

Women's rights to land, property and housing

by Leilani Farha

For many women, rights to land, property and housing are essential to their livelihood and survival, and this is particularly so in the aftermath of war and conflict.

As a result of activities at local, national and international levels, these rights are finally being recognized and included on the political and legal agendas of national governments and regional and international human right bodies. This article focuses on one of the international activities which contributed to this growing momentum: an international conference on women's rights to land and property during conflict and reconstruction.

Kigali Conference

The government of Rwanda took an important step toward the realization of women's rights to land, property and housing in February 1998 by hosting a four day Inter-Regional Consultation on Women's Land and Property Rights During Situations of Conflict and Reconstruction in its capital city, Kigali. The Consultation was co-sponsored by a number of UN agencies¹ and was attended by more than 100 participants from Africa, Asia, Latin America, Europe, the Middle East and the Caribbean. The Consultation was specifically organized to augment and support the Women for Peace Network, the motto of which is 'No Homes Without Peace, No Peace Without Homes'.²

Recognizing that a broad range of actors needed to be engaged, the Consultation gathered grassroots women, NGOs, activists, legal experts, government ministers and parliamentarians, and representatives of a number of UN agencies to interact, to discuss the status of women's rights to land, property and housing in countries experiencing conflict, and to develop strategies for the future. The Consultation devoted equal time to an exploration of women's experiences with

respect to land, property and housing, and to the development of plans of action to address these experiences.

Obstacles

Throughout the world, women's relationship to land, property and housing during conflict and reconstruction is characterized by their ongoing displacement, often beginning at the onset of conflict and continuing indefinitely.

Sabine Sabimbona from the Association of Women Lawyers in Bujumbura described this phenomenon in the context of Burundi. As in so many wars,

economic hardship and the fear of violence forced thousands of Burundi women to take their children and abandon their land. With nowhere to go, these women joined the internally displaced and sought refuge in camps. Most of these women will not be able to return to their original homes even if peace and security are restored because, under customary law, as applied in Burundi, a widowed woman cannot inherit land from her husband, and her brothers and sisters-in-law will not welcome her back.

According to participants at the Consultation, this experience of customary law as a barrier to land and property ownership is shared by women in many parts of Africa, Asia and the Middle East, whether during peace, conflict or reconstruction. Under most systems of customary law, women are prohibited from owning, renting or inheriting land, property and housing in their own names, and access to and control over land, property and housing commonly depends on their relation to male relatives. In several African countries, for example, customary land and housing registration systems require proof of a husband's authorization for a woman to acquire title independently of her husband and single women or single parent women are obstructed from acquiring loans to secure housing, land and property on the basis that there are risks in lending outside of marriage or without the support of their husbands or male relations.³

While this greatly constricts women's rights to land, property and housing during times of peace, in the post-conflict situation - upon the death of a husband or male relative - these limited land, property and housing rights are eliminated. Furthermore, though traditionally widows were permitted to stay on the matrimonial land and in the home until death or remarriage, today male heirs prefer to sell off the land and housing for



Participant at Kigali Conference

their own economic gain, leaving widows landless and homeless. This shift is a reflection of the move away from customary land titling systems toward a market-based, private property system which is common in the post-conflict period as it is often a pre-condition for receiving financing from international financial institutions for reconstruction.

A participant from Rwanda, Concessa Nibogore, told the Consultation of her efforts to claim land upon the death of her father and mother during the 1994 genocide:

My life has been very bad since my parents died. Since their death I have not had access to my forest or to my fields. When I went to court, I was told I had lost even before they started my case. I was not given a chance to speak. I couldn't even cut a tree on my property or grow a potato.

After several confrontations with her nephews, some of which resulted in her being physically attacked, Ms Nibogore applied to the Ministry of Gender for assistance. When a representative went to investigate, he was told by her nephews that Ms Nibogore had to go, stating "no woman has ever inherited land".

A participant from Palestine exposed the impact of the intersection of armed conflict and customary law on women's rights. On the one hand, for Palestinian women living under occupation, their rights to land, property and housing are violated in a number of ways by Israeli forces who routinely confiscate Palestinian land and carry out house demolitions and forced evictions, and who raid homes and villages, terrorizing and injuring women. At the same time, because of the tremendous social pressure on women to renounce inheritance rights, Palestinian women's rights to land, property and housing are also threatened, especially upon the loss of a husband or father to the conflict. In turn, security of tenure and access to and control over land, property and housing for many Palestinian women depend on the benevolence of their brothers or husband's male kin.

Successes and lessons learned

Alongside stories of injustice, the Consultation included stories of hope and progress. Though women experience

extreme trauma and hardship both during and following conflict, such situations can offer women new opportunities and roles in relation to land, property and housing which may be the germinating seed for structural change and the realization of their rights.

One of the most inspiring examples presented was that of Guatemalan women in refugee camps in Mexico. Despite incredible barriers - lack of a lingua franca and the practical demands of everyday camp life - Guatemalan refugee women managed to unite and establish women's organizations. In the camps, with the assistance of the UNHCR local staff, the refugee women's organizations undertook a variety of activities to empower themselves and improve living conditions for all within the camps.⁴ After the signing of the 1992 Peace Accords, the refugee women's organizations analyzed the Accords and discovered that married women or those in common law relationships were not being granted independent title to land and housing. By this time, the refugee women's organizations were well established and in a good position to undertake political activities; they started a campaign for co-ownership of land and housing upon their return to Guatemala and, as a result of their efforts, these rights were formally recognized in law.

The Consultation also highlighted that, in a number of countries, steps had been taken during reconstruction to amend existing laws or enact new laws to protect women's rights with respect to land and property. For example, in Eritrea, during the transition to a constitutional government, the central government enacted new amendments to the Civil Code which fundamentally alter the status of women in Eritrea. Women are now granted the legal right to own and

inherit land and housing, and married partners have equal rights within the family to land, property and housing.⁵

In post-apartheid South Africa, the new Constitution is formally committed to gender equality, the right to housing and to land reform. Within the land reform legislation there is specific commitment to gender equity and the Department of Land Affairs has established a sub-directorate responsible for gender affairs.⁶

The 1994 Ethiopian Constitution also recognizes women's rights to use land on the same basis as men, stating that "any Ethiopian who wants to earn a living by farming has a right, which shall not be alienated, to obtain, without payment, the use of land ...".⁷

In Mozambique, the new Land Law of 1997 confirms the constitutional principle that women and men have equal right to occupy and use land. It also states that women have the right to inherit land. For the first time since national independence, it recognizes the right of local communities to secure a collective title to their lands, including cultivated, grazing and common lands,



and it foresees that such land may be governed according to customary law, so long as these laws do not contradict the Constitution of Mozambique. Men and women have joined forces and are working together in Mozambique through the National Peasant's Movement to ensure that these laws are implemented and enforced.⁸

Of course many of the success stories were accompanied by cautionary tales.

Participants from Guatemala indicated that though they had achieved formal recognition of co-ownership rights to land, property and housing, having these rights recognized in practice has proven difficult.

Representatives from South African NGOs also warned that formal recognition of women's equality and rights to land, property and housing in law and policy is not always unproblematic. Participants at the Consultation were surprised to hear that, despite the formal commitment to gender equality and the right to housing and to land reform in the new South African constitution, women's rights to land, property and

housing are not adequately protected and promoted. Though the post-apartheid South African government developed what appears to be gender sensitive legislation, the NGO representatives at the Consultation expressed concerns. They noted, for example, that the legislation is based on an inadequate understanding of gender, with the term 'gender' being used interchangeably with 'women'. That is, they have failed to understand that 'gender' refers to the socially prescribed, structurally reinforced roles for women **and** men, whereby the term 'women' merely refers to their sex. South African women fear that without this basic understanding of the term 'gender' and its significance to women's disadvantage, it is unlikely that the structural causes of inequality between men and women will be adequately addressed. They also noted that a concern for gender is not integrated throughout the policy: it is restricted to those sections dealing with objectives and principles but is not referred to in those sections on implementation, monitoring, evaluation, economic considerations and constraints to land reform.

Moving forward

To move the Consultation from contextual overview toward the development of plans of action, participants were divided into three regional groups: Africa (subdivided into anglophone and francophone groups), Asia/Europe, and Latin America/Caribbean. The regional groups agreed that all actors - men and women, grassroots organizations, women's groups, lawyers, government officials, judges - should be educated about the importance of rights to land and property for the survival of women, families and communities.

In particular, it was suggested that government officials and politicians be further encouraged to develop the political will necessary to draft and adopt laws and policies which promote and protect women's rights to land and property. Each of the regions also highlighted the role of women and women's organizations in promoting conflict prevention and resolution and in ensuring that their own interests are included on legal and political agendas. In turn, all agreed that the establishment of women's organizations should be fostered and that existing organizations require ongoing moral and financial support. Each of the regional groups also suggested that organizations working on women's land and property rights could learn from the experiences of others and that this could be facilitated through inter-regional exchanges and the dissemination of information between regions. It was also agreed that international campaigns, networks and support can provide benefits to local struggles and therefore should be utilized where possible and appropriate.

There has been some follow-up since the Consultation. At the international level, human rights and women's rights groups have been lobbying since 1999 to have a resolution on women's rights to land, property and housing adopted by the UN Commission on Human Rights. Such a resolution would be the first pronouncement by this important human rights body on women's rights to land, property and housing and would reinforce resolutions on this same issue adopted by its sister body, the UN Sub-Commission on the Protection and Promotion of Human Rights.⁹ According to the UN Centre for Human Settlements, at the national level, many individuals and organizations that participated in the Kigali Consultation continue to struggle to have women's rights to land, property and housing recognized and enforced. Activities have included political lobbying and advocacy, and education and training. In Colombia, for example, an open letter was written (to organizations such as NGOs, human rights institutions and other civilian bodies), encouraging the inclusion of women guerrillas in the peace dialogue. Now that the Secretariat of the Women for Peace Network has established its Secretariat in the Arias Foundation in



The Rwandan conflict left few families intact; many are now headed by single parents, primarily women. UNHCR/L Taylor

Costa Rica, we can expect to see more regional and international networking and exchanges.

Reflections

The four days in Kigali devoted to women's rights to land and property during conflict and reconstruction were an important contribution to women's struggle for equality. Those who attended were aware that this was a rare opportunity to focus on an issue that has received scant attention, despite its relevance to women's lives and livelihood, particularly in the post-conflict context. Perhaps it was this awareness that motivated participants at the conclusion of the Consultation not only to contribute to the development of national and regional plans of action but also to undertake personal commitments to promote women's rights to land and property.

To synthesize and expand upon the issues raised at the Consultation and to encourage future action, a paper was commissioned by the UN Centre for Human Settlements entitled, *Women's Rights to Land, Property and Housing: A Preliminary Inquiry*. This paper will be published and released at the 56th Session of the Commission on Human Rights in April 2000 and is available on the UNCHS website.¹⁰

Leilani Farha is the Women's Housing Rights Programme Coordinator for the Centre on Housing Rights and Evictions.

1 UNHCR, UNIFEM (UN Development Fund for Women), the UN Commission on Human Settlements (Habitat), and UNDP (UN Development Programme).
 2 This Network was originally founded by six NGOs at the UN Second World Conference on Human Settlements, *Habitat II*, in Istanbul, 1996. It was established to respond to the need for specific measures to protect women's lives and livelihood in war situations, in particular, rights to land, property and housing.
 3 See Beyani's paper as listed opposite.
 4 A number of projects were undertaken such as: a literacy campaign designed with women's organizations as a tool for raising women's self-esteem and contact with one another; training in communication skills and radio access for refugee women as a vehicle for spreading information and increasing women's capabilities; and protection and rights training covering human rights, women's rights, land rights and sexual and domestic violence including education on mechanisms to report violations of these rights to UNHCR. See Worby's paper as listed opposite.
 5 See Tekle's paper, opposite.
 6 See Mhago and Samson's paper, opposite.
 7 See Mwangiru's paper, opposite.
 8 See Ossemame's and Waterhouse's paper, opposite.
 9 Resolution 1999/15, Women and the right to development; Resolution 1998/15, Women and the right to land, property and adequate housing; and Resolution 1997/19, Women and the right to adequate housing and to land and property.
 10 www.unchs.org/tenure/Publication/Womrights/pub_1.htm

Resources

The following resources are, firstly, a summary report and a publication of the Consultation and, secondly, those papers written for the Consultation. All are on file with UNCHS. **Contact: Sylvie Lacroux, Land Management Programme, UNCHS (Habitat), PO Box 67553, Nairobi, Kenya. Email: Sylvie.lacroux@unchs.org See also UNCHS website at www.unchs.org**

Summary *Record of Proceedings* entitled *Peace for Homes, Homes for Peace, Inter-Regional Consultation on Women's Land and Property Rights in Situations of Conflict and Reconstruction*. UNCHS. Kigali, 16-19 February 1998.

Women's Right to Land Housing and Property in Post-conflict Situations and During Reconstruction: A Global Overview. UNCHS. Text available at www.unhcs/tenure - click publications

Arias Foundation for Peace and Human Progress *Land and Property Rights of Women in Situations of Reconstruction: The Central American Experience*

Dr.Chaloka Beyani *Women's Land and Property Rights Under Situations of Armed Conflict and Reconstruction: Summary Paper on Key Issues*

Edna Calder Chaves *Working with Populations Affected by the Civil War in Guatemala*.

Jeanette Ebba-Davidson *Lobbying for Legislation to Overcome Discrimination Against Women in Inheritance in Liberia*.

Maria Garcia Hernandez *Implementation of the Guatemalan Peace Accord with Special Reference to Women Returnees from Mexico*.

Jasna Lojo *Women's Land and Property Rights in Bosnia and Herzegovina*.

Fanelwa Mhago and Melanie Samson *A Gender Analysis of Recent South African Land Reform*.

Makumi Mwangiru *Critical Issues on Women's Land and Property Rights in Situations of Conflict and Reconstruction in the Horn of Africa: A Review and Evaluation*.

Anette Occeus *The Role of Women Farmers in Influencing Land Legislation in Haiti*.

Ismael Ossemame *The Role of the Union of Peasant Farmers in Securing Land for Returnees in Mozambique*.

Mariam Hussein Owreeye *Women's Rights to Land and Property in Somalia*.

Asteya Santiago *The Socio-Economic and Cultural Factors Affecting Women's Rights to Land and Property in the Asia Pacific Region*.

Tsehainesh Tekle *Women's Access to Land and Property Rights in Eritrea*.

Rachel Waterhouse *Women's Land Rights in Post War Mozambique*.

Paula Worby *Organising for Change: Guatemalan Refugee Women Assert their Right to be Co-Owners of Land Allocated to Returnee Communities*.

Other relevant resources:

Susana Lastarria-Cornhiel 'Impact of Privatization on Gender and Property Rights in Africa', *World Development*, 1997, Vol 25, No 8, p1317.

Shamim Meer (ed) *Women, Land and Authority: Perspectives from South Africa, 1997*.

Sub-Commission on the Prevention of Discrimination and Protection of Minorities, Resolution 1997/19, 'Women's Rights to Adequate Housing and to Land and Property', E/CN.4/Sub.2/RES/1997/19 (1997).

Sub-Commission on the Prevention of Discrimination and Protection of Minorities, Resolution 1998/15, 'Women's Rights to Land, Property and Adequate Housing', E/CN.4/Sub.2/RES/1998/15.