TW
GEN
029

THE EASTERN AFRICAN SUB-REGIONAL SUPPORT INITIATIVE FOR THE ADVANCEMENT OF WOMEN (EASSI)

A SYNTHESIS REPORT

CCRDA

SUB-REGIONAL STUDY ON WOMEN'S OWNERSHIP AND ACCESS TO LAND

BY

DR. NZIOKI AKINYI

Page
1
6
7
9
13
13
3
5
5
6
7
3
3
1

TABLE OF CONTENTS

		Page
	EXECUTIVE SUMMARY	1
1.0	**BACKGROUND**	6
2.0	**THE AFRICAN CONTEXT**	7
3.0	**THE PROBLEM**	9
4.0	**JUSTIFICATION FOR WOMEN LAND RIGHTS**	13
4.1	Food Security	13
4.2	Poverty Alleviation Strategy	13
4.3	An Entry Point to Women's Empowerment	15
4.4	Implementing African and Global Platforms for Action	15
4.5	A Human Rights Perspective	16
4.6	Equity and Equal Opportunity for Women	17
5.0	**RESEARCH METHODOLOGY**	18
5.1	The Perspective	18
5.2	The Approach	19
5.3	Strategies	19
5.4	The Principle	20
5.5	Theoretical Assumption	21
6	**SUMMARY OF RESEARCH REPORTS**	23
6.1	Eritrea	23
6.2	Tanzania	37
6.3	Uganda	50
6.4	Ethiopia	62
6.5	Kenya	73
7.0	**SUMMARY AND CONCLUSION**	90
8.0	**PROPOSED ACTIONS AND STRATGIES**	99
8.1	Policy Frame Works	99
8.2	Legal Frame Works	99
8.3	Awareness Creation and Information Dissemination	100
8.4	Mobilising Resources to Develop Land	100
8.5	Implementing Mechanisms	100
9.0	**FEASIBILITY AND CONSTRAINTS**	102
9.1	Policy Constraints	102
9.2	Discriminatory Cultural Beliefs and Practices	103
10.0	**ACTIONS FOR WOMEN'S LAND RIGHTS**	104
10.1	Actions at National Level	104
10.1.1	Engendering National Constitutions/Formulation of Gender Polices	104
10.1.2	Reforming Laws	105

CCRDA

10.1.3	Providing Legal Literacy Programmes	105
10.1.4	Creating Media Strategies	105
10.1.5	Organising Public Forums on Women's Land Rights	105
10.1.6	Documenting Women's Realities on Land	106
10.1.7	Formation of a National Task Force on Women's Land Rights	106
10.1.8	Establishing Women's De Facto Inheritance Rights	107
10.1.9	Strengthening Channels for Land Claims	107
10.1.10	Exploring Joint Management and Promoting and Infrastructural Support	108
10.1.11	Building Group Support among and Women	108
10.1.12	Politicising Women's Land Rights	109
11.0	**ACTIONS AT THE SUB-REGIONAL LEVEL**	**111**
11.1	Building a Plat Form for Action on Women's Land Rights	111
11.2	Joint Planning, Implementation, Coordination and Monitoring of Women's Land Rights Activities in the Sub-Region	111
11.3	Formation of a Sub-Regional Task on Women's Land Rights	112
11.4	Developing Sub-Regional Programmes	112
11.5	Identifying Progress Monitoring Indicators	112
11.6	Strategies For Information Sharing	112
11.7	Best Practice Strategies	112
12.0	**AN ACTION PLAN**	**113**
12.1	Framework For Action	113
12.1.1	National Level	113
12.1.1.1	Formation of a National Task Force	113
12.1.1.2	Launching Legal Literacy Programme	113
12.1.1.3	Launching Public Forums and Media Strategies	114
12.1.1.4	Documenting Women's Realities on Land	114
12.2.1	Sub-Regional Level	114
12.2.2.1	Formation of a Sub-Regional Task Force	114
12.2.2.2	Making an Inventory on of All Actors	115
	REFERENCES	119

CCRDA

EXECUTIVE SUMMERY

The Eastern Africa Sub-Regional Support Initiative (EASSI) commissioned five countries of the sub-region: Tanzania, Kenya, Ethiopia, Eritrea and Uganda to carry out an action research on women's land rights. The main purpose of this research is to focus on women's rights over land ownership and suggest avenues for enhancing these rights in each country; analyse land policies and programmes, legal constraints and cultural practices that prohibit women from owning land; identify and highlight all initiatives being taken to enable women have access to and control over land. Attention is given to the country's existing land laws, causes of resistance and barriers to women's rights in land. The intended output of this research is to propose actions to be implemented at the national and sub-regional levels. The output is therefore intended to provide concrete action plans as and a framework for advocacy on women's access to and control of land in Eastern Africa.

The research is carried out within the context that development strategies of the African countries have stressed industrialisation, urbanisation, dynamic forces for structural transformation and equitable growth but these have failed to sustain these economies. Most of these countries therefore continue to depend on agriculture for employment, income, foreign exchange earnings and government revenue, and yet agriculture is still characterised by traditional techniques and generally low-level productivity. While women play an important role in agricultural production, especially the food sub-sector, their role as producers and agents of change in the much-needed rural transformation has been severely constrained by their meagre share in the means of production, land, capital, credit and technology, and by their marginalisation in production The rural population seems to be the most affected as even minimum basic needs have not been adequately provided. Thus, in these economies, national development should be essentially concerned with rural development. This entails promotion of agricultural and non-rural farm activities, and increasing economic and social welfare levels of the population through employment creation, rising income and poverty reduction. The ultimate aim of rural development should be to improve the earning capacities of farmers and also to provide services and living conditions, which are better adapted to their needs. To achieve this, it is imperative to provide an enabling environment that will allow the participation of rural women and men in conceptualising, implementing and managing their development programmes.

CCRDA

There are many practical reasons for doing this research. The total production of food in the sub-region is decreasing and cannot adequately feed the growing populations. The most neglected factors in the causation of the shortage of food has been the extent to which the non- availability of production resources to women affects the production of food. Women play crucial roles in agriculture as producers and providers of food. They work on land more than any other category of society, providing 80-90 per cent of the labour in subsistence production. The focus must therefore be on the needs of women farmers for it is they that the improvement of agriculture and food production will largely depend. A great majority of women live in unacceptable conditions of poverty, mostly in the developing countries. Women's poverty is directly related to the absence of economic opportunities and autonomy, lack of access to economic resources, including credit and land ownership The release of women's productive potential is pivotal to breaking the cycle of poverty so that women can share fully in the benefits of development and in the products of their own labour. For a significant majority of rural households, arable land is likely to remain for a long time the single most important source of security against poverty in rural Africa, even if it ceases to be the sole source of livelihood for many.

Gender gap in command over property is the single most important economic factor affecting the majority women's situation in this region. and therefore the most critical entry point to women's empowerment. Providing women with legal rights to land will not only empower them economically but also strengthen their ability to challenge social and political gender inequalities. Protecting women's rights to full and equal access to economic resources, including the right to inheritance and the ownership of land and other property, credit, natural resources and appropriate technology is one of the main critical areas of action towards the advancement of women and achievement of equality between women and men. Equity remains a central concept in development planning, particularly in terms of creating equal opportunities for everyone, irrespective of their gender. Gender equality is a measure of a just society, in which equality of rights over productive resources would be an important part. It is imperative that the availability of equal opportunities in access to and ownership of land be protected by policies and laws for women as for men.

This research is directed towards solving pressing problems of women's rights in land, which affect the daily lives of people in our countries. It an action/policy oriented research which aims at improving access to and control of land by women. The dominant function of research should be its use value to people and community

CCRDA

being studied. i.e. research on women's land rights should aim at improving access to and control of land of those particular women studied. The dominant function of research should be its use value to people and community being studied. i.e. research on women's land rights should aim at improving access to and control of land of those particular women studied. The dominant function of research should be its use value to people and community being studied. i.e. research on women's land rights should aim at improving access to and control of land of those particular women studied. The dominant function of research should be its use value to people and community being studied. i.e. research on women's land rights should aim at improving access to and control of land of those particular women studied. The dominant function of research should be its use value to people and community being studied. i.e. research on women's land rights should aim at improving access to and control of land of those particular women studied. Linkages are identified between micro and macro level, raising consciousness, planning strategies for implementation and creating effective change in women's land rights. This research focuses on women's aspirations and needs, their choices in land reform strategies for economic growths and for equity in power relations at the national level. It is an introspective research bringing out women's feelings thereby comprehending women's realities on land issues. It has identified gender-based constraints on land matters, indicated the direction of change and priority areas of change for positive action on land. Prospects have been explored for empowering women using women's organizations and collectives and finding allies both women and men in the corridors of power who will support the women's aspirations regarding their land rights. The research is part of the struggle against women's oppression and exploitation.. Our yards stick has been, the needs and interest of the majority of women with the focus to change the status quo. All the techniques used in documenting and analysing historical processes of changes in land reform policies has been a process of conscientisation which we hope will subsequently lead to action and change in the current status of women's land rights.

Conclusions have been drawn from research findings of the five countries. A historical perspective is presented of how women's marginalisation in land began. In the pre-colonial period the most common land tenure system is termed communal tenure, whereby land belonged to no one individual in particular but to the clan or community. The pre-colonial tenure system benefited women whose role in agriculture and food production was recognised by customary rights of access to land and support from the family labour. Land formed the foci of social relations based on the principle of

CCRDA

kinship, residence and allegiance and as long as these relations which gave rights to land were maintained, the question of having no land seldom became alive issue. The advent of European colonial capitalism drastically altered former patterns of land use and occupancy in many places. In this process, gender relations to land began to be modified overtime by a major intrusion, namely, colonial capitalist notions of male property ownership.

The countries of Eastern African have been undertaking land reforms involving varying degrees of policy changes, including redistribution of public or private land, consolidation of holdings, re-settlement schemes, changes in land ownership, tenurial rights and changes in conditions of tenure such as the conversion from customary to Western legal rights statutes. In these processes, several problems arise towards women's access to and ownership of land. The land reforms do not necessarily promote women's legal ownership and inheritance rights. Instead some of these reforms have undermined women's traditional use right under customary land tenure by registering family land in the name of the husband or son. Customary law often poses a problem and hinders the enforcement of laws that positively considers women's rights in land. Economic restructuring and land distribution policies have often excluded women because bureaucrats are almost always gender insensitive. The land market remains inaccessible to women for lack of financial resources.

Characteristically, the land reforms programmes focus on the household as the unit production portraying the dominant view that men are breadwinners and women the dependants of production, forgetting that there is always a sexual division of labour as well as sexual division of management of certain crops, plots and the rights of appropriation over produce. The agrarian land tenure policies have restricted women's access to land and other factors of agricultural production such as technology, credit subsidy and inputs are directed to the male landowner Women have not had equal access to support services and incentive systems for expanding agriculture and food production, for example, in extension and training services and information disadvantaging women farmers and increasing their dependence on male mediation. Women remain disadvantaged in respect to freedom to manage and use family land since land use organisation is usually based on the supremacy of the male head of a household. As a result men rather than women more often control intra-family decisions related to agriculture, yet the domestic economy continues to rely heavily on women's labour and their contribution to household subsistence. Whether women

GCRDA

directly benefit from their labour is a critical issue in regard to food production and food security. This clearly illustrates the extent to which an inter-play of cultural, historical, socio-economic, legal and political processes have structured and reinforced the marginalisation. of women in agriculture.

Actions and strategies are recommended for addressing women's land rights. At the national level these include engendering national constitutions, formulating gender policies, reforming laws, providing legal literacy programmes, creating media strategies, organising public forums on, documenting women's realities on land and forming a national task force on women's land rights. At the sub-regional, level the strategies are: building a platform for action on women's land rights, making a joint planning, implementation, coordination and monitoring activities on women's land rights, forming a sub-regional task force and developing a sub-regional programme to address women's access to and control of land in Eastern Africa. Finally an action plan is proposed to address women's access to and control of land in Eastern Africa.

CCRDA

1.0 BACKGROUND

The Eastern Africa Sub-Regional Support Initiative (EASSI) held a conference in October 1998 under the theme of "Consolidating Gains and Enhancing Strategies for a Common Vision." At this Conference the issue of women's land rights was addressed by representatives from, Uganda, Kenya, Tanzania, Eritrea, Ethiopia, Burundi and Rwanda. From these presentations it became evident that there are common elements in the land tenure systems of these countries that exclude women from land ownership, restrict their usufruct rights, deny them benefits from their labour input and affect their food production. Land being the most necessary, basic resource and essential to the livelihood of the majority of people is therefore very much linked to the economic growth and development of these countries. It was unanimously decided that unless women's land rights are seriously addressed from now on, the women may remain at the periphery of economic development (EASSI, 199).

The Eastern Africa Sub-Regional Support Initiative (EASSI) as part of its priority area of focus commissioned five countries of the sub-region: Tanzania, Kenya, Ethiopia, Eritrea and Uganda to conduct research on women's land rights. This paper presents a synthesis of the five country researches. The main purpose of this research was to focus on women's rights over land ownership and suggest avenues for enhancing these rights in each country; analyse land policies and programmes, legal constraints and cultural practices that prohibit women from owning land; and identify and highlight all initiatives being taken to enable women have access to and control over land. Attention is given to the country's existing land laws and causes of resistance to women's rights to land. The intended purpose of this research are: comprehensive assessment of land policy and legal frameworks on each of the countries and concrete recommendations for appropriate interventions; identified actions and actors at community, district, national, sub-regional level on women and land rights; increased political consciousness among women on women's land rights, including increased understanding, knowledge by women of land issues, increased confidence among women to claim their rights over land and increased women's demand making power; increased support and commitment, gender responsive land laws among policy makes, legislatures, the media and the general public; increased public awareness, legal and social considerations underpinning land legislations; and increased networking, lobbying and advocacy on women's land rights. to propose actions to be implemented at the national and sub-regional levels. This is intended to provide concrete actions

CCRDA

plans as a framework for advocacy on women's access to and control of land in Eastern Africa.

2.0 THE AFRICAN CONTEXT

Africa's central problem of underdevelopment arises from structures of production, consumption, technology, employment and socio-political organisation including problem of mass poverty, food shortage, low productivity, weak production base and backward technology. This crisis is exacerbated by factors that affect economic performance. These include inflation; export earnings instability, balance of payment deficits and rising debt burdens, which are the direct result of the lack of structural transformation, the unfavourable physical and socio-economic environment and the excessive outward orientation and dependence. Natural and human factors have continued to erode the natural resource base, which is needed to sustain Africa's development. These factors include over-use and misuse of the soil, poor conservation policies, overgrazing, deforestation, draught salination, river system pollution and water logging. The cumulative effect of these factors has led to reduce carrying capacity of the land at present levels of technology, reduced productivity, social dislocation and accentuation of absolute poverty in the rural areas. (Ondiege, 1992:125).

The past development strategies that stressed industrialisation and urbanisation have failed to sustain the growth of these economies. Objectives of providing dynamic forces for the structural transformation of their economies and promotion of equitable growth have not been successful. Most African countries therefore continue to depend on agriculture for employment, income, foreign exchange earnings and government revenue, and yet agriculture is still characterised by traditional techniques a generally low-level productivity. Most efforts to transform this sector have been concentrated on export sub-sectors. While women play an important role in agricultural production, especially the food sub-sector, their role as producers and agents of change in the much-needed rural transformation has been severely constrained by their meagre share in the means of production, land, capital, credit and technology, and by their marginalisation in production relations (Ondiege, 1992:126).

In sub-Saharan Africa, the rural population seems to be the most affected as even minimum basic needs have not been adequately provided. Thus, in these

CCRDA

economies, national development should be essentially concerned with rural development. This entails promotion of agricultural and non-rural farm activities, and increasing economic and social welfare levels of the population through employment creation, rising income and poverty reduction. The ultimate aim of rural development should be to improve the earning capacities of farmers and also to provide services and living conditions, which are better adapted to their needs. To achieve this, it is imperative to provide an enabling environment that will allow the participation of rural women and men in conceptualising, implementing and managing their development programmes.

In an agrarian economy such as that of the Eastern Africa sub-regional countries arable land is the most valuable form of property, for its economic as well as its political and symbolic importance. Land is a productive, wealth creating and livelihood-sustaining asset. For many, land provides a sense of identity and rootedness within the village, and in people's minds land has a durability and permanence which no other asset possesses in the rural areas (Akinyi-Nzioki. 2000:34) In this context, women play crucial roles in agriculture as producers and providers of food. They work on land more than any other category of society, providing 80-90 per cent of the labour in subsistence production, and over 70 per cent in cash-crop production yet they suffer discrimination in all matters relating to land ownership. The problems facing women's efforts in food production are several and complex, and range from historical transformation of African agriculture from the pre-capitalist mode of production to the capitalist mode of production, lack of land rights for food production, decision-making power over land use to the division of labour along gender lines.

CCRDA

3.0 THE PROBLEM

The Eastern African countries have been undertaking land reforms which involves changing institutional structures that govern people's land rights in order to accommodate socio-economic changes arising from factors such as increased population, re-structuring of land use systems for higher productivity or distribution of land to create equality The adjustment of these structures, which have led to these reform, is often concerned with social and equity considerations. This has involved varying degrees of structural changes, including redistribution of public or private land, consolidation of holdings, changes in land ownership, and tenurial rights and changes in conditions of tenure such as the conversion from customary to Western statutes of legal rights to land. In these processes, several problems arise towards women's access to and ownership of land. Customary law often poses a problem and hinders the enforcement of laws that positively considers women's rights in land. For example in countries where inheritance laws have been enacted in favour of women such as Eritrea or Ethiopia, they are not effectively implemented because of social resistance and the various ways in which males in the family repossess the land. The conflict between positive law and customary law is indeed difficult to address and requires political courage and commitment. Furthermore, the fact that male spouses are considered the head of the family promotes the exclusion of women from access to economic resources. In addition, economic restructuring and land distribution policies have often excluded women because bureaucrats are almost always gender insensitive. The land market still remains inaccessible to women for lack of financial resources. Worse still many in the countries are still unwilling to recognise women's rights to property as a basic individual right deriving from their rights as human beings.

The land reform processes, land distribution and registration of titles is being conducted on the basis that the power of control under customary law is equivalent to ownership by the male members society – heads of the family -without at the same time imposing obligations towards women use rights and bestowing life-long tenancies on male heads of households. Most of these reforms therefore do not promote women's legal ownership and inheritance rights. Indeed, in most cases they have undermined the women's traditional use right under customary land tenure by registering family land in the name of the husband or son. This, in essence, implies that the registered land titles in the names of male members of the family, have both increased control over distribution of land by the men in the family and the

CCRDA

dependency of women on their male relatives to access land. Thus, women continue to depend upon the good will of their husbands and male relatives to grow food.

Theoretically, it is assumed that tenure reform gives equal chances to both women and men to buy land from their own resources but very few women in fact own land. Limited cash income, and their restricted employment opportunities outside the home make land purchase unaffordable for most rural women. Possibilities of women acquiring land other than through inheritance are usually small. Under African customary law daughters generally do not have inheritance rights to family land. Many families in Africa hope that their daughters will marry and so use the land belonging to the family of their husbands. It is assumed that women always get married, and that their husbands always give them land when they need it. An unmarried woman only has limited user rights in the family where she was born. The likelihood of daughters inheriting land is only where families have no sons (Nzioki:1999)

On the other hand widows who are eligible to inherit the deceased husband's land may not always do so, and those who inherit do so in severely restricted terms. The nature of rights that a widow enjoys in her husband's land are, in practice, contingent on a variety of factors, such as whether or not she is inherited by the relatives of the deceased husband, remains single and chaste, whether she has minor sons and whether the deceased husband had been allocated a separate land from the joint family land before his death. A widow usually loses her rights if she re- marries, leaves her husband's village on his death, if she only has a daughter or is childless. A woman with minor sons is allowed to use the husband's land as a trustee on behalf of her sons till they grow to adulthood, after which she is expected to live with one of them but has no independent use to the land.
Whether daughters, wives or widows, women virtually never inherit family land.

> *It is also important to note that widespread disinheritance of women as daughters is a critical gender disadvantage which cannot be made up even if women's rights as widows are fully recognised. Once disinherited as daughters, most rural women for the major part of their lives would have no land of their own. This places women in significant weaker bargaining position* vis-a -vis *men, both within and outside the family (Agarwal 1994:16)*

CCRDA

A woman in a situation of divorce or separation can be extremely vulnerable. Since community properties belong to men, and divorced rural women are easily being left with little or no economic support. In such context, inheritance of land as a daughter would make a critical difference to her ability to sustain herself and her children.

One of the main objectives of land tenure reform is to ensure rapid development as individuals could then raise loans for agricultural development against the security of their titles (Ingham 1950; Republic of Kenya 1974). The link between land tenure and agricultural credit proves that losing rights to land goes a long way with losing access to loans women might have Since it is men who hold legal rights over, it is they who can get loans. Women's lack of access to credit influences their ability to assure household food security. On the other hand, registering land titles in individual male names also implies that the man has a theoretical and practical legal right to dispose of the land by sale or any other means without necessary recourse to the elders in the family who would ordinarily have the power to veto in matters of alienation of land by individuals. Husbands are using their newly private titles to seek loans over which they will have full personal control. Particularly vulnerable are the rights of related women (wives, daughters and sisters) therefore, whose husbands or fathers are able to mortgage their land for credit for these women may have little say in how the loan resources are used, and they are bound to be quite powerless to stop expropriation in the event of default. Together with kinship arbitration in case of conflict, the scarcity of land in general, and the periodical demands for cash, are all likely to increasingly limit women's access to land through outright disposal of such land and of the produce from such land by the individual owners. In the process, women may lose part of the land they had for food crops without gaining access to money from cash crops. If this is true for most arable land in this region, then women's obligation to produce food for their families is at risk.

It is also important to note that rural women's relationship with the outside world outside the family is typically mediated through male relatives: fathers, husbands, brothers or male extended kin. This especially affects women's access to economic institutions like banks, markets and judicial and administrative bodies, which deal with land. The physical and social restrictions are explicit and subtle, but nevertheless effectively restrict women if they wish to undertake land transactions independent of their marital homes or access information on the laws, which is a crucial prerequisite for exercising their legal rights. The judicial and land administrative officials are usually men and the fact that women need male mediation reduces their ability to act as independent agents

CGRDA

in relationship to their legal rights. At the same time, this very dependency on male relatives also leaves a woman especially vulnerable to being duped by the male mediators when they are interested parties. Since women are represented by their male kin in most dealings with non-kin sector of society, particularly government sector, women do not have the opportunity to speak for themselves and make viable land claims when they are aware of them. Theoretically, national legislations on land protect women by the land control boards against unreasonable sales and other disposals of land by male relatives, but no one has yet demonstrated how effective this protection is. On the other hand, women's lack of knowledge of the law prevents them from demanding their rights, particularly where cultural factors have reinforced male managerial and financial control over female property. Thus private property in land has far reaching consequences for women's relationship to land.

The ideological assumptions about women's needs, work, roles, capabilities and so on, impinges on the framing and implementation of land policies and laws relating to property. Again ideas of gender underlie practices such control of women's mobility and associated practices and restrict women's ability both to exercise, claim or challenge gender inequalities in law, policy and practice. Hence the gender ideological struggle is linked to women's struggles over property rights. How property ownership or control in the community is socially distributed can significantly affect women's ability or the courage to acquire their own land within the communities they live. Those who own and control land in the community can exercise considerable direct control over the principal institutions that shape ideology, which can either be gender progressive or retrogressive.

CCRDA

4.0 JUSTIFICATION FOR WOMEN'S LAND RIGHTS

4.1 Food Security

There are a number of practical reasons why women's rights in land must be addressed. At this time when the total production of food in the sub-region is decreasing and cannot adequately feed the growing populations, there is an urgent need to look into the constraints of those who produce food- the women. The immediacy with which food aid has to be sought tends to obscure the fact that food shortages not only occur as a result of a multiple of factors such as draught, desertification, disease, mismanagement, each of which perhaps contributes a small percentage of the total deficit in food, and all of which are significant in the contribution of the suffering that results when stomachs go empty (Ndumbu, 1985:32). One of the most neglected factors in the causation of the shortage of food has been the extent to which the non- availability of production resources to women affects the production of food.

Few researches have been carried out to determine the debilitating factors in the food deficit for African countries and even fewer have been carried out to discover how the talents, time and energies of women can be utilised at the national planning level, to stem the food shortage. While strategies to encourage African agriculture must be multi-faceted and must face the varied facets of the farming system, in most sub-Saharan countries, "the focus must be on the needs of women farmers for it is they that the improvement of agriculture and food production will largely depend" If women are currently the major food producers, then their productivity will depend not only on improving land as the basic resource they use in production, but will also be determined by how much access to and control they have of this resource.

4.2 Poverty Alleviation Strategy

A great majority of women live in unacceptable conditions of poverty, mostly in the developing countries. Poverty have various causes, including structural adjustment programmes, globolisation of the worlds economy, persistent, unmanageable levels of external debt, structural adjustment programmes and the gender disparities in economic power- sharing. The eradication of poverty cannot be accomplished through anti-poverty programmes alone but will require democratic participation and changes in economic structures in order to ensure access for all women to resources, opportunities and public services. In the past decade the number of women living in poverty has increased disproportionately to the number of men, particularly in the

GCRDA

developing countries as a result of economic factors, the rigidity of socially ascribed gender roles, women's limited access to power, education, training and productive resources such as land. Women's poverty is directly related to the absence of economic opportunities and autonomy, lack of access to economic resources, including credit, land ownership and credit. The productive capacity of women should be increased through access to capital, resources, credit, land, technology, information, technical assistance and training as to raise their income, improve nutrition, education, health and status within the household. The release of women's productive potential is pivotal to breaking the cycle of poverty so that women can share fully in the benefits of development and in the products of their own labour. (UN, The Platform for Action, 1995)

Researches done in Asia indicate that among poor households, lack of women's rights to land is linked to the household risk of poverty and destitution. Notable differences have been found in how women and men in poor households spend their incomes under their control: women of poor households typically spend almost all their incomes on purchasing goods for the family's general consumption and for children while men usually spend a significant part of their personal needs like tobacco and liquor (Agarwal, 1994: 28).

A corollary to the noted gender differential in spending patterns are research findings which suggest that children's nutritional status tends to be much more positively linked to the mothers earnings than the fathers. The risk of poverty and the physical well-being of a woman and her children could depend significantly on whether or not she has direct access to income and productive assets such as land, and not just access mediated through her husband or other male family members. Direct advantages of accessing land stems from the possibilities of growing crops, trees, vegetable garden, keeping livestock or practising sericulture. The indirect advantages include the possibility to mortgage, sell or rent in times of crisis.

Land Tenure Reform should favour not only the masses of the rural population in this sub-region, but women in particular, who represent well over half the agricultural labour force with an increasing number becoming de jure and de facto household heads and who continue to use land as their primary source of existence but without legal rights to the land they are cultivating. Studies already being generated from Eastern Africa are beginning to bring out women's voices of lament by highlighting the multiple facets of rural women's relationship with land, and the importance many

CCRDA

inequalities in the management of natural resources and in the safeguarding of the environment (United Nations, 1996 AND UN/OAU 1994).

It is from this background that the Platform for Action calls upon, governments to undertake legislative and administrative reforms to give women full and equal access to economic resources, including the right to inheritance and to ownership of land and other property. On the other hand the national, the international non-governmental organisations and women's groups are called upon to mobilise to protect women's rights to full and equal access to economic resources, including the right to inheritance and the ownership of land and other property, credit, natural resources and appropriate technology.

EASSI was formed in 1996 as an initiative by Eastern African countries to follow up on the implementation of the Beijing Platform for Action and the Nairobi Forward Looking Strategies. EASSI's main objectives is to facilitate linkages, collaboration, networks and information sharing among different actors and stakeholders in 8 member countries in the implementation, monitoring and evaluation of the African and Beijing Platform for Action. EASSI as part of its priority area of focus is undertaking action oriented research on women's land rights in six countries of the sub-region as part of the implementation of the Platform for Action.

CCRDA

4.5 A Human Rights Perspective

Equal rights of men and women are explicitly mentioned in the Preamble to the Charter of the United Nations and all the major international human rights instruments includes sex as one of the grounds upon which states may not discriminate. Discussion of international human rights includes agreement that economic or subsistence rights are as important as civil and political rights. The rights of rural women to take part in development programs and to have equal access to agricultural credit and equal participation in co-operatives or agrarian reform schemes are stressed. If such economic and social rights in practice were granted in practice, women would benefit substantially. The Platform for Action reaffirms that all human rights-civil, cultural, economic, political and social, including the right to development are universal, indivisible, interdependent, interrelated and that the human rights of women and the girl-child are integral part of universal rights (United Nations, 1996:122 para213). Recognition of the importance of the human rights of women is reflected in the fact that three quarters of the States Members of the UN have become parties to the Convention Of the Elimination of All Forms of Discrimination against women. The

changing gender relations in land rights falls within the human rights paradigm. The UN Declaration on the Elimination of Discrimination against Women, includes among others, the right to equality of men and women in the family and equal rights regarding property and inheritance. The International Conference on Population and Development reaffirms women's reproductive rights and the right to development.

From a philosophical point of view, if human rights includes all people by the virtue of their humanity, they must include women as well as men. From a practical point of view, economic development is unlikely to occur in Africa unless the needs and wants of women are considered. Agricultural projects that ignore the prominent role of women in agricultural production, as well as differential power of women and men in the home, will not succeed in their goals (Horward, 1986:188). As the cultural approved view of women's roles is changing as social structures change, women's rights must be protected in law and practice particularly when real constraints on human rights are hindered by differential access to material resources between women and men.

4.6 Equity and Equal Opportunity for Women

National Constitutions of the sub-regional countries categorically states that all citizens are equal and will be granted equal opportunities in all areas of development. Land Tenure Reform, which is part of the agrarian reform adopted by many countries within the countries, includes, among others, the promotion of equity. Thus, equity remains a central concept in development planning, particularly in terms of creating equal opportunities for everyone, irrespective of their gender. Perhaps the most burdensome economic discrimination of all derives from laws limiting access to productive resources. Gender equality is a measure of a just society, in which equality of rights over productive resources would be an important part. It is within this framework that women would like to see themselves as equal partners in the management of both household and national affairs. For the purposes of this research our central argument is that if women are to enjoy equity with men in life-long access to and ownership of land, regardless of their social or marital status, then their land rights must be secure. It is imperative that the availability of equal opportunities in access to and ownership of land must be protected by law for women as for men.

CCRDA

5.0 RESEARCH METHODOLOGY

5.1 The Perspective

Women's land rights are linked to the overall development and therefore it is critical that we begin to articulate our own needs from an African perspective, committed to this type of study which would lead to the transformation of the lives of African women in the sub region and the continent as a whole. The research is directed towards solving pressing problems of women's rights in land which affect the daily lives of our people. It an action/policy oriented research which aims at improving access to and control of land by women in the sub-region. The dominant function of research should be its use value to people and community being studied. i.e research on women's land rights should aim at improving access to and control of land of those particular women studied. The dominant function of research should be its use value to people and community being studied. i.e research on women's land rights should aim at improving access to and control of land of those particular women studied. The dominant function of research should be its use value to people and community being studied. i.e research on women's land rights should aim at improving access to and control of land of those particular women studied. The dominant function of research should be its use value to people and community being studied. i.e research on women's land rights should aim at improving access to and control of land of those particular women studied. The dominant function of research should be its use value to people and community being studied. i.e research on women's land rights should aim at improving access to and control of land of those particular women studied. The dominant function of research should be its use value to people and community being studied. i.e research on women's land rights should aim at improving access to and control of land of those particular women studied. Linkages are identified between micro and macro level, raising consciousness, planning strategies for implementation and creating effective change in women's land rights. The research methods have been perceived from an African Feminist Perspective which out of necessity is partisan – that is dedicated to the progress of the African woman: Feminism is described here as:

> *A political consciousness by women, which leads to a strong sense of self-awareness, self-esteem, female solidarity and consequently, the questioning and challenging of gender inequalities in social systems and institution. (Ifi Amadiume 1987).*

CCRDA

5.2 The Approach

It is recognised that despite decades of research activities in Africa using dominant research methods the socio- economic problems have worsened. The women are particularly affected as many policies and historical processes designed to mainstream Africa into the world economy have been detrimental to them. Instead of studying the impacts globalisation and liberalisation processes on Africa, most researches are concentrated on producing essentially useless data. Researches on African women are often conducted with interest and priorities that are not of benefit to them. Women with access to economic power in the world system continue to dominate research in Africa, as well as attempting to define African womanhood (AAWORD).

5.3 Strategies

Our strategy therefore is make this research effective. In order to do this we began to re-think, restructure research methods to reflect; analyse and see how to bring about meaningful change in the conditions of the majority of African women; to discuss new ways of looking at women's roles and suggest strategies for linking research to action. Our strategy is therefore centred on the above-mentioned perspectives, selecting the following units of analysis, and methods sensitive to African women's lives. *Individual interviews* have been done using questionnaires as a data-collecting instrument and found important in assessing attitude, knowledge and practice. The *group focus was* used as an appropriate approach since the individual status is derived through membership in a group kin or clan.. The collective focus usually represent female and male spheres of activities as separate but interacting and complimentary in a number of economic, cultural and administrative purposes. This was also found important because it makes women more visible, eliciting their worldview, activities and roles. It involved rural women who are already mobilised. and could be conscientisize through the discussion groups. It was very relevant in terms of resource allocation especially land; and has a greater scope of linking research to action. The *household* is essentially seen as a residential unit of consumption, procreation and socialisation. The household is viewed as a dynamic unit relating with larger structures, national and international systems. The specific roles in this unit is to elucidate the household's power positions and property rights within it.

The following methods were used : *Action research* whose primary intention is to solve the specific, immediate and concrete problem of women's rights in land. The

CCRDA

concern here is not whether the research results are generalised because the major goal is to seek solution to the problem of women rights in land and not to contribute to theory. Action research is found useful because it provides answers to problems that cannot wait for theoretical solutions. *Participatory Research for Action* consisted of regular forms of surveys already conducted by governments on a large scale with detailed information on each community. This data was used for specific communities where research was taking place with the aim of providing the community with information through public discussions, enhancing their awareness and finding possible solution to the problem. *Participatory Research through Action* was used by forming groups within the communities and together finding a common action to change their situation. *Key informants* was important in that these are already informed members of the community on women's land rights and can play a leading role in changing the situation . *Profiles and in-depth inquiry*, captured women's voices and their experiences on land. *Workshop Method* approach was encouraged because it enabled more people to participate in the study, it was a quick way of generating a lot of information, provided a forum for creating awareness and initiated the process of addressing the issue of land ownership by women and follow up. *Secondary Data*, a review of relevant literature and a comprehensive assessment of land policies and legal frameworks have been undertaken to make concrete recommendations for change.

CCRDA

5.4 The Principle

These methods are meant to facilitate deep and complex analysis including a holistic orientation of women's land rights. Quantitative and qualitative methods are important, however emphasis was placed on the qualitative where a detailed research method included the use of traditional devices such as questionnaire, interviews handled in such a manner sensitive to the needs and aspirations of our people. This was to evolve more objective and relevant conceptualisation of the African woman's reality, but most important to promote critical research intended to lead to conscientization, action and profound change with regard to women's land rights in the sub-region. A multi-method approach was therefore recommended to reveal the best results. Impersonal and alienating methods were avoided. All research instruments , questionnaire were not only developed to be socially and culturally acceptable but clearly and definitely accepted to the women. Local methods of communication were reflected in discussions especially the women's worldview, their perception and ideology. The researcher who were themselves indigenous to their countries and were therefore, competent in drawing conclusions

and making recommendations which do not lead to disastrous impact on the people we intended to help develop. They understood the targeted groups: their structures, functioning, decisions and attitudes. The researchers were conversant with the wider context in which the communities interact, socio-political constraints, religious and cultural constraints, degree of knowledge and possible degree of change within these communities and the country as whole.

This research focuses on women's aspirations and needs, their choices in land reform strategies for economic growths and for equity in power relations at the national level. It is an introspective research which brings out women's feelings including anger and frustration and thereby comprehending women's realities on land issues.

It has identified gender-based constraints on land matters, indicated the direction of change and priority areas of change for positive action on land. Major focus have explored prospects for empowering women using women's organisations and collectives and finding allies (women and men) in the corridors of power who will support the women's aspirations regarding their land rights.

We have deliberately endeavoured to make the research part of the struggle against women's oppression and exploitation.. The needs and interest of the majority of women has become our yards stick and the focus of our research is to change the status quo. All the techniques used in documenting and analysing historical processes of changes in land reform policies has now become a process of conscientization which we hope will lead subsequently to action and change in the current status of women's rights in land.

CCRDA

5.5 Theoretical Assumption

002Theoretical AssumptionsInvestigative frameworks are based on the following assumptions; that liberalisation and 004Investigative frameworks are based on the following assumptions; that liberalisation globolisation of the African economies creates inequalities between and within nations along the lines of race and class; that African countries are closely linked to the international money economy in a dependent relationship and are strongly influenced by the Western capitalist ideology; that government policies affect all levels of society but women are affected as a group by virtue of their specific roles in production and reproduction; and that the majority of women are adversely affected by current development policies

leading to their marginalisation, increasing their workload and responsibilities (AAWORD).

The objective of this framework is: to elicit the micro level women's roles and position and place it within a historical macro system in order to understand and combat the marginalisation of the majority of African women and the deterioration of their status; and to initiate enduring action strategies through women's collective, local groups and national bodies in order to eliminate negative influence of current development trends in land reform processes and policies in this region.

CCRDA

6. SUMMARY OF RESEARCH REPORTS

6.1 Eritrea

Eritrea is one of the countries in the Horn of Africa occupying 124,400 square kilometres of land surface. The population is estimated to be about 3.5% million with approximately 30-45% female headed households. The country is divided into six administrative regions, namely, Anseba, Debub, Gash-Barka, Maekel, Northern Red Sea and Southern Red Sea. The population is predominantly agrarian, 80% depend on agriculture for their livelihood, of which 50% are engage subsistence farming, while the rest are either pastoralists or agro-pastoralists. Out of the total arable land of 32,000 square kilometres, only 3,840 square kilometres (12 %) of land has been so far distributed, meaning that there is still land which could benefit women.

Women's role in traditional agriculture is extensive. In the central highlands women participate in all the agricultural work, such as, planting, weeding, harvesting, threshing, winnowing, storing, preparation and processing except in ploughing and sowing. In the lowlands, women's role is limited to looking after livestock, milking goats and cows and processing butter and cheese. Eritrean women work at list 14 to 16 hours a day combining housework and farm-work. As observed in Tigrina :

> *The life of peasant women ··· was one of continual back-breaking labour. They rose about 3 am to begin the labouring task of grinding grain by hand, using a stone, and then accompanied their husbands to the fields. There, they joined in all work except ploughing from which custom excluded them. On their return home at the end of the day, they prepared food for the family and carried out domestic chores including washing their husbands' feet- rarely sleeping before mid - night.'*

Despite their contribution to agriculture women do not own land, seeds, oxen and other farming assets, their work is commonly perceived only as supportive. The female-headed households are further burdened with the responsibilities of heading families coupled with lack of farm resources such as oxen and plough which makes their situation more vulnerable. The cultural norms in many regions of Eritrea do not allow women to perform activities like ploughing, clearing land and sowing. All customary laws of the nine ethnic communities inhabiting the country (Afar, Bilen, Hedarb, Kunama, Nara, Rashaida, Saho, Tigre and Tigrigna) deny women both access to and ownership of land, on the pretext that men are the breadwinners of

CCRDA

their households. By controlling the households resources, the men have gained the power of controlling the woman's labour, mobility, sexuality, and fertility. (Tsegai Teamrat, 1996: 77-79)

Traditionally land tenure system in the highlands of Eritrea was known as *Diesa* which means a thing held in common. That is, all village land was conceived as the common property of all the men in the community. Nevertheless, land was held according to the different social status of families. The *Deqqi Abat* (Singular:*Wode Abat*) assumed the village leadership due to their descent through a male lineage. and founding father of the village. The *Ma'kelai Alet* - settler family and *Deqqi Gual* - descendents from a female ancestor had lower social status in comparison with the *Deqqi abat*. Thus, every member of the village who had established a *tisha* - a residential home-and who could prove that he is a *Wode Abat,*- was entitled to a share of village land - *gebri*. The *Wode Abat* thus regarded themselves as the owners and leaders in settling land issues and other village affairs (Carlo Conti, 1948).

The dominant land tenure system in lowland Eritrea was *Risti or Tslmii* – the extended family *(Enda*) system of land ownership. In this system, the individual who held a plot from the clan land had to be a male descendant of founder of the *Enda*, who may have lived hundreds of years ago and believed to have acquired the land by occupation. A person could claim and receive a share of land in as many villages as he can prove his paternal as well as maternal descent from the founder of the *Enda*. An individual male could therefore own land which he might have inherited from his grandfather or great-grand father from different villages. Although the specific rights of individual holders of the *Tsilmi* varied from place to place, he was allowed to sell, lease or mortgage his plot. Nevertheless, a holder of a piece of the land wishing to sale or give it as a gift had to first offer it to his closest line of kinship or relatives. In case there were no relative wanting to buy the land, then consent is granted for its disposal to anybody. It was only then that sale transaction was considered valid, otherwise, a next of kin or a relative who was unaware of the sale transaction could recover the plot by paying the purchase price to the buyer within one to three years from the time the agreement was concluded. In this system, land was inherited by the male heirs of the deceased owner and it is equally divided among his sons. Wives virtually never inherited land while daughters were expected to get married and use the land belonging to the family line of their husbands. A

CCRDA

widow usually lost her rights if she re-married (Journal of the International African Studies, January 1946)

In 1926, the Italians declared unoccupied land and forests as government land. Such lands however were seized from some families or communities and subsequently granted to Italian nationals as concessions. In 1952, Ethiopia annexed Eritrea as a part of its country and from then onwards the history of land reform in Eritrea is linked to that of Ethiopia. Land was vested into the hands of the king who had royal powers over his subjects and territories under his rule including Eritrea. This was so until the king was overthrown in 1974 by the Derg Regime.

When the Derg Regime took power they began to implement socialist policy countywide and in 1975 declared a Land Proclamation in which land was to be distributed to the peasants. During the implementation, committees made out of the army had been authorised to carry out the task of implementing the land reform. Members of the Armed Forces led the project although women were not part of these committees as they were generally absent both from the army and the Peasant Associations. The task of implementing the reform was given to the male peasants. A peasant-usually husband was registered as a member of Peasant Association on behalf of his family and allocated land. Women as wives were excluded from being registered under the Peasant Association and therefore were not allocated land (Rohmato, 1984: 49 and Hanna Kebede, 1990: 63). However, women headed household were registered as members of the Association but only in the absence of their husbands. The new institution of Peasants Association replaced the traditional village committees and the customary laws that had governed the distribution of land among villagers. Nevertheless, due to the control by the Eritrean liberation movements in the lowlands at that time, the Derg could neither enforce these policies in the lowland areas nor institute the peasants' association, except in few areas like Seraye and Hamssien provinces.

During the time of the armed struggle for independence the Eritrean Peoples Liberation Front (EPLF) had two big goals, to achieve: full national independence by liberating all the sovereign land of Eritrean from Ethiopia and promoting social transformation in the liberated areas. One of the main focus of the policy of social transformation was the advancement and equality of women and other less advantaged groups of society. A decrees was declared and land distribution initiated where it had been delayed. In the decree it was stated that upon divorce family

CCRDA

property was to be divided between wife and husband; women and widows with children shall take full share- *mullu'e gebri*; a childless woman shall have the right to a half of family plot; an unmarried woman receives half of a family plot; a woman who returns to her village upon divorce, may according to her choice receive land in her home or husband's village and the rights of *Makelai Aliets* and *Deqqi Gual* to land is also to be respected in the same manner as those of women. Opposition was encountered against the above stated decrees. Two villages, Tahitai Dembezan and Tserona. in the highlands opposed the entitlement of full share of land to a woman with children because *'women would be encouraged to have children outside of wedlock in order to easily obtain land. Furthermore, they would be encouraged to divorce their husbands easily for they know they would obtain land and this would lead to the destruction of families'*

The EPLF in a non-discriminatory approach where the Land Proclamation was implemented, distributed land among the entire residents of the villages and made it possible for women, *Makelay Aleit* – settler families and *Deqqi Gual* – female descendants, to be involved equally in the administration of land. Thus the EPLF changed the power relations in the administration of village affairs and provided for an equal representation of all the villagers, women and men, in the different land committees and village institutions. The *Deqqi Abat* – who had originally perceived land not only for its economic value but as an identity were very much offended since the reform allowed *Wodi Gual* (women descendants) and *Makely Aleit* (settlers) to manage land affairs but more so that women were now committee members governing land distribution, since according to them *'women customarily only administer household affairs but not such higher level of village/community affairs'*. Although the EPLF had succeeded in bringing the above mentioned social groups to participate in the land administration process, the land tenure system, the *Diessa* was not changed (Woldegabriel 1998:51-61)

From 1977-1981 the EPLF undertook land reform and in 1980, drafted a new land law that provides women's equal rights in access to land as men.. Land was to allotted according to the size and status of the household. For example in the former Seraye Province married couples were given a full share *(mull'ue gebri)*, the divorced half, (*Firki*), and the single parents got three quarters of a full share without discrimination on the basis of gender. The reform however has been based on the *Diesa* land tenure system in a province whose members of the community practised the *Tslmi* system and therefore it was not readily accepted. The male peasants were

CCRDA

not happy to see women get land and expressed in Tigrigna language that *'While 'Resit' (land) should always be under the control of the rightful owners (the men), now it has fallen into the hands of women, while the men are forced to become wonderers in strange places elsewhere.'* Given the socialist principles, the land reform to a certain extent improved women's land right. Rural women, including few nomadic women who now owned land in their own rights as heads of households begun to make major decisions and take leadership roles in their communities, particularly in Tsilma District where 32.5% of the land is under the control of women-headed households. Nevertheless, the reform has mainly benefited the male heads of households in whose names the family land was now registered. The status of women in male-headed households remain the same – they only have access rights to land belonging to their husbands thus perpetuating the old patriarchal system that only allowed women to be responsible over family land in the absence of the husband. The women in the land distribution committees also failed to bring the discriminatory practices in the implementation process to the attention of the public mainly because of their lack of awareness on the issue. The reform has been criticised as being implemented without research, training and mobilisation of the communities and therefore not effectively implemented. (Ministry of Agriculture, Water and Environment)

In 1994 the independent Government of Eritrea further made a Land Proclamation which declares full respect to women's equal rights in land. Under this proclamation, land is under the full ownership of the state *'Any Eritrean citizen shall have, pursuant to this proclamation and government authorization, the right to obtain land for housing or farming or both housing and farming activities in existing villages, or villages or other places to be established.'* and, *'Any Eritrean citizen shall enjoy these rights equally with no discrimination on the ground of sex, belief, race and clan.'*

Provisions are also given to married persons and divorced spouses. Spouses eligible to obtain usufruct right over farm land are granted individual rights from land allocated for farming activities in their place of permanent residence. A wife who resides in the village of her husband is entitled to obtain usufruct right over land in her home village. A man who resides in the village of his wife can obtain usufruct right over land in his home village. Therefore, each spouse can be allotted land, and have it registered in her/his name. In addition to their entitlement for land, spouses have the right to obtain usufruct right over land for farming in or on the vicinity of the place they choose to reside permanent. Where spouses build house on land

CCRDA

obtained prior to their marriage, the land is registered as personal property. Upon divorce the spouse retains his/her individual usufruct right over land allotted and each may settle on the land. A divorced women who had been allotted land in her former husband's village, and is unable, for good cause, to use the land allotted to her, may obtain another land for farming by applying to the Land Administrative Board and farmland obtained before divorce, restored to the government. A divorced husband who returns to his home village may likewise obtain a replacement of land for farming around his home (Land Proclamation 1994: Article 6 and 16.)

Thus, the new land reform, positively considers different categories of women whether a wife, single, divorced or widowed. The new land law grants to the allottee a life time use of the land, to make improvements on the land and enjoy the fruits of the land. It further grants a usufruct right over farming land the possibility of converting the usufruct right over the allotment to a lease right in accordance with the relevant provisions of the Eritrean Civil Code (Tsegai Teamrat, 1996: 77-79)

In order to further assess the effects of the land tenure reforms on women, a study was conducted in Anseba- where land reform has not been done, Gash-Barka areas where land reform has been undertaken by the various Governments or liberation movements, Northern Red Sea and Debub Regions where land has been distributed after the 1994 land policy was proclaimed. Presently, five distinct land tenure systems prevails in Eritrea namely: the extended family system of ownership of land *Risti/Tslmii* , community ownership of land *Diessa*, the church land, individual ownership and government land.

The Diesa system is still practiced in the former provinces of Hamassien and Seraye and Shehena in Akeleguzay in which all the male members – descendants of the founding father in the village is entitled to a share of village land. However, there is discrimination on the female members of the village community. Although as a general rule, women are not entitled to any share of village land, in cases where a woman remains unmarried and has no brothers or where she gets divorced and decides to remain a widow, she is customarily entitled to residential rights and half a share of village land. These rights given to women are not inheritable. Members of the community who have fulfilled the dual requirements of residence and proved their descent receive their share of village land by means of a periodical redistribution known as a *warieda* which is supposed to take place every 5 to 7 years. However,

CCRDA

due to the reluctance by some powerful members of the village the periodical rotation of re-distribution of the land is delayed. Land is distributed to every member village equally in size and quality – that is every male person receives an equal share from the fertile and the unfertile land

The process of redistribution of land is carried out by the drawing lot and the three male elders who are selected are entrusted with the responsibility of equal distribution of land among the village male members of the community. They are then the ones to decide the persons entitled to a share or half a share of village land. These elders are also privileged in that they are entitled to choose more fertile fields for their use in recognition of their services. Women are excluded from any of the above land administrative jobs. Young men of the community who have established their own families or had been absent but returned to the village are customarily required to wait until the next land distribution before they can claim or receive their share. The necessary reserve of land from which any such demands are met is furnished by the recovery of land from members of the village who have abandoned their holdings or those who have died. Most of the time therefore, new claimants do not have to wait until the next *warieda*. Instead their claims are met from these lands. Widows are however allowed to keep half of the share of her deceased husband's land for the rest of her life time but under one condition that she permanently resides in her husband's village. In this system the male spouses are still considered the head of the family. This promotes the exclusion of women from access to land in their own right.

In Seraye province in the highland region it was found that there exists certain land laws that could benefit women. Women can inherit land in cases where there are no male heirs in the family, or if the woman together with her brothers participated in defending their father's land, she will be entitled to land equally with the brothers.

Whereas in communities practising the *Tlismi* land tenure system a person may own several plots of land in as many villages as he may be able to prove his descent, while in *Diessa* system, a person is not allowed to own any more than one share of village land within the same village or belong to more than one *Diesa* unit. However, this does not preclude a person from owning a share of village land coupled with a *Tlismi* title elsewhere. The *Diesa* system still does not permit its members to sale, gift or bequeath the share of land. It can only be leased or mortgaged but only during the period it belongs to the person until the next cycle of re-distribution.

CCRDA

In general, the wide application of land tenure systems, and specially the two main ones, the *Tslimi* and the *Diesa* systems, have resulted into excessive fragmentation of plots for viable farming. For example in *Tslimi* system land is inherited by the male heirs of the deceased owner and it is continually divided with every new generation. Moreover, an individual may own land in a number of villages thereby reducing the availability of land for the growing number of actual inhabitants of those villages. Similarly, in the village ownership system *Diesa* the village land is rotated and continually distributed among the old and the new generation of adults male members of the village resulting in land fragmentation.

There are two types of land belonging to the church. Certain monasteries (in Serae, for instance) own land that was granted to them long ago by members of the nobility and former kings. This land, granted to church institution –are administered by the officials of the monastery who have no right to dispose of it in any manner. The land thus held by monasteries is cultivated by the monks who are members of the parish. In other parts of Eritrea, churches as such do not own land but members of the community set aside certain plots for use by members of clergy serving their local church following the *Diesa* and *Tslimi* land holding systems. The land thus allocated for church use may not be disposed of by sale, gift, inheritance or mortgage and remains church property irrespective of the change in the members of the clergy.

The individual system of land ownership known as *Medri Worki* is found scattered in Serae, Hamassien and Senhit Awrajas. It was introduced in parts of Serae and Hamassien by the Italians when they declared 'unoccupied' land, state property Subsequently the land declared state property was granted to individuals. These claims have recently been filed, by members of the communities who were affected to recover their lands. Individual ownership is also as a result purchase of family land –the *Tsilmi* by other people from other regions in Eritrea

Land originally alienated by the Italians as state land is now Government Land and presently is being leased to citizens for a period extending from 5, 9, 33, to 99 years. Those who want to lease land, files an application to the *woredas* (district administration) or *awraja* (province administration) who recommends to the Agricultural Department in Asmara. With the assistance of the Directorate of the Ministry of Land Reform and Administration in Asmara, the Agricultural Department ascertain the profile before an agreement is drawn and a notice to this effect is sent

CCRDA

to the Treasury (Bejrond Office) by the Agricultural Department. The rent is thereafter fixed principally on the basis of fertility of soil and is paid directly to the treasury. A list is then prepared which shows the name of the leasee, an identification of the plot held, its area, annual rent and the period of expiry of the lease agreement. The rent payment ranges between $1.00/hectar to $110/hectar per year. Leasees are allowed to make permanent improvements such as planting trees, digging ditches, water wells and building houses. Compensation for improvements is not paid by the government when the contract terminates. However, leasees have the right to transfer the investments to other leasees who agree to pay the value of the improvements made to the land.

Although the Land Reform Proclamation provides for a legal framework for gender equality there remains a gap between policy and practice. In reality the people most affected by these changes, the women themselves are not fully aware of these proclamation. Unless there is a clear direction and support, from the government with regard to the Land Proclamation, people will continue to live under customary land tenure systems. As it stands the new Land Reform Policy is not yet officially implemented for various reasons. Trainings related to land, land allocation, land use have been going on both within the Ministry of Land, Water and Environment and within the Ministry of Local Government which is mandated to implement the new land reform. Despite that, however, the assessment of how best to implement the new land policy is not yet finalized.

In the meantime, the government has allotted land to specific groups, such as, returnee and demobilized fighters in the Gash-Barka region. Land has been distributed also among returnees from Sudan. The distribution has been conducted along the lines of the *Diesa* land tenure system. Land has been given in the name of head of the household – usually men. The women in male headed households did not qualify to own land on their right even though they were returnees because it is assumed that the land belongs to both husband and wife. Under this programme 4,021 returnee households have been allotted with two hectares of land. Out of this only 1,645 women headed households got land. Women who lost their husbands in during the war have been given land in their own names. However, most of these land owned by women are not effectively used due to shortage of labour needed to cultivate the land, workload of combining productive and reproductive role, and lack of resources to hire labour. As a result most of women's farms are left to lie fallow or given to share croppers who give them half of the produce if they are provided with

CCRDA

seeds or a third or even a quarter if they fail to do so. Fatna Mohammed Ali's is a typical example:-

During the land redistribution effected in 1983 Fatna got access to half a hectare of farmland. The plot is planted with maize. Because she can not cultivate the land by herself, she leases the land to others on an arrangement to receive one third of the harvest. This year she received 1.0 quintal share. She does not have other active members of the family to support her life, as the only son is in the national service. Even before enlisting in the national service, her son was mainly doing casual labour and his income was very low. She meets her basic needs by selling her harvest. Fatna pays Nakfa 8.00 for land tax. She does not have other income sources and therefore leads a hard life. When asked if the one-quintal can meet her annual food requirements she said that it doesn't even last her half a year. Further, she said that she eats once in the evening in order not to go hungry for the rest of the day and night. Fatna needs help in tilling the land and it is only then that she will meet her annual food requirement.

This shows that owning land by itself does not necessarily change the economic position of women unless this is supplemented with other provisions such agricultural services, credit, and farm inputs. Fatna Hammed Umer's case also vividly illustrate the situation:-

Fatna Hammed Umer 58 year old who had fled into the Sudan when the Ethiopians burned and looted her village in 1975. She stayed there until she was repatriated to Eritrea in 1995.In Sudan she was living in refugee camps and depended on aid handouts for her living. Her two children were killed in the war for liberation. Her husband died in a hospital in Sudan. In 1995, Fatna came back to Eritrea and was assigned to live in Ghergeff, a settlement camp for returnee in the western part of the country. During the land distribution to returnees and as a female headed household she got two hectares of arable land, seeds, and livestock worth 2,500 Nakfa. Fatna has not been able to have her land ploughed or tilled and has decided to leave it and earn her income as a farm labourer. During the harvesting period she weeds and harvests for other people who pay

CCRDA

her 15 Nakfa a day or 450 Nakfa per month. When the farming season is over she sells basketry work.. Though Fatna owns two hectares of land she has not been able to use it to feed herself and her family because she lacks labour, and other farm inputs that can make this possible,

Land Distribution in Northern Red Sea which is fertile with two harvesting seasons, was also allotted to women headed households although due to illiteracy, some women did not claim their rights. Most of these women have given their land to share croppers. Unlike the returnee in Gash-Barka who similarly give their land to share croppers, women in the Northern Red Sea use their land to produce food for home consumption and sell the surplus. In 1995 two hectares of land each, was allotted to women ex-combatants. Using their assertiveness to gain the land, they have effectively utilised these lands to their benefit. For example:

Medhin Berhe is a mother of three children. She is an ex-combatant who joined the armed struggle in 1978 and stayed in the struggle until 1991 when the war was culminated with the liberation of Eritrea. Medhin got demobilized from the army in 1993 together with other 13,000 women ex-combatants.Medhin was given 10,000.00 Nakfa as her perseverance fee when she was demobilized from the army. As she had no place of her own she went to live with her parents in her natal village. While there, her husband who is still within the army used to send her 300 Nakfa a month to maintain herself and her children. After the land proclamation in 1994, the government created settlement camps both for returnees from the Sudan and for ex-combatants in the western part of the country and decided to allot two hectares of land for every household that decided to settle there. The area where the ex-combatants were supposed to settle is in Ali-Ghider (Western part of Eritrea). She began her new life as a farmer and was provided two hectares of arable land in the area. In the first year, that is in 1996 she planted sorghum and reaped 20 quintals of sorghum which she used for home consumption and gave some to her parents and her in-laws. In second year 1997 she decided to grow cotton in one hectare and sorghum in the other. The extension section of the Ministry of Agriculture gave her seeds, fertilizer and tractor service on credit. At the end of the harvest she harvested 20

CCRDA

quintal of sorghum and 30 quintals of cotton. She divided the sorghum between her, her parents and her in-laws. After paying all her debt she got a net income of 10,000 Nakfa from the sale of cotton. In 1998 she took credit from one of the institutions that provide credit for ex-combatants for hiring labour. With the money, she hired two seasonal workers who helped her with watering, weeding and cotton picking. The input gave her a good return. She got 70 quintals of cotton, which after paying back her loan she earned 15,000 Nakfa as net return. In addition she harvested 25 quintal of sorghum which covered her food consumption and that of her extended family. After she got 15,000 Nakfa as profit Medhin rented a better house and brought her children to live with her and put them in school. She also grows vegetables, which she uses for home consumption and sells some in the market. What she gets from the sale of her vegetables she buys meat and milk for her children. In 1999 her profit grew to17,000 Nakfa and this stabilized her economic position. The 300 Nakfa which is sent to her by her husbands goes to her savings.

Land Distribution in Debub Region was executed in 1999, with the aim of laying down a basis for the full implementation of the land proclamation of 1994. Again it was based on the *Diesa* ownership system. The main reason for the distribution of land was that land had not been distributed in this area in the last 20 years and therefore this was to enable the new members of the community – especially the returnees settle in their villages and start life again as farmers. In this framework, women and their children could only be allowed to apply for a portion of land in husband/father's village. This approach created a lot of problem to women headed households and to the children born and brought up in the mothers' natal village, as they had to go and establish a new life such as building a new residence, in a new community among the father's people. All the same, the programme has generally been successful although in few instances there were some resistance from men against the special right given to women heads of households especially in areas where *Tslimi* land tenure system had been practiced and women were not allowed hold land in their own name. The program has enabled the members of the community share land proportionate to the family size and more importantly brought about changes in the system of ownership of land, in favour of women heads of households. In Mai-mine sub region, for example, the *Tslimi* system has been completely abolished.

CCRDA

Nevertheless, while the distribution of land have benefited women heads of households living within the *Tsilmi* system the women within the *Diesa* land tenure system have not benefit since some of their rights, such as the right to get land in the village they choose for example in their natal village or their ex-husbands' villages, have been taken away. Nevertheless, women heads of households have benefitted and one such successful story is of Letekidan of Debub:

> *Letekidan is a divorcee who got a farm as a result of the land distribution programme of Debub Region and became a beneficiary of the credit scheme in the region. When Letekidan found out that the land allotted to her was of poor quality and that she lacked the necessary labour needed to farm her land she decided to use the land for poultry farm. This has helped her to be a middle level poultry producer. The profit has enabled her to buy various household utensils, pay for children's educational expenses and to provide her three children with nutritious food like eggs. She is also able to buy vegetables and other consumables from her profit. Explaining the management aspect of her poultry, after expressing how good her interest in poultry production is, she says, 'At the beginning I was worried about chickens becoming ill and dying; working hard and losing every thing. But after I was trained and advised by the Ministry of Agriculture I am now fine.*

Indeed, even the extension officers can now visit such progressive female headed households. Letekidan case proves that if given land and freedom to make decisions over it, women are capable of using land more in a profitable way to maintain their families.

Nevertheless, there are still many problems that hinder Eritrean women from owning land despite a gender sensitive constitution and land policy which have not been effectively implemented. Furthermore, those who are implementing these policies are gender insensitive and almost always refer to the customary systems when distributing land.. Thus, the land distribution programmes remain male biased because it believed that giving land to women will affect certain values in the society which hinges on men being heads of households.

Some of the implementers believe that by giving land on the name of the head of the household directly benefits all women since women headed households are given

CCRDA

land in their own right, while women in male headed households also benefits because the farm produce is stored and managed by women. This assumption does not take into consideration the fact that traditionally women have limited decision making power at the household level and although the produce may be in her house, it is the man who manages the farm, controls the produce and make other major decisions such as what to sow, what to take to the market and what to buy with the money from the sale of products. Likewise the Family Law protects women, but it co-exist with customary and Sharia laws which generally denies women ownership rights to land. In order to utilise the law for their gain, women maybe forced to go to court and claim their rights , but this is rarely the case. The courts are sometimes out of reach and too complicated and expensive for the majority of the women. Further more, the majority of the women are not aware of their land entitlement such as owning half of the husband's land and therefore, they fail to ask for it in case of divorce or widowhood.

Major problems that hinder women's access to and ownership of land is that the majority of women are not aware of the existence of the land policies that allow women to get land in their own right. Moreover, they are made to believe that land belongs to men. Their ignorance has made them accept the discriminatory land distribution process without any complaint or opposition. Cultural beliefs are spread around to discourage women from ploughing and the common belief is that, *'Land ploughed by a woman doesn't grow or if a woman winnows such a farm she will be blown away by the wind'*. Moreover, many women headed households are unable to use their portion of land optimally because they cannot use ploughs , thus creating an indifference or lack of aspiration towards land ownership among women.

In this study it was found that, generally the Land Proclamation of 1994 has not been effectively implemented and therefore customary laws which are still operational in many parts of the country continue to deny women access to and ownership of land. Despite the positive law, women are not able to effectively utilise their land rights as a result of cultural constraints that do not allow women to use ploughs. Women also lack capital to invest in the land. As a result they are forced to lease their land, share crop or sell it if it is saleable. For women to gain from this positive land reform, it will be important to combine the legal rights of owning land with provision of input, training and credit in order to tackle poverty and food security at the household level. Since the power relations at all levels of the society, at the national, community and household level have not changed, men still remain to be the dominant figures in the

CCRDA

society and whatever deliberations are made- it is done in the name of the head of the household, which generally goes to benefit men

Several recommendations have been made. Legal education, awareness creation on the Constitution and land reform policies should be the first step as this will enable women to claim land on their own rights. This can be done with the help of National Union of Eritrean Women (NEUW) the organization that women have been identifying with and believe to take care of their interests and rights. NEUW also encompasses all women from all social groups, national to grassroot levels. It has the experience of working with rural women. Further it has full access to the policy makers and implementers of land policies. Nevertheless, the enforcement of the 1994 Land Proclamation should not be left to NUEW alone but they should be joined by other institutions, such as Ministry of Land, Water & Environment, Ministry of Local Government, Regional Governors, top party officials

It is important to combine provisions of land and credit facilities as this could help women use their land optimally for productive purpose should take lead in effectively implementing the Land Proclamation. Together with making land accessible, women farmers should be provided with either credit for hiring labour and buying seeds or put in place other mechanisms that would solve women's shortage of labour and the provision of agricultural services..

CCRDA

6.2 Tanzania

Tanzanian's economy depends on agriculture, and this is likely to go on for many years since 85% of population live in rural area depending on land for their livelihood as farmers and pastoralists. Tanzania has developed a comprehensive land policy based on the principle that land is publicly owned and vested in the President as trustee on behalf of the citizens; that buying big pieces of land by individual because of speculation will be controlled; that the rights of occupancy whether statutory or customary will continue to be the only recognized type of land tenure; and that rights and titles to land under any consolidated or new law will continue to be based on use and occupation (Kapinga 1997: 11). The Government has the ultimate authority over land management and its administration. The president through the Ministry of Lands can allocate land by issuing a title deed to an Individual (Land Ordinance, 1923) Under this new Policy women are entitled to acquire land in their own right through purchase and allocation. Possibilities of women acquiring land other than through inheritance are usually small. Although this policy is gender neutral, very few women

have land titles in their names. The rural population continues to own and use land under customary tenure systems. Under Customary Laws, women have inferior rights over land ownership. The Policy further states that inheritance of clan or family land continue to be governed by custom and tradition and ownership of land between husband and wife is not a subject of legislation (Tanzania Land Policy Paper 19..4.26).

Prior to the formulation of the Land Policy, a Presidential Commission was appointed in 1991 to inquire on land matters and make recommendations. Women gave their testimonies to the Commission on the need for equal access to land and control over it particularly with regard to inheritance. It was revealed that culture and certain religious practice continue to hinder women from owning land and that women access to land is indirect and insecure. The Presidential Commission made several recommended: that the radical title be vested in the Village Assembly in order to undermine the concept of clan land which is the cradle of customary law which deny women land; that names of both spouses appear in certificate of customary rights; that before land transaction takes place, the *Baraza La Wazee* (Court of Elders) to certify that the wife has consented.; and that for a permanent solution on the issue of gender inequality and problems of female succession, further research be embarked upon (Shavji, 1997:61). Except for the last recommendation all the other recommendations were rejected by the Commission.

In the pre-colonial period, land was communally owned and individual rights to land was determined by membership to that particular family or clan. Although men controlled the distribution and allocation of the clan land, land had not yet become a commodity so women's rights in land remained secure. Women thus enjoyed access and usufructory rights to family land. In the colonial period, land acquired commercial value and together with the introduction of cash crops, the position of women in the society began to change with regard to their land rights. While men could got employment at the plantations and later grow cash crops making it possible for them to earn income, women continued with subsistence farming for family consumption without incomes. These changes in land tenure system and introduction of money economy based on agriculture advanced men's power in the economic, social and political sphere *vis a vis* women.

The land tenure system currently governing Tanzania can be traced back to the colonial period.. The British in 1923 drew up a Land Ordinance which declared 'public

CCRDA

land ' under the control of the Governor who alone from henceforth could decide upon how it was to be used and disposed. This put the ultimate authority and control of public lands in the hands of the state. It was assumed that the African land tenure systems did not have a concept of 'ownership' in land and that customary tenure was only based on use and occupancy rights The Colonial State thus drew up a concept of " granted" and the " deemed right" of occupancy. The Governor was now empowered to grant land by way of right of occupancy of a maximum term of 99 years. Land was alienated to settlers, foreign companies and immigrant communities. The 'granted rights' was regulated by statutory rules and conditions which gave security of tenure to the holder. On the other hand the 'deemed rights ' gave rights to the indigenous communities to occupy and use land. It was governed by customary laws, classified as 'permissive rights' implying occupation of land only with permission or consent of the Governor. Since the indigenous people only owned land as a privilege granted by the Governor, they did not have security of tenure since their land could be alienated to create space for settlers and companies at any time.

After Independence, 1961, Tanzania embarked on a resettlement scheme in which cultivators and pastoralists were moved from their ancestral land to be settled in villages and ranches envisaging a form of individualised long-term statutory leases. Later the Arusha Declaration of 1967 and the policy of *Ujamaa* (socialism) shifted the approach. From 1972-74 a policy of villagisation, emphasising clustered living, accessibility to social services and infrastructure and enhanced production was adopted in which rural people were settled in over 8000 villages (Shivji 199..6). In this set up there were no discussions on how women potentials as key producers in agriculture could be maximized and their land rights secured. The Village and the *Ujamaa* Villages Act (1975) on registration, designation and administration provided an allocation of land to *Kaya* - a household or family unit- mainly headed by men.

Land allocation by Village Authorities under the Villagesation Programme - *operation sogeza* of 1974/5 revealed that land was allocated to each household under the control of the head of the household which in most cases was a man. Land was allocated into three categories namely; residential- *ardhi ya makazi*, agricultural land, non permanent crops - *ardhi ya kujikinga na njaa*, and agricultural land, permanent crops. Under residential plots land was allocated to and registered in the name of the head of the family who were mostly men. Agricultural land for non-permanent crops was meant to be communal land. That is any adult person, female or male who is able to cultivate was to be allocated a piece within this land so that

CCRDA

he/she cultivate drought resistant non-permanent crops. However, the interview conducted, revealed that, the village council composed of men allocated plots to male heads of households. Land for permanent crops was allocated according to ones ability to cultivate As in the previous categories, this land was also allocated in the name of the household who in most cases were the husbands. It was found that, this land is no longer available for allocation. The research further revealed that through out the years in all the three categories of land, only one woman- a widow was allocated land. Furthermore, land for residential and permanent crops was acquired only through purchase. In the meantime the prices were going up year after year, ranging from Tshs 60,0000 for mountainous areas to 300,000 for fertile land. Few women could afford these amounts. The women were once again marginalised in the new land system contrary to the doctrine of *Ujamaa* and self-reliance which advocated for gender equality.

The current Constitution of Tanzania provides for equality between the sexes. Individuals have the right to possess property and to get protection for the property acquired in accordance with the law. (The Constitution of the republic of Tanzania, 1997 Article 24). It prohibits discrimination. on the grounds of gender and this is expected to promote women's rights in the country. However it has been argued that the Bill of Rights enshrined in the Constitution are not absolute, as they are subject to other laws of the country especially the peoples customs.

The Indian Succession Act, of 1865, applicable to Tanganyika (Tanzania Mainland) provides for succession of African Christians and Europeans dying domicile in Tanganyika. Under this law widows are entitled to one third of the deceased husband estate including land. The children regardless of their sex are entitled to two thirds of their deceased father's estate including land. For a female person who wishes to apply this Law for her deceased husband's estate has to prove that, the deceased was a Christian and had abandoned the customary way of life in favour of what may be called a Christian and non traditional way. This law is rarely used and is unknown to most people. The customary law is often applied in the distribution of estate. (*Mbilinyi. 1967).* On the other hand, Islamic law which provides for two thirds of the deceased's property to follow principles of interstate succession in which heirs are grouped in four categories making a total of 12 sharers is usually mixed up with customary laws both of which discriminate women especially widows and daughters with regard to land inheritance and succession rights.

CCRDA

The Tanzania Land Act is supposed to be progressive in putting equality of women up-front in the statement of principles and various other provisions. Nevertheless these provisions do not add significantly to the present law and the constitution which outlaws discrimination based on gender. Laws of Succession and inheritance are still governed by diverse personal laws including English Common Law incorporated in Indian Succession Act (1965) Islamic Law, Customary Law and the Revised Laws of Tanzania all of which benefit men *vis a vis* women.

The Land Act provides for the basic law in relation to land other than the village land which is under the management of the Village Land Act. the management of land, settlement of disputes and related matters. Under the Land Act Women access to land provides for, " *The right of every woman to acquire, hold, use and deal with land shall to the same extent and subject to the same restrictions be treated as a right of any man.*" :(The Land Act, 1997, Section 3:2). Those advocating for rights of land for peasants and pastoralists and from the gender activists see this section is a mere restatement of the Constitution as it already exists adding little to what is in the existing legal situation, while others see it as the beginning of manifestation of women's rights, setting a precedent for future legislation to consider gender (Change Magazine, 1997, vol. 5.) The Land Act has a clause on protection of spouses whose interest are involved in land or contributing their labour in production, upkeep and improvement of that land. This is a welcomed provision, but how many women are aware of this provision and can enforce it is the question. This provision extends its protection to both right of occupancy and customary rights and hence protects the majority women particularly rural women who live under customary land tenures systems. In general the Act contradicts itself by legalising application of customary law in dispute settlement, succession or inheritance and any other matter affecting land held under customary law where women are discriminated most.

As mentioned earlier, both men and women can own land through application to the Ministry of Lands, be granted lease of 33, 66 or 99 years, and given a certificate of ownership. Women have generally not been able to acquire/purchase land through the Ministry because of economic constraints on their part. Land allocating authorities have introduced a cost sharing exercise for land survey and demarcation because the government has no money to do so. Applicants are required to pay T.Shs. 4500/= to 6000/= when applying for a plot of land before getting the letter of offer. The total amount needed for title deed is TShs. 28,660/=.This amount is enormous and most rural women cannot afford it.. For example, in records in Ileje District land office

CGRDA

indicate that in the year 1996/1997 woman was allocated land compared to 37 men who were granted right of occupancy; in 1997/98, 22 men were granted right of occupancy and no woman was granted; in 1998/99 nine women were granted right of occupancy compared to 54 men; and in 1999/2000 4 women were granted compared to 50 men. Furthermore, the Commissioner of Lands is advised by the land allocation committees appointed by the Minister, who most of the time are composed of men resulting in male bias in allocating land

Under the Village Act Women's Access to Land Legislates that women's and men's right to acquire land shall
be on the same standing. A woman can be allocated land through application to the Village Council and gets approval by the Village Assembly before the land is granted (Village Act, 1961, 58:5). The Village Council consists of twenty-five members out of which one third must be women as constituted under the Local Government, District Authorities Act, 1982. The Village Assemblies remain under the sphere and domination of men. The Council is divided into several committees to facilitate its functions. One of the functions is to allocate land to the members of the village and also to settle land disputes. Due to low participation of women in these committees women's problems in land are never addressed.

Review of existing laws with regard to women rights in land indicate that Tanzanian Statutory laws are gender neutral. For example, a deceased person can leave a will, for the property to be administered according to his/her wish although rarely is property bequeathed to women. Similarly, the Marriage Act, 1971 provides for married women to acquire, hold and dispose of their own property yet the majority of women cannot afford to acquire property or hold it in their own names. Further the law provides for distribution of property upon divorce though it is silent on distribution of property upon death. Upon the death of a husband, the widow's right under the law depends on the choice of her residence and the right to remain unmarried or to marry a man of her choice. The right of choosing the residence is not clear, whether she can choose to remain in her deceased husband's house (land) and stay there undisturbed. It is unlikely that a widow can remarry a man of her choice and remain within the clan land undisturbed. Married women can also enter into contracts, can be sued and sue in their own name and can put a caveat on the family land until the matter is resolved. The concubines or cohabitees are not protected by this provision.. The study found that:

CCRDA

Divorce under patrilineal land systems is governed by customs and traditions, in which case a divorced woman is entitled to her clothes, some kitchen utensils and some of the harvested crops of that season if any. Upon divorce she is returned back to her parents to wait for the final decision from the husband and if taken to court the divorce is legalised without being given land. This state of affair exists despite the Law of Marriage Act of 1971 that provides for division of matrimonial assets on divorce. There was not a single case where the Law of Marriage Act of 1971 was applied to distribute matrilineal property during a divorce, though a statutory law is supposed to supersede the customary law.

The level of literacy among women remain low and a hindrance to understanding the laws. The women are therefore ignorant of laws governing land tenure in Tanzania including the Marriage Act and the he Land Act of 1999. Almost all women interviewed in the study admitted that before meeting the researchers they did not know that they have any rights at all on land. The population of rural Tanzania is divided into patrilineal and matrilineal societies .The acquisition of land and other valuable properties is mainly through inheritance and matters affecting most rural women are mainly dealt with under customary law or Islamic laws. Tanzania has codified customary law with regard to inheritance and succession. The patriarchal structure of the society governs nearly 80% of the rural population where succession is entirely on the male line while the remaining 20% of the matrilineal communities practice an inheritance system which benefits the man's sisters and his sister's sons (James and Fimbo,1973:166)..

The Tanzania study was conducted among the patrilineal communities in Mbeya Region in the districts of jlleje, Chunya, Rungwe which revealed that it is men who own and control land. Under the patrilineal land tenure system a certain clan owns land and men are the beneficiaries of the system. Ownership passes from the father to the son or male member of the clan. Women have access to land, as daughters or wives. Husbands allocate land to wives to grow food. The access rights of a woman to this land ceases upon divorce. Access rights of a widow can continue only if she is inherited by the male relatives of the deceased husband together with other properties. In some instances the widow can have access through her children if they are grown up and they choose to remain with her. A childless widow is only entitled to use part of the land that her deceased husband formerly owned or was

CCRDA

acquired by their joint efforts as long as she remains unmarried. The widow only has usufructory right, and upon remarriage or death the land reverts back to the deceased male relatives.

Daughters have access to land as long as they are not married. Thus women cannot inherit clan land but can use it during their lifetime without power of disposing it. It is also provided that women can inherit clan land if there are no men in the clan which can never be the case at any one point in time. Daughters are placed in the last position in the hierarchy of inheritance while men as sons occupy the first and second positions. Daughters have access rights to land as long as they are not married but rarely inherits family land. Upon death sons inherit land previously owned by their fathers One man at Mapogoro village was heard saying, " *sons plan with their fathers and they have the right to inherit upon death of their father and daughters can only mourn when their fathers die. (Mtoto wa kiume anapanga mipango na baba na ana haki ya kurithi akifa. Mtoto wa kike ni wa kupiga mayowe wakati baba akifa).* According to Nyakyusa and Walambya customs and traditions in Mbeya District, land can only be owned by a man. If a woman owns land, this is treated as something unnatural. Married women feel socially secure in men's land rather than making effort to acquire land of their own as this may lead to divorce. Furthermore upon divorce parents of the woman would be required to refund the bride price and therefore women would rather not own land.

In matriarchal communities a study was conducted Morogoro District, at Matombo Division, Kisemvu ward, Kibangile and Mtamba Villages. The study reveals that the clan owns land and the clan leaders are men. The powers of allocating land to the members of the clan is vested in men. In this sense men as husbands do not own land. Upon marriage, they move to the land allocated to their spouses, and upon divorce men leave the land. Daughters like sons can inherit land from their mother or uncle. However, a major difference noted between the patriarchal and the matriarchal land tenure systems is that in patriarchal system women rarely own land while in the matriarchal system women own land. Nevertheless, the matriarchal communities where this research was done, seem to disintegrate in favour of patriarchal land tenure practices due to intermarriages, movement of people and the villagisation process.

In both Mbeya Region and Morogoro, women perceive land in relationship to food production. " *Without land there is no life* " said one woman at Isongole village.

CCRDA

Land is defined as " *Ardhi*" as farms or " *Mashamba*" with perennial crops such as coffee and bananas, trees, or seasonal crops such as beans, maize and vegetables. It also includes unoccupied land which could be cleared to grow crops, forests and cattle grazing areas. In patriarchal and matriarchal communities women continue to labour over land without controlling it. It is the man (husband) who decides on the appropriation of the harvest from the land. Among the matriarchal communities agricultural land for permanent crops is divided into two parts - one for husband and the other part for both husband and wife The husband plot is cultivated by himself or with the help of his wife, but the produce he owns and controls. The other farm is for the family and is worked on by the wife and the children to produce food for family consumption while the husbands sells the surplus. According to the study:

> *Harvested crops are stored in a granary known as kihenge or shipa or ichanga. Land allocated to women by their husbands is used to grow food crops. Women and children provide labour on this land. On the husband's land it is the women (as wives) and children who work on it. Produce from the man's piece of land belongs entirely to him and it is stored in his separate granary known as Shipa. The wife's produce from her piece of land is stored in another granary known as Kihenge. The husband can have more than one granary, while the wife's granary is normally one. .Food stored in the Kihenge is for the family consumption and that stored in the shipa is for emergency cases during drought season. If there is no emergency, the man can sell the produce and get money with which he can buy property such as bicycles, cattle or pay bride price for more wives. The rest is used for drinking local brew and buying cigarette. The woman cannot question how the money from the sell of the produce from shipa is used. Women's produce in the Kihenge feeds the whole family, and rarely is there a surplus which she can sell and get property. Whatever she sells goes in buying other food staff, even then she has to do so with permission from her husband.*

Women cultivate, harvest, store and cook. When there is no food they are blamed or cursed. This situation has given rise to matrimonial conflicts and more women seek divorce than men. For example in the primary court of Itumba in Ileje District, there were 37 women as compared to 14 men who sought for divorce in 1998; in 1999, 45 women and 9 men sought for divorce, while in year 2000, 34 women and 10 men filed divorce cases. Commenting on the increase of women seeking for divorce in

CGRDA

court, the Itumba primary Court Magistrate stated that lack of family maintenance from the husband, extra marital affairs, violence, drinking and non assistance in farming and cooking for men who do not provide food, are among the reasons given by women seeking divorce. For example,

> *Maryanne Mwesongile (49) is happily remarried .Her occupation is farming, petty business and selling of local brew .She shares every thing with her new husband and whatever they get from their joint effort is collectively planned and shared. Her first marriage survived for fifteen years The reason for divorce is that her husband was lazy and did not take part in any domestic activities especially farming. Moreover the husband was controlling and misusing the harvests, leaving the family to starve .In court she was awarded custody of two months child and she was not given any property. She left behind other two children. When she returned to her parents, her father found a house for her from the neighbours, and he gave her a piece of land to earn her living .Two years later when her ex- husband died, the brother in law of the deceased was appointed to administrator the estate of the x-husband. The brother in-law confiscated all the properties, sold the farms and chased away the two children to go to her. Mwesongile remarried.*

Many factors affect Tanzanian women from owning and controlling the land they use. These factors include, economic or financial constraints, customs, traditions or cultural beliefs, divorce and limited knowledge of land laws and rights. Cultural beliefs among the patriarchal communities continue to hinder women from owning land since it is considered as unnatural for women to own land. For example in Chunya – Mapogoro Village, women were reluctant to apply for allocation of land, even to clear, or cultivate their own land.

> *Women wanting to acquire land are seen as prostitutes, and are not accepted in this society Women as daughters on the other hand are supposed to use land owned by their fathers. Attempting to get their own land is a sign of misbehaviour, which is immediately condemned by the entire community." Daughters should marry and use land owned by their husbands", they say.*

Though there is ample land in Chunya, but customs and traditions have made it impossible for women to acquire it Women as wives or daughters are supposed to

CCRDA

use land owned by their husbands or fathers respectively. This cultural belief is so strong that even land allocating authorities in the village are reluctant to allocate land to a woman applicant, on pretext that they might cause family disintegration. As soon as a son gets married he is regarded as a grown up person, regardless of his age, and the father or the village council allocates a plot of land to him. Daughters are never allocated land no matter their age. Widows are not allowed to inherit land upon the death of her husband unless she is inherited with other matrimonial properties by the male relatives of the deceased husband. If she refuses to be inherited she is chased away, or as women of Ilulu village said: -" *the relatives of the husband will create the environment that will force you to leave or agree to be inherited."* Most women have therefore opted to be inherited so as to have *security of* continued use of land. No cases were found where a woman was given a piece of land as part of the matrimonial assets. Some women have been married for fifteen years or more but on divorce they lose the land. In the primary court of Itumba in Ileje District: -

> *Petitioner, a woman was married to the respondent for almost 18 years. Two reasons were given re for divorce. First that the husband had refused cultivating the farm and therefore life was becoming very difficult for her and their four children and secondly there was no peace and harmony in the house. The honourable magistrate found out that there was no matrimonial property. Nevertheless the Court ordered the matrimonial house and the plot (farm) to remain with the husband. (Ref: Civil case No. 21/2000).*

CCRDA

Under *Ujammaa* Village Act, land was to be allocated to the head of the household which makes it possible only for men to get land. Village Councils continue to allocate land to men and sons only, although it is meant for every able adult person in the village. This is a case of misinterpretation of laws and the influence of patriarchal land tenure system in Villagisation process, whereby land is allocated to the head of the household. This has worked negatively for those women from the matrilineal society who have lost the power and security held over land. Grace Raphael has this to say,

> *My uncle gave me land because my father had no land. I began to cultivate it. I planted coconut and orange trees. After several years, when I had just started harvesting, my uncle demanded back his farm. I learned that, he wanted to sell it. I requested to buy the land, but he refused saying that, he is*

the owner and he had the right to choose the buyer who may not necessarily be me. I thought of seeking redress from the court, but I was intimidated, and after my only witness who was my father, was already dead. So the farm was forcibly taken from me, and sold to somebody else who was not even our family member. The farm was sold at a throw away price, which I could afford.

Shortage of land also affects accessibility by women. For example in Morogoro for the past three years no land was available for allocation except in mountainous area, although most women could not afford to buy because of the high prices. Religious and cultural believes also influences women' s inheritance rights to land. For example, according to Islamic Law and some other cultural beliefs, a widowed woman is supposed to remain in her house for forty days before resuming normal life and work. During this period her in-laws without her participation resolve major issues over inheritance and division of matrimonial assets. Widows affected by this situation in the research areas, lamented that it is on fortieth day after the death of their husband when they discovered that they had lost all their land, and other property. Divorce also denies women rights to land. Few women, if any, are given land as part of the matrimonial assets when divorced and the Marriage Act is rarely applied. Married women also lose land upon the death of a husband. Interviews in Kibangile village revealed that, upon death of a husband, wives are returned to their parents, and sons, daughters and relatives of the late husband inherit the land that she once occupied. *Asha S. Banjulu narrates:*

My husband was involved in a fatal motor accident. His leg was seriously wounded and he was admitted in hospitals. I stayed in hospital with him for three months. During this period the relative of my husband never assisted me –until my husband died. We buried him and on the second day the relatives of my husband came asking me to show them the properties and farms I had acquired with my husband. They counted furniture, beds, cooking utensils and the harvest in store. On the third day they brought my relatives and handed me back to them. Immediately after that they distributed the properties and farms among themselves, even the ones I had acquired jointly with my late husband. My husband did not inherit any land from his parents but we bought five farms together. All farms except one was registered under his name. I managed to remain with the one that was registered jointly in our names, after threatening to take his relatives to court. Now I am living in he

CCRDA

house which I built before I got married It is on the land which I inherited from my mother.

Unlike patriarchy, marriage, divorce or death do not affect right in land by women in matrilineal societies.

In the Mbeya and Morogoro, it was found that women are not aware of the Law of Marriage Act, which has been in existence since 1971. They are also not aware of The Land Acts of 1999. The women groups and the village council were very keen to know more about these laws. In Isongole village the women complained that, they only hear about a certain laws in courts, especially when the law is been used against them.

The existence of contradicting laws has also brought about confusion in establishing women's land rights. The Primary Courts use different laws in matters of divorce and the magistrates sometimes apply the Law of Persons which is an old law providing for return of bride price by the parents of the female divorcee. At the same time, the Marriage Act provides for division of matrimonial assets acquired during the marriage which includes land and its fixtures and but do not provide for payment of dowry as a condition before marriage, or return of the same upon divorce. Returning of bride price is a serious matter in Tanzania, and refusal can lead to a court case. Fear of return of bride-price forces women to tolerate abuses by husbands. The Law of Persons also contradicts the recently enacted Land Act, 1999 and Village Land Act of 1999 which stipulates for interest in land and secures it for a person who has contributed labour, in upkeep and improvement of land. The following case highlights what transpires in one Primary court in granting divorce.

CCRDA

Wife had filed a divorce petition in court. Reasons for divorce being that she did not want to migrate to another place with the husband. " We were at Ntembo village, my husband ordered that we shift to Nganga village. Since we shifted to Nganga my husband has not been staying at home. I don't know where he goes. I do the farming alone- I alone without him. When he came home this time he told me that we should shift to anther village. So I am tired, it is better that we divorce.". The couples had stayed for four years and had one child of four years. They were married since 1976 and in 1997 the husband disappeared. The court found out the dowry paid was, 3 cows, 2bulls, I goat, 2 blankets and 1 hoe, all of which amounted to Tshs.37, 000/=. The father of the wife (the petitioner) was the one to pay back the stated bride

price. Finally the court ordered the return of the bride price to the husband who was still at large.

It is concluded that women's efforts to realise their land rights are being curtailed by economic constraints, cultural traditional, religious, customs and ignorance over their rights. Thus to alleviate such a situation there is a case for empowering women economically, providing legal awareness, raising community awareness on women rights and Laws of Succession, Inheritance and Marriage. It is also recommended that Customary Laws, Declaration Order and the Law of Persons be reviewed so as to conform to the recent amendment of the Constitution.. The Tanzanian Land Acts of 1999 should be reviewed to have a provision making it mandatory for joint - ownership between spouses. The solution however lies in addressing all the other factors that continue to marginalise women in the society.

6.3 Uganda

Agricultural is the mainstay of Uganda's economy and the main economic occupation for the rural population whose livelihood depends on it. Women constitute the majority of those living in the rural area and contribute about 70% of agricultural labour, over 80% of food production and processing and spend about 90% of their time on activities related to land. They are referred to as the backbone of Ugandan economy in Policies and Development Plans. (The National Gender Policy 1997; Poverty Eradication Action Plan 1999; Plan for Modernisation of Agriculture, 1998). Despite this contribution, women own just about 7% of the land, accessing land mainly through marriage or male relatives but with limited decision-making power over it. This in turn affects the way agricultural inputs and benefits are accessed which in turn affects food availability and poverty levels. (National Gender Policy, Min. of Gender, Labour and Social Dev. 1995).

Traditionally among communities in Uganda, women and men did not own land but had access to the use of land and therefore the issue of ownership did not arise. It is only when colonialists introduced capitalism that men owning land was introduced – assuming that men were " bread–winners' while women and children were expected to provide free labour in order to maximize on profit (Sebina *1995).*

In the present Uganda women perform reproductive chores, food crop production, food processing and they are increasingly taking over the roles and responsibilities of men as well. Nevertheless, resources such as land needed to meet these

GCRDA

responsibilities are vested in men while decision-making from the household to the national levels remain dominated by men. To redress these gender imbalances, the government has instituted a National Gender Policy to mainstream gender concerns in development processes and improve the status of women. The aim of this policy is to guide and direct, at all levels, the planning, resource allocation and implementation of development programmes to benefit women equally. In addition to this, the government has unanimously adopted the Beijing Platform for Action for women's empowerment and seeks to reverse widespread national policies and programmes that have had a disproportionately negative impact on women, establish principles of shared power and responsibilities between men and women at home, in the workplace and at the national level and advocate for promotion of economic rights including access to and control over economic resources such as land.

In the past, women's contribution has not been counted in the country's economic statistics. This is because women have been viewed as reproducers and not producers of wealth. Male extension-staff have targeted men for new agricultural technologies, information and skills *(Kwesiga 1998)*. Recently, with trade liberalization and introduction of non-traditional crops in the market, some women's food crops have gained high cash value and therefore taken over by men. As a result women's decisions regarding food availability in their homes for family consumption and earning incomes are quickly being eroded. This situation is further made worse by the fact that land is increasingly loosing fertility while fragmentation is being experienced due to increased population. This notwithstanding, women cannot count on men's labour as a number of men opting out of the agricultural sector is on the increase and yet employment opportunities elsewhere in the communities or urban areas are very limited.

The existing gender inequality in relation to access, use and control of family land in Uganda is a major factor contributing to household poverty. Poverty assessment studies shows that lack of secure rights in land is a major determinant of rural poverty across large parts of the country. Security of tenure is often the key to having control over major decisions such as what crops to grow, techniques to use and, decisions on what to consume and sell and overall management and investment on the farm. Considering that eradication of poverty is a priority of government it is imperative that land tenure relations within the family be addressed. (*Undated FAO document and Ov..)* For example a study conducted in ,Mbarara District, found that

CCRDA

women who owned land were seen to be in full control over land use, which promotes effective utilisation of land, food security and less dependency on men. Such women were seen to be motivated to work harder and be able to feed their families. In contrast, landless women were considered to lead a life of misery, without peace of mind, poor health and therefore made less contribution to their personal development to their household and the community. (UWONET 2000). Demand for women to own land in their own rights is prerequisite for poverty alleviation. It calls for implementation of policies, programmes and laws that aim to increase social and economic development in a gender responsive manner.

Uganda government has put in place a Poverty Eradication Action Plan that aims, among other things, to eradicate poverty in the coming two decades by improving incomes and quality of life of the poor. The Plan for Modernisation of Agriculture is another government plan to eradicate poverty in Uganda. It aims to ensure that all intervention programmes are gender focused and gender responsive. Both plans recognise women's role in agriculture and their special category among the poor, see the need to strengthen their land rights and increase their abilities to raise incomes. However, the Plans do not touch the crucial issue of how production will be increased when women are working alone in the agricultural sector and gender disparities in this sector are not addressed.

The Constitution of Uganda treats men and women equally and protects all persons from deprivation of property, provides that men and women are entitled to equal rights in marriage, during marriage and at its dissolution. It also declares that land in Uganda belongs to its citizens in accordance with the land tenure systems provided for in this constitution (The Constitution, 1998 Articles 26:1; 31:1; 237:1). The constitution is, however, set within the context where *"Customary practices such a patriarchal marriages, male inheritance and male control of decision making, have systematically excluded females from ownership of property, especially land."* (Uganda Land Alliance Report, 2000). The Ugandan Land Act which came into existence in July 1998 is expected to operationalise all the constitutional reforms and provisions relating to land and to govern land ownership, management and use in the country.

Many lessons maybe learnt by other countries from the Ugandan experience. Prior to the Land Bill being read in parliament, Uganda women's organisations picked up a lot of interest in it to ensure that women's interest in land were taken into consideration in

CCRDA

the new law. Uganda Land Alliance (ULA) which started as a pressure group with the mission of ensuring that Land Policies and Laws are reviewed in order to address the land rights of the poor and to protect access to land for the vulnerable and disadvantaged groups and individuals have played an important role in the enactment of the Land Act 1998. ((ULA, 1998: Fact Sheet II) Prior to this, and during the discussion of the land bill, ULA tried to demonstrate that some of the principles on which the bill was based would disposes the poor. ULA realised that the land law favoured the rich over the poor and foreign investors, who are more able to buy land in open market, over indigenous nationals. It also urged institutional framework for managing the land and mediating the land market to include women representatives. ULA argued for protection of wives and children's land rights from irresponsible husbands or fathers and greedy in-laws, and suggested, among other things, incorporating co-ownership of land by spouses in the law as well as for consent of spouses and children before selling off land.

The women had felt that the Bill left out many issues which directly affected them. Uganda Women's Network (UWONET) and Uganda Land Alliance (ULA) among others visited the Minister of Land, Housing and Physical Planning to discuss with him aspects of the Bill where women felt the had been marginalised for example female children's inheritance rights, customary laws that discriminate on women and polygamous arrangements while some women activists physically delivered documents justifying the need to address women land rights (The Other Voice, A Voice of the Voiceless, May 1998:4).

Women's organisations demanded more time to be taken by the government to sensitise Ugandans in terms of the Bill's implications on their livelihood. From 1996, women's non-governmental organisations like the Association of Women Lawyers in Uganda (FIDA-U), Action for Development (AFCODE) and the Uganda Media Women's Association (UMWA) tried to popularise the proposed Land Bill. Together with Uganda Women's Orgnisations Network (UWONET) and Uganda Land Alliance, these organisations documented the views expressed by the poor and marginalised, and in particular women, majority of whom do not own land they cultivate. The Forum for Women in Development (FOWODE) organised a Parliamentary Workshop in respect to how the Bill would impact upon women and customary landholders. The workshop was attended by parliamentarians (100 to 250+ out of 266), ministers including the President, key civil-servants, academicians, particularly those directly

CCRDA

involved with drafting of the Bill. The civil servants academicians and NGOs had an opportunity to air their views and make their positions clear on the issue.

Uganda is Women's Network working through information sharing, communication and collective action on issues of interests and concerns to women realised that there is information gap on women's land concerns during the drafting of the land bill. A study into women's views and suggestions on land in general and the land bill in particular was carried out in six districts of Kampala, Kibale, Lira, Mbale, Luwero and Mpigi (UWONET 1997). The findings of the UWONET study indicated that majority of women have no control over land because they have no ownership rights over it. Their control over the produce from the land is also limited. As a result women's work on the land is made invisible. Women in these districts expressed the need for secure access to and control over land, not only because of their role in agricultural production, but also as a human right befitting them as adult citizens. To them owning land meant: having written evidence in ones name (title, will, or agreement); purchasing the land; being free to sell it; being able to demarcate the boundary; being able to determine its usage, controlling its proceeds both agricultural and non agricultural like sand, stones and minerals.

The women in those six districts indicated that they wished to own land in order: have security of tenure; get value for their labour; invest in more valuable assets such as shops, houses and coffee trees; have something to pass on to their children so that they too are valued as parents the same way fathers are valued because their bequeathing rights of family property to their children. The women welcomed the idea of co-ownership of land with husbands although they were not clear how this would work under polygamy. Nevertheless, according to them, co-ownership would protect women from being evicted by in-laws after husbands die. They appreciated the idea of consenting before selling land. This would protect them from being sold off and rendered land-less, but saw possibilities of its being abused as men may coerce and force them to give consent (UWONET 1997).

Despite the considerable effort made to provide women's views and suggestions on the Land Bill and how their interest could be promoted and protected by the new law, women felt let down by the new Land Law. The single amendment to the Bill intended to provide for the co-ownership of land by spouses moved by Honourable Maria Mutemba and adopted by parliament, "mysteriously disappeared" in the final draft of the Land Act, confirming the basic insensitivity and anti-women character of

CCRDA

the new land law and the consistent marginalisation of women's concerns and interests in land issues which characterised the whole land debate and process (Kharono, 1998:9)

The Land Act however, protects spouses, children and orphans by restricting family members from transferring land except with written consent of the other spouse and that of dependent children of adult age or that of the committee for children below the adult age (The Uganda Land Act 1998, Article 40:1). While appreciating this protection, this act is open to abuse. There is a general ignorance of the law by both men and women. Few women can read and write and men are known to force their wives into giving their consent whenever family land is being sold . In all the land tenure systems as provided for in the Act, access to, ownership of and control over the land and its produce tends to follow customary practices with the man as the head of the household and the controller of all the resources. Thus, customary land tenure systems within which men and women have been socialised are still being practiced over the legislated laws that are supposed to take precedence over them. The implementation of the Land Act is therefore neither effective nor has it been done effectively.

In order to document some of the above stated problems, a research was carried out in two districts, Kabale and Hoima . Kabale is located in south west of Uganda and Hoima is in the north west of Uganda. In Kabale District, the research was carried out in three areas namely, Muyumbu, Muko and Lake Bunyonyi communities and in Hoima District, in Buhamba, Kinogozi, and Buswekera. These two districts were selected because of their contrasting land availability. Kabale is densely population with about 629,400 people of whom 297,200 are men and 332,200 are women. As a result of the high population, nearly all hills have been dug up and wetlands reclaimed for subsistence and commercial farming. Land scarcity has led to out-migrations to other districts. Hoima on the other hand, has low population of 288,992 people of whom 126,870 are men and 152, 042 are women. Many of Hoima's hills and wetlands are still intact and in general, a lot of underdeveloped land is available for cultivation. In both districts, majority of the people own land through the freehold land tenure system. Their major source of income and sustenance is agriculture. A total of 228 people participated in focused group discussion out of which 119 were women and 109 were men Respondents included a cross section of people representing policy makers, civil society and members of the community.

CCRDA

In the all the six communities studied, it is said, *"Itaka lya nyineeka"* meaning that land belongs to the male head of household. This is related to the fact that traditionally men pay bride price to the wife's family and therefore women like land are perceived as property. They argue, *"One property cannot own another property"*. Land belongs to men mainly because of inheritance and is seen as a resource of wealth and power. The men therefore control family land and women only have use rights. Under very rare circumstances do women inherit land from their parents and usually this happens when there are no sons in the family. *"A man who has only daughters regards himself as childless"* For example in Kabale, there was a man who had only daughters and owned a lot of land. In his will he decided to leave all his land to the church and nothing to the daughters. Few women may gain control over land given to them by their fathers except *okusheba-* a wedding gift. Traditionally, a daughter and her husband would use it for life, but in few cases, fathers remain the owner. In these days, whenever women get land from their parents, a written agreement is provided to protect them from male siblings and other relatives who may want to take the land away from them once the parents die. Few women who own land through purchase or inheritance are free to sell the land but are expected to consult their husbands or fathers before doing so. Women thus continue to access land either as wives through borrowing, renting or owning it when widowed. Daughters are expected to get land from husbands. Land is borrowed for agreed period of time and payments are done through crop sharing or in cash but in few cases it could be free of charge. When husbands die, widows inherit the family land but mostly as custodians since the land is passed on to the sons. However, this is not always the case:

> *Tumuhimbise Emmaculate is a widow. When her husband died her brothers in –law took all the land, which she had been using. She appealed to the Local Council who did nothing about it. The father-in –law who was still alive also refused to solve the matter. She took the case to court, but the father-in-law refused to attend the case. Tumuhimbise who has three children does not know what to do next.*

Some men in both districts were found to allow their wives to exercise control over land although such men are branded traitors especially by fellow men. Loy Tindamanyira is a woman who has control over the family land had this to say:

CCRDA

As an orphan I did not go to school and neither did my husband so we depend entirely on agriculture for our livelihood. My husband and his brother had inherited land from their father. My brother-in-law sold his land and migrated to Bunyoro. My husband wanted to do the same but I refused. I became the talk of the community. This made my husband very angry with me and therefore he decided to stop helping me with the farm work altogether, just to prove his manhood. He left the land for me to do whatever I wanted. I went ahead and began to develop the land. I make decisions on what to grow. Now my husband has began to see the wisdom of my decision. The produce I get from the farm has enabled me to buy cows some of which my sons have used for bride price. Since then I have been able to buy more land in my own name. I will pass all these land to my sons as I expect my daughters to get married.

Since land is perceived as a source of power, with men having authority over women, they (women) should not be allowed to control land. Men say, *"A woman comes into a man's house without land. He gives her a piece to till, in most cases given to him by his father. While in her husband's home, she grows food that they all consume; she is clothed, housed and protected. What more does she want?"* Men's feeling of being powerful through owning land gives them the right to control women's labour and agricultural produce. On the other hand, women feel cheated that they work on land but have no control over it or say on what they produce. In cases where a husband and wife have put money together to buy land, the title deed or agreement on the land is usually registered in the name of the man alone. Women are not expected to be involved in land transactions. In Hoima, one man asked, *"Why on earth would a woman want her name on a land title deed unless she is planning to leave her husband!"* Many women have been socialised to accept this situation and a few, mainly young ones, who have tried to change this perception are branded as rebels. In Hoima, women who own land and houses are referred to as *kyeyombekiire*- a woman who builds for herself- an act regarded as an abnormal and a taboo.

The Land Act allows landless people to be provided with land through the office of Local Councils. This is still possible in Hoima where land is available. Nevertheless, young men who are about to get married and are landless were found to be the ones using this channel of acquiring land and not women.

CCRDA

Co-ownership of land which is proposed in the Land Bill in which land is to jointly held and registered in the names of the two has been received with mixed feelings. In both Kabale and Hoima men felt that co-ownership threatens men's power. *" Men are powerful because they own land and sharing it with their wives is to make them lose this power"* Some men were very angry and felt that women are scheming to grab their rightful inheritance from their parents. This type of law they say should not apply in their homes. Polygamy was said to be making co-ownership difficult especially, the requirement for consent before selling land. Men wondered from whom the consent should be sought in a polygamous marriage. There were also fears among the men in both districts that foreign women are likely to marry men from Uganda for the sake of acquiring land and not for love. Young men in Kabale argued that sometimes they may want to sell land and migrate to other districts and therefore, they should be free to make such decisions without consulting their wives. Women are a seen as providers of free labour and referred to as *abazaana/abairu"* slaves- and their rights over property especially, land are not considered important.

On the other hand, all women interviewed would like joint ownership in family land. According to them, co-ownership would make women feel more secure and be motivated to work even harder on the land and produce more food. They would take greater care of it and would invest in long-term crops such as trees. Widows and orphans would be more protected and assured of their livelihood. Co-ownership would boost their sense of self-worth and would make gender equality meaningful. Younger women felt that co-ownership will make men be more cautious about taking on another wife and this would increase family stability.

Women and men interviewed supports the idea of girls getting land at their parents' homes, as this will make them more respected even when they get married. Some men saw the idea of co-ownership as a good one especially, if it meant that their daughters get land from their husbands. The same men however did not see themselves owning land with their wives and dividing it upon divorce nor their daughters-in-law owning land together with their sons. They also did not want to discuss such issues in the presence of their wives. Women proposed that co-ownership of land should only be granted after 5years to 10years of marriage to avoid marriage for the sake of getting property.

CCRDA

A number of men however confessed to the fact that they do not understand the idea co-ownership of land and the Land Act is also not clear to them. According to the District Assistant Community Officer in Hoima, debates on land begin and end in Kampala and hardly anybody in the district gets to know about it. Currently, lobby and activist organisation have began to seriously challenge the current public and official acceptance of women's lack of secure rights over land through research, advocacy and public debate. Efforts are being made by women activists and other pressure groups to get women to jointly own land with their spouses where they spend most of their productive years and energies. This is being resisted by some policy makers who claim that it has no bearing with rural women's realities. They dismiss it as elitist women's ploy for their own economic and political gains, (New Vision August 3rd 2000)..

Several activities are being carried out by the Uganda Land Alliance to lobby and advocate for women's land rights mainly targeting policy makers and the public. Papers have been commissioned to explain and unpack the clause on joint-ownership of land by spouses. Other activities include, lobbying with Members of Parliament and Caucus groups; public dialogue on land; support to Private Members Bill on co-ownership; production of booklets and materials on the co-ownership clause; press and media discussions as well as coverage on the co-ownership clause; research and information dissemination to highlight the situation of women and their limitations regarding land ownership and control; and production of a documentary on joint-ownership of land by spouses. Unfortunately the clause is yet to be included in the Land Act and recently the Cabinet (1999) referred co-ownership issue to be included in the Domestic Relations Bill which has been shelved for over fifteen years thereby postponing further discussions on it almost indefinitely.

Some achievements have been made during the lobbying and advocacy processes. The present land act incorporated some of the issues advocated for like spousal and children consent before selling land. All land management systems are mandated to have 30% of their members as women. The Ministry of Water, Lands and Environment commissioned a research to build up a case for spousal joint-ownership of primary household property. Some awareness has been created among policy makers and the public especially, at national level about the importance of women's land rights and although not fully accepted, it has generated the interest of the public who contribute to the debate through the media.

CCRDA

Other specific achievements include the implementation of 30% percent of women representation in land district boards. A land fund has been availed to tenants to buy land from landlords which originally was only meant for Kibale district but this has now extended to other districts and this provision is being extended to women groups. Many non-governmental organisations now recognise women's land rights as an important development issue and a number of them have joined the Uganda Land Alliance while others have put land on their development agenda. Some men have come out to advocate and lobby for the clause on co-ownership of land by spouses to be included in the land act. This is no longer a women's issue but a development issue. The media have given a free space to air out the co-ownership issue and more articles and discussions on land related issues have progressively appeared in newspapers and electronic media respectively. The Cabinet and parliamentary committees have accepted to meet pressure groups on women's land rights and as a result, the cabinet is consulting further before making a final decisions on the clause.

Despite these achievements, challenges remain. While the Land Act states that land belongs to all citizens in reality men are still regarded as owners and women only have user rights. The Act allows squatters to buy land from the landlords but if he has occupied a piece of land for 12 years at the time of the new constitution was in place, he may keep that piece of land. In this context, men are likely to gain land at the expense of women because they are likely to have money to buy the land, which women may not have. Furthermore, women who are married to the same squatters are double disadvantaged when divorced or widowed unless joint ownership is introduced. The Act also creates openings for communal or customary land to be sold. There is a tendency for poor people to sell their land to the rich and migrate to town. When this happens, women who are responsible for food production become landless and lose access to other resources such as water sources, firewood and land for grazing small animals. The Act leaves out single women and majority of rural women who are in co-habitation unions. Men can easily coerce their wives to sign for consent to sell and most rural women are illiterate and can easily be made to sign what they do not know and refusing to do so can also lead to violence and divorce. In polygamous marriages, wives may end up competing over land and this can also lead into violence in the homes. The Act does not address the issue of landlessness but only deals with citizens who already have some land.

CCRDA

Those against co-ownership argue that the constitution is gender sensitive and women are given equal rights with men and therefore see no need to give women special attention. Others have asserted that the issue of women and land rights is not a concern of rural women and did originate from the constituency of rural women since they never met at any time to identify this as an issue. They say *"This is an issue being pushed by foreigners and the issue of co-ownership is a cultural implant from outside. The whole thing is foreign"*. Indeed co-ownership of land by spouses is not an imported, western idea that has no relevance to Uganda. Nor is it an issue most powerfully felt among the urban middle classes, where women, though property-less, are increasingly able to survive outside of land. Rather, women's land rights is a rural and household issue, defined within the agricultural economy. It is a rural, peasant- farming issue. For it is here that lack of ownership is felt most in social and economic life of a woman and where adoption of co-ownership of land by spouses will be most transformational *(Ovonji 2000)*.

Lobby and advocacy groups have made a lot of progress with regard to the clauses in the Land Act that protects women and children. Having laws in place is one step towards assisting women to own and control land. More effort is needed in getting women and men, especially, at the grassroots to know what the law is all about so that women can demand for their land rights. This will call for consciousness raising and confidence building among women and men to accept and appreciate the need for change in the status quo. It is important to create linkages from the communities with national initiatives on women's land rights. The agenda for lobbying and advocacy needs to be broadened beyond co-ownership which only deals with one aspect of protecting the legally married women living out young girls, single women and those women who are in cohabiting unions. This calls for a holistic approach on women's empowerment, tackling the cultural beliefs that creates obstacles for women to own land. Reversing processes which structure and impoverish women requires among others, action which removes women from their positions of powerlessness and entrapment and addressing the barriers to their productivity and control over resources and benefits (Kharono, 1998). One of the major challenges facing those lobbying for women's land rights is the need to ensure that laws governing domestic relations such as marriage, beliefs, and expectations are fair to women. The value attached to women, societal views, beliefs and expectations regarding women have to move at the same pace with various changes. The land act and other related official provisions, are state responsibilities. However, the state has to move with the community. In particular women still lack the political power, the

CCRDA

public push, the critical role in decision making. Uganda has several components of affirmative action in the political arena, but the process is still at the beginning. Changes cannot be achieved unless women themselves see the need for this and therefore the right to make demands. It is possible to achieve change, but a lot of work must be done in all fields – economic, political and through social services, especially education and health. A package is required (Kwesiga 1998).

Challenges remains in convincing members of parliament who have different political interests regarding land to pass the clause regarding co-ownership. Women who own land in their own rights and publicly oppose co-ownership should be brought on board so that women can present a common front. The non-governmental organisations and the civil society in general have to be mobilised and sensitised to take up the issue. Pressure groups need to set a common agenda for effective results. The government and non-governmental organisations should bring men on board to tackle the common agenda of food security at the household level which is linked to women's rights over the land that provides that food. Innovative strategies and policies to ensure basic requirements such as food for the family should be put in place by both government and development agencies if poverty has to be reduced.

Actions necessary to bring about changes have to begin from recognition of women's achievements, capacity and resourcefulness and not stressing their neediness and dependence. Projecting the women as victims and vulnerable people justifies their being treated as objects and completely ignores the fact that they are the backbone of the agricultural production and food processing. Action research and documentation of women's experiences and realities with regard to land matters and the land act itself is a important starting point.(Kharono 1998.

6.4 Ethiopia

Ethiopia is located in the horn of Africa, with an area of 1,112,000 Square Kilometres. The country's population is 63,494, 702 and over half are women. More than 85 per cent of the population, the majority of them women, live in rural areas. Agriculture is the mainstay of the economy providing about 85 per cent of rural employment, 75 per cent raw materials for industries, generates about 50 per cent of the Gross Domestic Product (GDP) accounts for 90 per cent of export products, and responsible for surplus production, foreign exchange earnings and government revenue.

CCRDA

In 1992 Ethiopia adopted a free market economy and mapped out an Agricultural Development Led Industrialisation Strategy with the view to improving smallholder agriculture and industrialisation of the economy. The sector however, has been characterised by prevalence of fragmented land holdings, outdated tools or technologies and subsistence production.. A Five-Year Program drafted in 1995 on Development, Peace and Democracy, which is rural and people centred mainly focuses on increasing productivity of the peasant agriculture and reduction of poverty. The smallholder peasants who are mainly women produce more than 95 per cent of food in the country. Though unrecognised and not given economic value, women in rural areas toil up to 18 hours a day and spend most of their time in the field performing agricultural tasks. Despite this, most of them lack access to productive resources, particularly land. Rural women and their children have also been vulnerable to poverty brought about by low levels of illiteracy, lack of marketable skills, inadequate services and natural calamities like draught. Out of the total number of households in the country, 77.5 per cent are headed by males while 22.5 per cent by females and less than 10 per-cent of Ethiopian women own land. (1998 CSA Welfare Monitoring Survey).

Before the revolution in 1974, Ethiopia had feudal system of land tenure. It was used as an economic and political instrument and access to land depended more on political status and loyalty to the crown and/or church, the latter being the main instrument of the state for its consolidation of power. Land holding practices were varied from one region to another. In the north, both the *rist,* -hereditary land rights and *gult,* - land grants by the crown existed, whereas in other parts, only the *gult* was the most common practice. Land tenure system was characterised by the prevalence of tenant-landlord relations which remained patriarchal.

In 1974 the Derg regime overthrew the monarchy and abolished the exploitation of the peasantry by absentee landlords and began to work with the popular slogan of "*land to the tiller*" . All the rural lands were nationalised and distributed to the peasants. In March 1975 it was proclaimed that *"Without differentiation of the sexes, any person who is willing to personally cultivate land shall be allotted rural lands sufficient for his/her maintenance and that of his family"*. The land reform thus provided equitable land distribution irrespective of marital status to each adult member of the community including young males and females of minimum age of 22 and 15 respectively, giving them independence from parental households. The direct

CCRDA

allocation of land to individuals as per the reform guidelines was meant to enable women to claim and own land in their own right and increase their economic security. The reform was attractive and seemed gender sensitive, but in practice the issue of women's rights of having access to land was distorted in the implementation process was household focused on head of family - usually male. Women were not represented in the Peasant Associations in charge of distributing the land. As a result they have continued to work on land but only access it through husbands, fathers or brothers and in few cases as heads of families when registered with *kebeles* - Peasants Associations. Women lack decision-making power over what they produce while they toil on the land all the time. The management of land and other household property is vested on men as husbands, brothers or male kins. Women who own land are forbidden by tradition not to sow or plant on their farms. As a result, they depend on male labour and share the harvest with them for these services. Thus, the 1975 land reform neither totally discriminated on women's right to land nor did it improve their situation substantially. It was criticised for its failure to challenge the cultural taboo against women ploughing and sowing and hence reaffirmed the beliefs, practices which governed the gender relations at the farm level (Dessalegn, 1994 and Zenebework, 2000). It was however successful in abolishing mainly the age-long tenancy, agricultural wage labour and other forms of peasant dependency on the landed class. The reform also enabled the distribution of available land to the peasantry on a relatively equitable basis and thus gave usufruct rights over the plot they cultivated. Despite this, the distribution process, which was household focused, in most cases was gender biased and therefore failed to ensure equal rights to women. Furthermore, the custom in many places continue to make women loss totally or partially their rights to land. The status of women also varies with factors such as religion and ethnicity Dejene (1999) For example, in Oromiya, the Oromo women do not own property in their own rights. A widowed woman and her children are inherited by a brother-in-law including the land except when there are grown-up sons. Daughters do not inherit the parent's property because it is assumed that she will get married yet as a wife she cannot inherit her husband's land because it belongs to the clan.

The Derg had also implemented an ill-conceived program of villagisation in 1977, which had forcefully uprooted the rural people from their original places and resettled them in new areas. The farms were allocated far away from the villages and women had to walk long distances to reach them. In addition, the forceful establishment of producer's co-operatives in the villages had also negatively affected women's access

CCRDA

to land. This was because the participation of women in the co-operatives was limited since only one person per family was required and obviously the husband ended up representing the household. The villages were abandoned immediately after the issuance of Special Decree on Investment in 1990, which led to the dissolution of co-operatives and return of most peasants to their original places (Alemayehu, 1990).

In 1991, the Derg were overthrown by the Federal Government. In 1995 the new government prepared a Constitution stating that, *"Ethiopian peasants have the right to obtain land without payment and the protection against eviction from their possession and lay down a system based upon transparency, fairness as well as the participation of peasants, especially of women for purposes of assigning holding rights and carrying out distribution of holdings".* The transitional government had earlier issued a women's policy which addressed women's land rights in terms of distribution, implementation, administration and utilisation within the new land policy. The main policy objectives is *" facilitating conditions conducive to the speeding up of equality between men and women so that women can participate in the political, social and economic life of their country on equal terms with men and ensuring that their rights to own property as well as their other human rights are respected and that they are not excluded from enjoyment of the fruits of their labour or from performing public functions and being decision makers".* This is also enshrined in the Constitution adopted in 1995 which underlines the need for the elimination of discrimination against women in rural areas and their participation and benefiting from rural development on the basis of equality with fellow men. It provides for women's access to credit services, marketing facilities, appropriate technology as well as their equal treatment in land and other rural development programs. It states, *" Women have the right to acquire, administer, control, use and transfer property. In particular, they have equal rights with men with respect to use, transfer, administration and control of land. They shall also enjoy equal treatment in the inheritance of property".* Thus the law provides for the administration of common property by the spouses unless there is an agreement which empowers one of them to administer all or part of the common. It emphasises that the spouse who performs an act of management in respect of common property is duty bound to inform the other spouse.

Regional governments were empowered to enact their own land reform laws relevant to their regional socio-economic conditions but ensure no discrimination based sex.

CCRDA

pastoral, mixed farming and cash crop production. Oromiya contributes significant share in exporting coffee and other agricultural products. However, the population of the region has been increasing at an alarming rate and thereby putting pressure on land. As per the Oromiya BOA, about 34.6 percent of the population of the region live below the absolute poverty line. Out of 180 districts in the region, 59 are experience food shortage.

In Tigray the research took place in Lima't *Tabia* (PA) of Degua Temben Woreda District and in Oromiya in the villages of Hatie Andodie *Kebele* (PA) of Hitossa Woreda, Arsi Zone. Land has been distributed in the two areas almost in the same period but under different political situations with varying objectives and goals. In Oromiya the study was conducted in Hitossa, Hatie Andodie PA village composed of a total number of 1,011 households and women head 153 of them. Landholding in the PA ranges from one hectare for a couple to 2 hectares to those households with more than eight children. Women own land when they are household heads and registered as members of the Peasant Association. There are many landless people in the community and these are mainly young couples. The main crops grown in Hatie Andodie are wheat, haricot beans, and sorghum. The two regional states have different agro-ecological and socio-economic conditions as well as cultural practices. The community in Tigray are mostly Orthodox Christians and women are highly politicised with secure land rights. In Oromiya the inhabitants are predominantly Moslem but also practice customary laws while women are not as highly politicised as in Tigray . The majority of Oromiya women have no access to land in their own rights and the region has not yet adopted the federal land proclamation. Although wives in polygamous marriages get land under the pretext of being female heads of households, it is the husband who controls the land. A divorced woman do not get a share of land from the husband and is usually forced to leave the area since she can no longer access land to work on or remarry another man from the same locality. Widows are inherited by the brother or close relative of the deceased husband sometimes against her will. A widow with an adult son who is able to till land is allowed to maintain the land without being inherited.

In Tigray, with exception of two women who were married but under-age during the last land distribution carried out in 1990 in the area, some 86.7 per cent of those who were interviewed own land in their own names. However, the average size of landholding of respondents was found to be too small - 0.50 hectare per farmer, mostly of low quality and low productivity as a result of continuous cultivation and

CCRDA

land redistribution for several years. This has led to shortages of food at the household level since they cannot produce enough food to last them for a year. Besides, many of the farmlands are sloppy and not suitable for farming. Although the farms maybe small, women are satisfied that their access to land is fully guaranteed and this has improved their living conditions and that of their families, enabled them to develop security, self-confidence and raised their socio-economic status in the community.

Those who do not have land as a result of their being under-age during the last land distribution have equal share in decision making on their spouse's land and its produce. Married women testified that they have uncontested and equal decision making roles in the entire production and utilisation processes. Moreover, married women have the right to retain their share of land in case of divorce. This was the result of the intensive politicisation of the people by the TPLF during the armed struggle, which among other things aimed at ensuring the political, social and economic emancipation of women. Although taxes are paid in the name of the household head, which is traditionally the male this does not mean that the male spouse has the upper hand or the sole decision-maker. Women are aware of their land rights as a result of the politicisation process during the liberation struggle and land distribution in the area and their effective participation in the entire process of the land reform For examples :

Abeba Habtu is a 29 years old married woman in Lim'at PA. She received land in her own right during the 1990 land distribution in the area. She did not attend school, got married at the age of 17 and has three children. Abeba confidently said that, apart from having access to 1.00 hectare of land, they have a pair of oxen to plough with and two cows. She has no problem of labour, have a good harvest most of the time and enough food all the year round. As a result her family and herself have improved their food intake because she has enough food, she has built a better residential house, she can buy good quality and adequate clothes and she sends their children to school. She also hires out the oxen and therefore get more crops from other farmers. As a result of having access to land, oxen and the two cows, she lives a better life than the landless She declared that she has equal decision making power like that of her spouse and therefore feels secure, confident and is respected in the community.

CCRDA

Hajo Gobie, a 35 years old widow lives in Hatie Andodie PA. She got land as a head of a household. Upon her marriage, her parents gave her cattle, a horse and household goods. Although Hajo and her husband had one and half hectares of land, which they secured during the redistribution upon the disintegration of the co-operatives, she neither had control over the land nor equal right in the utilisation of the produce. In spite of the fact that her husband had a second wife, Hajo managed to inherit her husband's land when he died since the other woman had land of her own because she had registered as a member of Peasant Association. It only now that she is a widow that Hajo has full control over her land and can make any decision. As a result, she has improved her food production and her living conditions substantially. This has enabled her to build a better residential house in her village, feed her four children satisfactorily, buy them adequate clothing and educate them properly. However, Hajo does not wish her children to be farmers and depend on small plots of land, which are already highly fragmented and extensively degraded. She is hoping that her children will get wage employment.

In Oromiya, whenever married women own land, they are often reluctant to publicly declare so due to cultural constrains and possibilities of social condemnation and loss of marriage. In some instances, women under polygamous marriage own land in their own name since their spouses allow them to be registered as PA members although the husbands still controls such land. Apart from women inheriting land from parents and or deceased husband, married women do not have independent rights in land they use.

The people of Oromiya expressed dissatisfaction at the land redistribution carried out some 10 years ago which they claimed was characterised by nepotism and gender-bias. Many officials felt that even if land was to be re-distributed, the majority of married women would prefer to be given land under the umbrella of the household and in the name of the male spouse. The implementation process which focused on households, left out single adults both men and women who are now landless. Landless women who made up to 46.7 per cent of the respondents wanted redistribution of land since they neither have any other source of livelihood nor fund or skills to work with. It was revealed that young men who had been eligible to get land in their community could not benefit from the distribution earlier because they refused to be registered as members of the Peasants Association due fear of being conscripted in the army. There was also

GCRDA

limited awareness by women on their Constitutional rights in land. Though the regional government officials are fully aware of these problems concrete measures have not been put in place to address them. Here are some examples experiences of women who have no land:

Hiwot Haile Selassie was a 20 years old divorcee living in Lim'at PA. Hiwot got married when she was only 17 years old and was given an ox as a dowry from her grand parents while her husband had a pair of oxen and 0.25 hectare of land to work on. When her oxen died her husband divorced her and therefore she had to return to her grand parents. The ex-husband has now remarried another woman who has land of her own. Hiwot could not access land during the distribution since she was young. She regrets being without land, which she says could have enabled her to maintain the marriage. Nevertheless, she is now engaged in making handicrafts and traditional clothes which she sells in a nearby market. Hiwot says that she is working hard and is determined to buy an oxen, re-marry and have children.

The 24 year old Sofia is married to a man who abducted her but immediately paid dowry of 1,600 (US% 180) to her parents through the help of relatives and friends as the man was landless. Although her parents had land, traditionally daughters do not inherit land. Safia resents being a survivor of the culture of abduction and getting married to a landless man. Sofia is depressed and saddened, and feels inferior most of the time for not having access to land and be able to produce food. The worst months of the year for her are from May to September, a rainy season and when the food is very scarce. The bitter experiences she recalled was that of last August when she delivered her fourth child and she had no food for two days. She could not breast feed her baby because she did not eat enough food. She borrowed 50 kilograms of wheat to be repaid in cash. Other times she is forced to go to her parents and get some assistance in the form of grain. Because of her landlessness, she is been reduced to a beggar. Sofia's husband is a daily labourer in other people's farms during the weeding and harvesting seasons only. She cannot feed herself and family throughout the year.

Comparing the two regions, the findings of the study indicated that rural women in Tigray, particularly those who have access to land have a sense of economic independence, security and mutual respect within their marriage and self

CCRDA

confidence both at the household and at community levels. They exercise full authority on equal terms with their spouses in the decision making process with regards to production and utilisation of the land and its produce. On the other hand, Oromiya women who claim to access land as wives, do not have decision making powers, as the male spouses are the ones with the upper hand. It is only the female – headed households who have been registered as members of Peasants Association or others who inherited land upon the death of their spouses who have full control over the land they utilise and its produce

As mentioned earlier, the Tigray, women farmers are fully aware of their Constitutional rights in land, while those women in Oromiya are not, and the problem of the latter has been identified to be lack of information and education to this end. Although the gender sensitive policies and proclamations issued by the Federal Government are highly appreciated, these have not been disseminating and therefore people are not aware of them more so among rural communities, where illiteracy rate is high and access to information and services is limited.

Access to land alone can neither ensure food security at the household level, nor can it eradicate poverty unless supported by other complimentary agricultural services such as oxen, labour, credit and improved infrastructure. Despite the low crop production, landholding interviewees have declared that having access to land in their own rights has improved their living conditions and that of their families, made them to be secured in their marriage, increased their decision making roles in the household and raised their socio-economic status in society. The land reform eliminated economic dependence of women on men and changed the intra-household relationships. Those individuals who received parcels of land during the last distribution, have acquired a degree of social security Gebre'ab (1995).

Constitutional provisions and that of the land administration proclamation, other policies and the recently promulgated Family Code have opened new opportunities for altering gender relations in general and access to land in particular. Nevertheless, though there is a great commitment at the Federal Government level, the implementation of policies/ proclamations seems slow. There is an urgent need for addressing the inequality of rural women as regards their land rights. The intervention to resolve land rights issue need to consider other complimentary resources like traction power, adequate inputs and services, provision of credit and marketing.

CGRDA

Several recommendations are given. Regional Government of Oromiya, which has not yet addressed problems of land issues need to conduct a detailed study in this regard in general and women's rights in particular thereby resolve the inequalities as regards having access to land. In consideration to the role played by customary laws and existence of deep-rooted cultural beliefs and practices, which are discriminatory to women, intensive gender sensitisation programs be conducted in Hatie Andodie and the region in general so as attitudinal change could be achieved. The community members in Oromiya, including women should participate in discussions and formulation of by-laws in relation to land issues and be involved in subsequent processes so as create trust and confidence among one another and develop and effective implementation process.

Women's organisations and the civil society at large need to be in solidarity with those rural women whose land rights have been denied, by lobbying at different forums. Planners should give due attention to women farmers who are often discriminated against and have lesser access to economic resources such as oxen, labour and thereby ensure their benefiting from development interventions. The Federal Government need to set effective monitoring and evaluation mechanisms so as the actual implementation of policies and proclamations could be checked, problems identified and remedied in time. It has been observed that land is very scarce and unemployment high in the areas. Therefore, rural credit services need to expand to enable women farmers increase their income and also accommodate the ever-increasing number of the landless to be engaged in off-farm activities.

CCRDA

6.5 Kenya

Agriculture contributes the largest share to Kenya□s economy. Land is, of course, the most basic resource for food and agricultural products. Questions of access and rights to land are therefore of paramount interest to the majority of the Kenyan population whose livelihoods depend on agriculture. Agriculture contributes the largest share to Kenya□s economy. Land is, of course, the most basic resource for food and agricultural products. Questions of access and rights to land are therefore of paramount interest to the majority of the Kenyan population whose livelihoods depend on agriculture. Agriculture contributes the largest share to Kenya's economy. Land is, of course, the most basic resource for food and agricultural products. Questions of access and rights to land are therefore of paramount interest to the majority of the Kenyan population whose livelihoods depend on agriculture. Agriculture contributes the largest

share to Kenya's economy. Land is, of course, the most basic resource for food and agricultural products. Questions of access and rights to land are therefore of paramount interest to the majority of the Kenyan population whose livelihoods depend on agriculture. Agriculture contributes the largest share to Kenya's economy. Land is, of course, the most basic resource for food and agricultural products. Questions of access and rights to land are therefore of paramount interest to the majority of the Kenyan population whose livelihoods depend on agriculture. Agriculture contributes the largest share to Kenya's economy. Land is, of course, the most basic resource for food and agricultural products. Questions of access and rights to land are therefore of paramount interest to the majority of the Kenyan population whose livelihoods depend on agriculture. 1Agriculture contributes the largest share to Kenya's economy. Land is, of course, the most basic resource for food and agricultural products. Questions of access and rights to land are therefore of paramount interest to the majority of the Kenyan population whose livelihoods depend on agriculture. 01Agriculture contributes the largest share to Kenya?s economy. Land is, of course, the most basic resource for food and agricultural products. Questions of access and rights to land are therefore of paramount interest to the majority of the Kenyan population whose livelihoods depend on agriculture. 001

Agriculture contributes the largest share to Kenya?s economy. Land is, of course, the most basic resource for food and agricultural products. Questions of access and rights to land are therefore of paramount interest to the majority of the Kenyan population whose livelihoods depend on agriculture. With the population of 28.7 million there is also a growing concern over the country's future capabilities to feed itself.

In Kenya, as in many other regions of the developing world, women play crucial roles in agriculture as producers and providers of food. Women are culturally obligated to provide food for the family and to earn income to meet the needs of daily family welfare. Traditionally, they have been provided access to productive resources, including land, to enable them to fulfil their obligations. The pre-colonial system of land holding created stable security of tenure which acted as incentive to full and committed participation by women in the economy . Today, their obligation to provide food to the family remains but their access to productive resources and ability to control the product of their economic activities, is less secure or has actually declined. (Akinyi-Nzioki, 2000:3).

CCRDA

The origins of land tenure reform is traced back from the time Kenya was declared the British Protectorate and in 1920 a Crown Colony. European settlement encouraged by the Foreign Office was led to a series of Ordinances which eventually alienated large tracts of land from the indigenous people (Wanjala 1989). The colonial era, ushered in disruptive changes to the African land tenure systems in which the following measures were taken to provide land for European settlers, plantation owners and mercantile traders. Acquisition of land through Crown Land Ordinance, the imposition of English tenure through individualisation and the transformation of indigenous tenure system. The Crown Land Ordinances, 1902 gave the protectorate government jurisdiction over all lands except the lands occupied by Africans and opened the way for European settlement in Kenya (Roseberg and Nottingham, 1966: 62-74). That is, African ownership of land was recognised, only in actual occupation and use of land. Without clearly defining what 'actual occupation' meant, the decision as to whether land was occupied or not was left to the administration.

The Crown Land Ordinance of 1908 conferred power upon the Commissioner to make grants of 99 year lease to the settlers. White settlement in the Kenyan Highland areas became the cardinal influence in the social, economic development in Kenya.. Large tracts of land were alienated for settlers despite the fact that Africans often were in occupancy and claimed rights to the land. In 1915, the colonial government formally claimed that African had no inherent or legal rights to land and any part could be alienated if the governor together with the Secretary of State for the colonies was convinced that the land was not being 'beneficially' occupied. This Ordinance (1915) thus radically increased African anxiety, insecurity on land and precipitated further alienation of land, threats of alienation, adverse court decisions regarding African land claims and expansionist attitude of European toward African land (Rosberg et al: 94).

The white settlers, feeling that they were supporting the colonial government's economy as the main actors in agriculture, began putting on further pressure by advocating for a system of property law with regard to transfers, mortgages and leases, the content of which was English (Wanjala 1989). These demands were implemented by the Transfer of Property Act of India under the Crown Land Ordinance and the Registration of Titles Ordinance.

CCRDA

In 1932, The Kenya Land Commission made provision of the Natives Land Trust Ordinance in which various areas of Crown land were reserved for the use by Africans under Native Temporary Reserves, Native Settlement Areas, Native Leasehold Areas and the Communal Reserves (Blundell 1962: Ibid). The tenure of each reserve was to be built on the basis of the African custom, but that it should be progressively guided in the direction of private tenure, proceeding through the group and family towards the individual holding. The Natives Land Trust Ordinance had no provision for the grant of individual title to agricultural land. Only a negotiable title in the form of a registered lease could be granted in respect of land set aside for some purpose other than agricultural land. Until 1934, the land issue remained an emotional force capable of creating a degree of unity among Africans and continued year after year to petition the government. It acted to increase the African bitterness and frustration. It was a key political issue (Rosberg et al, 1966160). It is in the areas where land had been alienated for white settlement for example in Nairobi, Kikuyu reserves, Highlands and Rift Valley that protest movement against colonialism developed.

By 1950 the land question had laid the foundation for the *Mau Mau* rebellion– a movement fighting a guerrilla war for the struggle against colonialism and white settlers for land alienated to the white community (Clayton 1976:1). The demand for land and freedom was central to *Mau Mau* ideology instigated by the landless in the reserves, the disinherited squatters in the White Highlands and the Kikuyu urban proletariat. The squatters wanted to appropriate the White Highlands from the settlers. The squatter's state of landlessness was the major and single most important source of discontentment and squatters directed their bitterness towards the European estates (Kanogo 1987:131). The only answer, therefore, to these problems was to reform the African tenure system, that is, in access and use of land. These arguments were to lead to a land tenure reform programme relentlessly pursued by the colonial government throughout the colonial period. The solution to the problem lay in the eyes of the colonial authorities, in the individualisation of land tenure.

In 1951/1952, land consolidation was now reviewed as the most urgent and important matter. Nevertheless, the customary law of the colonial state did not accommodate at all the idea of women land owners. Claims by women in the name of customs, were viewed with impatience as an impediment to the development process. British officials in Kenya thus attempted to preserve existing native law , yet substantive content of customary law was being altered through the British

CGRDA

perception of such notions as equity, and through the expressed desire of African leaders to re-establish norms over control over young women (Martin: 1992:36).

In 1954, the Swynnerton Plan provided a definitive statement on land tenure policy. This aimed at intensifying African agriculture on the basis of land tenure reform and production for the urban and export market. In the following years, the policy of individualisation through the process of land rights and the subsequent registration of absolute titles was pursued vigorously. The Registered Land Act (GOK:1962) further enhanced the individualisation of tenure among the indigenous communities. These changes dramatically transformed the gender relations to land. The solutions imposed by the colonial system aimed at intensifying agriculture and introducing cash crop, with emphasis upon male controlled agriculture was a primary determinant of women's loss of status and power in agriculture. In essence, the men rather than women benefited from reforms and re-structuring of customary practices of land tenure.

After independence, Land Tenure Reform continued in independent Kenya as a matter of policy. The Kenyan Government has pursued programmes to transform customary land tenure to statutory freehold tenure through land adjudication and registration. Land reform continued to be held highly as an important precondition for agricultural modernisation because it is assumed that, the owner of the land has the incentive of using the land as a collateral to get credit and develop the land. The full process of land tenure reform involves two distinct stages namely, adjudication and registration. Adjudication is the confirming of existing rights in land while registration is the final step where the parcels of land already adjudicated are entered into a register and land certificate is issued in the name which appears in the register. It must be mentioned here that the whole process from adjudication, to registration has generally been implemented by men and male groups. That is, adjudicators and land committee and board members are almost always men. The women's participation in this process has been almost non-existent. It has been argued that "by custom women did not take part in land disputes and therefore it was reasonable that they do not take part now (Pala 1980:39).

The problem is that the titled land is being transferred almost exclusively to male individuals, thereby leaving no provision on how women's access rights are to be defined and how women will realise the goals of privatisation once the land is registered in an individual male's name. In this scenario, women's access to land is

CCRDA

derived because they have no rights of ownership, access, or use except through male kin. The precise nature of those rights is further conditioned by their position in their natal or their husband's lineage, their marital status, and their life cycle status. Moreover, derived rights do not include the rights typically related to ownership - rights to use land, to raise loans, to rent, to sell, to dispose of by will or make permanent improvements. The registration of land title deeds is threatening the security of tenure of women and children and the security of economic opportunities of entire families through rights of disposal conferred on the male head of the household. This directly threatens women's ability to produce food and maintain their families since technical inputs and agricultural extension services which is supposed to increase production among smallholders continue to favour male rather than female producers. As a result, the women's economic status has moved from one of relative self-sufficiency to one of relative dependency. Although women have continued to play a major role in subsistence food production, men exercise an increasingly dominant role in the management of land as a property including agricultural inputs, control of land, the distribution of agricultural products and services.

The research carried out in Mutituni Location in Machakos District, Eastern Province among the Akamba community and in Kinoo Location in Kiambu District, Central Province among the Agikuyu generally provides an insight into women's land issues. In Kinoo Location the land parcels are small mostly below 2 acres in size. Husbands have to be consulted upon to make decision on how to use the family land, the types of crops to be planted under what acreage, application of fertiliser and other farm-inputs except in instances where the man is employed elsewhere, then the wife runs the farm. Subsistence farming predominates, involving the growing of such food crops as maize, beans, vegetables, fruits, especially bananas, potatoes, arrowroots and sweet potatoes. Since most of the land parcels are quite small family labour - read women and children suffices. The annual income from the farm is usually not enough to meet the family's subsistence requirements. Alternative means of survival like, small scale trade, and hawking in the nearby city of Nairobi have to be employed to further support the survival of the family. The small incomes generated from the farms are generally controlled by women except in big farms with higher investments like cash crop or dairy farms where the men become the sole controller.

Traditional patterns of land inheritance still pre-dominate despite individualisation of tenure- that is land title deeds are almost exclusively inherited by the male heirs. *"A man had only daughters. One of the daughters, had a son and the man, before he*

GCRDA

died, declared the grandson to be the heir to the family land and not the daughters". The unmarried or divorced daughters do not have any guaranteed share of land within their natal home. They are, sometimes, forced to buy or rent land, from which to eke out a living. Daughters before marriage have limited rights in land use within their natal homes They can grow annual crops but not plant permanent crops or erect permanent structures as they are expected to leave the homestead and get married. Few divorced or unmarried daughters are allocated land by their fathers but whenever it is done, the land is usually smaller in size than the portion allocated to sons. The cases of Ngonyo and Wanbui have this to show:

> *Ngonyo lives in Mungala Sub-Location. She was born in 1954 and is educated up to Standard 7. She got married in 1983 but later divorced and has three children. Ngonyo's main occupation is farming. She had access to her mother's land although there are problems regarding it. Since the land actually belongs to her brothers, they are putting pressure on their mother to restrain her from using it. The brothers have accused her of divorcing her husband in order to come home and bother them.*

> *Wambui's brothers had already been allocated the best portion of the family land which was now being used by the sisters-in-law. She complained that the piece of land which she was using was not even fertile and very swampy, forcing her to grow only those crops that do well in swampy areas. At the time of interview Wambui's mother, until then the only living parent, had died about two months before and her brothers had taken away the land she had been using Wambui was, thus, left landless. She had to find other alternatives. She was given 0.2 ha. of land by a friend as a temporary gift. Since this land is too small to live on with her children, she sells her labour to nearby farms to supplement her income. Wambui feels disillusioned about her life and that of her children.*

Neither women as wives or daughters rarely get involved in the process of land adjudication and registration. Indeed very few women owned land in their own names. Problems arise after the registration process, especially when a husband decides to sell land, or to use the title to the land as security to acquire loan without consulting the wife. Such conflicts are at first solved by clan elders and chiefs and women are rarely made clan elders or chiefs which means that women are not represented in the structures solving conflicts over land Since women are generally

CCRDA

not consulted nor involved during land adjudication and registration, their interests and concerns as members of the family are not addressed in the process. Few women address family conflicts over land through the Land Control Boards or Court.

> *Teresia Wanjiru is the only daughter amongst four brothers. Their father sub-divided the land between his children and Wanjiru got hers too. When the father died Wanjiru's uncles who are elders of the clan told her to give up the land as 'daughters have no rights in family land'. They allowed the brothers to go ahead and register all the land including Wanjiru's in their names. Wanjiru is a single mother of four and right now she is desperate. She cannot afford to pay lawyers to take up her case and so she has given up.*

The study also noted that there are a few widows with land registered in their own names even though they own it only as custodians on behalf of their sons. Some widows however, spoke of bequeathing land to all their children, irrespective of gender; so as to enable them to meet some of the basic socio-economic needs, citing changing lifestyles, the ever-rising inflation coupled with unemployment, plus the instability of the marriage institution. Most widows still use land, which had been registered in their deceased husbands' names although they control it.

Kinoo women articulated the issue of women's land rights and suggested the need to change certain laws and institutions dealing with the registration of land: couples should have joint title to their land; women should be represented on Land Boards; inheritance of land should be equal between sons and daughters; land cases should be resolved in the presence of women for example by having more women sitting on Land Adjudication Committees/Arbitration Boards; women should be enlightened on their land rights; and women should liaise with women's lobby groups and the government to address the issue of their land rights.

In Mutituni farms are very small, on average one acre in size. Most of the respondents practice subsistence farming, growing such food crops as millet, maize, beans, avocados, mangoes, vegetables, cassava and sweet potatoes, amongst others. .Coffee is the main cash crop in this area. It is grown on farms with a larger acreage. However, some of the smallholdings have a few coffee trees which did not seem well-cared for, the reason given being the unfavourable coffee prices that prevailed during the period preceding the research.

CCRDA

Family land is generally inherited by sons. With land purchase however, there are minimal cases where land has been bequeathed to a daughter. Problems arise when a father decides to allocate land to any unmarried/ separated/divorced daughters. In most instances, such women eventually get forcefully evicted from such land by their male siblings, who believe that daughters should not have a share of family land. This happens irrespective of the fact that the women might have actually paid for the said land.

Nzilani went to school up to Form II but had to discontinue her education because her parents had little money which could only educate her three brothers. She dropped out of school and got employed as a housemaid to take care of her child. Nzilani got married in 1974. She has seven children, but now lives as a single parent because she divorced her husband in 1985. After divorce, Nzilani's husband sold the land she was using for subsistence farming to pay his brother's school fees. According to her, however, this was not so as the money was actually squandered by the man. Nzilani was forced to go back to her place of birth and use her father's land. She has found the land too small to share with her brothers and their wives. Her brothers have also not been willing to share land with her. They have consistently told her to go back to her husband. Before Nzilani's father died, he had given her a portion of land (0.3 hectares) to use for her subsistence. After his death, however, her brothers grabbed that portion of land, claiming that their wives needed more land to cultivate. Nzilani had to look for an alternative land to use. She leased a neighbour□s land (0.2 hectares) at KSh. 150 per year. This land, the owner says, can only be used by Nzilani for four seasons. The proceeds from this land are, however, not enough to feed Nzilani and her children. She supplements her income by selling fruits and vegetables in the local market. Nevertheless, farming remains her major occupation. Nzilani feels bitter about her ex-husband who does not take any responsibility for their children's survival. Since she is very poor, her children live from "hand to mouth" and she cannot afford to take them to school either.

Thus Women in situations of divorce, separation or single hood remains in an extremely vulnerable position with regard to land. Since, the major community resource is being registered under individual's male names, women under such conditions mentioned above are easily being left with little or no economic support. In such context, inheritance of land as a daughter would make a critical difference to

CCRDA

her ability to sustain her life and that of her children. Widows were sometimes found to be disinherited of the land they use by the deceased husband's male relatives.

Ngondu comes from Kyambuko Village, Musakwani Sub-location and got married to Mulili from Kyambuko Village. She was born in a poor family, and never went to school. Today, at 70, Ngondu knows the trauma of being a widow at an early age. Fending for a total of eight children (5 boys and 3 girls) was not an easy task, nor has it become any easier today. Ngondu fought all odds and has now inherited a piece of land from her husband, though her brothers-in-law confiscated a large portion. It is on this piece of land, which is registered in her name, that she grows crops. However, the land is too small, only 0.4 hectares and this, according to her, is not enough to feed her big family. To supplement the family income, she runs a small business in Machakos town where she sells fruits and vegetables. The land which Ngondu owns fell under her own name some 24 years ago when the survey department confirmed her as the legal heir of the land after the death of her husband. This was after a long struggle with her brothers-in-law who claimed that they had bought that land from her deceased husband at a cost of Ksh. 80. Their line of argument was that they used to support their brother when he was alive and that there were some moneys they had lent him and which he never paid back. They, thus, each took a portion of her land as compensation. Fearing to jeopardise family relationship, Ngondu did not take the case to court. All the same this has caused poor relationship between Ngondu and her brothers-in-law. She feels extremely sad when she sees her land being tilled by her brothers-in-law who never assisted her in any way. According to her, if she had all the land which her husband left behind, she would have educated her children and grown coffee to supplement her income. Nevertheless, she is waiting for her children, especially male ones, to be financially stable so as to put up a case over the land taken away from her by the brothers-in-law. She has great hope that, 'One day, justice will be done. Ngondu stated that the small portion of land she owns is in trust for her sons. Though she was victim of family land feuds, she still maintains that women should only own land when they are married. She also recommends ownership of family land by those women (daughters) who totally fail to get their own husbands.

CCRDA

Ngondu sees the advantages of owning land in that, 'I have something I can call my own. I am assured of a proper burial place, I have built my own house on my land, my children have something to inherit and I have been feeding my family using the land'. She also knows that she can use the land as a collateral to get credit, although she has never done so. She, however, thinks that the land she owns is too small. Her wish is to have more land, which would enable her to increase her income by growing more food crops and having her dream of planting cash crop (coffee) come true. Ngondu would like to share her experience with other women as a widow and a landowner. She tells women to be alert regarding land issues, especially when their husbands die and their brothers-in-law are involved. She also warns that women should discuss land issues with their husbands and not wait until things change as they did for her.

Husbands and their brothers or sons are usually the ones involved in the process of land adjudication and registration. On finding themselves landless, some of the women become " tenant farmers" on their kins' land. However, of the respondents interviewed within such a kind of set-up, many were those who complained of such an arrangement, which involves paying for one's tenancy through labour. For example working on the landowner's farm by giving the landowner part of the produce that is harvested. Since the amount either in terms of labour or in terms of produce is not fixed, many tenants find themselves working unproductively for someone else just to eke a living.

Few women are aware legal procedures with regard to land. Cases handled by the Land Control Board are reported by women, whose husbands use the family's title deed without consulting the wife to secure loans which most of the time did not benefit the family. Sometimes the men act as guarantors for another person using the family's title deed as security. Wives are supposed to give consent before land transaction but this rarely happens since most women are neither aware of this, or have the power to decide on what the man wants to do with the land. Other cases are brought up by daughters or mothers on behalf of their daughters contesting their being excluded during the sub-division/allocation of family land. Some of those cases involve single mothers unwed/divorced daughters. For widows, proof of marriage is essential whenever there is a land dispute. It is only then that the administration may be able to help the widow repossess the land Even though, after

CCRDA

such a decision, some widows find themselves living in such a state of tension with their relatives in–law, that they opt to abandon the claims altogether.

Discussions held with the district officers, the clergy, and chiefs revealed that, there are many land disputes in both Kinoo and Mutituni particularly on boundaries and demarcations, allocation and disinheritance of daughters by brothers and against men who sell land without consulting with family members.

A number of male elders expressed reservations on women owning land in their own rights by saying:

> *Daughters should have access to land in their matrimonial homes and therefore they need not be allocated land by their parents. They should try to preserve their marriages and not wreck them either because of 'women's rights', or because they would hope to get land within their natal homes. Allocating a daughter family land might lead to strangers living amongst the family should such a daughter and her husband decide to live on the said piece of land. The marriage institution could be endangered, especially when an independent –minded daughter is allocated land. On getting married, such a daughter might neglect her duty of working towards the stability of married life, knowing that she has something to fall back to, should the marriage fail. Land should therefore be registered in the name of the husband only, who is the head of the family to safeguard the marriage institution.*

To improve their livelihood the Mutituni women pointed out the need for creating equal rights on land inheritance between sons and daughters. It was also pointed out that most of the land disputes adversely affect women and children. According to them if a woman inherited land, then she would have an economic base to take care of herself and her children. Title deeds for women would enable them to secure loans to develop themselves because '*developing the woman is like developing the whole family which in turn would lead to socio-economic development and removing fears and anxiety pertaining to security in land and as a result leading to stability within the family'.* It was generally felt that the Chief of the location would be the right person to help the women realise their land rights by taking these recommendations to the relevant authorities.

CCRDA

In both Kinoo and Mutituni women's access to land is dependent upon their relationship to men and their marital status. Marriage seems to be the only way to acquire some access to land, yet many women dissolve their marriages, thereby losing access to the land. Thus, the position of married women in these cases regarding land appears totally dependent on the relationship with the spouse who owns the land. Women acquire land either as wives or by virtue of kin links while men, on the other hand, are direct holders or heirs to land. The inheritance rights of widows to the properties of the deceased husband do not exist in principle. Registration of titles in the name of the husband, however, offers some possibilities for widows to safeguard their rights, although they are granted only usufruct rights on behalf of their children. Land in the hands of widows tends to pass to male heirs in the next generation. On the other hand, a daughter's ability to successfully claim a share in land that belonged to her parents, if she is not given voluntarily by her male relatives, very much depends on the legitimacy of her claim, and whether it is considered valid by members of the household, as for example, when a daughter is physically disabled and may not seek marriage. In the absence of personal rights to land, the divorced, separated and widowed women face gross injustice and often forced out of their livelihood and made seek alternative means of supporting themselves and their children.

Nearly all land in this study is registered in individual male elders' names, and when the elder dies, little effort is made to legally transfer titles. Consequently, widows, their daughters-in-law and sons continue to cultivate the deceased man's land without transfer of title. It is important to point out that once the man dies, the wife's continued access to land is often threatened by the male relatives of the husband. Widows are generally powerless in protecting their usufruct rights in the face of adult male husbands' relatives, who may want to take the land. Frequently, they find that the land they had access to while their husbands were still alive is suddenly taken from them when the husband dies.

Nearly all land in this study is registered in individual male elders' names, and when the elder dies, little effort is made to legally transfer titles. Consequently, widows, their daughters-in-law and sons continue to cultivate the deceased man's land without transfer of title. It is important to point out that once the man dies, the wife's continued access to land is often threatened by the male relatives of the husband. Widows are generally powerless in protecting their usufruct rights in the face of adult male husbands' relatives, who may want to take the land. Frequently, they find that the land

CCRDA

they had access to while their husbands were still alive is suddenly taken from them when the husband dies.

In practice, fathers continue to transfer land to their sons. Occasionally, a father will give his daughter a plot of land to cultivate, though he is reluctant to do so because it means in future there will be less land for his sons. Girls do not inherit land, they are expected to marry away. In cases where a daughter remains unmarried, her situation regarding land becomes precarious. She must depend upon her father or brother to provide her with land for cultivation. Brothers are, however, reluctant to share their inherited land with their sisters and, most often, daughters are forced to contribute their labour to their mother's production unit if she is still alive.

Women can be said to be at the " mercy of men" since most of the individualised titles are in the names of men who can, therefore, dispose the " family land" or secure a loan against it any time they feel like. Even when men opt to secure loans to invest in agricultural production, many opt to grow cash crops. Thus, women end up losing the land they had been using for food production, resulting in their contributing towards the labour requirements necessary for production of the cash crops, without any guarantee to a share of the proceeds to be realised from the sale of such crops. The overall effect is that women have a limited access to funds, a factor that places constraints on their ability to undertake innovations, and thus expand or increase agricultural production, on top of investing in other economic sectors.

CGRDA

As titled land is transferred almost exclusively to men, the resultant limited sense of ownership amongst the women limits their motivation to develop the land and, thus, increase productivity within the agricultural sector. The limited size of many farms to the point of being sub-economic in size, also limit the yields and hence the possible income to be earned from the agricultural sector. In many rural areas of Kenya, there are very few alternatives available for income-generation without the farm. Therefore, many women neither have the funds to make any innovations within the farm, nor to make any investment due to the lack of a surplus from farming activities, and their inability to secure a loan against land, as the title to such a property is, more often than not, registered in men's names.

In the meantime, the Constitution of Kenya provides for protection of fundamental rights and freedoms of the individual. protection for the privacy of his/her home and

other property, from deprivation of property without compensation and a right of direct access to the High Court for the determination of his/her interest or right and the amount of any compensation entitled over property compulsorily acquired (The Republic of Kenya Constitution, Section 70:c and 75)

Kenya, currently, does not have a comprehensive legislation on the issue of matrimonial property. In the absence of such legislation, Kenyan courts have relied on 'The Married Women's Property Act of England – 1882' A wife or husband can apply by summons or otherwise to any judge of the High Court, and the with respect to the property in dispute. After the court pronounces a decree for divorce or judicial separation the wife is entitled to any property and the court to order settlement and may also apply by petition to the court for an order to protect any property which she may have obtained or may obtain after desertion, against him and his creditors. The Law of Succession Act covers the law relating to interstate and testamentary succession and the administration of estates of deceased persons. Muslims adhere to Mohammedan Marriage, Divorce and Succession Act. A widow is entitled to personal effects - watches, jewellery, clothing and household effects -chairs, beds and the like which she is at liberty to dispose, bur she cannot sell land, houses or motor vehicles. On remarrying, she loses her right over the said land and such property, which goes to the children in equal shares. A widower, on the other hand, does not lose his life interest over land or property upon re-marrying.

Despite the fact that Kenya does not have specific legislation on the contentious issue of division of matrimonial property, in the process of adjudication between husband and wife on how to share matrimonial property, they contribution made by either or both of the spouses to family welfare is rarely recognised by the courts.

The issue of land tenure reform enabling any person to acquire land regardless of sex is largely redundant given the society's attitude regarding women's ownership of land and lack of resources by rural women to purchase the land. Women largely gain access to land as wives and have little opportunity to acquire land otherwise. Thus, women's access to land is largely dependent upon their relationship to men and on their marital status. In these circumstances, women's position in the event of marital separation, divorce or widowhood, is threatened and ill-defined. Few widows who own land in their own names perceive themselves only as legal custodians on behalf of their sons. How much land and of what quality is allocated to women depends more on their husband's priorities in terms of how and for what he wants to use the

CCRDA

land. This means that women's agricultural priorities are subordinated to those who have land ownership rights (the men), who alone have the right to allocate depending on what they want to use the land and how they want to use it. Trends show that men are increasing allocating land to cash crops while land for food crops is diminishing. Thus, women remain disadvantaged in respect of freedom to manage and use family land

It recommended that, the government has a major role to play, as far as women and land in Kenya is concerned. The political goodwill is necessary and the commitment to translate this into effective action. The government should create a policy environment which effectively empowers Kenyan women through legal means and provides security on land as major stakeholders. It is the responsibility of the government to ensure that not only their agents, but all laws/policies governing land tenure reform are understood by Kenyan women. The marginalisation of Kenyan women in land tenure can no longer be justified by the excuse that our traditions and customs are responsible. Where traditions and customs are repugnant, they should be done away with in a manner agreeable to all.

The Commission of Inquiry land laws in Kenya appointed in 1999 and comprising only men must ensure that the voices of Kenyan women on land issues are heard by listening to both women and men equally. Thus there is a need to officially publicise through all forms of media, electronic and print and through the administration, the role and the specific terms of reference of the Commission to enable both rural and urban women to attend to these forums. Nevertheless appointing a parallel small Commission whose specific terms of reference would be to look into women's concerns on land reform and more specifically address the issue of women's access and ownership of land in Kenya will be of great value.

The Land Control Boards, Arbitration Boards and Adjudication Committees should have equal representation of women as men. Its members should consist not only of the administration but ordinary women and men who interact with the communities on a daily basis and understand their problems. Such representatives, in conjunction with the public officers involved in land transactions, ought to demand the presence and/or the signature of the wife whenever the husband puts up family land or matrimonial property especially the home for sale, to ensure that she is aware of, and that she consents to the intended sale.

CCRDA

Ignorance of property rights is the main factor that has led to the marginalisation of women in land/property ownership. Therefore, a campaign needs to be undertaken to educate the population especially the women on their general land rights. This will serve especially for married women on the need of the need to have a collective land/property ownership in matrimony, such that a couple either has a joint title to family land/matrimonial property, or the wife has a copy of the original title especially to such family land and/or the matrimonial home. Women also need to be informed of the ability of one to use the title to one's property/land to get credit for firm investments.

Government Land should establish a community based joint land management approach composed of women and men and make such land productive by leasing it to women's groups, youth groups in order to address the issue of landlessness among the rural poor. Such joint land management could also include forests and other "nature reserves", whereby such groups/co-operatives could assist in afforestation, preservation and conservation exercises, reaping such benefits as limited grazing/cultivation land.

CCRDA

7.0 SUMMARY AND CONCLUSION

Results from the country researches show that land tenure issues are neither uniform across societies nor historically static. The land reform policies already being implemented in some of the countries have involved changing institutional structures that govern people's rights in land in order to accommodate socio-economic and political changes. However, the gender relations in the different land tenure systems are identified and processes by which we might begin to change the situation with regard to women's land rights are now clear.

From the onset all the studies presents the pre- colonial land tenure systems delving into the contentious question of how women's subordination with regard to land rights originated historically. The most common form of tenure during the period in question is what is termed communal tenure, whereby land belonged to no one individual in particular but to the community clan or community. Each person in the community had secure rights of access to the land dependent upon her/his specific needs at the time. The political authority only exercised control to facilitate the structural framework within which the rights of access were to be enjoyed and maintain an equitable balance between the availability of land and the needs of individual members of the community. Thus, there was no ownership either by individuals or the political authorities in the same sense as ownership is known in the English law although the rigour of control and the degree of communalism differed from community to community. In this period, women's land rights relating to kinship and marriage and the relationship between women and men regarding land is depicted as essentially peaceful without any problems although this is debatable! It benefited women whose role in agriculture and food production was recognised by customary rights of access to land and support from the family labour. Women's land rights were guaranteed and protected by the very principle under which the initial rights were acquired, based on the principle of kinship, residence and allegiance. Land formed the foci of social relations and as long as these relations which gave rights to land were maintained, the question of having no land seldom became alive issue.

The advent of European colonial capitalism drastically altered former patterns of land use and occupancy in many places especially in Tanzania, Kenya, Uganda and to some extent in Eritrea. The idea of ownership introduced in the colonial context was an important tool for the colonial process which conveniently resolved that African rights in land were in the nature of usufruct only and that whatever was not under cultivation or

CCRDA

occupied was vacant land from which the sovereign colonial power was free to grant to the European settlers. The abundant land held by Africans was gradually restricted in many areas by the colonial government policies that favoured the consolidation of scattered tracts in the hands of male owners. In this process, gender relations to land began to be modified overtime by a major intrusion, namely, colonial capitalist notions of male property ownership. As a result, customary use rights, either communal or individual were discouraged in favour of legal measures that began to circumscribe land parcels and place them in the hands of individual male owners. In other areas, women's inheritance rights were eroded by male compound heads and pre-empted women's control of land for cash crop production. As a result, different patterns of household decision-making on land began to emerge, with the family economy being divided into cash income and subsistence, thereby transforming the role of women in that economy. Women's labour was devalued by capitalist production relations given the introduction of cash crop when less emphasis was placed on food production .

The Land reforms programmes are on-going in all the countries of the sub-region, involving redistribution of public or private land, re-settlement programmes, consolidation of holdings and land registration. National Land Policies and Land Acts have been formulated or are in the process of being done so.

Nevertheless, the results of the research show that women have not benefited substantially from these land tenure reforms taking place in the region. Whether land reform means registration of titles such as in Kenya , Tanzania and Uganda or land distribution in Ethiopia and Eritrea, this is being done in the names of the male heads of the families. In other words, family land is generally being transferred to male individuals - husbands, grandfathers, fathers or sons. Fathers also continue to transfer land to sons because it is assumed that daughters get married. The disinheritance of women as daughters creates a critical gender disadvantage.

Characteristically, the land reforms programmes focusing on the household as the unit of production, neglecting the inter-household gender dimension. Underlying this assumption of gender congruence is interest within the family, portraying the dominant view that men are breadwinners and women the dependant. Thus, land tenure reform has carried with it the implicit assumption that the household is a primary unit of production, management and earnings, forgetting that there is always a sexual division of labour as well as sexual division of management of certain crops, plots and the rights of appropriation over produce. The household is indeed, a focus of competing interests,

CCRDA

rights, obligations and resources, where members are often involved in bargaining, negotiating and possibly even disagreeing. In this context, unequal relations of production between men as husbands and holders of power and their wives, as well as between household and other members who depend on them, often lead to many conflicts and diverging interests. These gender relations at the household level will are not only affecting women's access to land, but also the conditions under which women are able to use land. A woman in a situation of divorce can be extremely vulnerable sometimes being left with little or no economic support. In such context, inheritance of land as a daughter would make a critical difference to her ability to sustain herself and her children. Furthermore, if land tenure reform only benefits the heads of households (the men) and information and services are delivered only to the men, this is bound to have a negative impact on women and food production. If men are the direct beneficiaries of land tenure reform and women have been placed in a subordinate position to their husbands who are confirmed as the custodians of household resources, this will definitely affect agricultural production because women largely provide the labour in this sector.

Despite new land Policies and Legislations, the findings show that customary law continues to determine the way in which a household head divides the land. To inherit land, each male member of the family can only be supplied with a plot of arable land by subdividing the land into smaller and smaller plots. Women are rightly represented as both among the landless and those whose accessibility is so small as to be uneconomical and, therefore, must be content with land wherever they find it. The norm is to have access to small scattered pieces of land borrowed, rented or gifts from other people Customary law often poses a problem and hinders the enforcement of laws that positively considers women's rights in land. For example, in Eritrea and Ethiopia, where the land laws have been enacted in favour of women they are not effectively implemented because of social resistance and the various ways in which males in the family repossess the land. Land distribution policies have often excluded women because bureaucrats are almost always gender insensitive. The land market still remains inaccessible to women for lack of financial resources. Where the purchase of land is liberalised on the principle of a willing buyer and seller like in Kenya, Uganda and Tanzania, trends within the countries show that reforms are creating potential landlessness for women and poverty for large segments of the population. As there is ready cash and the newly entitled individuals can sell land which was once, or ostensibly is still, family land. As there is ready cash for purchase of land, there is evidence that poor people are already raising money sometimes simply for plain

CCRDA

subsistence. The people found to be most threatened are women and children with little or no off-farm income, who depend on land for their livelihood. The current land reforms within the region suggests that access to land for women as a group is being systematically eroded to a degree where they will be added to the growing hordes of the landless poor, with obvious detrimental consequences to the agricultural sector. The assumption that the household is a unit of congruent interest whose members equally benefit from available resources is refuted by evidence from these studies. This underlines the fact that there is a greater need to allocate women independent resources.

On the other hand in countries where Gender Policies exists, these policies incorporates gender analysis in diverse ways, including bridging important gaps, for example, on women, work and roles, often giving explanations that women's economic position is a significant indicator of gender inequality. The measures of women's economic status remain typically employment and labour force participation and not property rights. Women's land rights are not problematised but discussed in the context of "family land". Whenever land issue is addressed in policy, it is only done so with regard to welfare and women's integration into the national economy. Women are not recognised as possible change agents who can contribute to development in their own way if granted independent access to resources. Nevertheless, failure of existing policies and actions to arrest the continuing deterioration of agricultural production and consumption has led to greater recognition of women's crucial role in food production and food security at the household level. Women are a major resource in agriculture and food production as evidenced by their numerical proportions, their share of labour in agriculture and food production and the division of labour by sex in as stated in all the five countries. Despite their crucial role in agriculture women have not benefited from adequate policy support. The agrarian land tenure policies have restricted their access to land and other factors of agricultural production such as technology, credit subsidy and inputs are directed to the male landowner. Unless these structural constraints which have been created by land tenure reform are removed, it is difficult to envisage an equitable growth and improvement of agricultural food production.

In Tanzania, Kenya and Uganda, and to some extent Eritrea, the rights bestowed on the individual land title owner have several elements: the ability to allocate, lease, mortgage, sell for cash or dispose of and in Ethiopia, only to the right allocate for use. Once land is given in the name of the male head of the family, how much land and of what quality is allocated to women depends more on their husband's priorities in terms

CCRDA

of how and for what he wants to use the land. This means that women's agricultural priorities are subordinated to those who have land ownership rights – mostly men, who alone have the right to allocate depending on what they want to use the land and how they want to use it. Freedom to mortgage or sell the land can prove critical in an economic crisis, and important even in non-crisis situations where land may be needed as collateral for loans. This right also gives the owner extra leverage and a stronger fall-back position than is the case with usufruct rights. The case for women, especially poor rural households having ownership and control of land of their own rather than mediated through male relatives, rests in the fact that they can better serve to reduce their and their children's risk of poverty than in the case of rights granted only for men. Losing rights to land for women goes along with losing access to the loans they might get since lending institutions require collateral, which they normally take in the form of land title, particularly for agricultural credit. It is men who hold titles and, therefore, it is men who can get loans. Any future farm credit that depends on land mortgages is likely to remain firmly in the hands of men. Further, any land secured credit in the hands of men will threaten the land rights of related women.

Women remain disadvantaged in respect of freedom to manage and use family land since land use organisation is usually based on the supremacy of the male head of a household, particularly in areas where cash crop has been introduced. This has brought about numerous changes in land use in the way land is controlled by individual members of the household and how decisions are made regarding its use. As a result, males rather than females more often control intra-family decisions related to agricultural production. More land is being converted to cash crop production making women's obligation to produce food for their families a difficult undertaking. Land traditionally allocated to women for food crop production is being re-allocated for cash crops. The cash crops are almost always under the control of men and are given first priority in terms of soil fertility, hectreage and distance when allocating family land. Women are left to grow food crops from shrinking and fragmented farmsteads, backyard gardens and poor soils without the necessary resources to increase their productivity. Where decision-making power over agriculture is limited it would be expected that women farmers are less efficient than the men who have control over the land and the power to decide how to use it. Furthermore, they lack security of tenure which would makes it worth a farmer's while to undertake permanent improvements and investment of the farmer's own capital.

CCRDA

The practical effect of all this on women farmers is that they cannot make long-term investments in the holding unless they are secure in their expectation of reaping the benefits of their investment.

Most of the households in the sub-region remain primarily subsistence oriented, although the level of subsistence has changed drastically in the past several decades. Male workers predominantly migrate from rural areas. This means that women's dependence on the rural agricultural sector remains greater than men's. Women are currently operating farms as *de facto* female heads, particularly due to male migration or as widows cultivating the deceased husband's lands. The rural domestic economy therefore continues to rely heavily on women's labour for household subsistence. While women's energies are directed to food production, men's energies goes to cash crops growing and investment in capital intensive and often status oriented activities. Relative male-female contribution to the household essentially remains the same, although the coming up of a market economy has increased substantially the amount of cash needed to reproduce the household and has, thus, increased the demands on both female and male incomes. The increasing tendency to view land as a commodity, the growth of cash crop production and the spread of Western education along with forms of employment, has re-channelled access to resources for both sexes and have re-shaped household relations of production as well as investment strategies of both sexes. As a result, these changes have not only split the family economy into subsistence and monetary sub-sectors but has also transformed the role of women in that economy.

Due to land tenure reform, the women's workload has increased substantially. Women are cultivating twice as much land without modern technological support while their labour is primarily directly appropriated and regulated by men. The majority of the women have to work first in their husband's cash crop farms before proceeding to their food farms. This unequal gender division of labour tasks and male dominance of family labour further jeopardises household food supply. Since food and cash crop farms are dispersed in different places, women are forced to travel long distances to the farms. Further, women combine agricultural work with reproductive domestic labour and off-farm activities, which are fundamental to the survival of farming households. The burden of female labour is exacerbated by the very limited access to labour saving technologies. The case of Ethiopia and Eritrea on the use of oxen and ploughs prohibited by culture is a great constraint to women who own land.

CCRDA

Whether women directly benefit from their labour is a critical issue in regard to food production and food security. Women have few alternatives to generate incomes outside farming as a result of the workload they experience in providing family labour. In many cases, the main obstacle for rural women in raising productivity above the family's subsistence needs is lack of marketing outlet which is, more problematic for women than for men. Unless there are infrastructural facilities, such as feeder roads, that link areas to markets, farmers, including women farmers, have no incentive to produce surpluses. Women's food marketing prospects are further hampered by little or no access to formal marketing channels, extra barriers they face as small farmers in competition with large producers, insufficient working capital, poor storage and lack of transport facilities. Export crop marketing systems often bring marketing services directly to the village, while the marketing of food crops continue to rely on informal arrangements with private traders or on the producer's own effort to transport her output to local or urban markets. Cash earned from cash crops is generally controlled and distributed by men. In this new mode of production, women find themselves both subordinated to the household income and marginalised. As a result, the economic burdens of women have increased. Failure to recognise women's economic contribution to the farming household has an adverse effect on food production. Incentives and benefits that women may need in food production are critical, if they are to continue in their efforts to feed the nation.

Given the intensive agriculture brought about by the land tenure reform, there is greater competition for women's labour between the marketed sector (cash crop production) and the non- marketed sector (food production and family maintenance). As a result, women are faced with difficult choices where to concentrate their labour. Furthermore, an increasing number of households in the rural areas are now being headed by women. Moreover, as the kinship support system crumbles the incidence of marital breakdown rises, an increasing number of women even those born and married into affluent rural households, would be vulnerable to poverty and destitution. Given this backdrop, the overall objectives of poverty alleviation could also be better served, in many instances, by directing economic resources to women than to the male household heads alone. Among the economic resources, land occupies a special place as a productive asset and a potential income stream. Land was found to provide a source of economic security in a number of ways, through the production possibilities it offers, as mortgage and as a saleable asset during a crisis. Among the poor rural households such as those in the sub-regional countries, a small plot of land is often likely to be just one element as a source of income, but a critical one, in a diversified

CCRDA

livelihood system. Land provides an important livelihood supplement to wage earnings by enabling members of the household, especially women, to raise food crops, trees, fodder, keep cattle or poultry and, sometimes, undertake non-farm activities. A small farm, therefore, unless totally barren, could be significant in reducing a person's risk of poverty.

The land question clearly illustrates the extent to which an inter-play of cultural, historical, socio-economic, legal and political processes have structured and reinforced the marginalisation. women in agriculture. Patriarchal cultural arrangements in all social contexts have appropriated women's labour on land but denied them ownership rights. As a result, women's lives under all existing land tenure system are closely tied to a resource, which the majority of them have access to through their relationship to male relatives (Kharono, 1998:13). Unless differential gender relations change as a result of land tenure reforms, the level of agricultural production may force women to commit resources and labour outside the productive unit or, alternatively, may not allow women to take full advantage of the resources they have. Indeed, it is a folly on the part of governments in this sub-region to believe that they can increase the productivity of agriculture by providing a natural incentive structure for men while depending on traditional constraints to mobilise a constantly increasing amount of the unremunerated female labour. Although women are altruistic, they are not foolish and they will not devote their total energies to their own economic disenfranchisement. Independent land rights for women, especially poor rural households, can better serve to reduce their and their children's risk of poverty than the rights granted only to men. Women's key roles as producers and providers of food for the family as well as their responsibility for managing household resources and ensuring the well-being of children, need more support on several fronts. These include: reorientation of agricultural policies and programmes to increase women's economic productivity; alleviation of burdens imposed on women by their traditional role in providing food, fuel and water for the household; and increased participation of women in decision-making.

The present analysis indicates that today change requires simultaneous struggles over property, over the norms governing gender roles and behaviour, over public decision-making authority, over hierarchical character of gender relations within and outside the household, based on highly unequal access of women and men to economic, political and social power. The breadth and depth of the obstacles which may be experienced makes women's land rights for food production a critical entry point for challenging unequal gender relations and power structures at many levels. Gender relations and

CCRDA

women's economic, political and social positions are the outcome of processes of contestation and bargaining. This has to involve elements of both cooperation and conflict at different levels, the household, the community, and at the national level. Women's ability to improve themselves has been seriously circumscribed by a historical process that has entrenched inequalities in the distribution of property, in the cultural construction of gender, and in the exclusion of women from processes of public-decision making, thereby relegating them to the role of takers and not makers of law, social norms and rules.(Agarwal (1994:477) In these circumstances, change is inevitable, but it requires simultaneous struggles over property, over norms governing gender roles, behaviour and attitude in public institutions that make and maintain the laws. This will mean contesting the existing hierarchical character of gender relations, within and outside the household, based on the highly unequal access of women and men to economic, political and social power. Nevertheless, in the context of limited economic opportunities in rural areas, ownership of land is a critical entry point for challenging unequal gender relations and power structures among rural communities.

Lack of land tenure rights is only one aspect of women's subordination; change of tenure and granting women absolute ownership rights will not effect any great change in their status as some cases in Eritrea and Ethiopia show, although, indeed, it has considerable positive effect upon their lives. It is also important to consider ways in which women's oppression and insecurity can be relieved, not just for humanitarian reasons, but also because of the effects it has upon food production. Such subordinate position of women in society is negative to the goals of agricultural development, which affects all members of society equally, regardless of sex or creed. The researches have attempted to identify ways in which women can best be supported to carry out these changes. It is our belief that these changes are important not only for advancement towards the liberation of women, but in order to generate many benefits that the changes would bring about not the least of which is the increased potential of women in food production within our sub-regional countries.

CCRDA

8. 0 PROPOSED ACTIONS AND STRATEGIES

8.1 Policy Frameworks

From the country researches suggestions have been made and strategies identified for addressing women's land rights. First, it has been suggested that, all policies related to land should be put in place, taking women's needs and rights into account, in order to have a framework from which current barriers of women's access to and control over land can be addressed. It is critical that women participates in the design of such policies which have a bearing in their lives. Governments should implement the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and the principle of non- discrimination on the basis of sex to be enshrined in the fundamental law of each country- the Constitution. On land management, registration and re-distribution: Land Committees and Tribunals should have a 30% representation of women and members trained to be gender sensitive; governments to provide legal aid to facilitate land registration by the poor; all stakeholders, women and men sign certificate of ownership; more land be distributed to women, public land to be reserved for the poorer and aged women and after a certain period tenants or squatters should buy the land or be declared the permanent owners.

8.2 Legal Frameworks

Second, on land law: there should be a provision that states that wife/wives must co-own land with their husbands providing security throughout life; consent in case of sell and providing a widow rights to inherit land acquired together with the husband ; government to enact law which protect women especially old women and widows; and a strong gender sensitive law recognising women's rights to land use and ownership be enacted and enforced. Review: marriage law ensuring equity, specifying entitlement at the point of marriage; land and Property Acts and the Law of Succession to ensure that women's interest are taken care of. Develop clear policies on clan/ancestral land for protection of such heritage. On land rights, women to be encouraged and facilitated to own land; their rights should be explicit and implicit; in polygamous marriages each woman to be apportioned her own land with entitlement, consent of wife/wives to be sought in any transaction; discrimination that affects women's land rights be abolished; and married women be allowed to go back to their natal home should marriage fail and have access to clan land.

CCRDA

8.3 Awareness Creation and Information Dissemination

Third, it is recommended that governments and non-governmental organisations should pursue strategies sensitising women and in particular informing and supporting grassroot women on their legal rights; providing popular education, legal aid clinic, media campaigns on women's rights in land and change the attitude of men and young people. Conduct campaigns that would impress upon policy makers the importance of linking land rights to productivity; and institute a process of national consultation to resolve the issue of equitable access to property and economic resources. Information of women's equal rights to land tenure to be disseminated by governments, non- governmental organisations, religious institutions, professional bodies, the media, the curriculum development bodies, and through the para-legal training, regional exchange and study tours, and above all through grassroot discussions with the communities.

8.4 Mobilising Resources to Develop Land

Fourth, strong suggestions are made particularly from the Eritrean and Ethiopian study, that it is insufficient to ensure women's access to land without enabling them to develop that land more intensively. It therefore recommended that resources be mobilised for the economic development of land by women at the same time as they are assured of security of tenure for themselves and their families. More intensive use may include agriculture services, information, credit, infrastructure and other productive uses with broader economic and social benefits.

8.5 Implementing Mechanisms

Fifth, National Governments to establish a national mechanism to monitor the enforcement of pro-women laws, set up a national commission to review property and land-redistribution issues, incorporate a gender dimension in all Sectoral policies including land management and set up, technical and financial scheme to support women producers.

At the regional level it is suggested that additional provision be corporated on women's access to land and property in the African Charter on Human and People's Rights; set up regional meetings to share research outputs and to brief policy makers; establish study visits and exchange of experiences on women's access through grassroot action to land and property; encourage Organisation of African Union,, Economic Commission of Africa, East African Community and other regional bodies to support/adopt provisions, facilitate the harmonisation of national policies;

CCRDA

and involve multiple organisations and groups including parliamentarians and the civil society organisations.

EASSI to establish within its secretariat a follow up mechanism for monitoring women's land rights within the sub- region., while governments should establish a national structure for the promotion of women's land rights where these do not exist and set up a national planning committee for the celebration of International Food Day on the 16th October, the theme of which centres on the role of women in food security.

CCRDA

9.0 FEASIBILITY AND CONSTRAINTS

Challenges and opportunities exist in the implementation of the identified strategies. Several constraints have been identified: absence of Gender Policy, lack of institutional mechanisms, poor information dissemination of the real situation, lack of politicisation of women's land rights, limited and sporadic resources, lobby processes being protracted, cultural attitudes towards women and land ownership and limited mobilisation of women.

The positive/facilitative factors are: commitment from women's organisations, human rights activists and individuals to address the issue; active participation by women in decision making processes, available research and information, existence of Constitutions and land policies which do not discriminate on the basis of sex, government ratification to UN Conventions, media representations, institutional/policy frameworks and women's NGOs creativity and lobby experiences.

9.1 Policy Constraints

On the other hand, many land and agricultural policies within the region are still not in place for example in Kenya, while others have flows and are contradictory/conflicting given what is proposed and what is actually taking place - Tanzania, Uganda, Ethiopia, Eritrea. Strategies to address policy based barriers includes; reviewing agricultural/land policies to ensure their gender sensitivity and instituting deliberate measures to ensure that women effectively participate in the formulation of policies that affect them.

In a countries such as Kenya the current Constitution under review still allows for discrimination on the basis of sex while legal systems within the other countries like Tanzania presents sufficient evidence to show that women are being discriminated against by law: Marriage Laws, Property Acts, the Law of Succession, Laws of Credit, African Customary Laws, Religious Laws and Land Acts. Furthermore, the process of getting land titles is lengthy, expensive and confusing for most women; due to ignorance and illiteracy women often are not aware of their rights; land is usually registered in male names; women are usually excluded from land issues and are not consulted when husbands are purchasing or selling land and this disadvantages women in the male dominated land markets It is suggested that strategies to address the constitutional, socio-legal based constraints will involve: engendering constitutional frameworks, reviewing laws to remove barriers to

CCRDA

women's access to family assets, educating and disseminating information on women's land/property rights and effective representation of women in decision making bodies.

9.2 Discriminatory Cultural Beliefs and Practices

In many communities women are not allowed to own land; sons inherit family lands while daughters do not; girls/women depend on the goodwill of their male relatives- fathers, husbands, clan leaders, sons or brothers to access family lands. On divorce or separation, women lose the land they have worked for and walk away empty handed. Widows normally lose their right to land upon the death of a husband and in polygamous marriages although land maybe acquired jointly wives cannot claim individual contribution or ownership (UWONET/AWOPA 1998). Under customary laws, women do not participate in structures that make rules and distribute family assets, the patrilineal system give the men absolute rights over family property and women's lack of income and high level of poverty makes it difficult for women to acquire land. It is suggested that strategies to address customary practices includes: land user rights to be specified in the land law to provide women with security as they invest in land, gender and legal awareness creation on the need for women's land rights and clear gender policies to be developed for clan/ancestral land covering issues of inheritance and sale.

CCRDA

10.0 ACTIONS FOR WOMEN'S LAND RIGHTS

10.1 Actions at National Level

10.1.1 Engendering National Constitutions/ Formulation of Gender Policies

In the final analysis, whatever opportunities exist for supporting programmes which address the underlying cause of women's marginalisation whether it is the national constitution or land policies and laws, this will not automatically guarantee that women's concerns and interest are taken on board. Given the widespread gender insensitivity, resistance to gender considerations and the tendency to trivialise these concerns among high level political leaders, organisations and individuals who seek gender equality must consistently exert pressure by drawing attention to gender concerns. It is in this context that the initial efforts must be undertaken by women and women's organisations to make the issue of women's land rights visible and to challenge the patriarchal status quo.

From 1996 to the present, many countries in the sub-region are having their constitution reviewed , reformed or re-written. A number of women's organisations and women activist have been involved in these processes to engender their constitutions. This is a window that must be used since the Constitution is the highest law of a country regulating all other institutions. The issue of land rights for women cannot be addressed in isolation from the other gender inequalities in society. An engendered constitution will guarantee and/or enact appropriate legislation to prohibit discrimination on the basis of sex and assure women equal rights and their full enjoyment. Women and women organisations must therefore forge links with other progressive groups to ensure that their national constitutions explicitly address gender inequalities. The national constitutions must guarantee access and control of land by women. This will provide women with a broader base for agitation on other gender inequalities including women's land rights.

National Gender Policies provides a unique opportunity for governments in collaboration with non-governmental organisations to effectively address the diverse socio-economic, social cultural and political gender disparities, which currently exists within the region.

CCRDA

10.1.2 Reforming Laws

Today, legal inequalities are in relation to women's land rights broadly stems from inheritance laws and land reform legislation. Revision of and/or formulation of new laws are critical and will facilitate issues regarding women's rights to land. Determining the exact content and form of reform requires expert, but in addition other strategies have to be adopted. There are several conditions in which rights of women in land are generally at risk, unless direct protective measures are included in the law. For example a joint wife-husband of the primary estates, including the house and farm would be a the most natural framework of land reform and would ensure equity and efficiency. Such ownership could apply within any tenure system, whether freehold or customary and provisions made when land is being registered. The revision of family law and the abolition of the law of succession, which gives sons certain property rights which daughters do not have would guarantee daughters rights to inherit land and provide guidance in handling land inheritance.

10.1.3 Providing Legal Literacy Programmes

While women are increasingly using the legal system to exercise their land rights, in many countries within the sub-region such as in Eritrea or Ethiopia, lack of awareness of the existence of these rights in countries where this has been remains an obstacle that prevents women from fully enjoying their land rights. Experience has shown that women can be empowered and motivated to assert their rights and attain equality regardless of their level of education or socio-economic status.

10.1.4 Creating Media Strategies

Legal literacy programmes and media strategies are key in helping women understand their rights. Provision of legal education is essential for promoting land rights for women, including knowledge of recourse, mechanisms to redress violations of those rights.

10.1.5 Organising Public Forums on Women's Land Rights

A sustained action is needed in order to engage public discussion and awareness about the need to address the legitimate interest and concerns of women in land issues. This strategy is essential in strengthening women's ability to begin discussing their land rights and women's organisations and activists who until now have largely avoided the issue, because it is too sensitive. The formation of a broad alliance of women's organisations, Human Rights organisations and women lobby activists into Women's Land Rights Lobby Group is one way in which to broaden and deepen

CCRDA

discussions on land and mobilise this category of stakeholders to rally around the issue of women's land rights.

10.1.6 Documenting Women's Realities on Land

It has been demonstrated by researches undertaken within the countries of the sub-region that women are ready and willing to make their voices and concerns on land matters heard and to organise around land issues. According to Kharono:

This provides an important entry point for mobilising and documenting women' realities under different land tenure systems in order to confirm and expose challenges underlying assumptions about women' land needs, interests, concerns and realities. The process of generating information and documenting women' experiences. Views perspectives is an important as the final outcome of the process, as it has the potential to lead to a deeper understanding and to challenge the structures and systems which construct women' poverty and marginalisation in land (Kharono 1998:24).

Thus action oriented research and documentation of women's realities and experiences under different land tenure systems within the countries of Eastern Africa sub -region would establish the magnitude of women's problems, which arise out of their lack of control over land. This is also bound to bring out which women are affected most, under which land tenure systems, what strategies are women using to avert their marginalisation and to what extent existing mechanisms for redress and protection serve women. Documenting women's experiences will be a strategy through which women may use to demand and affect necessary changes regarding their rights to land.

Taking from the experiences of Uganda and Tanzania, women's activists documented women's real situations regarding their land rights, provided forums for women's voices to be heard, advocated, lobbied, and in the case of Uganda participated in the drafting of the Land Bill.

10.1.7 Formation of a National Task Force on Women's Land Rights

A National Task Force composed of experts and activist should be formed to promote women's land rights in policies, laws and work out strategies for action and advocacy on women's land rights.

CGRDA

10.1.8 Establishing Women's de facto Inheritance Rights

Since land ownership rights are established largely through inheritance, enhancing women's ability to claim and keep control over their rightful rights over land (share of their inheritance) is vitally important. Establishing social legitimacy of the claim, reducing the gender bias in land registration practices, enhancing women's education and legal knowledge, improving women's fallback position so that they are better able to deal with the ensuing intra-family conflict. The struggle to establish the social legitimacy of women's claims so that there is greater acceptance of the idea that women need rights over resources, especially land is likely to be complex and have to be conducted at many levels.

- It is important to ensure that women's property shares are registered in their names in the land record, and that women retain control over those shares. It is critically important to ensure the inheritance rights of daughters and not just widows. Even if the existing legal acceptance of widows claims is further strengthened, it would leave the majority of women severely disadvantaged in relations to men who inherit as sons) for the greater part of their lives (Agarwal,1994:484).

- Thus the individual women's ability to take their claims in family land, whether as daughters, widows or in any other capacity, would be considerably strengthened if women collectively pressured the Land Boards into accurately registering their claims. Gender progressive organisations, especially women's organisations could play vital supportive role, by providing information on the laws and locating legal experts, should legal action be necessary.

10.1.9 Strengthening Channels for Land Claims

The most important other means of land acquisition for women especially the poor rural women headed households is through the State. State intervention can take a range of forms: some of the most significant are, the distribution of individual land titles under various land reforms and resettlement schemes, the leasing out of government land under wasteland development and reforestation schemes. In each one of these contexts, it is noted that there has been a systematic male bias in government land allocation and distribution.. Collective action by women is clearly critical for challenging these biases and asserting women's claims to such land. It is important to consider what institutional form of land ownership and management would be most desirable in any such distribution. For instance, should land be owned

CCRDA

individually by women or collectively. Individual titles have an advantage of allowing greater control over land use , bequeath or sell but carries the risk that the land may get appropriated by male relatives and the dilemma of who would inherit the land. Land acquired from by women collectively would allow each member of the group have use rights but not the right to individually dispose of the land. This would create a more communal egalitarian basis of land access and would especially protect the interest of poor women.

10.1.10 Exploring Joint Management and Promoting Infrastructural Support

Group ownership of land need not imply joint management, just as individual ownership need not preclude joint management. Women jointly holding ownership rights in land could cultivate land either in separate plots allocated on a household basis or cooperatively as a group, with each woman putting in labour time and sharing the returns. There could also be some combination of individual and group management, such as family based female cultivation along with joint investment by the women' group in capital equipment, in cooperation in terms of labour-sharing, and marketing.

Group investment could be advantageous even when women individually inherit land from parents or husbands, or receive tittles in government land on an individual basis. Women functioning in groups would be in a better position to mobilise resources from among themselves, through governmental or non-governmental organisation schemes. Infrrustructural support i.e access to credit, labour, other production inputs, information on new agricultural technologies is critical.

Such collective ventures apart, building support among women and for women, both locally and nationally is crucial for an effective struggle over land rights

10.1.11 Building Group Support Among and For Women.

There is a greater need to mobilise women from grassroot to national levels to create solidarity by women for collective action on women's land rights. This will be a significant shift from individual covert to group overt resistance. Creating group support among and for women will be important not only in the struggle by women to assert their inheritance claims, but also in the struggles by landless or near landless seeking rights in public lands. This group support can be, through specialised constituted groups (legal) providing support to women's land claims and through organisations comprised of the rural women themselves.

CCRDA

The significant areas of mutual benefit to different class of women which could motivate collective action is legal reform. Thus women of all classes with a stake of family land whatever its size, stand to gain from more gender equalitarian personal laws governing the inheritance of land. Similarly, a wide spectrum of rural women would benefit from certain changes in land reform legislation. For example, reviewing contemporary inheritance laws, changing customary laws adult daughters are treated at per with adult sons and that wives be recognised as an owner in her own right. Such legal reforms could form the basis of a joint struggle in the following ways:

- Agitational Collective action - That is mobilising to agitate for a change in government policy

- Cooperative Collective Action to access credit and buy land.

It is strategically important therefore to identify those issues that would clearly be a gain from agitation to cooperation for women at all levels.

CGRDA

10.1.12 Politicising Women's Land Rights

The relationship between governments and women's movement has been one of cooperation and conflict - sometimes it has been progressive (Legal Reforms) and sometimes retrogressive (implementing legislation). The land associated intervention, distribution of land to the landless, privatisation of common land and resettlement schemes assumes that the household is composed of members with congruent interest. In all these initiatives, titles have been granted male heads of households and only when the man had died to widow headed household. In order to bring the issue of women's land rights onto the political centre stage the following action lines are suggested:

- Ensure that governments adopt radical language of women's organisations, incorporating words such as 'women's empowerment' in its rhetoric. This could symbolise the emergence of the issue into the public discourse, and continue to establish it as a matter of legitimate political concern.

11.0 ACTIONS AT THE SUB-REGIONAL LEVEL

11.1 Building A Platform for Action on Women's Land Rights

Since countries within the sub-region are grappling with issues of land reform, redistribution and legislation in general and women's land rights in particular, it is important that linkages be established within the sub-region in order to build a common platform for action.

The main objective of creating such a platform is to share lessons, experiences, information and best practices to enhance actions on women's land rights. Towards building the sub-regional Platform for Action, the specific action strategies will include:

- Making an inventory of all actors and what is being done at the national and sub-regional levels.
- Assessing and identifying together with national actors (at a forum) specific strategies and actions on policy issues that need to be addressed at the sub-regional level and impact on women's land rights.
- Creating Strategic alliances and intensifying collaboration with selected partners to promote women's land rights within the sub-region.
- Organising regular forums bringing all actors/stakeholders to assess progress made in each country regarding women's land rights.

11.2 Joint Planning, Implementation, Coordination and Monitoring of Women's Land Rights Activities in the Sub-Region.

In order to monitor women's land rights activities, there is need to plan joint activities to be implemented and monitored at the sub-regional level. The action strategies to meet this objective are: formation of a sub-regional Task Force on Women's Land Rights , developing programmes to be implemented at the sub-regional level and developing indicators for monitoring progress made on women's land rights within the region.

CGRDA

11.3 Formation of a Sub-Regional Task on Women's Land Rights

A Task Force composed of experts from the sub-region involved in women's land issues be formed to give leadership and vision, contribute towards articulation of women's land rights, advise on actions and targets, and build consensus on issues of advocacy.

11.4 Developing Sub-Regional Programmes

In order to develop joint programmes at the sub-regional level, it is important to identify issues that need to be addressed and programmes that will bring significant impact on women's land rights. Specific strategic actions in this area are:

- Identifying women's land rights issues to be addressed at the sub-regional level.
- Facilitate the formation of National Task Force on Women's land rights to work out national programmes and actions needed at the sub-regional level.

11.5 Identifying Progress Monitoring Indicators

In order to facilitate the sub-regional monitoring of progress made on women's land rights, qualitative and quantitative indicators should be developed along with programmes.

11.6 Strategies for Information Sharing

An information strategy is essential for collection and dissemination of information on women's land rights at the sub-regional level and should serve as a vehicle for increasing awareness on the issue. Specific action to be undertaken are:

- Production and distribution of newsletter focusing on women's land rights, to make visible the progress and initiatives being taken.
- Work more effectively with the media to promote women's land rights and campaign on it.

11.7 Best Practice Strategies

It is important to explore, document and publicise best practices achieved, draw out lessons to be learnt or replicated elsewhere within the sub-region.

CCRDA

12. 0 AN ACTION PLAN

Against the proceeding recommendations, the Eastern Africa Sub-Regional countries must begin to explore possibilities and put into place, modalities, strategies and mechanisms to actively address women's rights in lands. At the national level actions will involve Engendering Costututions/Nationl Policies, Reforming Laws, providing Legal Literacy Programmes, Creating Media Strategies and Public Forums on Women's Land Rights, Documenting Women's Realities on Land and Forming a National Task Force on Women's Land Rights.

Presently the sub-region must begin to aggressively respond to the need to have a Platform for Action on Women's Land Rights, make a joint Planning, Implementation, Coordination and Monitoring of Women's Land Rights Activities in the Sub-Region and Form a Sub-Regional Task Force on Women's Land Rights.

12.1 Framework for Action

The following is a proposed framework to operationalise actions and strategies for women's access to and control of land in Eastern Africa.

12.1.1 National Level

12.1.1.1 Formation of a National Task Force

- The NTF to be drawn from women activists expert, NGOs working on land rights for women and members of the Sub-Regional Task Force, EASSI, ECA-EASRDC Gender Desk and hold a National Forum for stakeholders to present their work on women's land rights and to form the NTF.

12.1.1.2 Launching Legal Literacy Programme

- The NTF together with other stakeholders to work out detailed programmes on legal literacy, media strategies and public forums from grassroot to National levels addressing women's land rights in the country

CCRDA

12.1.1.3 Launching Public Forums and Media Strategies

In this activity the NTF will form a broad alliance with women's organisations, Human Rights/Civic Education, Media Organisations, women lobby groups and women's groups.

- The approaches for the launch of the programme will include, developing training materials, holding public forums and using other print (i.e posters,) and visual media(video documentaries) and the use of communication (i.e use of participatory drama).

12.1.1.4 Documenting Women's Realities on Land

- The NTF to assign action oriented researches and document women's realities and experiences under different land tenure systems (i.e pastoralists and cash/food crop agriculturalists).

- Action research will be conducted by individual women experts and women's NGO dealing with research.

- The researches will be disseminated at national and community public forums from grassroot to national levels, to policy makers ministries of agriculture and land, women's organisations, Human Rights/Civic Education, Media Organisations, women lobby groups and women's groups.

CCRDA

12.2.1 Sub-Regional Level

12.2.2.1 Formation of a Sub-Regional Task Force

- The Sub-Regional Task Force will be drawn from representative of NTF and selected experts from the sub-region involved in women's land issues.

- The actors for the formation of SRTF will be EASRDC, EASSI together with experts from the sub-region

- Launching of Sub-Regional Task at a Technical Meeting to: identify women's land rights issues to be addressed at the sub-regional level, facilitate the formation of the National Task Forces, Identify indicators for women's land rights in the sub-region and build consensus on issues of advocacy at the sub-regional level.

12.2.2.2 Making an inventory on of all Actors

- The work to be facilitated by EASSI
- The output is a publication of the inventory

12.2.2.3 Strategies for Information Sharing

- Publication of a Sub-Regional Newsletter focusing on Women's Economic Empowerment, Land/Property Rights and Food Security
- Annual Publication on Action Researches, Initiatives being undertaken within the countries and Best Practices.
- Holding a Sub-Regional Conference on Women's Land/Property Rights with Governments, Women's NGO's/ Human Rights NGOs.

CCRDA

TABLE 1: NATIONAL ACTION PLAN ON WOMEN'S LAND RIGHTS 1999-2001

ACTION	ACTORS	APPROACHES	TIME FRAME
1. Formation of a National Tasks Force	Women activists, expert, NGOs, members of the Sub-Regional Task Force, EASSI.	Holding a National Forum for stakeholders	MARCH 2002
2. Launching Legal Literacy Programme, Media Strategies and Public Forums on women' Land Rights.	NTF together with relevant Government Departments, NGOs, women activists and lobby groups addressing women's land rights in the country.	Developing training materials, holding public forums and using other print (i.e posters,) and visual media(video documentaries) and the use of communication (i.e use of participatory drama etc).	June 2002
3. Documenting Women's Realities on Land	The NTF to assign individual women experts and women's NGO dealing with research.	The researches will be disseminated at national and community public forums from grassroot to national levels.	From September 2000 On-going

CCRDA

TABLE 2: SUB- REGIONAL ACTION PLAN ON WOMEN'S LAND RIGHTS 1999-2001

ACTION	ACTORS	APPROACHES	TIME FRAME
1. Formation of a Sub-Regional Task Force(SRTF)	Representative of NTF and selected experts from the sub-region, EASSI	Launching of Sub-Regional Task at a Technical Meeting, facilitate the formation of the National Task Forces, Identify indicators for women's land rights in the sub-region and build consensus on issues of advocacy at the sub-regional level.	December 2001
2. Making an inventory of all actors and what is being done at the national and sub-regional levels.	EASSI	Experts in the Region. Publishing the Inventory	June 2002
3. Strategies for Information Sharing	All stakeholders on women's Land Rights	- Publication of a Sub-Regional Newsletter Annual - Publication on Action Researches,	January 2002-2003

CCRDA

		Initiatives being undertaken within the countries and Best Practices. - Holding a Sub-Regional Conference on Women's Land/Property Rights with Governments, Women's NGO's/ Human Rights NGOs.	

CCRDA

References

African Centre for Women, 1998 — Strategies for Enhancing Favourable Legal Environment to Promote Women's Access to Productive Resources within the Family Framework", Paper presented in High Level Policy Seminar on Economic and Social Empowerment of Women organised jointly by SRDC-Southern Africa, African Centre for Women and COMESA, Lusaka, April 1998.

Alemayehu Lirenso, 1990 — Villagization: Policies and Prospects in Rural Development Options, S.Pausewang, Fantu Cheru, S. Brune and Eshetu Chole, (eds), Zed Books Ltd., Rural Development Options, London and New Jersey.

Aredo Dejene Aredo, 1994) — Female-Headed Households in Two Contrasting Regions in Ethiopia: Access to and Management of Resources, Ethiopian Journal of Development Research, Vol. 16, No. 1, Addis Ababa.

.....1999 — Property Rights in Land: Theory and Evidence from Rural Ethiopia, Ethiopian Journal of Development Research, IDR/AAU, Vol. 21, No. 2. Addis Ababa.

Bruce, J.; Hoben A. and Dessalegn, R, 1994 — After the Derg: An Assessment of Rural Land Tenure Issues in Ethiopia, A Collaborative Project of the Land Tenure Center, University of Wisconsin, Madison and IDR/AAU.

Babie, S. 1991 — The Practice of social research: 6th ed. Woolsworth Pub. Comp. California.

CCRDA

Bogdon, R. and Biklen, S. 1992 Qualitative Research for Education: An introduction to theory, and methods: 2nd ed. Ally and Bacon; Boston.

Crossely M. and Vulliamy, G., 1997 Qualitative Research in Developing Countries:Issues and Experience, Gavland Pub: London

Fetterman, D. 1989 Ethnography: Step by Step; New bury Park, Calif. 5 ages.

Clayton, Eric 1956 Some Factors Affecting European Agricultural Policy in Kenya. *East African Economic Review*, pp. 24-30. Nairobi: Government Printer.

CSA,1999 Report on the 1998 Welfare Monitoring Survey, Addis Ababa.

..... 1999 The 1994 Population and Housing Census of Ethiopia, Results at Country Level, Vol. II, Analytical report, Addis Ababa.

..... 2000 Ethiopia: Statistical Abstract of 1999, Addis Ababa

.....2000 Agricultural Sample Survey, Sept 1999 and February, Report on the Land utilization, Private Peasant Holdings, Meher season, Statistical Abstract 227, Vol. IV, Addis Ababa.

Empire of Ethiopia (Nov. 1955), Proclamation promulgating the Revised Constitution of the Empire of Ethiopia, Addis Ababa.

Dessalegn Rahmato, 1994 Land Policy in Ethiopia at the Crossroads, Proceedings of the Second Workshop of the land Tenure Project, IDR/AAU, (Dessalegn ed.) in Land Tenure and Land Policy in Ethiopia After the Derg, Working Papers On Ethiopian Development, The Center For Environment and Development, University of Trondheim.

ECA, 1998 African Women and Economic Development: Investing in Our Future, Addis Ababa.

ECA 1999 Report of Mission to Eritrea

FDRE, 1995), The Constitution of the Federal Democratic Republic of Ethiopia, Addis Ababa.

CCRDA

.....1997	Rural Land Administration Proclamation of the Federal Government of Ethiopia, Addis Ababa.
..... 2000	The Revised Family Code, Addis Ababa.
.....2000	Report on the Implementation of the Five-year Program of Development, Peace and Democracy, Addis Ababa.
Gebre'ab Barnabas, 1995	Community Participation and Empowerment in Tigray, Paper presented at the International Symposium on sustainable Rural Development, Mekelle.
Gian P. Chiari, 1996	Land and Democracy in Tigray, Occasional Papers Series on Environment and Development in an Age of Transition, Center for Development Studies, University of Leeds, London.
Guba, E and Lincolin Y. 1994	Competing Paradigon in qualitative research. Topic in Handbook of qualitative Research, London; Sage.
Hadera Tesfay, 1999	Country Gender Profile: - Ethiopia, A Consultancy Report Submitted to sida, Addis Ababa.
Higi Peter S. Higi , 1938.	*Adgna Tegheleba*. Asmara: Printing Press
Hoben Allan, 1996	Land Tenure Policy in Ethiopia: Issues for Small Holder Sustainable Agricultural Growth, Report Prepared for the World Bank.
Hirut T., Habtamu W., Yusufomer A., & Konjit K., 1997	Gender and Cross-Cultural Dynamics in Ethiopia, CERTWID/UDR/AAU, Addis Ababa.
Hammond J. and Druce N., 1989	Sweater Than Honey, Testimonies of Tigrayan Women, Links Publications, London.
Hellum A. and J. Stewart (eds.) 1998	Persuing Grounded Theory in Law.
Imperial Ethiopian Government, Ministry of Land Reform & Administration:	Report on Land Tenure Survey of Eritrea Province'
Journal of the International African Studies1946	Land Tenure on the Eritrean Plateau

CCRDA

Journal of Eritrean Ghazzet Proclamation 58/1994.

Kharono E., 1998 *Feminist Challenge to the Land Question in Uganda: Options For Meaningful Actions, A Concept Paper,* Harare, Strand Multiprint.

Kanogo, T. 1987 *Squatters and the Roots of Mau Mau 1905-1963.* Nairobi: Heinemann.

Kabutha C., 1998 "Women's Access to and Control Over Land and Agricultural Technologies in Kenya" , A Report Study for the African Centre for Women(ACW) of the Economic Commission for Africa, Adis Ababa.

Kebede Hana, 1990 Gender Relations in Mobilizing Human Resources in Ethiopia: Rural Development Options, S. Pausewang, Fantu. Cheru, S. Brune, and Eshetu Chole (eds), Zed Books Ltd, London and New Jersey.

Kothari, C. R. 1997 Research Methodology: Methods and Techniques: Wishwa Pakashan Pub; New Delhi.

Mc Auslan P., 1998 Parliamentarians' Workshop on the Land Bill organised by Forum for Women Democracy(FOWODE) 1998. A Report

Martin, D. M. and F.O. Hashi 1992 *Gender: The Evolution of Legal Institutions and Economic Development in Sub-Saharan Africa.* Working Paper No. 3. Washington, D.C: World Bank.

Meheret Ayenew, 1994 The Ketto Resettlement: A Brief Comparative Survey of the Land Tenure System, 1985/86 and 1993, Proceedings of the Second Workshop of the Land Tenure Project, Dessalegn Rahmato (ed), Working Papers on Ethiopian Development, Center for Environment and Development, University of Trondheim, Norway.

MEDa, 1999 Survey of the Ethiopian Economy, Review of Post Reform Developments (1992/93 - 1997/98), Addis Ababa.

CCRDA

NUEW, 1999 National Report on the Implementation of the African and Global Plat Form for Action for the Advancement of Eritrean Women

Nzioki; Akinyi and Eilor, 2000 Women and Land Research Manual. The Eastern Africa Sub-Regional Support Initiative for the Advancement of Women (EASSI)

Nzioki Akinyi, 2000 Effects of Land Tenure Reform on Women's Access to and Control of Land for Food Production in Mumbuni Location, Eastern Kenya. Ph.D Dessertation, University of Nairobi.

Okoth-Ogendo, H. W. O 1982b The Perils of Land Tenure Reforms the Case of Kenya. In *Land Policy and Agriculture in Eastern and Southern Africa*. Pp 7-19. L.D Arntzen, L.D Ngoongoo and S.D Turner (Eds.) Selected Papers presented at a Workshop held in Gabarone Botswam, 14-16 February 1982. Tokyo: United Nations University.

Ondiege, P. O. 1992 Local Coping Strategies in Machakos District. In *Development from within-Survival in Africa*. D.R Fraser and F. Mackenzie (Eds.) London: Routledge.

Okoth-Ogendo, H. W. O. 1981 Land Ownership and Land Distribution in Kenya's Large Farm Areas. In *Papers on the Kenyan Economy, Performance, Problems and Policies*, pp. 20-35. T. Killick (Ed.). London: Heinemann.

Okoth-Ogendo, H. W. O.1982a Property Systems and Social Organization on the Relative Position of Women Under Indigenous and Received Law. In *The Individual Under African Law* pp. 18-29. N.P Takira Mbudde (Ed.). Harare: All African Law Conference.

Pala, Achola O. 1980 Women's Access to Land and their Role in Agriculture and Decision-Making in the Farm: Experiences of the Joluo of Kenya. *Discussion Paper No. 263*. Institute for Development Studies, University of Nairobi.

Pankrust,Helen, 1990 What Changes for Whom? The Case of Women in Menz, Rural Development Options, S. Pausewang,

CGRDA

Fantu Cheru, S Brune and Eshetu Chole, (eds), Zed Books Ltd, London and New Jersey.

Patton; M. 1997 Qualitative evaluation and Research Methods, 2nd ed. Newbury Park, Sage Publications.

PMGE, 1975 Proclamation to Provide for the Public Ownership of Rural Lands, Addis Ababa.

PDRE , 1987 Proclamation of the Constitution of the People's Democratic Republic of Ethiopia, Addis Ababa.

.....1990 Special Decree on Investment, Addis Ababa.

Republic of Kenya 1998 Government Print *District Development Plan – Kiambu*, Nairobi:

Republic of Kenya 1998 Government Print *District Development Plan – Machakos*. Nairobi:

Republic of Kenya 1997 *Development Plan 1997 – 2002*. Nairobi: Government Print

Republic of Kenya 1977b *Laws of Kenya: The Land Consolidation Act, Chapter 283*. Nairobi :Government Printer.

Republic of Kenya 1977c *Laws of Kenya: The Registered Land Act, Chapter 300*. Nairobi: Government Printer.

Republic of Kenya 1982 *Laws of Kenya: The Land Tittles Act, Chapter 282*. Nairobi: Government Printer.

Republic of Kenya 1984a *Development Plan, 1984-1988*. Nairobi: Government Printer.

Republic of Kenya 1984b *Laws of Kenya: The Government Lands Act, Chapter 280*. Nairobi :Government Printer.

Republic of Kenya 1982 *The Marriage Act – Cap 150 of the Laws of Kenya*. Nairobi :Government Printer.

Republic of Kenya 1980 *The Law of Succession Act* – Cap 160 of the Laws of Kenya, Nairobi :Government Printer.

Republic of Kenya 1963 *The Constitution of the Republic of Kenya*, Nairobi :Government Printer.

Republic of Kenya 1979 *The Matrimonial Ordinance* – Cap 152 of the Laws of Kenya.

Rossini, Carlo Conti translation. , 1923 Metsheit Mereitn H'ywetn Kunama

Rossini, Carlo Conti translation. , 1948 Consuetudini Giuridiche Del Serae': Rossini, Carlo Conti. Roma: Tepografia Pio X,

CCPDA

Shivji I.G.,and W.B.L Kapinga,1997 "Implications of the Draft Bill for the Land Act" in Land Question: Democratising Land Tenure in Tanzania. *Change. The Magazine of Business Politics and Economics*, Vol.5, First Quarterly.

Southern African Research and Documentation Centre(SARDC), Tanzania Gender Networking Programme(TGNP). 1997 Beyond Inequalities, Women in Tanzania.

Uganda Women's Network (UWONET), Association of Women Parliamentarians(AWOPA) *Proposed Amendments on the Land Bill 1998,* Kampala, UWONET.

UN Economic and Social Council- ECA, 1999 *Sub-Regional Follow-up meeting on the Implementation of the Dakar and Beijing Platforms for Action Eastern and Southern Africa,* Victoria, Seychelles,. E/ECA/AFW/SRMES/99/8

UWONET, 1997 Women and Land Rights in Uganda: A Documentation of Women's Views and Suggestions on Land Issues in Uganda and the Proposed Bill, Report on the Findings of the Preliminary Study, Kampala, UWONET.

UN-ECA and OAU, 1994 *African Platform for Action. African Common Position for the Advancement of Women. Adopted at the Fifth African Regional Conference on Women,* Dakar, HG/DEcl.2(XXXI).

UN/ECA/ACW, 1994 International Legal Instruments to Women, Addis Ababa.

WAO/FRDE (Feb. 2000), National Report on the Implementation of the Beijing Platform for Action, Addis Ababa.

United Republic of Tanzania, 1999 The Land Act, 1999.

United Republic of Tanzania, 1999 The Village Land Act, 1999.

CORDA

United Republic of Tanzania, 1971 — he Law of Marriage Act, 1971.

United Republic of Tanzania, 2000 — The Constitution.

United Republic of Tanzania, 1995 — National Land Policy, Ministry of Land, Housing and Urban Settlement(1995)..

United Republic of Tanzania, 2000 — Poverty Reduction Strategy Paper.

WAO/WB, 1998 — Implementing the Ethiopian National Policy for Women, Institutional and Regulatory Issues, Washington DC.

WAT, 1996 — Final Report on the Assessment Made on How Much Gender Issues are Well Addressed in PSIA, Mekelle.

Tsegai Teamrat, 1996 — Technical Paper on the Potential Impact of the Land Proclamation on Land Communally Owned in Eritrea

Tesfamikael Kidane, 1960 et al. NP: Asmara — Higi 'enda'-ba Biet Tareqe: Begos': et

Talor Chris , 1987 — The Land is our Blood: agriculture and Revolution in Tigray, Links Quarterly Publication of Third Third_World First, Oxford, London.

Teferi Abate, 1994 — Land Scarcity and Landlessness in North Shewa: A case Study from Wayu and Anget Mewigeya PA, Addis Ababa.

Tekeste Agazi, 1983 — Agrarian Reform in Tigray: A Case Study of the Land Reform in the District of Adi Nebried, Occasional Papers on Tigray No.

CCRDA

1, Published by the Friends of Tigray in the UK.

Tiruworq Tizazu & Yigremew Adal, 2000 Beyond Land Redistribution: Access to, Utilization of, and Control over land and other Resources by Rural Female-Headed Households, The Case of Three Woredas in the Amhara Region, Submitted to the 12th OSSREA Gender Issues Research Competition for Eastern and Southern Africa, Addis Ababa.

TGE, 1993 National Policy on Ethiopian Women, Addis Ababa.

TPLF, 1984, Report on Land Distribution In Woreda Zana, Mekelle.

Sebena-Zziwa A.J. 1995 Gender Perspectives on Land Ownership and Inheritance in Uganda, Makerere Institute of Social Research, Makerere,University, Kampala.

Inter- Regional Consultation on Women's Land Rights and Property under Situation of Conflict and Reconstruction, 1998, Kigali, Rwanda.
UN 1996

Yirgalem Woldegebriel, 1998 Women and Land Ownership System in Highland Eritrea::University of Asmara

Yared Amare, 1995 Land Redistribution and its Implications for Peasant Differentiation in Wogda, Northern Shewa, Ethiopian Journal of Development Research, Vol. 17, No. 1, IDR/AAU, Addis Ababa.

Yigremew Adal, 1997 Rural Land Holding Readjustment in West Gojjam, hara

CCRDA

Region, Ethiopian Journal of Development Research, Vol. 19, No. 2. Addis Ababa.

Zewde Kahsai , 1996 — *T'ntawin Zemenawin Sra'te Meraan Mewsbon Eritrea*. Asmara: Topography

Zenaselasie Siyum, 1999 — Analytical Report on the 1995/96 Household Income, Consumption and Expenditure Survey in Ethiopia, Paper Presented for the Workshop on Welfare Monitoring System Activities in Ethiopia and its Future Directions, Organized by MEDaC & CSA, Debre Zeit.

Zenebwork Tadesse, 2000 — Revisiting Rural Development Through A Gender Lens, In Issues in Rural Development, Zenebework Tadesse (eds), Proceedings of the Inaugural Workshop of the Forum for Social Studies, 18 September 1998, Addis Ababa,

CCRDA