Strickland, NGO Small Grants Program

The task force will present their ideas and observations for group discussion.

**10:45-11:45****Discussion of Lessons Learned and Recommendations**

Moderators: Carolyn Knapp, NGO Small Grants Program

Nadia Steinzor, NGO Small Grants Program

**11:45-12:00****Remarks**

Mr. Kiertsak Toh, Mission Director, USAID/Kenya

**12:00-1:00***Lunch***1:00 - 3:00****Proposal Competition**

Moderator: Erika Kirwen, NGO Small Grants Program

Based on a selected Action Agenda, participants will break out into small groups to prepare a mock proposal. A panel of judges will comment on the proposals.

**3:00 – 3:30****Conference Closing**

Sharon Phillipps, EGAT/WID, USAID

Meloney Lindberg, NGO Small Grants Program

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**END OF CONFERENCE**

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