

Helpdesk Research Report: Land and Property Rights Interventions

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Query: What interventions related to land and property rights have led to positive outcomes for poor people, especially women, in LICs?

Enquirers: DFID

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1. Overview

The literature here provides a guide to existing concerns and approaches to the promotion of pro-poor outcomes through land and property rights. Generally, there is increasing emphasis on both the impacts upon women and the need for interventions to be designed and implemented with gender sensitivity. There is also a strong emphasis on the need to locate land and property rights interventions within wider development efforts, based on an appreciation of the hindering and facilitating factors of land reform (e.g. government capacity and willingness). This issue of land and property rights spans a number of sectors, from rural agriculture to the challenges of urbanisation, and increasingly to the links between land and property rights and women's security.

Types of interventions

There are numerous approaches to achieving pro-poor outcomes through land and property rights, with most having a strong element (at least in theory) of awareness and consultation with relevant stakeholders. It is also likely that interventions work within existing land reform policies, and that a number of years are required for results to emerge. USAID, and its implementing organisation ARD Inc, are very involved in land and property rights interventions, focusing on middle-income or lower-middle income countries. Types of interventions include:

- Land formalisation (in rural and urban areas), which is a resource-intensive intervention requiring mainstreaming into wider development efforts and subsequent support (e.g. infrastructure, social services)
- Legal recognition of land rights in customary systems, which has been seen as a more effective – and less resource-intensive – option than formalisation (Deininger, 2004)
- Individual land titling/Household titling, which requires sensitivity to issues such as gender status within households and inheritance rights of children, as well as overall targeting
- Reforms to inheritance rights
- Support to existing Land Reform/Land Redistribution/Land Administration, which entails a significant amount of engagement with national and local governments.

Linking land and property rights with pro-poor outcomes

There appears to be a general consensus that investing poor people with land and property rights has positive social and economic outcomes, or at least does not harm social standing or the ability of beneficiaries to improve productivity, access to credit, increase income and encourage social and economic investment in land, property or other things such as education, health or other income-generating activities. This is also demonstrated by evidence that shows that the poorest also tend to be the landless (Meinzen-Dick, 2009). Whilst there is inevitably a wide range of evidence indicating different levels of efficacy with different levels of attribution to particular interventions, there is scope to suggest that along with increased income levels, beneficiaries of land and property rights programmes tend to fare better in terms of well-being indicators (Vargas, 2003). In general therefore, land and property rights are thought to contribute to longer-term impacts related to the inter-generational transmission of poverty: health and education investments for children have a positive effect on their future prospects.

Further, land and property rights have been shown to have a significant impact on the prevention of HIV/AIDS amongst women, and upon women affected by HIV/AIDS (Swaminathan et al, 2007). These links include the security of women and children who lose husbands, protection from stigmatisation, and the prevention of sexual violence. This is a growing concern for organisations such as the International Center for Research on Women and USAID's Office for Women in Development. Payne et al (2009) offer a perspective on urban land reform, highlighting the potential government (tax) revenue to be gained from helping people inhabiting informal urban settlements acquire the capital to allow them to generate increased income. This has clear connections with statebuilding and the good governance agenda.

However, how appropriate are land and property rights in all contexts? Evidence from an intervention in Slavo Park, Cape Town, in which property rights were only extended to one member of each household, shows that ultimately many struggled to pay rents and service charges. Informal economic activity and income declined in many cases, and social networks were disrupted (Cousins et al, 2005). This programmatic risk has been likened to the US sub-prime mortgages scandal (Payne et al, 2009). Further, others argue that the objectives of land titling, such as increased investment, could be realised by improving physical surroundings, e.g. access to safe drinking water (Payne et al, 2009).

Considerations for design and implementation

A review of past and existing interventions offers a number of issues to consider in the design and implementation of interventions with the objective of enhancing pro-poor outcomes through land and property rights. These include:

- Sustaining significant government commitment;
- Supporting land and property rights interventions with wider efforts to promote good governance, reform rural areas and livelihoods, mitigate the negative effects of urbanisation, and tackle problems in the labour market;
- Mainstreaming gender concerns into interventions: without doing so, this potentially constitutes another form of discrimination;
- Supporting interventions with comprehensive education, awareness and training activities to ensure that the population – including government officials – understand what land and property rights are;
- Being aware of and sensitive to existing legal systems (e.g. customary law) which often operate alongside formal systems in a competing and/or complementary way;
- Considering the impact of interventions upon non-beneficiaries. For instance, do formalised systems undermine local access to land and effectively disempower poor people? Further, who are the beneficiaries and how are they chosen?
- Be careful not to treat rights as a means to an end (economic results).

2. Intervention case studies

IFAD, UNOPS, and Government of Uganda Ministry of Lands, Housing and Urban Development, 2006, 'Land Tenure Security for Poverty Reduction in Eastern and Southern Africa: Workshop Report', Kampala, 27-29 June

http://www.landcoalition.org/pdf/ev06_ifad_Niger.pdf

This workshop focused on the land assets of rural people in Eastern and Southern Africa. The workshop draws on the experience of practitioners in designing and implementing projects and programmes designed to increase land tenure security. According to Professor Okoth-Ogendo, there has been a shift from simply reforming land tenure to attempts to formulate a comprehensive land policy due to perceived failures of the former. Attempts at reform have failed due to a lack of enforcement – particularly at customary level, poor management and public administration, and the 'de-linking' of foreign property law from the social and economic aspirations of national land-users. Policy options to remedy these problems include:

- The vesting of radical title in land directly in community organs.
- Divestiture and/or decentralisation of state authority over land.
- Empowerment of local communities to plan and manage land resources.

Case studies illustrating land tenure activity or problems within the context of poverty reduction were presented. These included i) the Land Security Sustainable Development Project (Madagascar) which decentralised land administration through decentralised land management offices, and was thought to have led to a huge cut in costs, e.g. in the awarding of land certificates; and ii) the Southern Nyanza Community Development Project (Kenya) which sought to obtain land tenure security for widows and orphans through the following:

- Training of project staff and local leaders on advocacy, gender and land rights, land administration and management, and conflict resolution.
- Raising community awareness of women's land rights through local fora and educational theatre.
- Developing and disseminating materials to local learning centres and community-based groups that explain the roles of statutory bodies (for example, the land tribunal and land control board) in land transactions and dispute resolution.
- Intensifying and diversifying enterprises for women.

Vargas, A., 2003, 'The Philippines Country Brief: Property Rights and Land Markets', Land Tenure Center, University of Wisconsin.

http://www.nelson.wisc.edu/ltc_orig/assessments/philippinesbrief.pdf

Chapters 3 and 4 of this brief offer information on recent land tenure and property rights interventions in the Philippines and their impact. The focus here is upon the Comprehensive Agrarian Reform Policy (CARP) implemented in 1987 and supported by USAID from 1989-1990 through its Agrarian Reform Support Program, totaling \$50 million. These funds were dispersed through the Special Agrarian Reform Fund (SARF). The objective of the policy was to promote a more equitable distribution and ownership of land shall to provide farmers and farm workers with the opportunity to enhance their dignity and improve the quality of their lives through greater productivity of agricultural lands. The CARP used a variety of instruments to certify ownership, including emancipation patents (EPs) which can be used to obtain a Transfer Certificate of Title (TCT) and ultimately a Certificate of Land Ownership Award (CLOA). The reform was widely criticised as being ineffective (e.g. exemptions from land distribution), however a number of positive assessments have been made:

- Substantial progress in implementing the reform the reform of rice and corn lands, leading to greater productivity (Riedinger, 1995). However, later impact assessments indicated that little change had been made in traditional crop production levels, whilst there was a significant increase in productivity of non-traditional crops (Habito, 2001).

- The distribution of public lands and private lands, and increasing the tenure status of stakeholders. However, a later impact assessment argued that rural land market transactions persisted because they fulfilled the needs of various parties involved (Habito, 2001).
- A 2001 World Bank study concluded that despite the persistence of poverty in the country, evidence of the impact of the CARP upon beneficiaries suggests gains in productivity and income, higher propensity to invest in the physical and human capital of children.
- CARP 'has led to higher real per capita incomes and reduced poverty incidence between 1990 and 2000. Agrarian reform beneficiaries (ARBs) tend to have higher incomes and lower poverty incidence compared to non-ARBs' (p13). They also tend to be better-off according to other well-being indicators, e.g. access to safe drinking water and sanitation facilities, and higher educational attainment.

The brief concludes by offering a number of considerations for moving forward on land reform. These include the need to take into account unintended impacts of CARP on non-beneficiaries (e.g. making formal land acquisition harder), and mainstream land reform with wider development initiatives such as the National Development Strategy.

Deininger, K., Goyal, A., and Nagarajan, H., 2010, 'Inheritance Law Reform and Women's Access to Capital: Evidence from India's Hindu Succession Act', Policy Research Working Paper 5338, World Bank, Washington D.C.

http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2010/06/14/000158349_20100614094013/Rendered/PDF/WPS5338.pdf

(adapted from Executive Summary)

This paper examines whether and to what extent amendments in inheritance legislation in India have had an impact upon women's physical and human capital investments, by using disaggregated household level data from India. The authors use inheritance patterns over three generations of individuals to assess the impact of changes in the Hindu Succession Act that grant daughters equal birth rights in joint family property that were denied to daughters in the past. The causal effect is isolated by exploiting the variation in the timing of father's death to compare within household bequests of land given to sons and daughters in the states of Maharashtra and Karnataka. The analysis shows that the amendment significantly increased daughters' likelihood to inherit land, but that even after the amendment substantial bias persists. The results also indicate a robust increase in educational attainment of daughters, suggesting an alternative channel of wealth transfer.

Flower, T., Nielson, R., Weber, B., 2008, 'Strengthening Land Tenure and Property Rights: Angola Final Report', ARD. Inc/USAID, Washington D.C.

http://pdf.usaid.gov/pdf_docs/PDACL672.pdf

This report covers the full period of implementation of the 15-month Strengthening and Land Tenure and Property Rights in Angola, implemented by ARD. Inc, the Rural Development Institute (RDI), Development Workshop Angola (DW). The project successfully created a system for land demarcation that began with a sound basis in research. A draft manual for piloting a land tenure formalisation process was created early in the project, and a final manual was drafted based on the lessons learned from project implementation. The project was able to demarcate land holdings for 450 households, including 400 from the peri-urban community and 50 from the rural community. The project supported the Economic Growth element of the country programme, the objective of which is to ensure that the poor, women, and other disadvantaged people have equal legal rights and protection. It promotes land titling through the registration of property rights to allow these rights to be pledged as collateral and/or equity.

The programme's land tenure formalisation intervention was accompanied by instruction manuals to raise awareness. The outcome of the process was the preparation of over 450

property rights documents waiting to be submitted to the local government, one community boundary application, and two cadastres. Scaling-up the formalisation process requires greater government buy-in and greater harmonisation with the FAO, who also had a similar community titling project in rural areas.

Galiani, S., and Schargrodsy, E., 2010, 'Property Rights for the Poor: The Effects of Land Titling', Social Sciences Research Network.

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1544578

Secure property rights are considered a key determinant of economic development because they act as an investment incentive. It is suggested that that individuals under invest if others can seize the fruits of their investments. This paper explores these assertions by using a 'natural experiment' in the allocation of land titles in Argentina. In 1981, squatters occupied a piece of land in a poor suburban area of Buenos Aires. In 1984, a law was passed expropriating the former owners' land to entitle the occupants. Some original owners accepted the government compensation, while others disputed the compensation payment in the slow Argentine courts.

These different decisions by the former owners generated an exogenous allocation of property rights across squatters. Using data from two surveys performed in 2003 and 2007, we find that entitled families substantially increased housing investment, reduced household size, and enhanced the education of their children relative to the control group. These effects, however, did not take place through improvements in access to credit. Our results suggest that land titling can be an important tool for poverty reduction, however not – as is often argued – due to increased availability of credit access, but through the slow channel of increased physical and human capital investment, which should help to reduce poverty in the future generations.

The study found that households in the titled parcels have a smaller size (an average of 5.11 members relative to 6.06 in the untitled group), both through a diminished presence of extended family members and a reduced fertility of the household heads. In addition, the children from the households that reduced fertility show significantly better educational achievement, with an average of 0.69 more years of schooling and twice the completion rate of secondary education (53% vs. 26%). However, the study found only modest effects on access to credit markets as a result of entitlement, and no improvement in labour market performance of the household heads.

World Bank Operations Evaluation Department, 1999, 'Land Administration and Rural Development: Two Cases from Thailand', Number 184, World Bank, Washington D.C.

http://www.capri.cgiar.org/wp/..%5Cpdf%5Cbrief_land-10.pdf

The results of two World Bank projects in Thailand implemented in a discrete fashion separate from broader rural development strategies suggest that both could have been more effective if implemented as part of broader reforms. The projects were: i) the Land Reform Areas Project (1982-1989), worth \$17 million to provide occupancy certificates to 35, 000 squatter families living on encroached forest land; and ii) the Second Land Titling Project (1990-1996) which aimed to build on the previous attempt to provide farmers with land titles in order to increase their access to credit, encourage on-farm investment, raise productivity and income, and increase the value of the land. Impact attribution to the projects are difficult to make, and evidence is also hard to collect, but the Land Titling Project appeared to have had an impact on credit access, agricultural investment, and farmers' incomes, it appears from secondary data that titling has helped to stimulate nonfarm as well as farm activities, and to raise revenue for government in the form of fees from land transactions.

Lessons learned by the World Bank include the need to ensure cooperation between land administration agencies, establish targets based on area covered rather than titles issues, and enact appropriate land conservation and property tax legislation.

3. Pro-poor outcomes and key considerations

Meinzen-Dick, R., 2009, 'Property Rights for Poverty Reduction?', DESA Working Paper No. 91, UN Department of Economic and Social Affairs, New York.

http://www.un.org/esa/desa/papers/2009/wp91_2009.pdf

Although the need to strengthen property rights in order to reduce poverty appears to be a straightforward way of tackling the problems associated with poverty, land titling efforts do not often take the complexity of property rights into account and reduce poor people's security of land tenure. Property rights are crucial in providing incentives for people to make investments in the land they live or farm, thereby reducing their potential for gaining higher returns. Land can usually be used as collective collateral to invest in the land, or exchanged for capital to start up income-generating activities. The landless are excluded from these opportunities, which often also makes them the poorest.

Evidence from South Asia indicates that the landless are often the most chronically poor. In terms of the inter-generational transmission of poverty, too, it is also suggested that 'land ownership increases investment in the human development of children' (p2). Property rights are also associated with social standing in the community: this, in turn, reflects upon poor people's abilities to access public services, participate in social networks and influence local politics. Women's access to land tenure is a particularly pertinent issue, for it has been shown that in India women who own land have greater bargaining power and stronger fallback options and therefore are less subject to domestic violence (e.g. Panda and Agarwal, 2005; Bhatla, Chakraborty and Durvury, 2006). This has been supported by evidence from Colombia (Deere and Leon, 2001). In terms of the long-term consequences of poverty, land ownership is associated with greater investments in the nutrition, education and schooling of children (e.g. Doss, 2006). Land ownership also increases women's access to credit and investments in land productivity, both of which have positive outcomes for the poor.

Land reforms require significant government commitment. A relatively easy way of undertaking reforms is statutory reform to provide existing dwellers the opportunity to formally acquire the land they occupy. Closer looks at the formalisation of land tenure suggest they may do little to actually alter realities on the ground due to the existence of legal pluralism: which rules apply? It is helpful to think of different laws as possessing a 'force field' which hold relatively different forces at given times. Unless secondary property rights held by various claimants are taken into account, statutory legal reforms can undermine local land access and use that people depend upon, such as to collect water, firewood, fish or medicinal plants or graze their livestock in the fallow season. For instance, where government legal systems are more accessible to those with education, money, influence or central location, the poor and marginalized may depend more upon customary or religious bases for claiming rights to resources. This is one reason that many land registration and formalization programs have led to the erosion of women's customary land rights, especially in Africa, when land is registered in the name of the male "head of household".

This means moving from viewing statutory law as laying out property rights, to recognising that this is only one element that shapes tenure security in practice. Statutory reforms play an instrumental role, but instead of using a single tool for "pro-poor property rights reform", a broader approach is needed. Legislative changes should be accompanied by effective implementation, as well as by awareness campaigns, which may use the media, movies, local dramas, or a range of approaches. Civil society and religious leaders can be engaged as well, because customary and religious law are not unchanging. In some cases, redistribution of land from large land holders may also be needed for real poverty reduction. Legal pluralism necessitates greater humility in policies and programming. It is not just a matter of getting the "right" law or "right" institution to allocate or manage resources. Instead, rights to resources will be determined through messy, non-linear processes.

Cousins, B., Cousins, T., Hornby, D., Kingwill, R., Royston, L., and Smit, W., 2005, 'Will Formalizing Property Rights Reduce Poverty in South Africa's 'Second Economy'? Questioning the Mythologies of Hernando de Soto', PLAAS Policy Brief 18, Program for Land and Agrarian Studies (PLAAS), University of Western Cape.
http://www.capri.cgiar.org/wp/..%5Cpdf%5Cbrie_f_land-10.pdf

Hernando de Soto argues that formalising property rights is the key to reducing poverty, or 'making capitalism work' for the poor. These authors argue that the formalisation of land tenure may actually be inappropriate and damaging to the poor. De Soto, they argue, has simplified informal economy and property relations. For instance in Joe Slavo Park, Cape Town, formalising property rights to owners of 936 houses only extended to one member of each household, and many struggled to pay rents and service charges. Informal economic activity declines, as did income in many cases, and social networks were disrupted. The paper concludes that formalisation through integration into the system of private property is not always the appropriate solution: sometimes informal or traditional arrangements offer better solutions because they are socially-embedded, and employ a relative conception of rights. By seeking to provide occupiers with rights yet not ensuring full ownership, land reform is often inadequate. These issues, the authors warn, are extremely complex and 'restructuring the dominant frameworks of property law and administration is no easy task' (p29).

Deininger, K., 2004, 'Land Policies for Growth and Poverty Reduction: Issues and Challenges', Paper presented at the Inter-Regional Special Forum on the Building of Land Information Policies in the Americas', Mexico, 27-27 October 2004.
<http://www.undp.org/oslocentre/docs08/DP-9.pdf>

Action by the community or the government can help to reduce land insecurity and provide a basis for more effective land utilisation that will be critical for countries to use resources at their disposal to promote growth as well as poverty reduction. What impact can tenure security have?

- Increase in land users' investment incentives
- Access to credit, and thereby better functioning of the financial markets
- Overcoming discrimination, e.g. of women

In order to increase tenure security, the government has a pivotal role. There are a variety of ways to approach increasing tenure security:

- Customary systems: legal recognition of these rights can be more effective than trying to formalise such structures. Demarcation of the boundaries of community land can remove the threat of encroachment by outsiders while drawing to well defined procedures within the community to assign rights within the group.
- Occupants on state land face considerable difficulty however. They remain vulnerable to eviction and cannot make full use of the land they occupy. In many situations political rights may preclude successful realisation of land and property rights. Long-term leases of state land also need to be seen as credible by financial institutions.
- Individual titles require a different approach, for they rely far heavily upon land administration institutions. Institutional reform is therefore pivotal. A supportive approach by governments in awarding women rights to land would accomplish a greater level of gender equality.

The author concludes by drawing sharp attention to the political economy of land distribution, arguing that although land-related reforms will make society better-off, they will be challenged by those who benefit from the status quo. This means interventions must be accompanied by evaluated pilots and broad consultation.

Payne, G., Durand-Lasserve, A., and Rakodi, C., 2009, 'Debate and Pro-Poor Outcomes When Regularising Informal Lands: Urban and Peri Urban Areas', Discussion Paper 9, UNDP Oslo Governance Centre, Oslo.

<http://www.undp.org/oslocentre/docs08/DP-9.pdf>

This paper focusses upon the formalisation of informal land settlements in urban areas, which differ significantly to rural areas where there is less foreign investment and influence. It is often overlooked that government revenues often rely on urban areas: 'the promotion of dynamic, well-managed, towns and cities is therefore a vital component in creating sustainable rural and national development programmes' (p3). Land governance therefore refers to the process of arbitration between the competing economic functions of land. Governments, aware of the 'massive collective contribution' urban dwellers make to local and national economies, have sought to regulate informal settlements. When regulation cannot be achieved, relocation is necessary.

The management of land tenure and land rights have been identified as a key to poverty reduction. This was reflected in initiatives such as the Inter-American Alliance for Real Property Rights and USAID's Policy Determination on Land Tenure (PD-13). Land titling - an approach seemingly given impetus by Hernando de Soto's claim that the direct correlation between property ownership and affluence is lacking in developing countries and is thus the major stumbling block to effective capitalism - is seen as one, but not the only, option however. Land titling programmes have been criticised for introducing costs which households are unable to meet, and not necessarily ensuring access to credit because banks often lend on a revenue rather than asset basis. Further, land titling has also been known to lead to market distortions due to sporadic titling, and new (unauthorised) settlements of people hoping to obtain formal titles in new areas. Land titling has however been a popular intervention, and has created similar problems to that of the sub-prime loans scandal in the USA, where people too poor to service mortgages provided were lent large amounts of money to obtain properties.

How else can the social and economic objectives of land titling be reached? Case study evidence from Indonesia, Trinidad and Tobago and Pakistan indicate that by improving the physical environment (e.g. access to water, drainage systems) incentives for investment are created.

International Institute for Environment and Development (IIED), Natural Resources Institute (NRI), Royal African Society (RAS), 2005, 'Land in Africa: Market Asset or Secure Livelihood?' Summary of Conclusions from the Land in Africa Conference, London, 8-9 November 2004.

The principal conclusions from this meeting of African ministers, researchers, policymakers and leading opinion makers were that:

- Land reform and security of tenure demands political support and long-term commitment
- Donor mechanisms (e.g. PRSPs) need to support land institutions that underpin economic growth, peace and stability. This also means that land issues must be mainstreamed into the wider economic agenda in order to secure property rights for the poor.
- Existing African knowledge is of value: consultation with civil society, the private sector, farmers and government is key.
- Good governance and investments in infrastructure are fundamental building blocks of land rights.

Further information:

UN Commission on Legal Empowerment of the Poor, 2008, 'Empowering the Poor Through Property Rights', In Making the Law Work for Everyone Volume II, United Nations Development Programme, New York, pp.64-128.

<http://mercatus.org/sites/default/files/publication/ch2.pdf>

This chapter contains a section on 'Key Elements of a Reform Strategy' to promote the legal empowerment of the poor in terms of land and property.

Conning, J., and Deb, P., 2007, 'Impact Evaluation for Land Property Rights Reform', Department of Economics, City University of New York, New York.

<http://arrow.hunter.cuny.edu/research/papers/HunterEconWP419.pdf>

This paper addresses how to measure the impacts of land property rights reform interventions.

4. Gender perspectives

Ikdahl, I., Hellum, A., Kaarhus, R., Benjaminsen, T. A., Kameri-Mbote, P., 2005, 'Human Rights, Formalisation and Women's Land Rights in Southern and Eastern Africa', Institute of Women's Law, University of Oslo

<http://www.gsdr.org/go/display/document/legacyid/1631>

(adapted from GSDRC website)

This report from the University of Oslo and the Norwegian University of Life Sciences was commissioned by the Norwegian Agency of Development Cooperation. It adopted the human rights based approach (HRBA), to spell out a human rights framework for gender-equal and non-discriminatory land reform/formalisation processes using case studies in Kenya, Mozambique, South Africa, Tanzania and Zimbabwe. In traditional African societies there was no individual ownership of land. Unwritten customary law dispensed by male elders favoured men and discriminated against women. This affected rights to use of land, inheritance and the sharing of property following divorce. New Constitutions and statutory legislation have begun to change socio-legal and economic conditions for land users.

Land reform in each of the five countries encountered both similar and dissimilar challenges. The research agreed with Convention for the Elimination of Discrimination Against Women committee reports, which have noted that much work remains to be done to make sure that women's land rights do not simply exist on paper, but are also enforced.

- The five countries studied have signed and ratified international treaties and conventions in favour of gender equality which make discrimination against women illegal. Some successful legal challenges to customary law provide hope that further changes are possible. Resistance comes from male vested interests and lack of political will by governments.
- In Africa women farmers do most of the work: Land rights will empower them, give them security, and promote sustainable family livelihoods.
- The HRBA focuses on the individual rather than on the family as a composite unit in which male preferences tend to dominate.
- Gendered change is needed in the private sphere (for example, divorce and inheritance laws) and in the public sphere (for example, women's rights to secure loans in their own names).
- Affirmative action (for example, education and information for women as well as rights to participate in decision making) is needed to ensure change.
- Access to legal remedy and an independent and accountable judiciary are required.
- Land reform which ensures gender equality is a right that needs to be promoted alongside other related rights.
- The HRBA to development highlights the responsibilities of national governments to implement land reform on a gendered basis.

- The international community must conduct gender impact assessments to monitor change in both the public and the private spheres.
- Formalised land rights provide collateral and market opportunities to buy and sell land.
- Gendered land rights by themselves are insufficient for development. For example, agricultural services are necessary.
- However, the 2003 World Bank report which treated people as means to economic ends and not as ends in themselves needs to be challenged by the HRBA.

Swaminathan, H., Bhatla, N., Chakraborty, S., 2007, 'Women's Property Rights as an AIDS Response: Emerging Efforts in South Asia', International Center for Research on Women, Washington D.C./New Delhi.

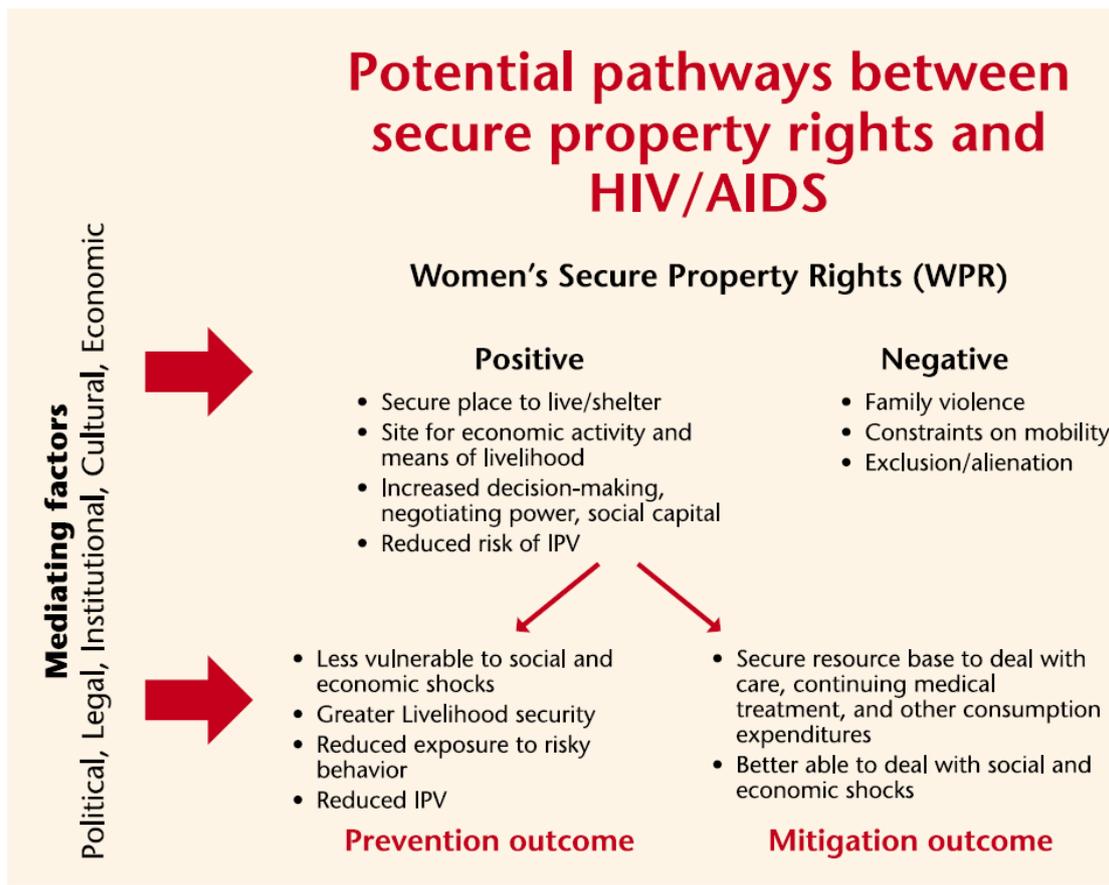
http://www.undprcc.lk/Publications/Publications/HIV/ICRW_womens_property_ICAAP_edition.pdf

In Asia, there is growing evidence of links between women's rights to inheritance and property and vulnerability to HIV. Women who own property or otherwise control assets are better positioned to improve their lives and cope when they experience crises. This is particularly true when women's economic vulnerability increases due to HIV infection. For example, women who own property and are widowed are less likely to engage in risky behavior, such as transactional sex, in order to survive. Women's ownership and control over assets also constitutes a household resource that women can use to deal with the social and economic consequences of HIV and AIDS, including costs of medicines, funerals and other associated expenses. Property also can serve as collateral for credit, enabling HIV/AIDS-affected households to deal better with the personal and financial impacts of the disease. Further, the economic security that property ownership provides women allows HIV widows to keep their children in school longer; it is difficult for widow households to continue the education of children.

As the HIV/AIDS epidemic advances, more households are female-headed and, without equitable access to property and inheritance, they are often rendered homeless. In a recently concluded study on the socioeconomic impact of HIV and AIDS at the household level in India, it was found that 90 percent of women who were widows as a result of their husbands dying of AIDS had stopped living in their marital homes after the death of their husbands.⁹ Women and children who are assumed to be HIV-positive are being shunned from traditional safety nets, however overstretched and frayed, and are often faced with choosing between orphanages and the street, forcing them into poverty and oftentimes such high-risk behaviour as transactional sex to help make ends meet.

From a preventive angle, women who own property are less likely to face violence in the home. Recent research in India shows that women's property ownership is linked with a substantially lower risk of marital violence: women who own land or a house are at significantly lower risk of physical and psychological violence both long term and current and are also able to exit violent relationships. Data show that among women without property, 49.1 percent experienced long-term physical violence and 84.2 percent experienced long-term psychological violence. In contrast, women who owned both land and a house reported dramatically less physical and psychological violence (6.8 percent and 16.4 percent, respectively). A multi-site study conducted by ICRW, found similar results in West Bengal, India. Women with property reported less overall violence than those who do not own property, and house ownership, as opposed to land, was more critical. The reduction in violence is consistent across all forms and is most significant for sexual violence, with 20 percent of propertied women reporting violence, as compared to 35 percent of non-propertied women. Women with property were also better able to negotiate safe sex, thus potentially reducing their vulnerability to HIV. In exploring the pathways by which property ownership impacts violence, strong social support and the ability to have control over her property are some of the critical factors that must accompany property ownership for it to be truly effective.

The ICRW's conceptual framework for their ongoing research on the 'pathways' between HIV/AIDS and property is as follows:



Steinzor, N., 2003, 'Women's Property and Inheritance Rights: Improving Lives in a Changing Time', Office of Women in Development, USAID, Washington D.C.
http://pdf.usaid.gov/pdf_docs/PNADA958.pdf

The Office of Women in Development's NGO Small Grants Program has worked since 2000 to offer grants to organisations to improve the economic and social status of women. 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. In 2002, a conference for grantees took place in Nairobi in order to discuss the impacts their interventions had had. Accomplishments included:

- 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.

The report identifies key findings to emerge from the conference:

- 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.
- 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 democratisation 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.

Giovarelli, R., and Lastaria-Cornhiel, S., 2006, 'Study on Women and Property Rights: Project Best Practices', ARD. Inc/USAID, Washington D.C.

http://www.ardinc.com/upload/photos/654Women_and_Property_Rights_June_07_FINAL.pdf

This paper documents the synthesis findings of a wide range of projects relating to land and property rights in lower and middle-income countries. The case studies of lower and lower-middle income countries which appear in the appendix are as follows:

- Supplemental Land Administration Project (Bolivia), 2001-5, funded by the World Bank
- Amhara Rural Development Project (Ethiopia), 2003 – 2006, funded by SIDA
- Guayape Valley Agricultural Development Project (Honduras), 1995-2001, funded by CIDA
- Land Titling Project (Laos), 1997-2006, funded by the World Bank
- Supplemental Land Administration Project (Cambodia), 2002-7, funded by the World Bank
- Land Administration Project (PRODEP) (Nicaragua), 2002-7, funded by the World Bank
- Land Administration and Management Project (LAMP) (Philippines), 2001-3, funded by the World Bank

The report concludes that there is a serious lack of consideration of gender in the projects. The report recommends employing a gender expert in the design phase of projects, educating both men and women specifically on gender-based land issues, involving women in project implementation, and identifying all property rights holders within households (e.g. do not overlook the inheritance rights of daughters).

5. Additional information

This query response was prepared by **Emma Broadbent**, emma@gsdrc.org.

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Selected websites visited

UNDP Oslo Governance Centre, UN HABITAT, Global Centre for Women's Land Rights, USAID, Land Coalition, Research 4 Development, GSDRC, Google Scholar, JStor, UNIFEM, Mercatus Center, Oxfam East Africa, Oxfam International, Rural Women's Movement Zimbabwe, Rural Development Institute, World Bank, FAO, ARD. Inc, International Finance Corporation, Population Council, Rural Development Institute, CGIAR, Future Agricultures Consortium, PLAAS, High Level Forum on the Legal Empowerment of the Poor, IIED, various journals, DESTIN, SEEDS, Royal African Society, ELDIS, Human Rights Watch, Instituto Libertad y Democracia, International Center for Research on Women, Social Sciences Research Network, Overseas Development Institute, Positive Women's Network.

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