



A UNAIDS Initiative

**The Global Coalition
on Women and AIDS**

Media backgrounder

AIDS AND FEMALE PROPERTY/INHERITANCE RIGHTS

Around the world, issues of access to, ownership of, and control over land, housing, and other property are enshrined in many national constitutions and international human rights documents. Despite the proliferation of property and inheritance laws and rights, women and girls – particularly in the developing world – are denied this right.

Where women lack title to land or housing, they suffer restricted economic options, reduced personal security, poverty, violence, and homelessness, contributing to both their and their children's impoverishment. Poverty can also encourage risky livelihood measures, such as enduring an abusive relationship or engaging in unsafe sex in exchange for money, housing, food or education.

In many countries, women's rights to land and property are attained primarily through marriage. If the marriage ends, women's rights to land or home may end as well. An Oxfam report on the situation in Mozambique notes the country has a dual legal system, common in many countries, with a customary legal system operating in parallel to a Western legal system. In countries where laws do exist, there is often widespread illiteracy and people have no real access to formal court systems, lawyers and other legal resources. Often they do not even know that such a system exists.

While property and inheritance rights are important for women generally, they take on dramatically increased importance in the context of HIV and AIDS. The effects of property dispossession are now being documented and need further attention:

- An FAO study in Namibia reported 44% of widows lost cattle, 28% small livestock, and 41% lost farm equipment in disputes with in-laws after the death of a husband
- In a Uganda pilot study of 29 widows living with HIV, 90% had property wrangles with in-laws and 88% of those in rural areas were unable to meet their household needs

There is growing evidence to suggest that upholding female property and inheritance rights helps mitigate negative economic consequences of AIDS experienced by women and their households. Evidence also suggests that it can help prevent the spread of HIV by promoting women's economic security and empowerment, thereby reducing their vulnerability to domestic violence, unsafe sex, and other AIDS-related risk factors.

Conversely, discriminatory inheritance practices have negative consequences for AIDS-affected households. Widows suffer partial or total loss of assets, including their land and homes, to relatives of the deceased spouse leaving such households destitute and more vulnerable to further consequences of HIV and AIDS.

Across regions, the status of women's property and inheritance rights, gendered patterns of ownership and control, and rates of HIV infection vary greatly. Among developing regions, Latin America has the most favorable legal traditions and relatively egalitarian gender inheritance norms, though some land reform and post-war resettlement initiatives have neglected gender concerns.

In South Asia, notable inequalities in property matters remain across religious and ethnic communities despite extensive organizing and mobilization on women's rights. In many parts of the Middle East and North Africa, property and inheritance matters are largely governed by *Sharia* law, though other legal codes and international human rights standards often pose a challenge to

those addressing property issues there. In sub-Saharan Africa multiple legal regimes incorporating old colonial laws, more recent constitutional law, and ongoing customary law (and in some places *Sharia* law) overlap in a complicated legal pattern that often fails to recognize or uphold women's property rights, a particularly distressing situation given the region's high rates of poverty and HIV/AIDS.

Guaranteeing women's property and inheritance rights in the context of HIV and AIDS requires both global and country-level actions.

At the global level, the Convention on the Elimination of All Forms of Discrimination Against women (CEDAW) has focused on equality in property as one of its important directives and a number of United Nations initiatives have also focused on the issue and passed a number of resolutions.

At the country level, three types of legal change are necessary: amending laws, increasing legal literacy, and recording women's share of property – which is especially important in South Asia and sub-Saharan Africa. While many countries have made efforts to review and reform relevant law – constitutional, marital, property, family and equal opportunity, translating these laws from theory into practice at community level remains a challenge.

Several countries have established paralegal services to help women pursue and defend their property and inheritance rights. Related to this are community and national-level activities involving the training of traditional leaders, community and women's groups and professionals including lawyers, judges, registrars and police. Although such activities are considered generally successful, there are concerns about ensuring sustainability and uniform standards.

Successful action will focus on five key areas:

- Documenting women's land and housing rights and tenure security in high HIV/AIDS prevalence areas
- Raising public education and awareness, especially among national policy makers and donors.
- Reforming legislation, including customary law and practice
- Identifying strategic litigation opportunities, especially improving legal skills, establishing legal precedents through test cases, improving the court system, and ensuring women's access to legal structures and processes
- Identifying and supporting experimentation within communities to change economic and institutional arrangements including initiatives that seek to support the collective ownership or lease rights to land and establishing land trusts for AIDS orphans.

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