

**SPECIAL EDITION FOR THE 8TH  
INTERNATIONAL CONGRESS ON AIDS IN  
ASIA AND THE PACIFIC (ICAAP 8)**

**WOMEN'S PROPERTY RIGHTS  
AS AN AIDS RESPONSE**

**EMERGING EFFORTS IN**  
*South Asia*



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## SPECIAL EDITION FOR THE 8TH INTERNATIONAL CONGRESS ON AIDS IN

# Asia and the Pacific (ICAAP8)

The International Center for Research on Women (ICRW) conducted research in South Asia on emerging efforts in women's inheritance and property rights as an AIDS response. This special edition is for audiences of the International Congress on AIDS in Asia and the Pacific, which features a Regional Court of Women and symposium on the subject.

In addition to the research outlined in *Women's Property Rights as an AIDS Response*, and with input from UNDP, this edition includes a supplementary discussion on the current state of HIV and AIDS in Asia Pacific and the potential pathways of secure property rights for women to mitigate HIV and AIDS.

## SITUATION Analysis

With the world's second largest number (5.9 million<sup>1</sup>) of people living with HIV and AIDS, Asia Pacific has one of the fastest growing infection rates, coupled with 60 percent of the global population and massive mobility of people within and between countries. This region is struggling with an epidemic that threatens to further impoverish poor people and intensify the existing inequities related to gender, rights, governance, livelihoods and services.

Globally, Asia Pacific accounts for the largest number of new HIV cases—470,000 in 2006<sup>2</sup>—within a context of widespread isolation, fear, denial, stigma and discrimination of people infected and affected. HIV responses by and large remain health-centric in most of the region's countries in the absence of adequate political will and capacity to address the deep-rooted socioeconomic factors that act as both the cause and consequence of the epidemic.

Worldwide, more adult women (15 years or older) than ever before are living with HIV. The number of women living with HIV in the world now stands at 16.4 million,<sup>3</sup> representing around 40 percent of infections. The growing feminization of the epidemic can be directly attributed to women's unequal legal, economic and social status.

The initial drivers of the epidemic—injecting drug use and engaging in such high-risk sexual behavior as transactional sex—limited infection to specific populations. Like elsewhere, however, HIV infection rapidly is moving to new populations, currently the wives or partners of the clients of sex workers. In Thailand, up to 40 percent of the 18,000 new cases found each year are among housewives, who most often contract the virus from their husbands.<sup>4</sup> In Nepal, the HIV infection rate among housewives between 2005 and 2006 had risen by 100 percent, according to Nepal's National Centre for AIDS and STDs.<sup>5</sup> In the study on the socioeconomic impact of HIV in India involving more than 8,000 households in six high prevalence states across India, about 94 percent of women contracted HIV through heterosexual contact and more than 80 percent of the women widowed from HIV were infected by their husbands.<sup>6</sup>

<sup>1</sup> 2006, revised HIV estimates for Asia, UNAIDS.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> "40% of new AIDS cases are housewives," Bangkok Post—July 5, 2007, Apiradee Treerutkuarkul.

<sup>5</sup> Nepalese housewives 'vulnerable to HIV', National Centre for AIDS and STDs, 2006.

<sup>6</sup> UNDP, NACO and NCAER. 2006. The socioeconomic impact of HIV/AIDS in India, household level study, 2006.

## HIV AND WOMEN'S INHERITANCE AND

# Property Rights

In Asia, there is growing evidence of links between women's rights to inheritance and property and vulnerability to HIV. Women who own property or otherwise control assets are better positioned to improve their lives and cope when they experience crises. This is particularly true when women's economic vulnerability increases due to HIV infection. For example, women who own property and are widowed are less likely to engage in risky behavior, such as transactional sex, in order to survive.

Women's ownership and control over assets also constitutes a household resource that women can use to deal with the social and economic consequences of HIV and AIDS, including costs of medicines, funerals and other associated expenses. Property also can serve as collateral for credit, enabling HIV/AIDS-affected households to deal better with the personal and financial impacts of the disease.<sup>7</sup> Moreover, the economic security that property ownership provides women allows HIV widows to keep their children in school longer; it is difficult for widow households to continue the education of children.<sup>8</sup>

Despite these clear benefits of property ownership and inheritance for women, the issue of establishing these rights for women goes far beyond the crucial challenge of establishing the necessary legal, policy and human rights frameworks that enable women to own and inherit land and property. The fact that women in general cannot own or inherit land and other assets is not just the consequence of inadequate statutory laws (or the unenforceability of adequate laws) but because some customary laws, traditions, attitudes, social beliefs, values and norms also are discriminatory.

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

## IMPORTANCE OF PROPERTY OWNERSHIP IN

# HIV Prevention

From a preventive angle, women who own property are less likely to face violence in the home. Research conducted by Panda and Agarwal in Kerala, India,<sup>10</sup> shows that women's property ownership is linked with a substantially lower risk of marital violence: women who own land or a house are at significantly lower risk of physical and psychological violence both long term and current and are also able to exit violent relationships. Data show that among women without property, 49.1 percent experienced long-term physical violence and 84.2 percent experienced long-term psychological violence. In contrast, women who owned both land and a house reported dramatically less physical and psychological violence (6.8 percent and 16.4 percent, respectively). A multi-site study conducted by ICRW, found similar results in West Bengal, India.<sup>11</sup> Women with property reported less overall violence than those who do not own property, and house ownership, as opposed to land, was more critical. The reduction in violence is consistent across all forms and is most significant for sexual violence, with 20 percent of propertied women reporting violence, as compared to 35 percent of non-propertied

<sup>7</sup> Strickland, R. 2004. *To Have and to Hold: Women's Property Rights in the Context of HIV/AIDS in sub-Saharan Africa*. International Center for Research on Women. Washington, D.C.

<sup>8</sup> UNDP, NACO and NCAER. 2006. *The socioeconomic impact of HIV/AIDS in India, household level study, 2006*.

<sup>9</sup> *Ibid.*

<sup>10</sup> Panda, P. and B. Agarwal. 2005. "Marital Violence, Human Development and Women's Property Status in India" in *World Development* v.3 (5).

<sup>11</sup> Panda, P.; J. Gupta; I. Bulankulame; N. Bhatia; S. Chakraborty; N. Duwury. 2006. *Property Ownership & Inheritance Rights of Women for Social Protection—The South Asia Experience: Synthesis Report of Three Studies*. International Center for Research on Women. Washington, D.C.

women. Women with property were also better able to negotiate safe sex, thus potentially reducing their vulnerability to HIV. In exploring the pathways by which property ownership impacts violence, strong social support and the ability to have control over her property are some of the critical factors that must accompany property ownership for it to be truly effective.

## GLOBAL AND ASIA REGIONAL

# Responses

In 2004, the Global Coalition on Women and AIDS identified seven priority areas for work with women and HIV for agencies to take forward. One priority area was women's inheritance and property rights, and the lead agencies identified were ICRW and U.N. Food and Agriculture Organization (FAO). In addition to the work of these two agencies, UNDP's regional HIV/AIDS program in Asia and the Pacific has been engaged on the issues in the region, following successful initiatives in Africa, particularly Ethiopia.

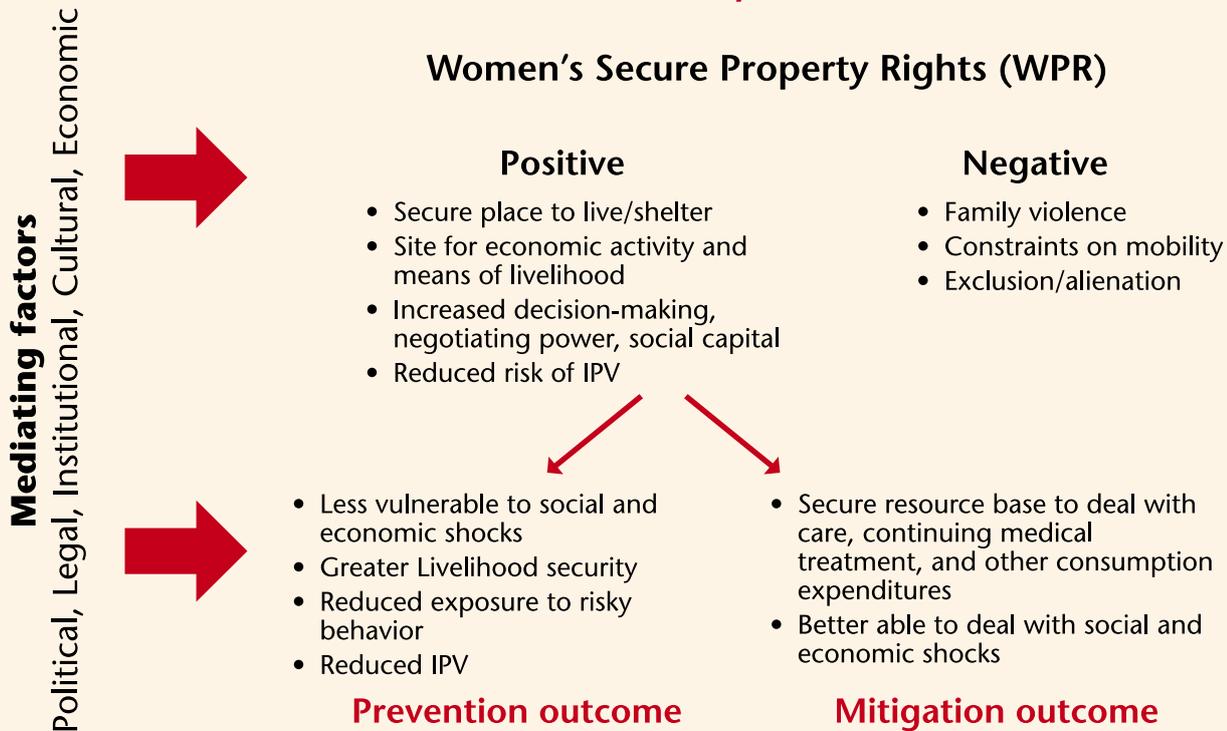
In Asia, a regional consultation aimed at exploring the linkages between HIV and women's inheritance and property rights was held in February 2007, jointly hosted by ICRW, UNDP and UNIFEM. One of the key outcomes

of this consultation was the identification of obstacles that limit women's equitable access to inheritance and property in the region.

Based on group discussions, the perceived and real obstacles were plotted across the four domains of the Ken Wilbur framework for a comprehensive analysis of the situation. This mapping exercise conclusively revealed that prevailing responses are at the institutional level, while individuals, communities and societies continued to perpetuate the inequalities against women, calling for transformational shift in the norms and values of individuals and communities.

The groups recommended that specific initiatives be developed to address this challenge. These included in-depth research and interviews with women infected or affected by HIV who have been dispossessed of property and inheritance. This data would be used to strengthen and inform effective policy and program responses. The groups also recommended large advocacy events, such as the Regional Court of Women on HIV, Inheritance and Property Rights, where women could share their personal testimonies about the impact of dispossession and those who have overcome these challenges and secured safe spaces and livelihoods for themselves and their children could be celebrated.

# Potential pathways between secure property rights and HIV/AIDS



## CONCEPTUAL Framework

The conceptual framework indicates the potential pathways between women's secure property rights, and HIV/AIDS prevention and mitigation.<sup>12</sup> Property ownership can potentially have negative outcomes in the absence of an enabling environment that helps women realize their rights. This framework has been used as a basis for the research that follows: *Women's Property Rights as an AIDS Response*.

<sup>12</sup> The conceptual framework presented here builds on the framework presented in Strickland, R. 2004. *To Have and to Hold: Women's Property Rights in the Context of HIV/AIDS in sub-Saharan Africa*. International Center for Research on Women. Washington, D.C.

# WOMEN'S PROPERTY RIGHTS AS AN AIDS Response

Women who own property or otherwise control assets are better positioned to improve their lives and cope when they experience crises. This empowering aspect of property—both economically and socially—is especially vital for women with and affected by HIV and AIDS. For that reason alone, leaders and policy-makers increasingly recognize that property rights should be part of any integrated AIDS response.

The research presented here takes ICRW and the international development community one step closer to understanding how secure property rights might help women protect themselves and their households from adverse social consequences related to HIV, including stigma, poverty and property dispossession. It also is one of the first explorations of women's property rights and HIV in South Asia, where the epidemic is severe but remains fairly concentrated among specific populations.

The study is a snapshot of women's experiences of property and HIV in Bangladesh, India and Sri Lanka, where women often are denied their legal rights to property. This snapshot also explores the extent to which organizations are linking women's property rights and HIV.

What emerges is a new and more detailed understanding of how women experience property loss and dispossession in the

context of HIV. This insight suggests that the potential of property rights to protect women from HIV and its consequences varies along a continuum that is influenced by where a woman is in her life experience (newly married, mother, widow), her household's HIV status (negative, positive, disclosure to family, disclosure to community) and her perception of HIV (death sentence versus manageable disease). Findings also show that local interventions and services are varied and ad hoc in their response to these issues.

Though preliminary, the findings indicate key points in women's lives where programs and policy interventions aimed at strengthening women's property rights may be able to make a difference in South Asia.

Most important, the findings show that a complex, comprehensive strategy is needed to link women's property rights with HIV/AIDS prevention, treatment, counseling and care services. Realistically, no one organization can achieve this alone.

The problems associated with women's insecure property rights and HIV are only now emerging in South Asia. If the international community is to make gains against the epidemic in this region and help protect women from AIDS, the time to act is now.

## DATA AND METHODS

The data collection for this study occurred over two phases. The main information sources were organizations that work on women's property rights and/or HIV and their women members.

Documentation on organizations that are working on the linkage between property rights and HIV was scarce. Phase one began with a scan of 40 organizations in Bangladesh, India, Nepal and Sri Lanka. Through this process, ICRW selected nine organizations in three countries. (Nepal was eventually excluded due to political instability.) The organizations fell into one of two categories: (1) HIV-positive networks that identified the link between HIV and women's property rights through the experiences of their members and (2) organizations that did work on HIV/AIDS and/or women's property rights.

In phase two, ICRW undertook field-based assessments with the nine organizations to examine their

experiences and perspectives on the property rights and HIV linkage. Qualitative research methods, including in-depth interviews, focus group discussions and key informant interviews, were conducted with key decision makers, leaders, program personnel and 23 affected and infected women who were selected to illustrate a range of property-related issues. Additional key informant interviews were conducted with lawyers, government officials and experts with knowledge and experience in promoting women's land rights.

The organizations in the study were purposively selected to provide a snapshot of the extent to which women's property problems surfaced in their work, their perspectives and responses. The extent to which the data collection processes probed and documented the work of these organizations depended on the degree to which they were focused on HIV, and specifically the property rights' link.

## WOMEN'S PROPERTY DISPOSSESSION AND HIV IN *South Asia*

MAJOR FINDINGS	
1	Women's insecure property rights exacerbate the impact of HIV.
2	Women face severe and multilayered stigma from being a woman, a widow and HIV-positive.
3	As HIV-infected women realize they can lead healthy lives, they look to asset security to help them cope with HIV.
4	Organizations have limited understanding of how women's property rights could mitigate the impact of AIDS and prevent further spread.
5	Organizations have a fragmented response to women's property problems in the context of HIV due to competing priorities and limited capacity.
6	A comprehensive approach, comprised of mutually reinforcing interventions, is needed to secure women's property rights.

How does property dispossession occur and affect the lives of HIV-infected and -affected women in South Asia? Little data exists to answer the question, yet understanding this reality is crucial to designing effective interventions that can empower women.

ICRW interviewed a small sample of 23 women in Bangladesh, India and Sri Lanka to explore the property-related circumstances they face in the context of HIV and how it affects their ability to cope. The interviews revealed that for many of these women, discrimination operates at multiple levels: she is a woman; she is poor; she is a widow; and she is positive. Dispossession pushes them into deeper economic and social vulnerability.

Property issues emerge gradually on the HIV continuum. Most HIV-positive, widowed interviewees do not immediately claim property rights after their husband's death because they believe they will soon die. They also are preoccupied with more pressing concerns such as sustenance, shelter and safe physical space. For some, coming to terms with their status coupled with ill-treatment by in-laws is so traumatic that claiming property rights is not a priority. In other cases, women have no property to claim.

These widows' experiences tell the story of how women's insecure property rights intersect with the epidemic to create a dire combination of stigma, destitution, loss of shelter and insecure livelihoods.

## PORTRAITS OF *Dispossession*

Most of the women interviewed from Bangladesh and India were HIV-positive, widowed and between the ages of 20 and 30. The majority of women interviewed in Sri Lanka were HIV-positive, older (between the ages of 30 and 55) and currently married to a husband who was HIV positive.

Most women say that their husbands' HIV status was deliberately withheld. In some cases, women were not told of their husbands' positive HIV status before they were married. They believe they were infected by their husbands, yet families often blame the wives for bringing HIV into the home. These women, who often have low levels of literacy and are usually unemployed, face difficult circumstances when their husbands fall ill and/or die.

Dispossession may take many forms and can be compounded experiences.

**"THE DAY AFTER I WAS MARRIED, I NOTICED MY HUSBAND TAKING MANY PILLS. WHEN I ASKED MY MOTHER-IN-LAW, SHE TOLD ME MY HUSBAND WAS UNWELL BECAUSE OF THE PRESSURES OF MARRIAGE. WHEN HE BECAME CRITICALLY ILL, MY FATHER-IN-LAW TOOK HIM TO MUMBAI FOR SOME TESTS AND I INSISTED ON JOINING THEM. THE DOCTOR IN MUMBAI REFUSED TO TALK TO MY FATHER-IN-LAW AND ASKED FOR ME ... THAT IS WHEN I KNEW THAT HIS STATUS WAS KNOWN EVEN BEFORE MARRIAGE. THEIR FAMILY DOCTOR LATER TOLD ME THAT THE WHOLE FAMILY KNEW HIS STATUS AND DESPITE THE DOCTOR'S ADVICE STILL WENT AHEAD WITH MARRIAGE."**

*Positive widow, age 28, India*

## DEPLETION OF ASSETS FOR TREATMENT

**"MY HUSBAND DIED IN 2003. WE HAD SOLD OUR LAND FOR RS. 3.75 LAKHS (\$ 8,522), OUT OF WHICH RS. 3 LAKHS (\$ 6,818) WERE SPENT ON SURVIVAL, TREATMENT AND LOAN REPAYMENT. AFTER SPENDING RS. 50,000 (\$ 1,136) ON NECESSARY EXPENSES, I WAS LEFT WITH RS. 25,000 (\$ 568). HOW WILL I SURVIVE ON THIS MONEY?"**

*Positive widow, age 22, India*

Household assets are sometimes liquidated to pay for treatment of the husband's illness, leaving his wife with fewer resources after his death. For example, a wife will sell her gold or other jewelry for quick cash to cover health expenses. In other cases, the marital family may deny her claim to the matrimonial property after her husband's death because they equate their contributions for treatment to the husband's share of the family inheritance.

## EXPULSION FROM THE MARITAL HOME

Eviction is a common form of dispossession. A wife is often asked to leave the house after her husband's death and /or disclosure of her positive status. Even if she is not immediately evicted, she frequently suffers abuse until she leaves of her own accord. After she is expelled from the marital home, the husband's family usually establishes control over any assets and sells them off for cash, which can be more difficult for widows to recover. Some families fear that if they transfer property to their daughter-in-law, it will be passed on to her natal family.

**"I EXPECTED SOME SUPPORT FROM MY IN-LAWS AFTER THE DEATH OF MY HUSBAND BUT I DIDN'T GET ANY. WITHIN ONE MONTH OF MY HUSBAND'S DEATH, I WAS ASKED TO LEAVE [THE MARITAL HOME] AND LEFT WITH NO ASSETS. WHEN I DEMANDED SOME SUPPORT FROM MY IN-LAWS, THEY PROMISED RS. 50,000 (\$ 1,136) AS A FIXED DEPOSIT FOR MY CHILDREN BUT THEY DID NOT GIVE ME ANYTHING."**

*Positive widow, age 32, India*

## LACK OF AWARENESS AND STIGMA

Many families-and sometimes the women themselves-assume property has no meaning for a positive widow based on the widespread misconception that HIV is fatal. Women also are deprived because of the notion that people with HIV are considered "bad" and have no right to any share in family property. In rare cases, women also feel their positive status is deliberately used to instill fear and stigma within the extended family and community, which forces them to leave.

**"A WORKER AT THE HOSPITAL TOLD EVERYBODY IN MY VILLAGE ABOUT MY HUSBAND'S STATUS AND I WAS TOLD TO LEAVE. THEY ALSO TOLD MY FATHER-IN-LAW THAT I WOULD HAVE HIV. I THINK MY BROTHER-IN-LAW WANTED OUR PROPERTY AND INFLUENCED THE VILLAGERS TO CHASE US AWAY. "**

*Positive widow, age 47, Sri Lanka*

## INHERITANCE CLAIMS FOR CHILDREN

**"I ALSO KNOW OF THIS CASE WHERE THE HUSBAND AND WIFE ARE DEAD, AND THEY HAVE LEFT BEHIND THREE CHILDREN. THE YOUNGEST IS HIV POSITIVE. THEIR MOTHER'S SISTERS WANT THE PROPERTY OF THE PARENTS. WE HAVE MADE EFFORTS TO MAKE SURE THAT THE CHILD GOES TO SCHOOL AND GETS A HOUSE FOR CARE. THEY ARE BRINGING UP THE CHILD FOR THE PROPERTY BUT EXPECT SUPPORT FOR THE CHILD FROM THE SALVATION ARMY TO TAKE CARE OF THE CHILD. BECAUSE OF THIS WE ARE WORRIED ABOUT THE PROPERTY OF THE PARENTS. "**

*Salvation Army staff member, Sri Lanka*

A woman also may be denied property by promises to transfer the shares of inheritance to her children, especially sons who are HIV negative, or to hold her children's share of property for the future. In such cases, women hesitate to jeopardize their children's inheritance by demanding a fair share, particularly when they are uncertain of their in-laws' intentions. Sometimes the marital family will force or deceive her into signing legal documents that prevent her or her children from claiming rights over matrimonial property.

## ADDRESSING ECONOMIC *Vulnerabilities*

The experience of HIV and dispossession puts women in socially and economically precarious situations. The women often look for support from their natal families as a first step and then seek out support groups.

To better understand how organizations are responding to women's economic vulnerability, particularly insecure property rights, within the context of HIV, ICRW examined nine organizations that can be categorized into two types: (1) HIV-positive networks and (2) organizations that are working on HIV/AIDS and/or women's property rights.

Women's articulated needs for care and support often shape the organizations' responses and priorities. Immediate economic needs for shelter, financial support and income receive priority.

The study also found that as women realize they can live with HIV, they look beyond their immediate needs and consider long-term asset security with the help of their natal family and/or positive networks. However, among and within organizations, there are differing perspectives on the importance of property rights and how to respond effectively.

### SHELTER

Women who are evicted from their marital homes after the death of their husbands or the disclosure of their own status usually find shelter with their natal families. But women who do not have natal family support or who must move for employment opportunities often struggle to find a safe place to live. Cheyutha and Aamhich Aamche Sanstha have helped women find housing through rented houses, referrals to shelter homes and working women hostels. But the stigma of being HIV positive can severely constrain women's shelter options.

### INCOME

Many women who have been disowned and dispossessed expressed the need to prove that "they can make it on their own." Regular employment can ensure a steady flow of income and boost feelings of self-reliance and self-respect.

Typically, the organizations seek to meet these employment needs in one or all of the following ways: (1) employ positive people as staff, which was especially true for positive networks; (2) organize vocational and skills training (i.e., making phenyl, incense, soap or providing computer training); (3) work with industries to hire positive people; and (4) provide loans for income-generating activities. Cheyutha offers loans for small enterprises (i.e., petty shop or tailoring unit) to women who were forced to leave work due to their medical condition or disclosure of status.

In addition to income generation, most organizations in the study have a system to provide monetary support for treatment, nutrition and schooling for children.

Income alone often is not enough, however. The organizations in the study recognized that efforts to employ women as staff are not always sustainable and often do not benefit the most vulnerable and unskilled women. Staff expressed a growing awareness of the limitations of employment—lack of available, well-paying jobs; limited skills among the women; and the effect of HIV-related illness or fear of disclosure on employment.

### PROPERTY RIGHTS

Women need economic assets especially in times of crisis. For the women in this study, securing property rights goes beyond land and housing to include assets that contribute to their livelihood and economic security. Their decision to claim their property rights and what approach to take was influenced by their financial situation, the HIV status of their children, support of the natal family, and the stigma or discrimination they experience.

### WHAT DO WOMEN CONSIDER PROPERTY?

Women define "property" as everything that she receives from her natal family at the time of her marriage, and all that she is entitled to as a wife, including jewelry, dowry, furniture, insurance, pensions, bank accounts, fixed deposits and land/house or any other asset her husband acquired.

# ORGANIZATIONS IN THE STUDY

## HIV-POSITIVE NETWORKS

The positive networks have a wide range of HIV-related activities. Most networks provide counseling, access to treatment, nutritional support and educational support for children. These groups also speak out against stigma and discrimination, advocating on behalf of their members to health care workers and policy-makers.

**Ashar Alo Society** (Light of Hope), founded in 1998, is a self-help group of mainly positive people in Bangladesh. The organization started its work in Dhaka and covers five divisions through six centers. Ashar Alo's objective is to improve the quality of life for positive people and their families by speaking out against stigma and discrimination, scaling up support and care programs, and improving the quality of counseling and health care.

**Aamhich Aamche Sanstha** (We for Ours' Society) is a network for positive people in Sangli district of Maharashtra state in India. It was started in 1995 as a platform for sharing experiences and feelings of people living with HIV. The main objective is to create an enabling environment for positive people in the community through sensitization and awareness programs to reduce stigma and discrimination as well as improvements in health care facilities, counseling and support.

**Cheyutha** (Holding Hands) was launched in 2005 by LEPROA Society, a health and development organization that works on infectious diseases, as a community-based support program for positive people in Andhra Pradesh, India. Cheyutha works in three districts in Andhra Pradesh and aims to improve the quality of life for positive people and protect their right to health. In addition to clinical and nutritional services, Cheyutha offers home-based care, educational support for children, and creates a sense of security and community for positive people and their families.

**Positive Women's Network** (PWN+) started as an offshoot of Indian Positive Network in 1998, with the realization that women living with HIV needed a separate and secure space to discuss their experiences. Based in Chennai, Tamil Nadu, PWN+ currently works in 14 states across India. The work focuses on creating an enabling environment for positive women and their families through policy advocacy with government and other stakeholders, and capacity building of infected and affected women.

**Lanka Plus**, established 1993, is the national network of positive people in Sri Lanka based in Colombo. The main focus of the organization is to work with and support people living with HIV. The organization focuses on generating awareness of HIV, offering counseling services and providing monetary support to positive individuals and their families.

## ORGANIZATIONS WITH HIV/AIDS PROGRAMS

The organizations with HIV/AIDS programs include HIV activities as part of their larger mandates. Almost all these organizations have integrated HIV efforts into their work as awareness of the virus has grown. These organizations focus on public education about HIV and prevention activities (e.g., free condom distribution).

**Nagorik Uddyog** (Citizens Initiative) promotes human rights, governance and democracy while ensuring gender equity and social justice. Established in 1995, Nagorik Uddyog works in 14 districts in Bangladesh. One key objective is to facilitate women's realization of their rights and enhance their access to justice through the traditional informal mechanism for dispute resolution, *shalish*. Nagorik Uddyog is moving toward mainstreaming and integrating HIV awareness in its work within a network of 22 organizations in Bangladesh.

**Alliance Lanka**, established in 1995, identifies HIV prevention and care as its main mission. The organization works with both rural and urban populations across Sri Lanka, except Jaffna where there is civil unrest. Alliance Lanka disseminates information about reproductive and sexual health, HIV and AIDS, and other sexually transmitted infections through the media. The organization has diversified its activities to include health programs, gender-based initiatives, and water and sanitation projects. Several of its other programs - including drug prevention and livelihood support - also incorporate HIV information.

**Community Strength for Development Foundation** (CSDF), established in 2001, mainly works with commercial sex workers, injecting drug users and children living in slums in the Colombo and Gampa districts of Sri Lanka. CSDF focuses on HIV awareness and prevention through a peer education program for sex workers, condom distribution, medical referrals, and savings and credit programs.

**Salvation Army's** country branch in Sri Lanka works toward developing a positive vision for positive people. Established in 1991, the organization covers 10 districts across Sri Lanka and has worked with almost 40 groups including community and government leaders and diverse religious groups. Salvation Army's HIV program focuses on sensitizing communities, encouraging testing, and providing monetary support to infected and affected families. The organization also has a home-based care program, which offers counseling and information regarding adequate nutrition and basic health care.

## ORGANIZATIONS' RESPONSES TO

# Property Issues

Property-related problems emerge fairly slowly in the progression of HIV, usually at the time of AIDS-related mortality. Thus, only the positive networks have encountered the property-HIV linkage. The Indian networks are in high-prevalence states and their members experience a broad range of property-related problems. In Bangladesh, property problems are emerging for positive women, but this is not true in Sri Lanka even though the prevalence rates are similar. This may be because the Sri Lankan positive network did not have as many members as the network in Bangladesh. Also the women interviewed in Sri Lanka tended to be older, more economically secure and usually owned a house.

The study found organizations have responded to property dispossession in a fragmented way, which reflects their existing priorities as well as their financial, technical and human resource constraints. Although no organization had a comprehensive response to women's property rights, the study documented existing interventions and found strategies that include formal legal mechanisms, mediation within families and community-level dispute resolution forums.

### FORMAL LEGAL MECHANISMS

Formal legal processes can be quite effective in claiming property rights. However, filing legal action is time consuming, expensive and requires sustained follow-up. Organizations often lack the resources and capacity to undertake the legal process and see it through to its logical conclusion. Moreover, legal institutions are not usually sensitized to women's property rights or the rights of positive people.

Aamhich Aamche Sanstha, Cheyutha and PWN+ have tried formal legal recourse to help women secure their share of property and other economic assets. Aamhich Aamche Sanstha explored legal options at the suggestion of a board member, who is a lawyer, and developed a partnership with Lawyers Collective, one of the leading public interest law firms in India. Cheyutha, too, sought legal aid from the Human Rights Law Network, another leading collective of lawyers and social activists in India. PWN+ accessed a lawyer who provides pro bono legal services on a part-time basis.

For Aamhich Aamche Sanstha, in particular, working through the legal system has helped several positive members file cases

in court: "Lawyers Collective would visit monthly to discuss problems with our members and offer help on what should be done. Their visits raised interest as members realized they could take legal action against the family." Aamhich Aamche Sanstha also has pursued legal action for compensation, settlement of dues and access to bank accounts.

Another drawback of legal action is the burden it can put on women. Legal claims can languish in the system because of weak legal precedents and evidence. Women do not always have the required papers to prove their claims or lack the means to pay for legal fees, particularly if cases drag on. Families also may use lengthy court disputes to delay justice for women because they believe the complainant may not live long enough to see the case to its conclusion. And legal action often means women will have to disclose their HIV status and face the associated consequences.

### MEDIATION WITHIN FAMILIES

Given the limitations of the legal system, the positive networks have turned to alternative solutions, such as direct mediation between women and their families. Women see this as a more viable option because they desire social support and want to maintain cordial relations with families, especially for the security of their children.

Ashar Alo Society, interacts with the immediate families without involving the larger community or the legal system. A staff member from Aasar Aalo explains, "Women expect the organization to put pressure on the family. They also expect legal help, but at the same time are scared of courts because the local community and relatives disapprove and the women end up losing whatever support they have. They want us to intervene and help."

Aamhich Aamche Sanstha uses "pressure groups," which are composed of vocal and articulate people who negotiate with the family on behalf of a woman. The organization uses the pressure group to "shame" families by suggesting that respectable families do not disown or disinherit their daughter-in-laws. The pressure groups also leverage public opinion and use radio and other media to persuade families or communities to meet women's demands.

These negotiation strategies can be successful but expose the sensitive nature of HIV and its associated stigma. The need to maintain confidentiality of a person's status limits the extent to which organizations can involve the influence of the larger community. In many of these situations, organizations found that the underlying threat of formal legal action encouraged families to accept women's claims for property.

## WOMEN'S EXPERIENCE WITH PROPERTY ISSUES

**Payal** is a HIV-positive widow and a member of Aamhich Aamche Sanstha. After her husband's death, her in-laws wanted her to leave the house. She was not allowed to take her son with her because he was negative. Her in-laws were economically sound but when she tried to withdraw money from her late husband's account, the bank refused. Her in-laws had told the bank that she should not be given any money because it would be kept for her son until he was an adult. She approached the Aamhich Aamche Sanstha for legal help through Lawyers Collective. The lawyers drafted a letter of notice for the bank, which released the money for her.

**Hansa**, a HIV-positive widow, filed a case with the help of Aamhich Aamche Sanstha demanding maintenance, compensation and a share in her father-in-law's property after her husband's death. She won the case in the lower court, but an appeal from her in-laws took it to the high court. While the case makes its way through the legal system (as of November 2006 it was still pending), it has been difficult for her to sell off assets because of the stigma of being HIV positive.

**Arwa** is a positive widow with three children. When her husband was alive, they lived in a joint family arrangement, but after his death the family was unwilling to give her a share of land. Ashar Alo intervened and negotiated with the family to give her land and pay her children's education expenses as well as other support such as food and clothing.

When her brother-in-law broke into her house and stole some valuable household items, she complained to the local police. The community disapproved believing she had knowingly brought shame to the marital family. After her brother-in-law was released, he stopped providing financial support. Ashar Alo Society intervened again and convinced him to continue his support.

**Tara**'s husband and brother-in-law made their living through a sugar cane field that was owned by her marital family. The harvest was sent to the local sugar cane factory, which paid her husband and brother-in-law separately. Her husband bought a tractor through a bank loan. After her husband died of AIDS, she was unable to repay the loan. Her father advised her to transfer the loan to his name, and the tractor was sent to her natal family.

When she went to collect her late husband's dues valued at Rs.12,000 (\$ 275), the factory offered her a reduced amount. She learned that her brother-in-law, who was unhappy about losing the tractor, had not made a payment to the factory and instead asked them to deduct it from his late brother's account. She refused to accept the reduced amount, and the factory refused to consider her case.

At this point, she approached Aamhich Aamche Sanstha and a pressure group visited the factory. Management continued to refuse payment. When the pressure group threatened to organize a public gathering in front of the factory, the chairman relented and promised to transfer the full amount to her account within a week.

**Jahanara** was deserted by her husband and he refused to pay child support for their son. Nagorik Uddyog, with the help of the local legal aid council, organized a *shalish* [traditional informal mechanism for dispute resolution] for her case. She and her husband agreed to formally separate and she was awarded Tk. 25,000 (\$ 390). With Nagorik Uddyog's help, she bought 0.36 acres of land and now earns about Tk. 6,500 (\$103) per month. She is happy about her ability to make a living and feels that she is a respected member of the community.

## COMMUNITY-LEVEL DISPUTE RESOLUTION FORUMS

A community-level model of dispute resolution can be more accessible and effective for poor women. In addition, long-term engagement with communities and working with community gatekeepers can shift gender norms to ensure sustainability of interventions.

Nagorik Uddyog uses the *shalish*, a traditional informal mechanism for dispute resolution. Because Nagorik Uddyog's main focus is to enhance women's access to justice, it has a concrete strategy to help women realize their property rights: (1) form *shalish* committees comprised of community members, with women making up at least one-third of the *shalish*; (2) provide education and training to the committee members on human rights and the legal framework including statutory, customary and religious laws; and (3) set up legal aid committees to monitor human rights in local areas and report on all *shalish* hearings to provide feedback to both the committees and Nagorik Uddyog staff. Women bring issues related to alimony, domestic violence, dowry harassment, desertion and land for dispute resolution at the *shalish*. When informal mediation fails, the organization provides legal aid.

Nagorik Uddyog's *shalish* model is effective but it has not yet been tested for dispute resolution by positive women. The organization believes this is due to misconceptions of HIV being fatal as well as the associated stigma. Once positive women are willing to take their demands to the *shalish*, issues of confidentiality also will need to be addressed.

Any community-based mediation system should be careful that it does not reinforce the gender biases that constrain women in the first place. According to PWN+ in Chennai, India, community mediation bodies, or *kotta panchayats*, arbitrate property disputes. However, powerful male arbitrators often discourage women from making any property claims at the request of the marital family.

## CHALLENGES FOR

# Organizations

The positive networks from Bangladesh and India are attempting a range of interventions to help their members claim property rights, but responses are fragmented and the results are mixed. Organizations respond to women's needs, but do not have the resources and vision to understand how securing women's property rights could be used to mitigate the impact of AIDS.

For PWN+, Cheyutha and Aamhich Aamche Sanstha, a formal legal response was the first strategy, which relied on the voluntary services of external agencies, a legal advocacy group or an individual lawyer. Staff were not trained in legal matters related to property. The lack of internal capacity and resources to follow through on the legal response diluted its effectiveness.

As the limitations of this strategy became apparent, Aamhich Aamche Sanstha created the "pressure groups" to attempt family negotiations. But the Sanstha's pressure group does not have any formal training in negotiation strategies. As one staff member explained, "Since the success of such visits depends on the negotiation capacity of the team, the most active, articulate and vocal members are sent." The skills required for this kind of intervention are different from what the positive networks have traditionally provided. PWN+ acknowledges it does not have the capacity to intervene at the family or the community level.

Nagorik Uddyog has a community-level dispute resolution model that has worked well to secure women's rights. One reason for the success of this model is the community engagement in arbitration and the creation of a public space for discussion, which encourages community ownership of the decision. Nagorik Uddyog also uses this model as a tool to raise awareness about human rights and shift norms and standards at the community level. The biggest challenge, however, will be to adapt this model to ensure confidentiality to protect people with HIV. In cases where family negotiations or the community-level arbitration fails, the formal legal process is necessary.

Organizations need to assess which interventions (community, family, formal legal) work best in a particular context. Often, a combination may be required to secure women's property rights. No one organization will be able to effectively implement all interventions. Establishing coalitions to promote collaboration and provide complementary services could be an effective way to proceed.

Most organizations in the study lack a fully developed, gendered perspective of women's rights and empowerment or the skills to undertake community-level engagement. The commitment of organizations, such as the positive networks, to improving the lives of positive women can hamper their ability to contextualize experiences of positive women within the broader systemic disempowerment of *all* women. Developing this vision and the skills to expand their scope of work and outreach requires dedicated long-term funding and investment.

## RECOMMENDATIONS TO STRENGTHEN

# Emerging Efforts in South Asia

Securing women's property rights can help positive people live with dignity and contain the spread of HIV in a region that is home to one-fourth of the world's population. Women's property rights and HIV are both complex issues rooted in power and patriarchy, which contributes to gender inequalities. The way forward is to develop integrated strategies that address the underlying gender, social and economic dimensions of the issue.

**1** **Promote women's property rights and develop a stronger evidence base.** Across South Asia, efforts to increase public awareness of HIV and its related stigma must be accelerated, particularly among marginalized groups and populations with higher risk of exposure to HIV. At the same time, the link between HIV and women's property rights as an urgent area of policy and program integration must be promoted to governments, policy-makers, donors, civil society organizations and communities.

More evidence is needed to guide the design and implementation of interventions that will effectively address women's property rights within the HIV/AIDS context. How does the relationship between women's property ownership and control over assets, decision-making powers and other measures of empowerment play out in various contexts? What is the role of support services (i.e., credit, extension services, access to markets, education, vocational training) in ensuring sustainable livelihoods for women? As interventions become operational, evaluation research will be necessary to understand the impact on women and the potential for replication and scaling up.

**2** **Invest in organizations' capacity to link and address HIV and property rights.** Long-term funding will help organizations build capacity at multiple levels. Organizations need to understand the social, economic and gender drivers of HIV; the role of sociocultural norms that exacerbate women's vulnerability to the epidemic; and how these factors affect the realization of women's secure property rights. Leadership and staff skills must be developed to conceptualize the larger systemic issues that are disempowering for women, to build solid gender understanding and training, and to undertake long-term community engagement that can shift norms and attitudes.

Funding also is needed to strengthen institutional capacity to implement interventions. These could include training program staff in legal literacy; developing alternative dispute resolution mechanisms; undertaking community engagement; and building documentation, monitoring and evaluation skills.

**3** **Establish coalitions to encourage systemic collaboration.** Strengthening the link between women's empowerment – economic and social – and HIV programs will require broad-based country and regional coalitions to undertake a comprehensive strategy that will address women's economic vulnerabilities regarding shelter, income generation and asset security. Coalitions should include legal practitioners, HIV-positive women, activists and advocacy groups, women's movements, organizations involved in livelihood training or income generating programs and other stakeholders. Forming such coalitions can expand organizational capacity; facilitate peer-to-peer exchange of experiences, skills and strategies; ensure complementary services and multiple strategies are used; and strengthen policy advocacy at national and regional forums.

**4** **Provide shelter and safe spaces for women facing HIV and dispossession.** Shelter is often the most immediate need for HIV-positive women. Securing women's land and property ownership will improve their ability to find a stable place to stay. National governments can help by increasing the supply of housing for low-income women and creating temporary shelters for women.







**FOR FURTHER STUDY ON WOMEN'S PROPERTY RIGHTS:**

Global Coalition on Women and AIDS. *Economic Security for Women Fights AIDS.*

ICRW. *Reducing Women's and Girls' Vulnerability to HIV/AIDS by Strengthening their Property and Inheritance Rights.*

ICRW. *Property Ownership and Inheritance Rights of Women for Social Protection - The South Asia Experience.*

Pradhan, B.K. and R. Sundar. *Gender Impact of HIV and AIDS in India.* UNDP.

Strickland, R. *To Have and to Hold: Women's Property and Inheritance Rights in the Context of HIV/AIDS in Sub-Saharan Africa.* ICRW.

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