When women’s housing rights are respected and protected – including when women and girls are able to inherit and control housing, land and property – women and girls are better able to cope with the detrimental effects of HIV/AIDS. Because housing security leads to better living conditions, access to livelihood and access to
The Scale and Scope of the education, women and girls are often better able to mitigate the negative personal and financial impact of HIV/AIDS. Furthermore, a secure home and all that comes with it enhances personal autonomy and reduces many of the risk factors associated with HIV/AIDS. Critically, for women, the realisation of housing and land rights may actually prevent HIV/AIDS transmission in certain cases by reducing dependency and enhancing personal autonomy. On the other hand, repressive norms and traditional practices, gender-based bias and inability to access property generate and sustain circumstances leading to women’s susceptibility to HIV/AIDS infection.

According to UNAIDS, women comprise over 50 per cent of the total number of HIV/AIDS infected individuals, yet globally they possess under 15 per cent of the world’s land, and about 1 to 2 per cent of land titles. In certain States, girls are much more vulnerable to HIV infection than boys. Certain categories of women are also particularly vulnerable to HIV/AIDS

Why Gender Matters in the Fight Against HIV/AIDS

As UNAIDS, UNFPA and UNIFEM have noted “HIV/AIDS is no longer striking primarily men. Today, more than 20 years into the epidemic, women account for nearly half of the 40 million people living with HIV worldwide. In Sub-Saharan Africa, 57 per cent of adults with HIV are women and young women aged 15 to 24 are more than three times as likely to be infected as young men. Despite this alarming trend, women know less than men about how HIV/AIDS is transmitted and how to prevent infection, and what little they do know if often rendered useless by the discrimination and violence they face.”

Gender discrimination too often precludes women from realising their housing, land and property rights on an equal basis with men. In the Sub-Saharan Africa, for example, this inequality is
Global HIV/AIDS Pandemic

fuelled by negative cultural practices and beliefs which reinforce women’s subordinate position within their societies. Women are callously evicted from their homes and rendered homeless, often at the hands of their own family members and in-laws, through a cruel, often violent practice known as ‘disinheritance.’ They are evicted primarily because they are women, and as such they cannot claim, own or possess property in their own right. This reality is further perpetuated by weak and ‘gender-neutral’ institutions and policies which too often turn a blind eye towards women’s plight.

infection, such as impoverished women, sex workers, minority groups, refugees and the internally displaced.

One of the greatest obstacles HIV/AIDS infected women confront is their inability to secure property. Women’s inability to possess and manage property may result in their impoverishment, particularly in cultures which have a propensity to humiliate or shun HIV/AIDS infected women and girls.

Destitution and homelessness at times lead women and girls to engage in perilous conduct by trading sex for their continued existence (i.e. sex for pecuniary purposes as well as housing). In many cases, subsequent to the HIV/AIDS related deaths of male partners or disclosure of their HIV/AIDS status, women are divested of their marital property, livelihoods, and at times even their children, by relatives who forcibly evict them from their homes.

“Research suggests that women who have secure access to, ownership and control over land and other assets are better able to avoid relationships that threaten them with HIV, and to manage the impact of AIDS.”

-The Global Coalition on Women and AIDS
Human Rights and HIV/AIDS

The human rights dimensions of HIV/AIDS are well known. The UN-General Assembly noted that “the full realisation of human rights and fundamental freedoms for all is an essential element in a global response to the HIV/AIDS pandemic.” The International Guidelines on HIV/AIDS recognise that the HIV/AIDS pandemic “begets human rights violations such as further discrimination and violence.”

As the United Nations has also noted, having “access to and control over housing, land and other property acquires particular urgency for HIV-positive women or widows and children orphaned by AIDS.”

To reverse this cycle, the international community has recognised that countries must protect “women’s rights to, inter alia, legal capacity and equality.”

Women bear a disproportionate part of the AIDS burden. Not only are women more likely than men to be infected with HIV, but their daily workloads are heavier – including care of children and the sick – and gender discrimination results in women being disproportionately poor and unable to prevent or mitigate the consequences of the disease.

Because the HIV/AIDS pandemic is itself fuelled by gender discrimination and inequality, the international community has come to acknowledge that improving the status of women is a critical task in the global fight against HIV/AIDS.

Indisputably, access to housing and land has become one of the biggest challenges for women affected or infected by the disease. It is perhaps not surprising that the women COHRE interviewed viewed access to adequate housing as key to their attainment of peace, dignity and security. And, what’s more, they identified access to housing as an essential element in the prevention and treatment of HIV/AIDS among women.
within the family, in matters such as divorce, inheritance, child custody and property,” thus empowering women to terminate relationships and work that make them vulnerable to HIV infection.

The United Nations Committee on the Elimination of Discrimination Against Women has also noted that there are many countries where the law and practice concerning ‘inheritance’ and property result in serious discrimination against women. As a result of this uneven treatment, women may receive a smaller share of the husband’s or father’s property at his death than would widowers and sons. In some instances, women are granted limited and controlled rights and receive income only from the deceased’s property. Often ‘inheritance’ rights for widows do not reflect the principles of equal ownership of property acquired during marriage.

Such provisions contravene international human rights standards and should be abolished. This sentiment has been echoed by other international human rights bodies, including the Human Rights Committee and the former United Nations Commission on Human Rights.

Regional Human Rights Standards and Statements

Women’s Rights in the Context of HIV/AIDS

Regional instruments can also be invoked to protect women’s housing, land and property rights.

For example, the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa provides that women are entitled to obtain their personal property and to control it without restraint. Should there be dissolution of the marriage, both spouses “shall have the right to an equitable sharing of the joint property deriving from the marriage.”

Article 21 guarantees that: “A widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it.”
HIV/AIDS and Housing Security for Women and Girls:

In rural and urban areas alike, housing and land are essential resources for helping families to move out of poverty, or to otherwise meet their daily economic challenges. The vast majority of women, however, can have their housing and land rights violated with impunity, due norms and practices which discriminate against them. Women living with, or affected by, HIV/AIDS are even more vulnerable to discrimination and hardship. The death of spouses and other family members suffering from AIDS impacts on the social and economic status of women. For example, women throughout Africa, living with HIV, or losing a husband to the disease, has become a common precursor to property-grabbing (i.e. ‘disinheritance’) and further impoverishment. Indeed, it is often during the most critical time – when women are struggling to cope with the health affects of the disease on themselves and loved ones – that many women face their most formidable housing rights challenges.

Amidst caring for the sick, for their children, and for the clearance of debts incurred by trying to

COHRE’s research has shown that poor women living in urban slums already face housing challenges, and HIV/AIDS aggravates their problems. For example, women interviewed by COHRE in Ghana, Kenya and Uganda pointed at unaffordable rent and discrimination in the slums, make coping with the disease very difficult. Women living with HIV also report discrimination at the hands of unscrupulous landlords who sometimes refuse to rent them even a paltry shack in the slums. Women who have been dispossessed of their homes in the rural areas also add to the number of those living in slums and informal settlements. Once there, women find difficult to scrape together rent payments, even for the most meagre of accommodations.
cope with the economic impacts of the disease, women must also cope with losing that which sustains them the most—their homes and their lands. For a woman who has been stripped of her home and her land, the ensuing economic hardships may make it difficult for her to access life-saving medical treatment, let alone justice for the housing rights violations she has endured.

Inheritance rights are of great importance to girl children, who in many cases are unable to inherit equally with their brothers, despite the fact that inheritance rights are vital to their well-being and security.

Not surprisingly, international data shows that orphans tend to live in poorer households than non-orphans. In its General Comment No. 3 on HIV/AIDS and the rights of the child, the United Nations Committee on the Rights of the Child underscored “the necessity of providing legal, economic and social protection to affected children to ensure their access to education, inheritance, shelter and health and social services.”

The Committee also has appealed to States to ensure that both law and practice support the inheritance and property rights of orphans, with particular attention to the underlying gender-based discrimination.

“*My relatives demolished my house, stigmatised me, and told me they did not want more graves on their land.*”

- Testimony provided to COHRE by a woman from Western Kenya
Securing Women’s Housing Rights: A Key Strategy

Within the context of HIV/AIDS, securing women’s housing and land rights is a critical strategy for change. Gender discriminatory norms and traditional practices which limit or preclude women’s access to housing, land and property, both generates and sustains the dire circumstances which underlie women’s disproportionate susceptibility to HIV infection. While women’s enjoyment of their right to adequate housing is clearly threatened in situations of gender inequality, the good news is that when this right is properly protected, it can fundamentally uplift women’s status and lessen the devastating impacts of HIV/AIDS.

Ensuring a Gender Perspective

States should review their existing national HIV/AIDS strategies to integrate a human rights-based approach to addressing the spread and multi-faceted affects of the disease. Mainstreaming human rights into national AIDS reduction strategies will require government move beyond issues of prevention, treatment and care to addressing human rights violations that bear implications on effective HIV/AIDS prevention and reduction.

Security of tenure in housing and land gives women the ability to prevent property-grabbing and boost their economic potential. For rural women, access to land is synonymous with food production as well as income generation. Security of tenure is imperative for women are to mitigate the devastating effects of HIV/AIDS pandemic.

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Protecting Women’s Rights

States should reform, enact and/or implement laws that promote gender equality in accessing, controlling and owning housing and land. States should also support reforms and law enforcement that strengthen the protection of widows and children’s property rights. Many customary laws on ‘inheritance,’ land distribution, divorce settlement and rights in marriage discriminate against women and girl child. Yet these practices in many countries including those with positive gender equality laws tend to override the statutory laws. This must change and deserves urgent action and political will.

States should also ensure equal protection between men and women, regardless of marital status. In addition, States should ensure that national legislation guarantee that daughters and sons are able to inherit equally via intestate succession. National legislation must also recognise that women are able to own property independently, and on an equal basis, with men, and that ‘full community of property’ is the default. Legislation should also provide for the joint titling of assets between spouses, including housing and land.

Providing Access to Justice in the Global Fight Against HIV/AIDS

States should increase and strengthen access to justice by women living or affected by HIV/AIDS, including the creation of special courts, police units and legal aide on women’s housing, land and property rights related violations. Such legal avenues and assistance should be made fully accessible to women, including economically accessible. Justice systems must ensure that women are able to have their marital property restored to them in cases of ‘disinheritance’ or property-grabbing.

States should also design and implement extensive education and sensitisation programmes specially targeted at women in all segments of society and geographical areas, especially rural areas, where rights awareness is usually minimal.

All women should be made aware not only of their rights, but also how to claim and enforce them.
The population of Kenya is about 31 million, with approximately half between 15-49 years of age. Over 2 million people within that same age bracket are living with HIV. Of this number, most are women, who constitute 61 per cent of Kenya’s adult population infected with the virus.

Women in Kenya suffer disproportionately when HIV strikes. The financial burdens caused by the disease force families to sell off their property in order to meet the costs of treatment. The system of ‘inheritance’ also disadvantages women.

**Kenya**

With males as the focus and main beneficiaries of the matrilineal system of inheritance, women often do not have property they can call their own, to manage and dispose of as they wish. To make matters worse, harassment and accusations by family and community members that a widow caused the death of her husband, or infected him with HIV, puts added pressure on her to leave the matrimonial home.

Marginalisation and ostracisation of widows constrains their ability to use land access credits and other financial resources for their own benefit.

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**One Woman’s Story**

**Taking a Closer Look at Women’s**

“I had a problem when my husband died. My older son gave my home to my four step children, and made an agreement without my consent or signature. My husband had left me ten pieces of land scattered in different areas. My son has sold them, and I am now remaining with only four. He is threatening to sell them. He has planted bananas in the piece where I have constructed a temporary house and [now] stay. He has ordered me to return to my natal home. Since he has threatened to kill me and assaults me wherever he meets me, I sleep outside and only the children sleep [at] home.”

- Testimony provided to COHRE by a widow from Southern Uganda
Women in Uganda have a higher prevalence of HIV/AIDS infection across all age categories. Among those aged 15-19 years, women are about nine times more likely to be infected with HIV than their male counterparts. From interviews of women with different ethnic background, COHRE gathered that a myriad of women’s housing, land and property rights violations, including those suffered by women living with HIV, continue unabated across communities.

Ghana

Women living with HIV/AIDS in Ghana suffer sharply the stigma surrounding the pandemic, which affects their housing situation. Women in Ghana routinely reported hiding their HIV status, and facing forced eviction by landlords, and ‘disinheritance’ at the hands of in-laws.

Stigma in Ghana is especially acute. Some HIV-positive women in Ghana interviewed by COHRE noted that they could not live and mix freely with community and family members.

Uganda

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