WOMEN, LAND RIGHTS AND HIV/AIDS IN ZIMBABWE: THE CASE OF
ZVIMBA COMMUNAL AREA IN MASHONALAND WEST PROVINCE

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SUPERVISOR: DR P. MOYO
DECLARATION

I Caroline Arisunta do hereby declare that the work contained in this thesis is entirely my own work, except where it is attributed to other authors or sources. This work has not been submitted for a degree in any other university.

Dated at……………………this……………………day of …………………2010

Signed………………………
DEDICATION

This work is dedicated to my mother Naume Arisunta for the role that she played in raising me since my formative years, helping me to create a vision for my future, encouraging me to learn and supporting my education.
ACKNOWLEDGEMENTS

Firstly, I would like to give special thanks to the Almighty God for giving me a vision, as well as helping me to finish my master’s degree.

I would like to acknowledge the academic support that I got from my supervisor Dr P. Moyo. His support in this intellectual project is invaluable and helped me a lot in this academic endeavor. Special thanks also go to my sponsor from first year at University up to this level. I do hereby acknowledge the financial support that I got from the Government of Zimbabwe through its Presidential Scholarship, which introduced me into the academic world. I also want to thank my academic colleagues, Tafadzwa, Victor, Webby, Stashia, Charles, Lashy, Clemence, Mrs Gwelo, and SDA members who played a critical role in this piece of work. This was very important in the development of ideas as well as my socialization into the academic world. Lastly I would like to thank my family for the social, economic and emotional support which they gave me throughout my entire studies.
ABSTRACT

This study explores women's access to land under the customary tenure system. It examines how the changes in land tenure, access and rights to land as a consequence of HIV/AIDS are affecting agricultural productivity, food security and poverty, with a specific focus on women who have lost their husbands to HIV/AIDS in Zvimba. Zvimba is a village community located in Zvimba District in the Mashonaland West Province of Zimbabwe. The study also discusses policy responses designed to cushion the impact of HIV/AIDS on local communities especially women living with HIV/AIDS. The study highlights the vulnerability of widows to land rights violations, mainly inflicted by relatives but sometimes by the wider community. The main form of abuse encountered included the use of abusive language, threats of evictions and at times, beatings. The legal route for seeking redress was rarely used. Fear of witchcraft, low educational levels and fear of causing conflict between children and their paternal relatives also led widows to abandon the fight for their rights. The study further reveals that widows are heavily exposed to dispossession of their land rights. HIV/AIDS has increased the vulnerability of widows and other women to threats and dispossession of their land and other property rights. Dispossession of arable fields was observed in the four wards. The dispossession and threats to livelihoods were directly related to the HIV positive status of the widows. The findings from this study illustrate the predominant role that male members of the household or family have over land. Thus, culture and traditional practices still affect women in other cases, disadvantaging them in favour of men, as in inheritance of land and property in the household.
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<th>Description</th>
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<tbody>
<tr>
<td>CBO</td>
<td>Community Based Organization</td>
</tr>
<tr>
<td>FAO</td>
<td>Food and Agriculture Organization</td>
</tr>
<tr>
<td>FASAZ</td>
<td>Farming Systems Association of Zimbabwe</td>
</tr>
<tr>
<td>GOZ</td>
<td>Government of Zimbabwe</td>
</tr>
<tr>
<td>HIV/AIDS</td>
<td>Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome</td>
</tr>
<tr>
<td>ILC</td>
<td>International Law Commission</td>
</tr>
<tr>
<td>LADA</td>
<td>Law and Development Association</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-governmental Organization</td>
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<tr>
<td>SARPN</td>
<td>Southern Africa Regional Poverty Network</td>
</tr>
<tr>
<td>UNAIDS</td>
<td>United Nations Programme on HIV/AIDS</td>
</tr>
<tr>
<td>UNECA</td>
<td>United Nations Economic Commission for Africa</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
</tr>
<tr>
<td>OAU</td>
<td>Organization of African Unity</td>
</tr>
<tr>
<td>UDHR</td>
<td>Universal Declaration of Human Rights</td>
</tr>
<tr>
<td>UNHCR</td>
<td>United Nations Higher Commission on Human Rights</td>
</tr>
<tr>
<td>UNCEDAW</td>
<td>United Nations Convention on the Elimination of All Forms of Discrimination Against Women</td>
</tr>
<tr>
<td>UNRISD</td>
<td>United Nations Research Institute for Social Development</td>
</tr>
<tr>
<td>WB</td>
<td>World Bank</td>
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<td>WLSA</td>
<td>Women and Law in Southern Africa</td>
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CHAPTER ONE: INTRODUCTION

This study examines land tenure issues, that is, access and rights to land, amongst HIV/AIDS positive widows in the area of Zvimba in Zimbabwe. Previous research has shown that widows living with HIV and Aids frequently have their right to land eroded. This tends to compromise the food security of this vulnerable societal group and also deepens poverty (Jackson, 2003, Mutangadura, 2004, Shezongo-Macmillan, 2005).

Zvimba is a village community located in Zvimba District in the Mashonaland West Province of Zimbabwe. The research aims to examine the challenges widows face in maintaining their land rights. The study also seeks to establish how community structures deal with problems of dispossession of land and how other actors such as non-governmental organizations (NGOs) and community based organizations (CBOs) are responding to these challenges.

The HIV and AIDS pandemic has not spared rural communities in Zimbabwe. Zimbabwe has almost two million people estimated to be living with HIV/AIDS, representing the third largest HIV/AIDS burden in sub-Saharan Africa. The HIV/AIDS prevalence rate in Zimbabwe is among the highest in the world, although recent evidence suggests that prevalence may be starting to decline. Women account for more than half (58%) of adult estimated to be living with HIV/AIDS in Zimbabwe (UNAIDS, 2008). HIV prevalence is estimated at 15.6 per cent among rural households (UNDP, 2008: 25). Although much lower than the urban prevalence rate (estimated at 23.1 per cent), the epidemic is believed to have stabilized in the urban areas while it is still on the rise and yet to stabilize in the rural areas (UNDP, 2008). HIV and AIDs is believed to have negative implications on land tenure security for women in Southern Africa. Policy makers and gender activists have raised numerous concerns regarding the vulnerability of women and children and particularly widows and orphans, to loss or erosion of land rights as a direct consequence of AIDS (Aliber and Walker, 2006: 704).
According to the Food Agriculture Organization (FAO, 2002), the majority of rural people in Zimbabwe depend on agriculture for their livelihood. However, inequitable distribution and uncertain land tenure security are highlighted by the United Nations Economic Commission for Africa (UNECA, 2006) as among the major problems of land policies in Zimbabwe. Land tenure security has not received much attention. Within this context and despite their central role in agriculture production across the region, women are often excluded from property and land ownership on gender grounds. They are frequently believed to only have secondary rights to land. This research seeks to investigate the land rights of women who have lost their husbands to HIV/AIDS as well as to understand the specific dynamics around women property rights and HIV/AIDS as they are unfolding in rural Zimbabwe.

1.1 Problem statement

Land is one of the most fundamental resources to women’s living conditions. It is a source of economic empowerment and represents a key factor in the struggle for equity and equality. Rights to use and control of land are therefore central to rural women’s livelihoods. However, despite the importance of land to women, their land rights are still often violated (UNECA, 2003). Zimbabwe, like many Southern African countries, bases its land administration on a dual system, namely, state and customary tenure. Administration of land in rural areas is to a large extent based on the latter, implying that traditional norms and cultural beliefs are the main determinants of decision-making. Under customary tenure, for instance, land is communally owned and is normally allocated to male heads of families. Although land acquisition and usage including land under customary tenure - has been liberalized in Zimbabwe, this has not provided new opportunities for rural women. According to the 2003 Utete Land Report, female-headed households who benefited under Model A1 (peasant farmers) constituted only 18% of the total number of households while female beneficiaries under the Model A2 (commercial farmers) constituted only 12%. This may be so because the prevailing Land Acquisition Act of 1992 allows for customary laws which confer land ownership on men (Gidd, 2000: 30). Since title to land is passed through the male line, this only serves to maintain the usufructory rights to women (Mutangadura, 2005: 5). The relative security of tenure that particularly married women enjoy is
therefore often lost upon divorce, separation or death of a husband. While it makes provision for widows to inherit a portion of the deceased husband’s property, the Act excludes land under customary tenure (Gidd, 2005: 21).

According to UNAIDS (2008: 15), Southern Africa remains the global epicenter of the AIDS epidemic. The region accounts for 43 per cent (860,000) of all children under 15 years of age that are living with HIV and 52 percent (6.8 million) of all women living with HIV. It is estimated that almost one in three people infected with HIV live in this region, translating to an average prevalence rate of roughly 30 per cent (UNAIDS, 2008: 15). It is not surprising therefore that HIV and AIDS is creating a major shock in rural areas of Southern Africa. In this context, some scholars, such as Villarreal (2006: 4), believe that the disease has introduced fundamental changes in the institutions that govern land and land rights. Consequently the vulnerability of the most vulnerable is increasing. One of the ways in which vulnerability resulting from HIV/AIDS prevalence manifests itself in rural setting is the stark inequality between men and women in their access to and ownership of productive resources such as land. According to Villarreal (2006: 4), several studies have shown that the range of impacts and possible outcomes that the epidemic can have on land issues include loss of land rights and inheritance rights, shifts in ownership and stripping of land and other property from widows and orphans. These are purported to have been extensively reported in rural areas where the AIDS epidemic has become widespread Villarreal (2006:6).

Zimbabwe has almost two million people estimated to be living with HIV/AIDS (1.8 million as of the end of 2003), representing the third largest HIV/AIDS burden in sub-Saharan Africa. The HIV/AIDS prevalence rate in Zimbabwe is among the highest in the world, although recent evidence suggests that prevalence may be starting to decline. Women account for more than half (58%) of adult estimated to be living with HIV/AIDS in Zimbabwe (UNAIDS, 2008).

Zimbabwe’s National HIV/AIDS policy emphasizes the basic rights of people living with HIV/AIDS and related diseases with a particular focus on issues of access to the public health system (UNAIDS: 2007). Access to the public health system and the provision of medicine and
drugs are vital for the welfare of people living with HIV/AIDS. Yet one of the shortcomings of Zimbabwe’s National HIV/AIDS policy is that it does not sufficiently address HIV/AIDS from a developmental perspective.

Thus the country’s land policy, agriculture policy, natural resources policy and other rural development policies are not directly integrated and linked to HIV/AIDS related interventions (UNAIDS, 2008). Issues such as access to land by HIV positive people, the land rights of vulnerable groups of people including widows whose plight has been worsened by diseases has not been appropriately addressed.

1.2 Research Questions

This study investigates the issue of access to land amongst widows living with HIV/AIDS in Zvimba communal area of Zimbabwe. The main research questions in this study are:

- Do widows living with HIV/AIDS have access to land in Zvimba communal area?
- How has HIV/AIDS affected women’s access and rights to land?
- What challenges do they face in maintaining land rights?

1.3 Objectives of the study

- To investigate the land rights of women who have lost their husbands to HIV/AIDS as well as to understand the specific dynamics around women property rights and HIV/AIDS as they are unfolding in rural Zimbabwe.

- To examine how the changes in land tenure, access and rights to land among widows living with HIV/AIDS are affecting agricultural productivity, food security and poverty.

- To identify any institutional mechanism that exists to protect widows against any possible loss of their rights.
To examine the ways that affected households are coping in terms of land access and, land use.

1.4 Research Setting
Zvimba community is located in Zvimba district in the Mashonaland West Province of Zimbabwe. Agriculture is the main source of livelihoods for the inhabitants of this area. The main crops grown in this area are maize, cotton and groundnuts. This area is in Natural Region 2 which receives very much rainfall. The region has fertile valleys and warm climate, which is ideal for agricultural produce and thus significant for the country's economy and the people's livelihood. Zvimba has continued to be the most devastated district with high HIV/AIDS prevalence in the country. The government responded by setting up the Zimbabwe National AIDS Council for prevention and control programme.

The research was carried out in four wards, which are Ward two to five, of Zvimba Communal area. The sample size was made up of fifty women who have lost their husbands due to HIV/AIDS. Ten respondents (20 percent) of the total sample size were interviewed in Ward 2. In Ward Three, 15 (30 percent) respondents were interviewed. In Ward four 10 (20 percent) respondents were interviewed. Lastly in Ward Five, 15 (30 percent) respondents were interviewed. The researcher first sought permission from the Zimbabwe National Aids Council to work with their clients in order to get information relevant to the study. Interviews were conducted from 1 September to 29 September 2009, in the language preferred by the participant.

1.5 Limitations of the study
THE stigma associated with HIV/AIDS continues to present special difficulties for research as respondents are reluctant to discuss HIV/AIDS, especially in their personal capacities. The research team had to be sensitive to the respondent’s discomfort. Also, the selection of the site was based on prior contacts with this community through the researcher’s engagement with Zimbabwe National AIDS Council. This may have had an influence on the information that
interviewees’ provided especially if they had other expectations from the study such as donor support. In order to minimize this potential effect, the researcher made it clear to the interviewees that the research was not associated with any donor support. Therefore the interviews were carried out upon each widow’s willingness to do so. Although the study sample of widows to be interviewed was arrived at through purposive sampling, the sample may not have been representative of the community in Zvimba and bias may have been introduced

1.6 Conceptual Framework: Patriarchy

The concept of patriarchy has evolved from the struggles of women all over the world. It encompasses the totality of structures of domination and exploitation that affect women's position in society (Walby, 1990; Smith, 1997; Larsson and Schlyter, 1995). The term patriarchy essentially means the rule of the father or the patriarch (Hartmann, 1980). In feminist theory and practice, patriarchy has been looked at differently from the liberal to socialist feminism. Defined simply however, it implies a system in which the father or a male member who is considered as the head of the family, controls all economic and property resources, makes all the major decisions of the family and thereby maintains ongoing control over all members of the family and those related to it (Alcoff, 1990). Very clearly, this system establishes male dominance and control over women in society, in general, and particularly so within the family. The "unequal power relationship" between men and women, accrues power to men in an important institution of society. Thus, it is important to see patriarchy as both an ideology of women's subordination and control, and, a concept of struggle against the same (Millett, 1969:14).

The original theory of patriarchy was employed in the 17th century to justify the rule of monarchs. Twentieth-century feminism has used the term to describe a division of power and advantage along lines of gender (Fischer, 2000). The concept of patriarchy has been used within the women’s movement to analyze the principles underlying women's oppression (Pateman, 1998). The concept itself is not new. It has a history with feminist thought, having been used by the anti-Marxist sociologist, Max Weber (Weber, 1968). And theoretically the concept of patriarchy has been used to address the question of the real basis of the subordination
of women and to analyze the particular forms which it assumes. Thus, the theory of patriarchy attempts to penetrate beneath the particular experiences and manifestations of women’s oppression and to formulate some coherent theory of the basis of subordination which underlies them (Morris, 2002).

The concept of patriarchy which has been developed within feminist writings is not a single or simple concept but has a whole variety of different meanings. At the most general level patriarchy has been used to refer to male domination and to the power relationships by which men dominate women. Unlike radical feminist writers like Kate Millett (1969) who have focused solely upon the system of male domination and female subordination, Marxist feminists have attempted to analyze the relationship between the subordination of women and the organization of various modes of production. In fact the concept of patriarchy has been adopted by Marxist feminists in an attempt to transform Marxist theory so that it can more adequately account for the subordination of women as well as for the forms of class exploitation (Angela, 2004).

In contemporary academic discourses, patriarchy is conceived either as a tool/concept for analyzing power and kin relationships; as ideology; or as a gender system (Coetzee, 2001). As a gender system, patriarchy is “reproduced through the ability of fathers to bequeath to their sons the power to command resources, direct the labour of their wives and children, monopolize material control of the ‘public sphere’ and enforce ideologies which legitimate all this as natural, godly and inevitable state of affairs” (MacInnes, 1998:16 ) or as a “system of social structures and practices in which men dominate, oppress and exploit women” (Walby, 1990:12). According to Rogers (1998) although almost all men share in masculine privileges and institutionalized subordination of women, the benefits accruing to individual men “vary according to class, age, race and sexual orientation” to which may be added education, employment, social and political disposition. That is, in a patriarchal society, men of higher socio-economic and political status dominate all women and men of lower social standing.

For most commentators (Walby, 1990, Larsson, 1995) ,patriarchy is a dynamic system in which, when challenged, women win some activities, privileges and status while men give up some.
Consequently, Walby (1990) conceptualizes patriarchy as a system consisting of six discrete social structures—patriarchal mode of production; paid employment; state power; male violence; sexuality; and culture—of which the first three are particularly relevant to this research. ‘Patriarchal mode of production’ refers to class relations within the household where housewives are the producing class and husbands are the expropriating class (Kandiyoti, 1998, p. 145). ‘Patriarchal structures within paid work’ refer to closures within which “waged labor exclude women from the better forms of work and segregate them into the worse jobs which are deemed to be less skilled (Walby, 1990:9).

‘Patriarchal structures within the ‘state’ and ‘cultural institutions’ (educational, religious, media, etc.) have systematic policies and actions biased in favour of men's interests. Under private patriarchy, men (in their presumed positions as heads of households) control household labour in home-based subsistence production and try to regulate the fertility and reproduction of women (Burman, 1998). Furthermore, women are systematically excluded from participating in public activities including paid work and community leadership (Gilligan, 1999). In public patriarchal systems, women are not excluded from the public sphere but may, at times, be excluded from paid work and/or confined to lower paid and socially undervalued jobs. In a public patriarchal system, the ability of men to dominate and oppress women in the private sphere is variably restricted by state rules and regulations (Kandiyoti, 1998:144). Consequently, under public patriarchy, women may have reduced dependence on men and the right to live independently of men, control their own fertility and to work for pay outside the home. According to MacInnes (1998), the rise of public patriarchy in recent times has been due to “the development of modernity, individual rights, capitalist relations of production, commoditization of labour, and the decline in household or subsistence production”.

Power, and the exercise of power, is central to the definition of patriarchy. According to Kandiyoti (1998:145) “power does not merely manifest itself in and through gender relations but gender is constitutive of power itself insofar as relations which may not always literally be about gender utilize the language of sexual difference to signify or legitimize power differentials”. Thus, men derive their power from culturally constructed rules on marriage, inheritance, work, social status and participation in politics and other extra-domestic activities (Kandiyoti
Other sources of power in contemporary societies include education attained, skills acquired, income earned and official or political position occupied. As Kabeer (1999:441) observes that power relations are expressed not only through the exercise of agency and choice, but also through the kinds of choices people make and which derive from a ‘deeper’ level of reality, one which is not evident in daily life because it is inscribed in the taken-for-granted rules, norms and customs within which everyday life is conducted. People often make choices to conform to societal expectations, rather than what would have otherwise been their independent preferences. Women may tolerate domestic violence, e.g., in order to conform to social norms.

Patriarchy may further be viewed as a ‘gender system’ consisting of societal norms or contracts based on formal and coded or unwritten and assumed rules and regulations that govern the position of women and the prerogatives of men within the family and household, in the sphere of production or the labour market, in the political system, and in cultural institutions (Hirdman, 1991). Gender contracts are in effect male–female power relationships that shape and arise from social, economic, political and sexual dispositions of men and women in a society. Various gender contracts constitute a gender system (e.g. patriarchy or matriarchy) under which cultural norms and common laws defining men’s and women’s rights, privileges, status and duties are defined (Brak, 1981).

Gender contracts and systems are formed over long periods of time through day-to-day interactions and are subject to change through bargaining and negotiation (Hirdman, 1991; Kabeer, 1999). Negotiation is a process through which women as individuals or groups of individuals challenge the status quo or position themselves so as to access, control and utilise resources located in the public sphere of men (Kabeer, 1999:43).

One of the main criticisms is that patriarchy as a concept merges explanation with description and collapses into a form of abstract structuralism, losing the tension between agency and structure necessary to understand complex social processes (Pollert, 1996). Paradoxically, the in-depth, qualitative research of feminist social scientists, influenced by patriarchy, exposed the very limitations of the concept for understanding the complex and fluid nature of gender relations. Abstract structuralism did not seem to help feminists to understand women’s lives.
because once gender relations are analyzed in context of lived experiences the ‘static oppositions’ of capital and patriarchy disappear (Alcoff, 1990).

Fischer,(2000) and other liberal feminists often see precisely the patriarchy theory as potentially undermining the gains of the women's movement with polarizing rhetoric that invites backlash and hold that they overemphasize sexual politics at the expense of political reform. Other critics of patriarchy theory from the political left, including socialist feminist strongly disagree with the patriarchy theory position that the oppression of women is fundamental to all other forms of oppression; these critics hold that issues of race and of class are as important or more important than issues about gender. Queer and postmodernist theorists often argue that the patriarchy theory ideas on gender are essentialist and that many forms of gender identity complicate any absolute opposition between "men" and "women Gottfried 1998.

Lesbian, Black, ‘Third World’ and post-colonial critics have demonstrated some of the limitations of patriarchal accounts of equality to racialised and cultural accounts (Burman, 1998). For example, the promotion of reproductive choices by western feminists in the 1970s focused on contraceptive and abortion rights. However, many women at that time were being discriminated against because of their colour, sexuality or physical abilities and were fighting to keep their children, born and unborn (Burman, 1998:31). Whilst these criticisms of western feminist raise questions about how and why the priorities of the issues and campaigns these women chose to think and act on were agreed, they do not suggest an alternative account of inequality in which the public and private oppression of women is explained (Seidman, 1994). Critics are however right to point out that the feminist account of patriarchy developed by western liberal feminists needs to be expanded to ensure that the experiences of more women can be included but they must also acknowledge that the priorities and concerns of liberal feminists have resulted in some of the most far reaching and important education and legal reforms of this century taking place in the last twenty years and these reforms particularly reflect the western feminist concern with differential relationships. In the area of social policy and the law, reformers have begun to focus on protecting the individual rights of vulnerable household members – women, children, and the elderly (MacLean & Kurczewzki 1994:15) at the expense of patriarchal privilege. Crucially, whilst the law has become aware of the potential for the
exploitation of family members and in acting underlines the importance of public attitudes and legislation in maintaining gender inequalities and differential relationships; the reform approach cannot be seen as an open acknowledgement that socialization patterns and family arrangements are male dominated (MacLean & Kurczewzki 1994:12). Following the vote of the General Synod in 1992, the ordination of women in the Church of England has challenged hundreds of years of patriarchal authority and tradition in the church. The implicit relationship between individual men and institutions can be viewed explicitly in the complex provision made to protect those who are individually opposed using the church’s own structures. Regardless of the refusal of key patriarchal institutions to acknowledge the extent to which men have been and are systematically and deliberately privileged by their structures and actions, these dominant forms of power can help produce social change, even if they are only attempting to keep in touch with contemporary society (Cooper, 1995).

However, despite the various well-founded criticisms of patriarchy, it has proven a useful conceptual tool in order to underscore the specificity of women’s employment and to make women visible within the analysis of the capitalist labour relation (Alcoff, 1990). Pollert (1996:18) on the other hand, counters this argument by asserting that the continuance of patriarchy to inform feminist analysis carries its own dangers, namely those of failing to engage with people and of losing sight of class. An attractive compromise struck by many academics (Adams, 1990, Burman, 1998) is to continue to use the term adjectivally to describe specific situations and circumstances, whilst keeping sight of class and race difference. In brief, this section has noted that patriarchy is both a system and an ideology that shapes and determines gender relationships and rights in a society. It has also noted that patriarchy is an open gender power system where men and women are constantly searching for ways and opportunities for enhancing their power base, rights and privileges. This concept helped the researcher to understand the phenomenon which surrounds woman land rights and HIV/AIDS.

1.7 Significance of the Study

HIV/AIDS has introduced profound changes in the institutions that govern land and land rights in Zimbabwe. These changes are increasing the vulnerability of the most vulnerable and
increasing gender inequality in the access to and ownership of land and other productive resources. Women’s equal access and control over land is constrained by their social positions in society. Demographic information in Zimbabwe reveals that women are over 50% of the country population (Jacobs, 1999).

Equal access to and control over rural land to women in this region obviously will have positive impact on rural development. This study contributes to the body of literature by highlighting the importance of women’s equal access to and control over land to the socio-economic well-being of women as well as rural livelihood in the region. Research carried out on land reform policy implementation reveals that the current land administration system has not challenged pre-existing gender biases in actual implementation (Musuhara, and Huggins, 2005).

Study findings give better insight to gender issues and significance of addressing these issues in rural land administration system to ensure women’s equal access to and control over land. The study came up with important recommendations on gender issues to be considered in the regional rural land administration policy which is under revision currently. This would help policy makers to give emphasis to important gender issues that need to be addressed at the level of policy formulation as well as at the level of implementation. The study serves as an entry point for further research undertakings in areas of women’s land rights and rural development.

1.8 Outline of the Study

Chapter 1: Introduction

This chapter gives a brief introduction to the study, the purpose, objectives, and rationale for carrying the study. It also discusses the theoretical framework using patriarchy theory to address the land rights of women.

Chapter 2: Literature Review

The chapter gives an overview of issues that paves the way for a clearer understanding of the research problem and identifies the knowledge gap this study seeks to fill. The literature review
first discusses the concept of land and women and HIV in Zimbabwe. The review further looks at the historical position of women on land rights in Zimbabwe and elsewhere in the world. This discussion serves to place land and women in the Zimbabwean context, a move that assist the researcher to locate the study’s research questions in the general academic discourse on woman land rights and HIV/AIDS.

Chapter 3: Methodology

This chapter describes and justify the qualitative research methodology used to provide answers to the research questions. The chapter began by recapping the research problem being investigated. It highlighted why qualitative research methods were appropriate to collect data from the respondents and why purposive sampling was the right way to go in terms of selecting interviewees. It also looked at issues of access and entry to the research site, Zvimba village. It further described how data was collected mainly from female farmers. Finally, it described the data analysis procedures employed in the research.

Chapter 4: Research Findings

This chapter discusses the findings presented in the preceding chapter and draws conclusions from the information recorded in the literature review. The conclusion established the views of the respondents on the way they access the land and the challenges they are facing in Zimbabwe.

Chapter 5: Summary Conclusion and Policy implication

The chapter summarises the main findings of the study, raised questions and ideas for further research. It made some recommendations to address issues raised.
CHAPTER 2

Literature review

2.1 Introduction

There is a growing recognition of the centrality of land tenure among women in the sustainable development process in Zimbabwe. According to Economic Commission for Africa the centrality of land tenure to the attainment of sustainable development especially amongst the poor and vulnerable in rural settings is indeed the subject of many regional and national initiatives and meetings in Sub- Sahara (Wiggins, 2003). More than 60 per cent of the populations in the sub-region depend on land for their livelihood; this fact is indeed not surprising. Land is a fundamental resource to the women in Zimbabwe and is essential for enabling them to lift themselves out of the shackles of poverty. Land can therefore, be viewed as an intermediary in social relations, medium of production, economic activity and a political issue (Moyo, 1996). The question of land is currently one of the much talked about topics in various circles of Zimbabwe. However, access to or rights to land are governed by what is referred to as a tenure system. According to (Grigsby, 2004: 208), tenure refers to “a bundle of rights and in this context the right to land and the resources it can produce. On the other hand, (Adams, 2001), defines land tenure as “a system of rights and institutions that govern access to and use of land”. The latter definition of land tenure lends well to this study as it recognizes land tenure as not only comprising a system of rights, but also highlights the issue of governance of these rights, which plays an important role in determining land rights of women especially in rural areas of Zimbabwe.

Access to land is a prerequisite for any efforts for agrarian reform in African societies. Women’s access to land in the rural areas forms the basis for the peasant based agrarian model. The right to
use and control land is central to the lives of most rural people in the developing societies. Lack of land rights deprive women and girls the right to economic empowerment and their struggle for equity and equality within a patriarchal society (Wiggins, 2003).

2.2 Women’s Land Rights and Zimbabwe’s International Obligations

International law has framed gender equality as part of global concern on human rights and basic freedoms for social, economic and political rights. These include claims on access to and control over productive resources like land. The Universal Declaration of Human Rights adopted in 1948 (UDHR, 1948) and international laws and conventions developed afterwards have a number of provisions to address gender equality. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) prohibits any distinction, exclusion or restriction on the basis of gender that harms or nullifies women’s human rights and fundamental freedoms (UNCEDAW, 1995:3). It establishes women’s rights on par with those of men to political, economic and social participation and benefit. Articles 7-8, 10-13 and 16 of CEDAW have comprehensive coverage and oblige signatory states to achieve these goals.

The Beijing Declaration in its Article 35 states that governments should ensure women’s equal access to economic resources including land, credit, science and technology, vocational training, etc. as a means to further the advancement and empowerment of women (UNCEDAW, 1995). The United Nations Higher Commission on Human Rights passed resolution on women’s equal ownership access to and control over property and land (UNHCR 2003/22).

African Protocol to the African Charter on the Rights of Women in Africa adopted by the then Organization of African Unity called upon all African states to eliminate discrimination against women and to ensure women’s rights as set in international declarations and conventions (OAU, 2003). It demanded African governments to combat all forms of discrimination against women through appropriate legislative and institutional measures. The protocol includes a number of articles on women’s social, economic and political equality and gives particular emphasis to the rights of widows and divorcees. UN agencies and international organizations play significant roles in supporting women’s equal rights on access to and control over land.
FAO is the responsible UN agency to lead international efforts to overcome hunger. FAO draws special attention to rural development and facilitates debate forums on land policy issues. FAO established ILC (International Law Commission) that focuses on women’s access to land and gender relations in land tenure. ILC runs ‘Gender Relations in Tenure Project’ on women’s rights to land which focuses on key issues regarding women’s access to land (Adams, 2001).

In 1986 the United Nations Declaration on the Right to Development was declared. It established the right to development as a universal and inalienable right, and an integral part of the fundamental human rights (Chinkin, 2001). Earlier in 1979, the Convention on the elimination of All Forms of Discrimination Against Women was adopted, and it was ratified by the Government of Zimbabwe in 1991. Article 14(g) of the Convention states that state should ensure that women have the right to have access to agricultural credit, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in resettlement schemes (FAO, 2006). By virtue of being signatory to several human rights treaties like the ones indicated above, the government of Zimbabwe has an obligation to respect, protect and fulfill the human rights of all its citizens.

The Beijing Platform for Action (1995) identifies the gap between the existence of rights and their effective enjoyment (Chinkin, 2001:14). The implications of this gap include among other things, the feminization of poverty and women’s limited access to resources. Zimbabwe has ratified CEDAW and the Convention on the Political Rights of Women. Zimbabwe has also signed the Treaty of the Southern African Development Community (SADC), the SADC Declaration on Gender and Development and its addendum on the Prevention of Violence Against Women and Children, which all acknowledge gendered rights as fundamental human rights. Zimbabwe also adopted the Dakar Platform for Action and Beijing Declaration in 1995 thereby acknowledging and committing it to take strategic action to promote the human rights of women and eliminate all forms of discrimination. However, these international agreements cannot protect Zimbabwean women in the manner that they are meant to as under Section 111B of the Constitution of Zimbabwe they, ‘shall not form part of the law of Zimbabwe unless incorporated into the law’ as Acts of Parliament. Thus, Zimbabwe has failed to honour its international duties according to the international treaties that it has ratified.
Land is recognized as primary source of wealth, social status and power throughout history to those who have access to and control over it. Arguments raised on women’s land rights in the course of the 1990s that influenced international discourses on gender equality is well established as basic component of policy nowadays. Gender equality was included and promoted as a major goal in the Millennium Development Goals - MDGs (World Bank, 2001) and in country Sustainable Development and Poverty Reduction Program. However, there is a persistent gender gap in landholding rights because, women’s access to and control over land are affected by various factors in communities (FAO, 2002). Socio-economic, legal and institutional factors affect women’s access to and control over land in Zimbabwe.

2.3 The legal framework affecting women’s land rights in Zimbabwe

A wide variety of laws and policies pertaining to land and property rights in Zimbabwe exist, of particular interest for the study are laws relating to access and inheritance of land by widows. The legislative and policy context has been shaped by multi-layered processes at international, regional, national and even local levels. An important international instrument is the 1979 Convention on the Elimination of all forms of Discrimination against Women (CEDAW) which deals comprehensively with the broad spectrum of human rights as they relate to women, Zimbabwe ratified the Convention in 1991, thereby agreeing to take all appropriate measures, including legislation, to ensure the full development and advancement of women on a basis of equality with men. Of particular relevance to the issue of land and livelihoods is Article 14(g), which states that state parties to the convention shall ensure that women have the right to have access to agriculture credit and loans, marketing facilities, appropriating technology, and equal treatment in land and agrarian reform as well as in resettlement (WLSA, 2001).

Section 23(3) of the constitution of Zimbabwe deals with protection from all forms of discrimination, be it race, tribe, origins, political opinion and gender. Discrimination on the grounds of gender was outlawed by constitutional Amendment No 14 of 1996. However, this particular section has been criticized by women because of claw-back clauses that permit discrimination in matters of personal and customary law. Land allocation is traditionally to male heads of families, with women having usufruct rights (WLSA, 2001). Women were not
allocated land in their own right, but only had access through their male relations as wives,
sisters and daughters. This practice has continued, with the formal legislation perpetuating these
discriminatory practices. Section 23 (3)(b) of the constitution of Zimbabwe, protects the practice
of allocating land to men not to women

Customary law gives land right to adult’s males, both in their own right and on behalf of their
families, leaving it to them to make allocation decisions in favour of their wives, daughters or
any other female relatives. This leaves women vulnerable to abuse. Section 23(3)(a) of the
Constitution of Zimbabwe also allows discrimination against women in matters of persona law,
inter alia in laws relating to marriage, divorce, adoptions and devolution of property upon death.
For a long time it was believed that women could not inherit under customary law from the
estate of their deceased male relatives, either as spouses or as daughters. Accordingly, when a
man died without leaving a son, his estate would devolve upon his brothers and their sons. The
case of Magaya V Magaya (1999), illustrates the injustice that can result from the application of
custumary law (Mushunje, 2001).

2.4 Ownership Rights

Zimbabwean women encounter significant discrimination in the matter of ownership rights.
Access to land is essential for women; their survival often depends on growing subsistence
crops. Yet women are rarely land owners. If land belongs to a village, customary law applies and
land ownership is reserved for heads of households – typically men. Women are effectively
excluded from ownership and have the right only to a life interest in the use of land, which must
be granted by their husbands. In the event of divorce, women automatically lose this right of use.
Widows are not entitled to inherit their husband's land. When land belongs to the state,
Zimbabwean civil law applies. In this case, women can own land under the terms of an agrarian
reform programme, which made provision to reserve some land for women. Despite this
measure, women still encounter significant resistance to land ownership.

Zimbabwean law recognizes women's rights to have access to property other than land. All
women, whether single or married, are entitled to own property, which they retain if they do
marry or subsequently divorce. According to civil law divorce proceedings, a woman’s contribution to the household is taken into account when dividing the couple's joint property. This legislation does not apply in unregistered customary marriage, which does not allow women to own property jointly with their husbands.

Legislation allows women in Zimbabwe to have access to bank loans, but banks often ask for a husband's consent or for guarantees that women are rarely able to provide. As a result, financial institutions grant very few loans to women. Some credit institutions are successfully targeting women and there are increasing numbers of women-only savings clubs, which give women access to financing (Mutangadura, 2004).

2.5 Gender-based Discrimination against Women in Zimbabwe

2.5.1 Land redistribution

Women in Zimbabwe form 52% of the population of the country, and 86% of them depend on the land for their livelihood and that of their families. Women also constitute 70% of all agricultural labour and are the primary managers of homes in communal areas. Accordingly, Article 14 (g) of the CEDAW asserts that: ‘state parties shall take all appropriate measures to ensure that women have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in agrarian reform as well as in land resettlement schemes.’

There is no enabling legal framework to ensure equality in the redistribution of land. Colonial land tenure arrangements that discriminated against women have been perpetuated in the present day through the Communal Lands Act of 1982 and the Traditional Leaders Act of 2000. Under these laws, women in communal areas, where most rural Zimbabweans live, are still expected to depend on men for land, denying them tenure rights. Even though section 16 of the Zimbabwean Constitution stipulates that every citizen has an equal right to ownership of property, another Constitutional provision, section 23, has allowed for discrimination against women under customary law WLSA(1994).
Given the fact that customary law places heavy emphasis on land rights being enjoyed by the head of the household who in the context of Zimbabwean customary law is generally considered to be a male, women’s land rights are not adequately protected. The fact that women lack access to and control over land makes them unable to acquire credit, marketing facilities and excludes them from decision-making powers over agricultural production activities and benefits.

In October 2000, the Government of Zimbabwe undertook to allocate at least 20% of all land identified for resettlement to women. It was discrimination in itself to allocate only 20% to women when they make up 52% of the population. Despite this, by August 2002 when the President announced that the Fast Track Land Reform Program had been officially completed, the land quota for women had not been put into law and the number of females allocated land was very low countrywide. According to the 2003 Utete Land Report, female-headed households who benefited under Model A1 (peasant farmers) constituted only 18% of the total number of households while female beneficiaries under the Model A2 (commercial farmers) constituted only 12%.

2.5.2 Political participation

The participation of women in decision-making and governance is an important human rights issue. Women have the right to participate fully at all levels of political, civic and community life. However, very few women participate in Zimbabwean politics at either local or national level. The 1997 SADC Gender and Development Declaration, to which Zimbabwe is a signatory, uphold the status of women in politics. The Declaration commits member States to appoint women to at least 30% of decision-making posts in politics and the public service by 2005. Out of Zimbabwe’s 210 Parliamentarians, only 20 are women. Of the 29 Ministers in government, only 4 are women. Of Zimbabwe’s ten Provincial Governors, only two (10%) are women. In local government structures only 46 (13%) out of 347 urban councilors are women.

There are far less women councilors in Rural District Councils. Government has failed to reach the 30% mark stipulated by the SADC Declaration; however it is already promising women 52% representation in decision-making and politics in its newly launched National Gender Policy.
2.6 Marriage Laws and Women’s Rights

Zimbabwe has two marriage laws: the Marriages Act [Chapter 5:11], and the Customary Marriages Act [Chapter 5:07]. Due to the dual system of customary and general law that is used in Zimbabwe, these types of marriages have been given different status by the law with negative consequences on women’s rights. In addition there is an Unregistered Customary Law Marriage which unlike the former two marriages is not valid at law. Upon separation or divorce, a spouse can only get property or a share of it if she can prove to have purchased or contributed towards it because the Matrimonial Causes Act does not apply to this type of marriage. The Marriages Act [Chapter 5:11] discriminates against women in the sense that it sets different age limits for marriage between females and males. Under this legislation, a man may marry at the minimum age of eighteen while a woman may marry at the minimum age of sixteen. This makes the girl child more vulnerable to early marriages, early pregnancies and premature motherhood. Furthermore, the assumption in this legislation that girls attain maturity at an earlier age than boys is patently wrong and discriminatory based on sex (WLSA, 2002).

The Customary Marriages Act [Chapter 5:07] allows men to have as many wives as they want, but does not accord the same privilege to women. Under this Act, a husband can sue for adultery but the wife cannot do the same. In the advent of HIV/AIDS, this presents special problems to women who at most times do not have the power or the authority to ask their husbands to practice safe sex even when they know that their husbands have multiple sex partners. In General Recommendation Number 21 of 1994 on equality in marriage and family relations, the Committee on the Elimination of Discrimination Against Women observed that legislation which grants men a greater share of property upon divorce is discriminatory and will seriously affect a woman’s practical ability to divorce her husband, support her family and live in dignity as an independent person. One reason for the unequal distribution of wealth can often be found in the neglect to take appropriate account of women’s non-financial contributions such as childcare and domestic work when the marital property is divided. The Committee further noted that since non-financial contributions by the wife often enable the husband to earn an income and increase matrimonial assets, financial and non-financial contributions should be accorded the same weight WLSA, (200).
Gender inequalities are pervasive across many dimensions of societal life including households, social, economic and political institutions in Zimbabwe. The UN recognized that gender inequality resulting from women’s low status persist in all societies although the extent of the gap varies across countries, cultures and time. The UN presented the burden of this inequality as follows: “Women, who comprise half the world's population, do two thirds of the world's work, earn one tenth of the world's income and own one hundredth of the world's property” (UN, 1980). A World Bank study in regional patterns of gender inequalities in basic rights and in access to and control of resources reflect that disparities exist all over the world and no woman in the developing regions has equal rights with man (World Bank, 2001). Gender inequality is difference in rights and privileges between women and men reflected in legal statutes, customary laws and community practices. These differences are reflected in marriage, inheritance, property ownership and management, in household and community activities and decision-making.

Deprivation of women’s land right through customary practices regarding land inheritance and property distribution after divorce is a challenge in patriarchal societies in Zimbabwe. Men remain central heirs and holders of land rights in patrilineal communities. Women’s direct access to land is often limited in traditional societies. Women have indirect access to land in terms of use rights acquired through kinship relationships and their status as wives, mothers, sisters or daughters (Davison, 1988). However, these use rights may not grant enough security for women when family structures break due to various reasons. Breach in marriage is a serious issue in women’s access to and control over land because it makes women become more vulnerable. The gendered face of poverty in Zimbabwe makes gender an issue in women’s access to and control over land. The outcome of a study carried out by UNDP in Zimbabwe reflected that poverty has a gendered face and that women are poorer than men (UNDP, 2000). This UNDP study carried out on selected countries of Sub-Saharan Africa showed the GDP per capita figures for women were less than that of men. Comparative figures in 1998 were US$1,142, per woman and US$2,079, per man (UNDP, 2000: 162). International human rights instruments related to
women’s property ownership and inheritance revealed that denial of these rights makes women’s land rights a human rights issue. Gap exists between international human rights provisions and national legal provisions because national laws of property rights in Zimbabwe are influenced by customs, attitudes and perceptions (Benschop, 2002).

The interaction of statutory laws and community customs and traditions will determine how women’s legal rights on land are actually realized in practice in Zimbabwe. Gap between legal systems and customary practices is obvious and nature of the gap defines the extent to which women’s rights are neglected or promoted in access to and control over land in communities. Therefore, women’s equal right on land is a human rights issue. Women’s equal access to and control over land is an issue of equity, poverty reduction, food security, sustainable development and even human rights. Therefore, these issues as discussed above make gender a critical issue in access to and control over land (Mushunje, 2001).

2.8 Customary systems

Women’s problems of access to land translate to limit their capacity to provide food and welfare for their household. In Zimbabwe access to land is governed by both statutory and customary laws. Customary laws emerge from unwritten social rules derived from shared community values and traditions. Customary laws limit women’s rights on land to secondary rights mainly derived from their membership in patriarchal households (WLSA, 2001). This law underpins patriarchal system of traditional authority to reinforce patriarchal values which disadvantage women and place them to subordinate position in society (Walker, 2001). Marriage has been primary means of getting access to land under customary system of tenure. In Sub-Saharan Africa, unmarried women have little access to land because, they are not allowed to inherit property in most patrilineal societies while wives have better access to their husbands’ land through marriage. Security of marriage thus becomes major requirement for security of tenure (Davison, 1988). On the other hand, studies revealed that marriage as an institution and family structures are becoming more and more unstable especially by impacts of HIV/AIDS in Sub-Saharan Africa (Chinkin, 2001). Some customary laws give sons exclusive right to inherit land and other
property whereas wives and unmarried daughters have the right to be maintained. Pre-existing customary norms in some patrilineal societies in Africa used to allow widows continued lifetime rights on their marital land which passes on to male heirs after their death (Nizioki, 2002). But, this practice is not necessarily adhered to as land gained value. Widows are becoming vulnerable being forced off their deceased husbands’ land by their in-laws or by their sons. Customary laws generally sanction male authority over women. Men control household land because, community customs and traditions support land allocation to male. Under customary laws all property acquired by the spouses except, personal goods belong to the husband.

It is contended by Muntemba (1989) that in discussing women’s relations to the natural resource base, especially land, there is a need to consider issues of access and control; relations to tools of production including aspects of technology and knowledge; and the areas of power and social structures. She is of the view that usually existing structures and decision-making machineries and processes tend to determine access and control. These power and decision-making structures include those which operate at the local community level such as chiefs, headmen and other male kin, i.e., husbands, uncles or brothers. At the next level are national power structures which put in place policies and legal provisions guiding access to and control over land and other factors of production. These legal structures are either customary or statutory. Manuh (1989) is also of the view that in most parts of pre-colonial Africa; women’s use rights in land were usually inferior to those of men. However, in matrilineal systems, women, like men, had usufructuary rights in land. These rights could be exercised when they were single, during marriage, upon divorce or widowhood; and women could inherit land and pass it on to their children. Married women whose husbands stayed in the wife’s village were able to acquire and own land over which their husbands had no rights or control. This land was obtained from their matrikin, although husbands could also give them plots of land (Muntemba, 1989).

Institutions that govern land rights are intricately embedded in the economic, political and social environments and in particular in the gender system. The distribution of land rights is clearly gendered and is frequently associated with the institution of marriage. In many parts of sub-Saharan Africa, women’s access to land and use rights are determined by marriage. By marrying
a member of a clan, women can use the clan’s land but when the marriage link is severed, so are these rights. The institution of *levirate*, by which a widow is to marry a brother or other close relative of the deceased upon his death, ensures her continued rights to use the land of the clan. While frequently interpreted as a social safety net that ensures widows the possibility to continue to exercise use rights of clan resources, allowing for their and their children’s food security, it is first and foremost an institution that preserves male property rights. In this system, women can never own the land and will always carry (Tsikata, 2003).

An outsider status temporarily legitimated through marriage, only valid for the duration of it. A case study of the Lou of Western Kenya by Villarreal (2002) describes the mechanisms that link marriage and land use: a woman who loses her husband should be “inherited” by another man, frequently the elder brother of the deceased or, in his absence, by younger brothers. If there are no brothers, the late husband’s family decides on an appropriate “inheritor.” The property of the deceased, including his land is then inherited along with the wife and children. Strong social and economic pressures impel women into being inherited. Widows cannot restart agricultural chores until they are inherited. Women who refuse to be inherited become outcasts and those who have done so attest to enormous difficulties to survive.

They lose access to land and in-laws strip them of any other productive resource to reinforce the idea that out of the clan structure they will not be able to make their living. Widows are told that if they are not inherited, they will be in for a number of misfortunes, including that their children will not be able to marry. Male relatives refuse to pay for medical care and funerals of non-inherited women. Not being allowed to own land, inheritance merely grants (widows) access to land and permission to carry out the different parts of the agricultural cycle. As ownership is transferred to the inheritor, many feel that they can be denied access more easily than in marriage and that their sons may not receive their due share of land. In Luo culture land is given to sons but not to daughters as these are seen as belonging to the clan into which they will marry (Villarreal, 2002).
The type of marriage results in different outcomes regarding women’s property and inheritance rights. In Nigeria, for example, three types of regimes: common law, Islamic Sharia (religious law) and customary law have widely different outcomes for women’s status both during marriage and in the event of its ending (Emery, 2005). Many countries have taken action to adopt international instruments or to formulate law which is non-discriminatory regarding gender and other socio-economic issues.

However, more often than not, these provisions are not enforced. In particular, in the rural areas, customary law continues to take precedence. In a famous case (Magaya vs. Magaya 1999), the Zimbabwean Supreme Court ruled that the Legal Age of Majority Act (which provided that all Zimbabweans, male or female, African or white attain full adult status at the age of eighteen) had no effect on customary law and that women could not inherit property as they are perpetual minors under customary law. In some cases, even when gender equality regarding land issues is sought, the lack of mechanisms to enforce it or to ensure adequate implementation prevents its efficiency. However, as Walker (2003) pointed out, programme implementation, guideline documents, and procedures do not ensure that gender be integrated into land reform projects. In addition, there is no inclusion of gender-sensitive objectives, or considerations regarding the sensitization of officers or appropriate institutional mechanisms. Consequently there is minimal accountability and monitoring of results to judge the impact of the gender equity policy on women’s direct and secure rights to land (FAO, 2005).

2.9 Tenure systems and gender relation in Zimbabwe

Land tenure refers to terms and conditions under which land and other related resources are held and used. A tenure system reflects who holds what land under what conditions. Land tenure systems vary from community to community and are influenced by historical development of each community. Terms and conditions under which rights to land are acquired, retained, used, disposed or transferred are influenced by gender relations (Moyo, 1996).
Gender disparities in rights constrain women’s choices in many aspects of life and limit their opportunities to participate in economic activities of society. Access to land and land tenure relations are critical as most communities depend on land to ensure food security (FAO, 1997). Access to land is a means to access membership in agricultural associations, to access agricultural inputs, credit, and etc. Lack of access to rural land is an obstacle to agricultural productivity and to increase rural women’s income as they cannot access these resources without holding land and securing tenure. Gender power relation has serious influence on land tenure systems because it determines roles and statuses of women and men in society (Chinkin, 2001).

Intra-household gender relations reveal gender power imbalances (Denzin, 1995). These relations are reflections of inequalities in access to resources, intra household distribution of income and decision-making power. These inequalities are directly related to levels of household poverty and food insecurity. Ensuring property rights is considered as one mechanism to enhance women’s bargaining power at household and community levels (Agarwal, 1994). In Africa predominance of the patriarchal system induces gender power relations which downgrade women to inferior position. The patriarchal system influences socio-economic and political structures, government policies and strategies and this has impact on accessing, managing and controlling resources.

Zimbabwe, like many Southern African countries, bases its land administration on a dual system, namely, state and customary tenure. Administration of land in rural areas is to a large extent based on the latter, implying that traditional norms and cultural beliefs are the main determinants of decision-making. Under customary tenure, for instance, land is communally owned and is normally allocated to male heads of families. Although land acquisition and usage including land under customary tenure - has been liberalized in Zimbabwe, this has not provided new opportunities for rural women.

Cheater (1992) suggest that , the ‘traditional’ land tenure that emerged from colonial era cooperation between male chiefs and elders and colonial officials had maintained women in secondary and eroding tenure status in Zimbabwe. Shona and Ndebele women received land
through membership in patrilineages, according to their status as wives or as daughters. After the long struggle for liberation, however, the picture appears to have changed. Cheater (1990) shows that the model of traditional tenure in ‘communal’ and ‘freehold’ areas is belied by on-the-ground reality. Fortmann and Nontokozo (1992:5) outline a contentious legal environment that demonstrates the importance of pro-female advocacy in Zimbabwe. Many argue that in traditional tenure, widows had “no right to inherit and are therefore without even the theoretical protection provided to divorcees by the Matrimonial Causes Act.”

According to Moyo (2000) the Land Acquisition Act of 1992 was a formal recognition by the government that the first land reform process had not been satisfactory. He adds that black business people including women felt discriminated against in financial markets and that their lack of access to land ownership deprived them of the collateral to mobilize resources. From this perspective the land question would be about correcting colonial injustices. However, while colonial injustice are being corrected, post colonial injustices are emerging and these have manifested in the discrimination against black women by black men. Land policies have been developed but as Moyo (2000) argues that there has been inconsistent implementation of these policies by the government of Zimbabwe. This would explain the poor implementation of the 1999 Draft National Land policy, which sought to address gender in the Zimbabwe Land reform program but with little fulfillment. Writing about contemporary trends regarding tenure and gender in Sub-Saharan Africa, Birgegard (1993) has remarked that women are increasingly being marginalized. He adds that in traditional indigenous Tenure systems, “women are with few exceptions ascribed inferior tenure rights to men” (Birgegard 1993, 24). While men have primary rights women have secondary rights; while men get access to land through their lineage or clan, women usually get access to land through their husbands, who are obligated to allocate land to their wives. Women do not inherit land rights because they hold only secondary rights.

To understand and abolish women’s marginalization, it is essential to examine the process by which gender characteristics are defined, and gender relations are constructed (Connell, 2000). The patriarchal society socially constructs roles for women and men, ascribed to them on the basis of their sex. Gender roles depend on a particular socio-economic, political and cultural
context (Chinkin, 2001). These roles are not natural, but just social constructs that a society produce and ideologically conscientise its members to believe in. The construction of gender involves the creation of gender hierarchies that include power relations between men and women. This deferential allocation of power to men and women determines their access to resources, be they political, social or economical (Chinkin, 2001). Politically speaking, men have more power and participate more than women.

Socially, they have higher status and respect than women, whilst economically, they have more to access to resources than women. Obrien (2000) argues that patriarchy is structured, ideological and historical. She argues that the family plays a role in ideological reproduction, socialization of young children, the reproduction of the social and ideology relations of male supremacy (Birgegard 1993). The post colonial Government of Zimbabwe retained the historical basis for gender inequality in access and control of land, which is customary law and practice. This ensures that women access land through their relations with men. Customary law gives land rights to men on their own right or on behalf of the family. This gives them the duty to make allocations to their wives, daughters and other female relatives, but the outcome depends on their choices.

The material base of patriarchy is embedded in men’s control over women’s labour power. This control is maintained by excluding women from access to essential productive resources (Connell, 1999). It is common in Africa that land and property in the household is controlled by men, who give access to women and the young. Customarily, women are not considered heirs to the land or property of their husband or father. In instances were widows are left with children after the death of their husband, they can continue to use the parcels of land. However, those without male children their situation might be different. The land might revert to their husbands relatives (Jacobs, 1999).

Poverty is predominantly rural given that 70 per cent of Zimbabwe’s population resides there (Moyo, 2006). However, the majority of those who are poor are the women, the children and the elderly. These in other words, are trapped in poverty through a plethora of factors that include
traditional and societal values that keep women and these other groups at the lower echelons of society, as well as restricting them to the work that is attached less value (Mbaya, 2003).

Patriarchy plays a major role in women’s impoverishment through alienating them from the means of production. Thus, given the importance of land in food security, there is a need to address the social-cultural barriers to women access to land. By failing to do that, the gender and class characterization of poverty and landlessness will continue to prevail in Zimbabwe, as well as in most African countries. In other words, poverty in Zimbabwe is predominantly feminine as well (Mushunje, 2001).

The UNDP (1995) noted that out of 1.3 billion people living in absolute poverty, over 70 percent were women. The main causes of women’s poverty were identified as structural adjustment programmes, armed conflicts and drought. These have affected women more than men, and resulted in the feminization of poverty. However, FAO also attributes the concentration of poverty among to their limited access to production resources like land, extension services, water, labour and technology.

2.10 Gender, Tenure and HIV/AIDS

HIV/AIDS is creating a major shock in the rural areas of the most affected countries (Eastern and Southern Africa). It is introducing profound changes in the institutions that govern land and land rights. For the most part, these changes are increasing the vulnerability of the most vulnerable and increasing the already stark gender inequality in the access to and ownership of land and other productive resources. The epidemic is spreading very fast to the rural areas and increasingly affecting women. Whereas at the initial stages far more men than women were carriers of the virus, today an estimated 58% of those infected in Africa are women. The deaths due to the epidemic are also increasing. In 2007 the death toll was estimated at 3.1 million lives, more than malaria and tuberculosis combined. Seven countries have prevalence rates of more than 30%. This means that significant segments of the population, usually the most productive, risk disappearing with sizeable effects on all spheres of human activity (UNAIDS, 2007)
Unlike other diseases, AIDS kills mostly prime-age adults. This leads to severe economic consequences, through the loss of breadwinners at a time when household health expenses rise sharply. In addition, the death of millions of young parents has left millions of orphaned children in an extremely vulnerable situation. To date, an estimated 12 million children have been orphaned by AIDS. Moreover, the worst impact of the epidemic is still expected to come. By 2010, the total number of orphans is expected to climb to more than 18 million in Sub-Saharan Africa (UNAIDS, 2008). Barnett and Whiteside (2002) describe HIV/AIDS as a ‘long wave event’, arguing that its impact will take place over many decades and can be as long as a century. The full impact of HIV/AIDS will not manifest itself until the next several decades.

Several studies have shown the range of impacts and possible outcomes that the epidemic can have on land issues. These include: loss of land rights including inheritance rights, shifts in the use and tenure of land, distress sales and shifts in ownership. Significant decreases in amounts of land cultivated have been documented in different contexts, as well as shifts in the types of crops cultivated, increasing those that are less labour-intensive (FAO, 1995). In Kenya, there were gender differentiated impacts of mortality on the area and crops cultivated. In the case of the death of females, a significant reduction in area under cereals and tubers was reported. In the case of the death of male household head, a reduction in cash crops (sugarcane, horticulture) was found. In some parts of sub-Saharan Africa, at the death of a male household head it is customary that his relatives take possession of the family’s property, ranging from the land to livestock, productive assets and even clothes and household objects. This is not a new phenomenon, but with the massive amounts of deaths brought about by AIDS, it is creating significant changes in the structure of property ownership in many rural areas. Stripping of land and other property from widows and orphans has been extensively reported in rural areas where the HIV/AIDS epidemic becomes widespread (Aliber, 2004; FAO, 2003). In addition to formal studies, there is a growing amount of testimonies and anecdotal evidence about land grabbing (FAO, 2006).

In highly affected areas, it has been found that households in which there are no AIDS cases tend to have significantly more land than those that have been affected by the epidemic. For example,
an FAO study in the Northern Province of Zambia (FAO, 2002) found that female-headed households in which there was a person living with AIDS or which were fostering orphans owned an average of 1.55 hectares, while AIDS-affected male headed households owned about 3.0 ha. In contrast, households that were not directly affected by the epidemic had an average of 4.77 hectares.

The same study showed that households affected by AIDS had more difficulties in participating in the benefits of public policy. The Government of Zambia launched a policy to promote small-scale farm production by the provision of subsidized agricultural inputs. These inputs were distributed through cooperatives. AIDS-affected households, and in particular those headed by women, were less able to participate in the cooperatives. Among the reasons for this were the fees required to enter a cooperative – unaffordable for poverty-stricken AIDS-affected families – and the lack of information – as it did not reach these marginalized households. In the studied communities, only 5 percent of all female-headed households in the sample areas participate in farming groups, and 7 percent in CBOs. These findings as well as other results point to the fact that HIV/AIDS creates or reinforces mechanisms of marginalization and inequality. In addition, it shows that policies intended to benefit the poorest or most vulnerable may not be effective unless they address the mechanisms of. FAO has identified the loss of agricultural labour due to HIV/AIDS as one of the main impacts of the epidemic in terms of food security, agricultural productivity and agricultural production. The most affected countries could lose around 25% of their agricultural labour by 2020. It is estimated that between 1985 and 2000, around 14 million of person-years of labour were lost to the epidemic.

There is growing evidence of the distress sale of land and other assets such as livestock owned by persons who have been affected by HIV/AIDS (FAO, 2003;). Frequently, these sales take place at artificially low prices, given the high amount of supply and the impending need to pay for medical costs and for funerals. These sales affect the land market and may be related to concentration in fewer hands. However, this remains a hypothesis, as supporting evidence is as yet tenuous.
Regarding tenure security, preliminary evidence collected by FAO and the Human Sciences Research Council (HSRC) (2004) using a combination of participatory research techniques, household surveys, and in-depth interviews showed that the AIDS epidemic can result in the undermining of the tenure security of some community members. However, the study also found that threats to tenure security do not usually result in actual or sustained loss of land tenure status. Those who are particularly vulnerable to the loss, or threat of loss, of tenure status, are widows and their children. Young widows are more vulnerable than older widows. The study was conducted in highly affected districts in Kenya (Emb, Thika, and Bondo Districts).

Using the same collected data from the FAO-HSRC (2004) study, Aliber and Walker (2006) caution against isolating HIV/AIDS as the major threat to tenure security. They find that there are no statistically significant differences in land disputes, threatened tenures and tenure loss, between HIV/AIDS affected households and non-affected households. Their findings present fewer examples of property dispossession of widows and orphans than anticipated in light of the existing literature and anecdotal accounts (Drimie , 2002). Instead, they argue that HIV/AIDS aggravates tenure insecurity, in conjunction with population pressure, stigmatization, and gendered power relations.

Some of the social institutions related to the access to land, such as levirate and wife inheritance, are suffering changes due to the AIDS epidemic. A case in point, among the Luo of Kenya, an increasing awareness of AIDS and its consequences is making remarriage and inheritance more difficult and threatening for some. The suspicion that widows are HIV carriers is leaving a growing number of them without the possibility of being inherited, which leaves them without access to land. However, in Luoland it remains the norm and constitutes a risk factor for HIV transmission (Villarreal, 2006:22). Losing land, housing and other assets leads to further impoverishment of households headed by widows. Rural women, who have been stripped of their land or have lost access to clan land, have few economic options to secure their livelihoods and those of their children. Often this leaves women with no alternatives but to engage in transactional sex for money, housing or food and puts them at a higher risk of contracting HIV. It also increases the risk for the whole society, for the buyers of these services are also at risk of
being infected. The extreme gender inequality in the access to and ownership of productive resources in Africa is becoming a risk factor for entire societies under the HIV/AIDS epidemic (Villarreal, 2006).

The difficulties for women to own or access land and other productive resources in many African societies have been exacerbated by the stigmatization surrounding the disease. Widows are often blamed for killing the husband by infecting him with HIV and in-laws use HIV/AIDS as a justification to dispossess them. Widows are frequently accused of witchcraft. The stigmatization associated with AIDS has contributed to widows’ insecurity of land rights (Mbhele and Nzama, 2002). Many of these widows are infected with HIV or living with AIDS, and dispossession, harassment and eviction often takes place when their economic and health conditions are rapidly deteriorating (FAO, 2006). Consequently, such widows and their children are left without shelter, means of livelihood and support networks in the community. After being dispossessed from their land, an FAO study showed that many female-headed households did not seek any legal action due to ignorance about their inheritance rights and also fear of witchcraft accusations.
CHAPTER 3

RESEARCH METHODOLOGY AND METHODS

3.0 Introduction

This chapter discuses the methodology employed in this study for the purpose of collecting data required to understand the phenomenon under study. This includes research design, research instruments, data collection procedures, data presentation and analysis. These are discussed below.

Qualitative approach was used by the researcher to design, collect and analyze the data. The goal of this method is defined as describing and understanding rather than explanation and prediction of human behaviour (Babbie, 2001). Qualitative research involves exploration, elaboration and systematisation of the significance of an identified phenomenon. Babie and Mouton (2001:270) define qualitative research as an approach in which research takes as its departure point the insider perspective on social action. It is a research approach that privileges the emic perspective- that is, the lived experience of the subject, and the meaning the subjects attaches to the phenomena being investigated while quantitative research involves counting and measuring of events and performing the statistical analysis of a body of numerical data (Smith, 1988).

Being deductive and particularistic, quantitative research is based upon formulating the research hypotheses and verifying them empirically on a specific set of data (Bailey, K, D 1998) while qualitative research involves an in-depth understanding of human behavior and the reasons that govern human behavior.

Simply put, it investigates the why and how of decision- making, as compared to what, where, and when of quantitative research. Rees (1997) asserts that rather than presenting the results in the form of statistics, qualitative research produces words in the form of comments and statements. Qualitative research offers insights and understandings of participants, which is unobtainable by quantitative research, but is more than just non-numerical research. It aims to
study the subject in their natural surroundings and to collect naturally occurring, non-biased data. It describes in words, rather than numbers, the qualities of the subject through observation.

While qualitative data analysis can take a wide variety of forms it tends to differ from quantitative research in the focus on language, signs and meaning as well as approaches to analysis that are holistic and contextual, rather than reductionist and isolationist. Nevertheless, systematic and transparent approaches to analysis are almost always regarded as essential for rigor. For example, many qualitative methods require researchers to carefully code data and discern and document themes in a consistent and reliable way.

According to Creswell (2003) qualitative methods yield large volumes of exceedingly rich data obtained from a limited number of individuals. Qualitative data collection methods include the use of photography, interviews, group and/or individual, observation, field notes, projective techniques, life stories etc. While quantitative methods include a representation of an empirical system in a numerical mathematical system for the purpose of reasoning analytically within the mathematical system.

The decision to use qualitative methodology in this study has been influenced by qualitative researchers that point out that qualitative methods permit a considerable amount of flexibility. Grinnell, (1987) points out that qualitative data with its emphasis on people’s lived experiences is fundamentally well suited for locating the meanings of people, place on the events, processes and structures of their lives.

The qualitative approach has many advantages which this study draws on. These include, producing more in-depth and comprehensive information, it makes use of subjective information and participant observation to describe the context, or natural setting, of the variables under consideration, as well as the interactions of the different variables in the context. The disadvantages of qualitative method are that it is very difficult to prevent or detect researcher induced bias and its scope is limited due to the in-depth, comprehensive data gathering approaches required. Validity can be a major concern. Observers are forced to rely almost exclusively on their perceptions. They are, therefore, more susceptible to subjectivity, prejudices and selective perceptions. This can be major obstacles in participatory observation; since the
researcher forms a close link with respondents and actually becomes part of the total situation (Bailey, 1998).

### 3.1 Study Target population

For the purpose of this study the populations were clients living with HIV/AIDS in Zvimba District under Mashonaland west province, who were receiving social, emotional support services from Zimbabwe National AIDS Council within Zvimba area. The respondents constituted of widows who have lost their husband due HIV/AIDS. The sample size consisted of 50 widows from Batsiranai HIV/AIDS Women Support Groups who share the same experience of land rights issues. The women have in one-way or another, experienced customary practices such as wife inheritance, polygamy, patrilineal inheritance of land and property stripping. The choice for the sample size was mainly based on the need for accuracy required by the researcher and the degree of variation in the sample (Babbie, 1990).

The researcher used purposive sampling to select six key informants. The key informants in this study consisted of, two government officials from Ministry of Land and Rural development, two officials from the traditional leaders, and two experts with knowledge and experience of promoting women’s land rights from National AIDS Council. Strydom and Venter (1996) describe sampling as the process of taking a portion of a population as a representatives of that population. The process of sampling is necessary due to large size of a population and the consequent impracticality and prohibitive cost of testing each member of any population (Denzin, 2000).

The type of non-probability sampling that was used is purposive sampling. Purposive sampling is when you select your sample on the basis of your own knowledge of the population, its elements and the nature of the research aims, in short based on the judgement and the purpose of the study (Babbie, 2001). Purposive sampling procedures was used for the purpose of drawing a representative sample, from whose findings generalizations to the bigger population can be made. Advantages of purposive sampling are that people who do not fit the requirements are eliminated and it is less expensive as it involves lesser search costs. A limitation of purposive
sampling is that, it is the responsibility of the researcher to choose participants, there is a possibility that the researcher could be wrong in choosing suitable participants for the study (Gillham, 2000).

3.2 Research instruments

An instrument is any tool that is used in data collection. Babbie, (2001) defines a research instrument as a tool that is used for collecting data needed to find solutions to the problem under investigation. The researcher used interviews, focus group discussions, and key informants as her instruments.

Interviews are face to face meeting between the interviewer and the interviewee (Smith, 1995:18). For the purpose of this study semi-structured interviews were used.

Semi-structured interviews were used as the principal data gathering techniques for this study. The semi-structured interviews are defined as those organized around areas of particular interest, while still allowing considerable flexibility in scope and depth (Neumann, 2000). Semi-structured interview questions were used to allow participants to engage in a process of exchanging information and experiences. This technique was deemed appropriate for the data gathering process among the widows because, according to Babbie and Mouton (2001: 291), it allows for an open interview that enables the subject to speak freely. The advantages of semi-structured interviews are that they provide the opportunity to pose questions in an open-ended manner as the researcher aims to elicit responses of an introspective nature, It is flexible and participants’ ideas guide the process.

The disadvantages of semi structured interviews are that it can be difficult to elicit participation from individuals who have time constraints; documentation and analysis can be time consuming and may require the help of someone versed in qualitative analysis. Key informants interviews are qualitative in-depth interviews with people who know what is going on in the community. The purpose of using in depth interview was to elicit from the key informants what they know vis-à-vis the focus of a particular study (Gillham, 2000).
The advantages of using key informant interviews in this research were to collect information from a wide range of people including government officials, professionals, who have firsthand knowledge about the community and woman land rights problems, this allowed the interviewer to establish rapport with the respondent and provided an opportunity to build relationships. One of the weaknesses of this method is that the researcher might face challenges in selecting the right key informant (Neumann, 2000).

The researcher used focus group discussions as a data gathering tool. According to (Kruger, 1990) defines focus groups as a carefully planned discussion designed to obtain perceptions on a defined area of interest in a permissive non-threatening environments. A focus group is a form of qualitative research in which a group of people are asked about their attitude towards a product, service, concept, advertisement, idea, or packaging (Neumann, 2000). Questions were asked in an interactive group setting where participants are free to talk with other group members. The main purpose of focus group research is to draw upon respondents’ attitudes, feelings, beliefs, experiences and reactions in a way in which would not be feasible using other methods, for example observation, one-to-one interviewing, or questionnaire surveys. These attitudes, feelings and beliefs may be partially independent of a group or its social setting, but are more likely to be revealed via the social gathering and the interaction which being in a focus group entails (Creswell. 2003). Compared to individual interviews, which aim to obtain individual attitudes, beliefs and feelings, focus groups elicit a multiplicity of views and emotional processes within a group context. In a focus group the researcher is interested in such things as how people respond to each other views and build up a view out of the interaction that takes place within the group. As with most other methods of qualitative inquiry, its use is expected to adhere to a number of prescriptions, some of which touch on: Size of the group-the number of participants appropriate for a group (Babbie and Mouton ,2001).

In line with the assertion of Krueger (1988) that focus groups involve small groups of people with particular characteristics convened for a focused discussion of a particular topic. The researcher used 4 focus group discussions which comprised of ten participants in each group.
from Ward 2 to Ward 5. The participants comprised of widows living with HIV/AIDS from women supports groups under Zimbabwe National Aids Council.

The advantages of this technique is that focus group discussion produces data and insights that would be less accessible without interaction found in a group setting. Focus groups also provide an opportunity for disclosure among similar others in a setting where participants are validated. One of the challenges of focus groups is that it tends to become influenced by one or two dominant people in the session thus making the output very biased. The moderator plays an essential role in handling the situation, but if the moderator is not experienced enough, it is very easy for the whole discussion to be dominated by a few people (Cresswell, 2003).

3.3 Research procedures

According to Grinnel (1987), a procedure refers to prescribed specific manner in which the goals are to be achieved. The study was conducted in Zvimba area in Mashonaland West. The researcher used Ward 2 to Ward 5 only out of 10 wards in the area. The researcher first sought permission from the Zimbabwe National Aids Council to work with their clients in order to get information relevant to the study. Interviews were conducted from 1 September to 29 September 2009, in the language preferred by the participant (transcripts of interviews in local languages were translated into English before analysis). Each interview was conducted at a meeting place identified by the participant as convenient, usually a workplace, home, or public outside meeting area. Individual interviews were 45 minutes in duration, on average, and focus group discussions were held for about 60 minutes per session. Appointments were made through telephone for interviews dates for key informants. Interviews were conducted by the researcher and three trained local research assistants helped with the interviews, transcribed responses, and recorded observations about focus group participants. The research assistants were teachers from Zvimba community who have post graduate qualification. Focus groups discussions were held at Zvimba community halls.
3.4 Data Analysis

The process of data analysis involves structuring and bringing logical order to the vast volume of data collected. The data was first transcribed verbatim from the tape recordings onto a computer. Transcribing and analyzing the recorded discussions was conducted with the help of qualitative data processing software, the Nvivo package. It is argued that no single software package can be made to perform qualitative data analysis in and of itself. The appropriate use of software depends on appreciation of the kind of data being analyzed and of the analytic purchase the researcher wants to obtain on those data. The researcher analyzed data using a coding process. According to Neumann (2000) coding is the process of organizing the material into ‘chunks’ before bringing meaning to those ‘chunks’. It involves organizing text data into categories and labeling those categories with a term, a term often based in the actual language of the participant called an in vivo term (Cresswell, 2003). The researcher used the coding to generate a number of themes. These themes are the ones that appear as major findings in the study and appear under separate headings in the findings section. According to Smith (1995), there is no one correct way to employ qualitative thematically analysis. Smith (1995:17) asserts that each project creates the appropriate manner for the employment of thematic analysis. Researchers should give meaning to the participant’s interview and engage in an ‘interpretative relationship with the transcription’ (Smith, 1995:18).

3.5 Ethical Considerations

Strydom (1998; 24) defines ethics as a set of moral principle which is suggested by an individual or group, is subsequently widely accepted, and which offers rules and behavioral expectations about the most correct conduct towards experimental subjects and respondents. The study did not expose respondents to any harm be, it physical, emotional or psychological. The researcher explained to the respondent what the research was all about, and how it would benefit them and other people.

This study requires that participants expose issues that they may consider extremely private. Recognizing that such revelations may have far reaching implications for the participants, the
principles of voluntary participation and informed consent was implemented during identification of interviewees and their recruitment to the study (Babbie and Mouton, 2001). Land issues can be quite contentious among the members of the immediate family or in-laws of the widow as well as all other gatekeepers of culture and tradition. Where relationships between widows and in-laws may already have been strained consequences of the research could have led to acrimony and perhaps further strain to the relationships. To ensure no harm to the participants the study adhered to the principles of confidentiality and anonymity.
CHAPTER 4

DATA PRESENTATION, ANALYSIS AND EVALUATION

This chapter presents the findings of the research as well as their analysis and interpretation. Where necessary, aids such as tables and graphs are used to elucidate the meaning of the data presented. The findings presented in tables and figures are further explained to equip the reader with a clear picture and understanding of the phenomenon under analysis. This chapter focuses much on the key findings that are important in the understanding of woman land rights and HIV/AIDS in Zvimba Communal Area, which can be generalized for the rural areas of Zimbabwe at large.

4.1 General characteristics of the widows interviewed

AGE

The women were requested to indicate their age, but this was not requested from the traditional leader, government officials, and Zimbabwe National AIDS Council representatives. It was felt that age was not going to add any value in the understanding of women land rights and HIV/AIDS from the perspectives of government officials, NGO representatives and traditional leaders.

The table 1 (see page 44) shows the age distribution of 50 women, excluding traditional leaders, government officials, NGOs representatives. The ages of the respondents ranged from 27 to 65. However, the majority of the respondents were between the ages of 31-40. There were 8 (16 percent) respondents who were either 30 years or below, with 22 (44 percent) in the 31-40 category. In the 41-50 age categories, there were 15 (30 percent) respondents, with 3 respondents in the 51-60 (6 percent) age group. Those over 60 years were 2 (4 percent). The youngest was aged 27 while the oldest was 65.
The age categories were structured as indicated below:

**Table 1. Age Distribution of Respondents**

<table>
<thead>
<tr>
<th>Age range (Years)</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below 30</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>31-40</td>
<td>22</td>
<td>44</td>
</tr>
<tr>
<td>41-50</td>
<td>15</td>
<td>30</td>
</tr>
<tr>
<td>51-60</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>Above 60</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Total</td>
<td>50</td>
<td>100</td>
</tr>
</tbody>
</table>

The table above shows the age distribution of 50 women, excluding traditional leaders, government officials, NGOs representatives. The ages of the respondents ranged from 27 to 65. However, the majority of the respondents were between the ages of 31-40. There were 8 (16 percent) respondents who were either 30 years or below, with 22 (44 percent) in the 31-40 category. In the 41-50 age categories, there were 15 (30 percent) respondents, with 3 respondents in the 51-60 (6 percent) age group. Those over 60 years were 2 (4 percent). The youngest was aged 27 while the oldest was 65.

**4.2 EDUCATION**

The widows were requested to indicate their highest level of education. This variable was requested because it has the possibility of influencing people’s beliefs on gender and land rights. In other words, education has an influence on culture and it helps people to be aware of their rights. The results revealed that 10 (20 percent) of the 50 widows never went to school, whilst 28 (56 percent) had primary education. The remaining 12 (24 percent) had secondary education and while they were no respondents who had tertiary education. It has been established in this study that although 40 respondents have been to school up to certain level, the majority of them never
got to A’ level, let alone tertiary education. Lack of education is double edged. On one hand it leads to lack of financial independency while on the other hand it decreases one’s chances of getting a job.

The results are displayed in figure 1 below.

*Figure 1. Distribution of respondent by education*

One possible reason why there are no respondents with tertiary education is that most people who reach such a level of education gain formal skills that facilitate their getting non-farm employment in the towns and other commercial areas. On the other hand, it is not surprising to have many people with lower education levels being the majority in the rural areas especially women due to poverty. Wiggins (2003) in his categorization of the poor and the vulnerable of the rural areas, includes those who lack formal education and skills that offer a chance to secure non-farm jobs. Despite his use of the term formal education, in Zimbabwe those with primary education and those who fail secondary examination cannot use their education as a qualification for employment in the formal sector. Primary education in Zimbabwe is elementary and cannot give any opportunity with regard to employment. These factors are thus possible explanations why people with lower levels of education are found to be the majority in the rural areas. Many women, in rural areas, only go to school to acquire basic literacy and numeracy skills and then leave school to get married, they therefore do not know their legal rights.
4.3 Land tenure as perceived by headmen in Zvimba

Zvimba community is part of the chiefdom under the jurisdiction of Chief Chirau. According to headmen interviewed in the study, land in the chiefdom is allocated to clans or families. Headmen are delegated responsibility by the chief to ensure that clans/families utilise land according to agreed boundaries. Headmen have jurisdiction over several families or households and have authority to allocate land that is free or is not already designated to any clan/family. However, within families, the males have greater control and decision-making power over allocations within families than do the headmen. According to the “new” tradition espoused by the headmen, “widows are expected to remain with the children and continue to have access to the land which was being used while the husband was alive” (Source: Field Work, 7 October 2009).

This is deemed to be so because when a man marries, his wife becomes part of his family and clan. However, in cases where widows enter a new relationship or re-marry they lose the right to that land. While sons maintain their rights to land, the girls are expected to get married and therefore access land through their husbands.

4.4 Access to land by widows in Zvimba community

The study findings indicate varying experiences of widows with respect to access to land following the death of a husband. To facilitate the analysis of the findings, these experiences are divided into three broad categories based on the emerging trends from the widows’ experiences. The three categories were not necessarily exclusive or distinct and are defined in terms of (i) severe dispossession, (ii) less severe dispossession, and (iii) maintenance of status quo or little change.

4.4.1 Severe cases of dispossession

This category includes widows who during the study attested to having suffered dispossession of both land and assets such as cattle and agricultural tools. Brothers of the deceased were identified

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1 Interview with Mrs Mutasa, Zvimba, Ward 2
as the perpetrators. 22 widows were also driven away from their marital homes to their natal homes. Such widows normally took refuge among their sons as even in such extreme cases some land was allocated to the male children who were old enough i.e. considered of age to marry and have their own families. These widows were instantly turned into dependents. They also had to use part of the land given by the sons to build a new homestead. In such instances widows also expressed fears of eviction in the event that their sons passed away. This fear was pronounced in a case where the widow had lost two of her sons and only one was still alive. The deaths of sons also meant that there were more and younger widows who joined her with their young children. There were also cases where even the sons were denied rights to family land and the widows were only still living on the land after obtaining reprieve through mediation by a local NGO and legal action through the local court. In another instance the widow’s sons had to request land from the headman and this land was shared between them and one quarter of a hectare was given to their mother. The case of Madei in Ward 4 is particularly illustrative in this regard. Maidei is a 45 year old widow who lives in Zvimba whose husband succumbed to HIV/AIDS related infections after 2 years of sickness. Immediately after her husband was buried the late husband’s younger brother chased her away from her matrimonial home and he took everything which belonged to her. She was left without anything. The only option she had was to go back to her natal home (Source: Field Work, 12 October 2009)²

4.4.2 Less severe cases of dispossession

In this category are widows that indicated that they were allowed to maintain the land where the homestead was built and where upon the death of their husbands were allocated between a quarter of a hectare and two hectares of land. This was generally much less than half of the land they cultivated together with the husband when he was alive. In some cases, within this category, land was allocated to the widows by the husband’s family from the portion that they cultivated together with the husband. In other cases it was the sons who allocated part of their share of the land to their mothers. The remainder of the land was normally taken over by the late husband’s

² Interview with Mrs Mutasa, Zvimba, Ward 2
relatives—usually a brother(s). In respect of land that widows had access to their sons still had overall authority to make decisions over it.

Even though these cases are categorized as less severe, widows that had too little land (about quarter of a hectare) felt it was insufficient to enable them sustain their livelihoods. Most of them were two or more wives and they had to share the same land. It was also difficult to expect their sons to give them more land from the limited portions they had been given. Most also had dependents living with them.

4.4.3 Maintenance of status quo or little change

Although a minority, there were cases of widows that confirmed that they had continued to have access to all the land they were using when their husbands were alive. The only change in these cases was that it was now their sons who were in control and in charge of overall decision-making over the land. In one instance, even though the land was under title, the widow felt that her continued access to land was secured because the brother chosen by the family to administer the deceased’s estate took a firm stand against relatives placing claims over the land. All her children had settled elsewhere.

4.5 Change in land use rights

Widows interviewed indicated that, despite the reduced access to land following the death of their husband and/or their being reduced to dependents of their sons, they now enjoyed more freedom of choice in what to grow on the land and how to manage it and therefore had more space for decision-making. Widows saw this as an advantage over the time when their husbands were alive or when compared to married women. However, widows acknowledged that they did face constraints in terms of labour and especially for ploughing. One widow said “My colleague that is married does not have to handle the oxen and the plough as her husband will do that, but I have to handle all that myself” (Source: Field Work, 12 October 2009)

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3 Interview with Mrs. Charemna, Zvimba, Ward 4
4.6 Societal protection mechanisms for widows’ access to land

4.6.1 Traditional mechanisms

The institution of levirate/wife inheritance, where a widow marries a brother or other close relative of the deceased upon his death, is another means available to women and particularly widows to claim their access and rights to land. The institution of levirate ensures a widow’s continued rights to use family land as marriage linkages are sustained (Villarreal 2006: 7; Jackson, 2003: 466). Although levirate customs were reportedly predominant in the past, this was found to be virtually non-existent among the widows interviewed. The community had been sensitised against the dangers of continuing with this practice in the context of HIV and AIDS. Most widows who had been asked to re-marry had refused, but because of their children’s right to remain in the village most of widows interviewed were not willing to return to their parents. If they returned to their parents it would be especially difficult for their sons to access land from the grandparents. With the system of levirate disappearing in light of HIV and AIDS, sons are seemingly becoming even more important. To emphasise this, one of the widows said “you must have a son; otherwise life is tough for you when your husband dies” (Source: Field Work, 15 October 2009).

During the sharing of property which includes land, the headman is also called in as a witness. In case of a dispute over land within and between families the headman’s role is basically that of mediation or arbitration. However, headmen indicated that they were somewhat powerless as they did not have power to enforce decisions such as those relating to land disputes within families. This is so because families are deemed to have primary rights of adjudication over land that is held within the family and this must be done within the boundaries of tradition. Consequently a brother to the deceased who is the purported heir will get his way even when other family members may be against the act of dispossessment.

4 Interview with Mrs Muchena, Ward 3
4.6.2 Statutory mechanisms

Interviews with widows highlighted cases in which families that had suffered dispossessions, sought assistance to resolve the conflict by taking the matter to Zvimba Magistrate court. In some instances widows were able to have their access to land restored but in other cases they failed. The affected widows presumed that among the reasons for failure was corruption. An example of a widow who had the experience of taking her late husband’s family to the local court also indicated that the process takes very long and is very costly. This respondent was of the opinion that the local NGO was more efficient but in her time it did not yet exist. Widows interviewed, who had not been dispossessed also indicated that if threatened they would no doubt take the legal route. Widows showed a high level of awareness about the provisions of the law as cases that have been successful and especially when they were assisted by Women’s Law Association of Zimbabwe.

4.6.3 Cultural practices

Accusation of witchcraft and cultural restrictions often prevented widows from taking a more confrontational route against their in laws was highlighted in focus groups in this study. The forms of re-employment sought by respondents indicated that even though people might have been aware of legal services and organizations that could help them, they were not likely to pursue such options. The problems were exacerbated because many families were still steeped in kinship ideas according to which only members of the kinship group could inherit from each other. Thus wives could not inherit from their husbands because they were not members of the kin group. This continues to happen despite laws to the contrary. In such cases even the women relatives might discourage her from claiming her dues as a widow.

Culture has also impacted on widow’s willingness to use legal channels to enforce their rights, especially when a couple has children. Evidence from the focus group discussions show that widows were generally reluctant to antagonize their husband’s relatives because of their strong belief that relatives have to be involved in the children lives. This involvement relates especially to events like the illness of a child. Relatives would be needed if the family were to consult a traditional healer in the hope of divining the causes. It is for these reasons that a widow would be
extremely reluctant to antagonize her husband’s relatives, and often would rather forfeit the property to maintain peace in the family.

An interview with a widow in ward 3 aptly illustrates this point. She had some awareness of her rights. She knew for instance, that she could go to the police for help in accessing her land, but she made a conscious decision not to. Instead, she chose a route that she felt would be least offensive to her in-laws but still protect her rights. She went to the traditional leader in her area and appealed for his intervention. She said during the interview, “I didn’t not go to the police because I have children and these are their children, I would have alienated them by reporting them to the police” (Source: Field Work, 15 October 2009). These findings concur with Grigsby (2004) observation that even in cases where women do have legislative or judicial support, patriarchal culture and social structure tend to pose difficult challenges and barriers to redeeming rights to land. Villarreal (2006: 8) supports this view and notes that, even in countries where statutory laws have been changed to ensure equality between men and women, traditional institutions continue to be the principle means of determining access to and ownership of land. Empirical evidence also shows that customary systems take prevalence over statutory systems. Rasavi (2003: 25) elucidates that reasons for failure of statutory interventions range from budgetary constraints to administrative and institutional weaknesses within governments and weak accountability within parliament and/or civil society.

4.7 Inheritance to Household Field

When the head of the household passes away, most people said it was the widow of that person who was supposed to inherit the household field. This was confirmed by 27 (54 percent) of those interviewed, whilst 13 (26 percent) said it was the eldest son who was supposed to inherit the property. Some said that the right to inherit belonged to both the widow and the sons. This was said by 10 (20 percent) respondents. Land transfers following the death of a husband were a major concern in this study where clans control most land and individuals have limited rights. Therefore, rules that ensure that male children will inherit land serve to keep the land holdings of

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5 Interview with Mrs Koga, Zvimba, Ward 2
a particular clan concentrated geographically. However, these inheritance practices can leave widows without land resources and livelihoods, unless a widow with minor children is allowed to remain on the land until a son comes of age. The statistics are presented in Table 2 below

**Table 2: Inheritance to Household Field**

<table>
<thead>
<tr>
<th>Heir to Household</th>
<th>Field</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Widows</td>
<td></td>
<td>27</td>
<td>54</td>
</tr>
<tr>
<td>Sons</td>
<td></td>
<td>13</td>
<td>26</td>
</tr>
<tr>
<td>Both</td>
<td></td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>50</td>
<td>100</td>
</tr>
</tbody>
</table>

The statistics on widows presented in the table may be an indication of the strength of the rights of widows to land. This contradicts findings by many scholars on inheritance which say men are the inheritors whilst widows have use rights only (ECA, 2003; Gray and Kevane, 1999; Saito and Spurling, 1992 cited in the World Bank, 1995). Cheaters (1999) findings in Zimbabwe also confirmed the strength of widows’ rights to land. The second group said the son was the inheritor of the field because customarily he was the new head of the household. This is consistent with findings by Saito and Spurling (1992 cited in the World Bank, 1995:38) who noted that the law in Honduras gave preference in inheritance rights to a male child over the child’s legally married mother. The basis for doing so was customary law and patriarchy. Women are considered minors who cannot be allocated or inherit land on their own without men (ECA, 2003, 28). The ECA (2003) findings in Botswana, Malawi and Lesotho confirm this position too. In Lesotho, where there were no male children in the household when the husband dies, the land could revert to the chieftainship because daughters cannot inherit land. Those who said both widows and sons should inherit the field argued that the male children have legal right to inherit his father’s field. However, it seems male children have legal rights to inherit fields whilst their mothers continue to exercise their use rights as before (Platteau, 1996, cited in Yngstrom, 2002, 25)
4.7.1 Writing of Wills

Evidence from this study has shown that in Zvimba district, the practice of will writing is increasingly gaining recognition. However, the data generated from Zvimba area was still quite limited in warranting any general application of the strategy. The writing of wills was non-existent in ward 4. The writing and the enforcement of the provisions of wills has not been smooth. One widow in ward 2 reported that her husband had a will which was challenged by the relatives of her husbands’ on the grounds that he probably wrote it under her influence. Furthermore, the substance of the matter was that the relatives alleged that she had bewitched him, causing him to die, so she could inherit the property. As a result of her fear of being accused of witchcraft, the widow did nothing after the land was taken. It was clear from the study that most widows, especially in ward 4, were generally not informed about the need to write a will. It also seemed that even in situations where they were informed lack of faith in the legal system prevented them from writing wills. The fear was that relatives could overturn the will, especially if the vulnerable women concerned did not have the wherewithal to fight the matter in court.

The table below shows the number of husbands who have written wills to dates (now deceased). Only 15 men from Ward 2 and 3 managed to write wills before they faced death. The writing of wills was non-existent in Ward 4 and 5 where customary practices are more entrenched.

**Table 3. Frequency of number of wills by husband**

<table>
<thead>
<tr>
<th>No of husband who had wills</th>
<th>Percentage</th>
<th>No of husband who has no will</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>30</td>
<td>35</td>
<td>70</td>
</tr>
</tbody>
</table>

**Type of marriage**

The type of marriage did not emerge as a significant factor in preventing widows from being dispossessed, thus some women with Chapter 37 marriage certificates were still dispossessed. Evidences from the study shows that both women with unregistered or registered marriage certificates were dispossessed of land. 15 (30 percent) with registered customary marriage and 35
(70 percent) with unregistered marriage were disposed of their land. In ward 3 a widow with a marriage certificate was disposed of her arable fields by her husband’s young brother.

Table 4. Type of marriage among women in the study

<table>
<thead>
<tr>
<th>Marriage certificate</th>
<th>Unregistered Marriage</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
</tr>
<tr>
<td>Ward 2</td>
<td>3</td>
</tr>
<tr>
<td>Ward 3</td>
<td>2</td>
</tr>
<tr>
<td>Ward 4</td>
<td>2</td>
</tr>
<tr>
<td>Ward 5</td>
<td>8</td>
</tr>
<tr>
<td>Total</td>
<td>15</td>
</tr>
</tbody>
</table>

4.8 Land disputes affecting women

A key objective of this study was to investigate the land rights of women who have lost their husbands to HIV/AIDS. HIV and AIDS was an aggravating factor in causing the dispossession of women from land and land disputes. Respondents from focus group indicated that widows were accused of bewitching their husband who had died of HIV/AIDS by their in-laws or being blamed of bringing the diseases in the family, or that widows did not require large tracts of land because they themselves were sick. These factors were frequently used to justify the eviction and dispossession of women.

In Ward 3 two widows were evicted because their mother-in-law accused them of enticing their other sons to sleep with them when they knew that their husbands had died of the disease. Eight respondents from Ward 2 and 3 indicated that they had to flee to urban areas in search of low-skilled jobs or work in the informal sector after they had been chased by their in-laws after the death of their husband. Two widows from Ward 3 became prostitutes and they were engaging in occasional transactional sex for money or favours, spurring a vicious cycle that leads to widespread transmission of the HIV/AIDS. Dispossession of widows from family land was exacerbated by the stigma associated with HIV/AIDS. To emphasise this, one widow narrated
her ordeal “My husband died and left behind a piece of land. In 1999, [my in-laws] started fighting me because they wanted to take the land. They told me that it belonged to the whole clan! I was not legally married to [my husband]. I told them it was not possible to leave my children since they were still too young to manage the property. They argued that it was impossible for me to stay, since my husband had not paid the bride price and they called me a prostitute! My first step was to get a letter from the local council, to acknowledge that I was a resident of the village and to confirm that I was married to the deceased. This was difficult because the chairman was siding with my late husband’s relatives and he refused to sign the letter. I still took it to the administrator general without his signature, after I had managed to get nine signatures from other leaders, and it was accepted” (Source: Field Work, 12 October 2009).

The widows were accused of bewitching their husband hence causing their death. In ward 3, relatives would refuse to surrender the death certificates of the husbands, thus making it impossible for the widow to claim any benefits. Relatives would be uncooperative in the processing of documents, in the expectation that the widow would die sooner rather than later. In ward 4 eight cases of widows being forced off their land were directly attributed to their, HIV/AIDS status. The young widows, both of whom were below 30 years of age were accused of enticing their late husband brothers to have sexual relations with them deliberatively infecting them. The respondents during interviews indicated that they were some evictions in Ward 2-3 the reason being that the fields were not fully utilized following the death of the husband, also they were some instances of neighbors encroaching on the land belonging to widows.

4.8.1 Threats

A total of 36 widows have received threats of various kinds concerning their land rights, mainly from their in-laws. In ward 4, about 5 of these widows had actually been beaten. In ward 3, two respondents were given a death threat. In ward 4, abusive language was used and various threats issued including eviction from marital home. In ward 3, one respondent was evicted by her

6 Interview with Mrs. Choto, Zvimba Ward 4
husband relatives from her fertile land that had been allocated to her under the resettlement programme. The widow reported the matter to the District Administrator who moved swiftly to stop the evictions. Two other widows in ward 3 stood their ground when war veterans attempted to take part of their fields, the argument being that, as sick women who were already HIV/AIDS positive, they did not need large tracts of land. Most people between 26 and 44 years were the most affected group who received a lot of threats or dispossession of land. Out of 36 women who received threats of various kinds, 30 were between the age of 26 and 44 years. This confirms that a relationship appears to exist between age and the likelihood of being threatened, with youthful and middle aged women under a higher risk of being evicted than their older counterparts. The study went further to analyse the relationship between those who receive threats and the type of home they resided in. Thus 20 out of 36 women who had been threatened remained in the marital home. The threats women suffered generally came from their in-laws.

In this study one woman had opted for legal security in ward 4, with the support of her brother, had fought to reclaim her husband’s land from her in-laws. The possession of a marriage certificate greatly strengthened her claims. In Ward 2, 6 respondents who had received threats, responded by simply abandoning their marital home and returning to their natal homes. Two respondents in ward 4 had reported the matter to the police. One respondent in ward 3 stood her ground until the in-laws gave up. The study findings conform initially to assertions by Villarreal (2006) that male family members have an upper hand when it comes to rights to inherit land. The assertions by Moser (1991) that in rural areas women acquire land through their relationships to individual males, is also confirmed by the experiences of the widows in Zvimba community. The findings further confirm views expressed by Villarreal (2006), Walker (2002), Jackson (2003: 466) and UNECA (2003) that women’s rights to land are directly associated with the institution of marriage. Furthermore the occurrences of severe cases of dispossession in Zvimba confirm that indeed women’s rights to land can be severed when the husband dies as alluded to by Villarreal (2003).
4.9 Discriminatory and exploitative tendencies against HIV/AIDS positive women

Discrimination and stigmatization of widows living with HIV/AIDS were evident in all four Wards. During focus group discussions, widows said they needed support in agriculture. They reported that it was difficult for them to get this assistance without the people getting angry and suspicious. Perceptions were clearly rife that widows were out to take other women’s husbands and infect them with HIV/AIDS. One example given was of how sometimes when a man had not spent the night at home, other women would tell the wife to go and look for him at a certain widow’s home. One widows said “…it’s as if I had committed a crime by being widowed” and another said, “…I feel I have no support” (Source: Field Work, 15 October 2009)

Most women in focus group discussions complained about lack of sensitivity to the details of the needs experienced by widows and other vulnerable women living with HIV/AIDS. Widows in Ward 3, reported being sexually vulnerable to men who regarded them as easy prey. It was noted that some men would pretend to be concerned about their welfare and offer to assist with ploughing. These men would make sexual advances. Some of these men would visit their homes under the guise of discussing work arrangements, and then refuse to leave. This left the widows feeling vulnerable as they had to deal with someone who was, in general, physically stronger than them, while at the same time not wanting to loose the help they had received.

Some of the local officials, especially the village heads were accused by respondents for some of the worst offences in terms of stigmatization. Frequently, when a man accused of trying to take advantage of a widow was brought to the village head, the woman would find that she was the one on trial; she would be accused of trying to entice the man and being promiscuous. In addition, it was noted that some of the village heads also violated confidentiality, frequently, if a women who had sought advice in confidence from the village head, the story become public knowledge.

7 Interview with Mrs Gondo and Mrs Tembo, Zvimba, Ward 2
4.10 Social status and social networks.

Participants indicated that the perception of people living with AIDS in their communities is changing. More women are joining support groups and doing alternative income generating activities. Furthermore, individual respondents and focus group participants indicated that new community-based groups are involving both non-affected and affected people as a way to empower the whole community. Several organizations and events have been initiated specifically to fight stigma and discrimination against the people living with AIDS in the community. The Zimbabwe National AIDS Council (ZNAC), an NGO that provides a range of supportive activities for members, encourages the formation of drama groups as a tool for AIDS awareness in the community. However, stigma and its effects still exist.

4.11 Constraints on widows and other vulnerable women

The study revealed that widows exposed to dispossession of land had extremely limited options. Only two women successfully pursued the legal routes. The legal option was seldom perceived as viable. In ward 3, in one case, it was the village head himself who encroached onto the widow’s arable field. By contrast, in ward 4 a widow who had eventually returned to her natal home had secured the support of the local chief in her effort to get back her land from her marital home, yet overall, widows from Zvimba area disapproved of village heads, singling them out as the worst in discriminating against HIV positive people. Most respondents also indicated that the legal institutions were located in Harare which is very far from Zvimba.

4.12 Responses from government official and NGOs

Two councilors representing Ward two and three respectively were interviewed along with two government officials from the Ministry of Lands and Rural Development. Two respondents from the ministry of agriculture and rural development felt that men and women should have equal rights to land. They argued that women have the same ability as men, as well as having households to support. Moreover they said equal rights to land will improve production and food security. The ECA’s (2003) study in Botswana also concluded that increasing women’s land rights would improve agricultural production and their household food security as this would improve their access to productive resources.
One traditional leader said that women have primary land rights only when they are heads of households. The other traditional leader said they have secondary rights regardless of whether they have their own households or they are under man. One government official felt that women have sufficient rights to land whilst another traditional leader felt that women do not have sufficient rights to land. The former reasons are that the government has a gendered land policy that gives both man and women equal rights to land.
CHAPTER 5

SUMMARY, CONCLUSION AND POLICY IMPLICATIONS

This study made an attempt to capture information of women land rights and the effect of HIV/AIDS in maintaining land rights in Zvimba Communal Area in Zimbabwe. The study established that widows in Zimbabwe are heavily exposed to dispossession of their land rights. HIV/AIDS has increased the vulnerability of widows and other women to threats and dispossession of their land and other property rights. Across the 4 Wards, many factors resulted in the escalation of their vulnerability. HIV/AIDS was clearly part of the problem. Dispossession of arable fields was observed in the four wards. The dispossession and threats to livelihoods were directly related to the HIV positive status of the widows.

5.1 Land tenure

The findings from this study illustrate the predominant role that male members of the household or family have over land. Women, in all circumstances that is married or widowed, are treated as “dependents”. Even in cases where widows are allocated land they do not have full control of it. In the case of a widow’s use and rights to land the important players are her brothers-in-law and sons. The study findings conform initially to assertions by Villarreal (2006: 3) that male family members have an upper hand when it comes to rights to inherit land. The assertions by Moser (1991: 24) that in rural areas women acquire land through their relationships to individual males, is also confirmed by the experiences of the widows in Zvimba community. The findings further confirm views expressed by Villarreal (2006: 3), Walker (2002), Jackson (2003: 466) and UNECA (2003: 3) that women’s rights to land are directly associated with the institution of marriage. Furthermore the occurrence of severe cases of dispossession in Zvimba confirm that indeed women’s rights to land can be severed when the husband dies as alluded to by Villarreal (2003: 3-4) and Jackson (2003: 466). Land in Zvimba is supposed to be communally owned, controlled by the chief and rights managed according to the community’s accepted tradition. However, this study shows that the family as a unit can be more powerful regarding how land
allocated to families is distributed. A defiant brother of the deceased can single-handedly deprive a widow and her family of their rights to family land. This is not in line with the interpretation of customary land tenure by the headmen interviewed in Zvimba. It reflects a breakdown in the traditional system resulting in land tenure tending towards being based on more subjective principles. This is confirmed by the varying treatment of widows as exemplified by the three categories of experiences by widows.

5.2 Access to land

HIV/AIDS has brought with it new challenges for women, whether they are in communal or resettlement. Dispossession and threats to livelihood have happened in all wards. Women lost arable fields. The study established that widows in Zimbabwe are heavily exposed to dispossession of their land and other property rights. In the area studied 36 widows had been subjected to threats of various kinds. There were also some evictions from Ward 2-3 that fields were not being utilized following either the death of the husband, and at the same time, there were some instances of neighbors’ encroaching on the land of widows. In other cases, the land was being relocated. The perception by the aggressors was that widows were underutilizing land, thus tempting them to annex their land. What the study has produced is just an introduction and more investigations are still required. The form of underutilization and the reasons behind it still require further analysis.

The finding of this study revealed that the level of relationship with in-laws can have a certain influence on the act of property grabbing. This is confirmed by Mamashela in Schuler (1986:129), who shows that if a woman’s relationship with the in-laws is not cordial, she may not be able to convene a family meeting for intervention. However, from the findings of the study, it can also be argued that even where the level of relationship is good or moderate, death or separation may lead to the same consequence The study showed that there is very little that communities can do to protect widows land rights. The study showed that widows own relatives held them back from protesting against dispossession by in-laws. The other reason given by widows for not fighting their in-laws was fear of antagonizing them and this would not be in the
interest of the children. Zimbabwe’s society is patrilineal and the children are regarded as belonging to the husband’s family. Fear of being bewitched also acted as a block to widows seeking protection of their rights, with few exceptions, the situation was one where the in-laws were accused of being insensitive. The type of marriage didn’t emerge as a significant factor in preventing widows from being disposed, thus some women with Chapter 37 marriage certificate were still disposed. Thus any intervention that seeks to protect widows and other women through registering their marriages needs to be supported by measures that encourage disposed women to seek help through legal channel.

5.3 Writing of Wills

The findings of the study also highlighted that property-grabbing incidences are exacerbated by the non-existence of ‘wills’. Wills are advantageous since they let one know that his/her property would be distributed according to his/her wishes, in accordance to the law and under the supervision of the Masters of High Court. It is therefore necessary that people be informed on the importance of making ‘wills’. This has also been observed by Human Rights Watch (2004), that in Lesotho, widowed women lose property they have acquired with the spouse because there is no will entitling the woman to ownership of such property. There was some evidence, of how HIV/AIDS has added a new dimension to a deeply entrenched problem. The main policy implication of the finding in the study were noted in the following areas, land allocation policies, agricultural support policies, tenure security, legal issues, institutional reform, cultural practices and livelihood options. These factors are going to be discussed below

5.4 Land allocation policies

Cases of discrimination against women in land allocation and administration need to be amended. In communal areas, the village head is at the centre of land allocation, although the law states that it is the Rural District Council that undertakes land allocations. The communal Land Act precludes the allocation of land to women in their own right although local level practices have slowly been denying this position. The study established that some village heads have already started allocating land to widows. What is needed is for the Communal Land Act to
be amended to reflect that women can and should be allocated in their own right. There is a need to rejuvenate and reorient land administration systems at local levels, including chiefs and village heads, to allow for allocation of land that is more efficient and prioritises the most vulnerable. There is a need to educate neighbour, widows, other vulnerable women and people living with AIDS at the local level about respecting the land rights of the vulnerable groups, with wide consultations on possible punitive measures for those who violate them. There is a need to educate existing local level institutions, councillors, chiefs, and village heads on the needs to allocate to women in their own right.

5.5 Agricultural Policies

The policy makers must prioritise women, given the difficulty situations they are faced with, as noted by the study. There is a need for agricultural policies that make social provisions for vulnerable groups to access land. In the light of the high incidence of widowhood and the devastating effects of HIV/AIDS and groups of vulnerable people are growing by the day and need to be targeted by policy makers. The Government need to provide initiatives with a nation impetus, taking up the policy changes involved and developing further complimentary initiatives. There is a need for lobbying for policy changes at national level those priorities the needs of widows and other vulnerable women farmers. The government must create and support the establishment of farming resettlement schemes that target widows and HIV/AIDS patients.

5.6 Legal Issues

As shown in this study, inequitable legislation, such as the Communal Land Act 2000, has contributed significantly to women’s oppression. A general ignorance of the law is also part of the problem, with women remaining unaware of what they are able to do to seek redress in the event that their rights are violated. In some instances, cumbersome legal procedures make access to justice both difficult and unaffordable. At the same time the legal system in a patriarchal society makes the addressing of women’s land rights issues very difficult. As noted in Ward 2-5, the High and Supreme Court are physically located in Harare making it expensive for the
majority to seek redress through the courts. It is necessary that policy and institutional response be sensitive to the problems facing women in accessing the formal justice system.

Many women, in rural areas, only go to school to acquire basic literacy and numeracy skills and then leave school to get married, they therefore do not know their legal rights. Thus the majority of women in the focus group discussion did not know their rights concerning land rights that had been taken away from them. Those women who have manage to acquire some awareness about their rights often do not know how to enforce those rights. This makes it difficult for those women who know their rights to attempt to enforce them. Other important areas which need attention include the registration of marriage and issuing of marriage certificates. Decentralization could be implemented to allow everyone to have access to the facilities. The government should amend Communal Land Act so that women can be formally allocated land in their own right in the communal Ares. It must run educational campaigns on the legal rights of woman lands rights and train people in the writing of wills.

5.7 Institutional Reforms

Evidence from the field showed that the various NGOs in existence, whether formed by the state or by the people living with HIV, have extremely limited capacity to respond to the challenges at hand. Moreover, the representation of women and other vulnerable groups in these structures is low. It has been observed that there is a wide range of institution that works with people living with HIV. The majority of those organizations are unregistered, making fundraising for their activities almost impossible. There is a need to establish and support Gender issues at district level and in joint efforts by the government and non-state actors, to monitor the abuse of women rights. The must build local level institution to record eviction and disputes affecting women in their localities. Local communities should be involved in identifying and designing appropriate and effective programs to address local challenges. These communities should work not in isolation but hand in hand with NGOs and the government to address these concerns. Such multi-scale, multi-actor policy approaches can increase the prospects for a longer-term sustainable environment for these vulnerable groups.
5.8 Cultural Practices

Cultural practices have been repeatedly cited as a major basis or justification against women. Evidence from the focus group discussion showed that the HIV/AIDS pandemic has made the cultural practice of inheriting wives inappropriate. At the same time, the allocation of land through paternal relations is also being slowly challenged. This is evidenced by a few cases in which widows were allocated and in their own rights. The clash between law and culture was continually raised in the focus group discussions; Cultures create what has been called a semi-autonomous social field, in that it commands respect and obedience. Many women resorted to the formal justice system as a last resort, having first exhausted all other avenues of the informal court system.

Traditional forms of dispute resolution are antagonizing they are concluded in such a manner to preserve relations whereas, in the formal system, the parties are adversaries battling it out. It have therefore been suggested that family law courts be established to handle all matters in a friendly manner. They should encourage communities and custodians of culture to publicly acknowledge that women deserve to be allocated land in their own right. The government must invest in the education systems, focusing on how cultural practices are negatively impacting on women’s land rights.

5.9 Promoting livelihoods option from women

The study has confirmed that the livelihoods of women are generally tenuous, and that specific problem emerge if the women are HIV/AIDS widowed in particular, and require considerable support to continue with their lives in a positive and productive way. The institutional structures should include self steering support groups that are made up exclusively for HIV/AIDS. They should develop skill development among women living with HIV/AIDS. Women are the most vulnerable due to disadvantages and status to protect them. Whenever property grabbing has occurred, a woman is involved and affected negatively. It is important that local government structures and civil society organizations provide appropriate and accurate information about the impact of property grabbing to women headed families. This can be realized through campaigns,
media engagement and other relevant mode of communication that can be employed towards creation of awareness. Ignorance contributes to the increasing incidences of property grabbing; therefore it is very critical to empower women on different marital laws that govern different types of marriages. The empowerment should go beyond the sensitization arena but should enable women to stand firm and claim their rights.

Further, both the institutional and legal frameworks must be reviewed in such a way that issues of gender equality and equity permeate every aspect of the land reform policy and programmes. Women's position on land matters requires a commitment by government to the promotion and protection of women's rights through its institutions and legal frameworks. There is need for a more detailed study to examine the challenges that women encounter in their movement toward achieving equal access to land and other resources. This should capture voices of both elite urban based and less educated and rural based women. Further research on emerging practices of women’s land rights should be more comprehensively done. In studies, it would be essential to interrogate men and find out how they feel with land owning women.
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APPENDIXES

Appendix 1: Interview guide for women living with HIV/AIDS

AGE : 

MARITAL STATUS :

HIV/AIDS STATUS :

TYPE OF MARRIAGE:

EDUCATIONAL LEVEL:

1. Do you have access to a field after the death of your husband?
   Yes no

2. If yes, how many do you have? What is the size of your field?

3. How did you get access to the fields?

4. Who does most of decision making on your fields
5. Who does most of decision making on your fields

6. According to Shona/African custom, who has the right to control household land?

7. Do you think Shona/Africa custom influence peoples access to land in the communal area?

8. Do customary allocation of land affect agricultural productivity?

9. Who controls the produce from the field in your households?

10. What challenges did you encounter after the death of your husband with regard to land inheritance?

11. What source of threat did you get encounter?

12. What type of threat do you came across with?

13. Do institutions exists that are appropriate and adequately empowered to address women land rights, as well as those of people living with HIV/AIDS

14. Do they have sufficient capacity politically, infrastructural and logistically to respond?

15. How does the community treats widows with HIV/AIDS in the community
16. Where did you get assistance when confronted with land right problems in the community?

17. Do you think the government policies on women land rights are adequate enough to represent your problems?
Appendix 2: Interview guide for focus groups

1. What challenges do widows face after the death of their husband with regard to land inheritance?

2. Do widows have the right to continue using the field after the death of the husband? yes or no

2. What source of threat do you encounter e.g. from in-laws, war veterans, village head and neighbor after the death of your husband in relation to land problems?

3. What types of threats do you come across with e.g. eviction, abusive language, violent, confiscation of property, beating or other factors?

4. Do institutions exist that are appropriate and adequately empowered to address women land rights, as well as those of people living with HIV/AIDS?

5. If such institution exists, do they accommodate in their decision making structures and process, which are a true representation of the vulnerable group concerned?

6. Do they have the sufficient capacity – politically, infrastructural and logistically to respond.

7. What are the people attitudes towards widows living with HIV/AIDS in the community?
Appendix 3: Interview guide for government officials.

1. To whom does the land in the communal areas belong to?
2. Who has the responsibility of allocating land in the communal areas?
3. Who is entitled to receive land in the communal areas?
4. Which criteria do you have in place for land allocation in the communal areas?
5. Do you think men and women should have equal access to land in communal areas?
6. Do people in communal areas have secure rights to land?
7. With regard to land, who has the right to inherit it in the household? Give reasons for your answer?
8. Do women have rights to land in communal areas?
9. What kinds of rights do they have?
10. Do women have sufficient rights to land in the communal areas, give reasons. If yes are those rights secure?
11. Is the government land policy in line with the human rights frameworks demands for equal rights for men and women?
12. Does a government have a gender policy for land allocation, if yes what does the policy address?
13. What are the objectives of the policy?
14. Do women's secondary rights to land limit their performance in agricultural production, give reasons for your answer?
15. Do you think that women's improved access to land can help attain household food security, Yes/no?
16. What is the state's position on land rights with regard to women in communal areas, especially those with HIV/AIDS?

17. Do women's customary status in society constrain their economic contribution?
Appendix 4: Interview guide for local village heads.

1. To whom does the land in the communal area belong to?
2. Who has the responsibility of allocating land in the communal areas?
3. Who is entitled to receive land in the communal areas?
4. Which criteria do you have in place for land inheritance in the communal arrears for widows?
5. Should men and women have equal rights to land in communal areas? A yes b) no
   Give reasons for your choice above
6. With regard to land, who has the right to inherit it in the household?
7. What challenges do widows face after the death of their husband?
8. According to the Shona tribe who has the right to inherit property in the household?
9. Do widows have the right to continue using the land after the death of their husband?
10. Who benefits more from customary allocation of land? Men or women
11. What kind of assistance do you give to widows living with HIV/AIDS facing land right problems in your area?