Women's property rights and HIV & AIDS: evidence from India

Women's limited ability to own property is a manifestation of gender inequity that has grave implications for them in the context of HIV/AIDS. **Hema Swaminathan, Nandita Bhatla,** and **Swati Chakraborty** present findings from a research study that locates women's experiences of property conflicts within the larger context of being HIV-affected

1. **Introduction**

There has been much celebration of the fact that India's HIV numbers, as per the latest (2007) estimates, are at 2.47 million representing a 50 per cent reduction from 5.1 million in 2006. This translates into an adult prevalence rate of 0.36 percent (UNAIDS 2007). The sobering fact, however, is that despite the downward revision large numbers of people continue to be affected by this disease. Still more are at risk due to structural factors, chronic poverty, inequalities, illiteracy, low status of women, highly mobile populations, trafficking of women, all of which potentially enhance vulnerability to HIV. There is broad consensus that HIV thrives on the social, economic, gender, and political inequalities that characterise all societies. On examining the pathways that render individuals vulnerable to HIV, gender emerges as a crosscutting and recurring theme, ensuring that even within marginalised populations, women are more vulnerable. Globally, women account for half of all HIV infections—this percentage has remained stable for the past several years (UNAIDS 2008). In India, of the 2.47 million people living with HIV and AIDS, 39 percent are women (NACO 2006).

Gender inequity is characterised by limited or no access to economic or human capital, unequal power relations, economic dependence on men, and more generally low status of women in society. Evidence, largely from Sub Saharan Africa (SSA), reveals that economic insecurity in particular makes women more vulnerable to HIV by weakening their ability to negotiate safer sex, exit abusive relationships, or increases the likelihood they will engage in transactional sex and have multiple partners (Hallman 2004; ICRW, HSRC, AfD 2008; Mill & Anarfi, 2002; Letamo & Bainame, 1997). Land and housing are critical components of a household's resource base. Access to, ownership of, and control over, these forms of property are important determinants of livelihood options and can make the difference between economic security and economic destitution by expanding the set of choices available to the household. However, in many developing countries, women do not enjoy the same rights to property and inheritance as men do. In several African and Asian countries, legal frameworks and systems have been amended to reduce gender inequities with respect to property rights. The reality, however, is that reforms are usually poorly implemented and laws irregularly enforced with considerable discrepancy between *de jure* and *de facto* rights of women to own and inherit property.

In the context of HIV and AIDS, women's lack of secure rights has particularly grave implications not only for their own safety and treatment, but also for their families. Property grabbing, dispossession, or eviction of women after their husband's death or due to their positive status has been extensively documented in SSA (Izumi 2007, Mendenhall et al., 2007) and is slowly emerging as a problem in South Asia, particularly India. A UNDP study conducted in 2006 in India showed that ninety percent of HIV-affected widows were no longer living in their marital homes. The loss of shelter and livelihood experienced by women can push them into a vortex of destitution and marginalisation, intensified vulnerability to HIV and AIDS, while enhancing intergenerational poverty. When women *do* inherit and own property, however, it has the potential to exert a protective influence from the experience of inter-spousal violence, a high risk factor for HIV infection. A South Asia study found the women who owned immovable assets, especially house, were less likely to face violence, and more likely to exit abusive relationships, if they did. (Bhatla, Chakraborty and Duvvury 2006)

Given the magnitude of the problem in SSA, many organisations have evolved interventions to help women secure their rights in property and inheritance. These include lobbying for reform of gender discriminatory land, housing, and inheritance laws; strengthening enforcement mechanisms; delivering integrated health and legal services to women living with HIV; working with communities increasing women's and communities' awareness of the importance of property and inheritance rights for mitigating the impact of the AIDS epidemic; helping build coalitions of health, legal, and other organisations at the community level that seek to strengthen women's economic security. In India, there has not been a larger awareness of the importance of economic resources, particularly the role that property could play in aggravating or reducing vulnerabilities to HIV and AIDS. Thus, there are far fewer programmatic or policy interventions that have directly targeted the intersection of property rights and HIV and AIDS.

This paper presents findings from one of the first studies in India that has attempted to locate women's experiences of property conflicts within the larger context of being HIV positive or HIV affected. We also describe a range of organisational responses addressing the interaction between property rights and HIV and highlight the challenges that need to be addressed to shape a meaningful and comprehensive response. The discussion in this paper is drawn from India while our larger study also included organisations in Bangladesh and Sri Lanka. The remainder of the paper is organised as follows. Section 2 describes the methodology and data collection procedures. It also briefly discusses the socio-demographic profile of the sample. Section 3 describes the study findings, which are presented around specific themes: the women's experiences of HIV, violence and property dispossession; their responses, and the organisational approaches to dealing with issues of WPR in the context of HIV and AIDS. Section 4 concludes with key policy prescriptions.

1. **Methodology and data**

Data collection for the study occurred over two phases during the period 2005-2007. During phase 1, an inventory of organisations working in the field of women's property and inheritance rights and/or HIV was conducted. Initially forty organisations were identified across four countries – Bangladesh, India, Nepal, and Sri Lanka -- from which nine were purposively selected based on the criteria that they were either i) HIV positive networks that identified the link between women's property rights and HIV through the experience of their members or ii) organisations that worked on HIV and AIDS and/or women's property rights. Of these, three organisations were from India and were located in the high-prevalence states of Andhra Pradesh, Maharashtra, and Tamil Nadu.

Primary data collection was undertaken in phase 2. Organisations were originally conceived as the unit of analysis with a focus on their experiences and perspectives on the linkages between women's property rights (WPR) and their vulnerabilities to HIV. The initial assessment, however, highlighted the fact that WPR within the HIV spectrum was still nascent, though a fast emerging issue, with the organisational response evolving according to the particular context and largely motivated by their members' needs. Given this, the scope of the study expanded to include women members who were facing property related conflicts.

Qualitative research methods were applied in this study for data collection and included individual in-depth interviews, focus group discussions, and key informant interviews. For the in-depth interviews, 15 women were sampled purposively. Informed consent was obtained from the study participants prior to data collection. All interviews were conducted in the local language (Marathi, Tamil, and Telugu) or in English according to the preference of the study participants. A translator was arranged if necessary. All focus group discussions were recorded and translated into English; if recording was not possible, then at least two interviewers were present to enable facilitation of the discussion as well as note taking.

For the in-depth interviews, women from each organisation were sampled purposively to illustrate a range of property-related issues. An open ended field guide was developed for the in-depth interviews which covered the following domains of information: health status; livelihoods; experiences of being positive, with special focus on

property problems; and perceptions of its inter-linkages with HIV and AIDS. Careful attention was paid to women's strategies to negotiate a response and the role of the organisation in facilitating this.

Focus group discussions were conducted with programme managers and field workers from the selected organisations. Open-ended field guides were used to elicit organisational perspectives on WPR in the context of HIV and AIDS; whether it was an emerging issue within their communities, their current responses to it, constraints and challenges experienced as part of their response, and their strategies for moving forward. Key informant interviews were conducted with lawyers, government officials, activists, and experts with knowledge and experience of promoting women's land rights. These interviews were helpful in providing a context to women's property and inheritance rights in the communities, social norms governing property and gender, perception of HIV in society, and the broader understanding of women's movements in the region. Content analysis was used to identify, categorise, and analyse emerging themes. This was undertaken by the authors and cross-verified to ensure reliability. The data was triangulated across the methods.

Although the qualitative nature of the research and the small sample do not permit us to make generalisations or draw inferences about causality, what this study presents is a nuanced look at women's experiences of being HIV positive – disclosure of status, stigma, and discrimination, while keeping the lens trained on the implications for their economic security and property related conflicts. While interpreting the results, it is important to note that our sample has been drawn from members of HIV organisations. Thus, it is likely that they will be more articulate with greater awareness of their own self and their life experiences.

Socio-demographic profile

The three organisations identified for the field assessment were – Positive Women's Network (PWN+) Chennai, Tamil Nadu; Cheyutha (launched by LEPRA), Hyderabad, Andhra Pradesh and Aamhich Aamche Sanstha (AAS), Sangli, Maharashtra. Of the 15 women sampled for the in-depth interviews14 were HIV positive, while only 1 woman was HIV-affected, i.e., her husband had developed AIDS. A majority (twelve women) were between the ages of 20 and 30. Eleven women were widows, four were married of which three were living separately from their husbands, while one woman was married. More than half the women got married before or at 18 years of age, with the rest being married in the late teens or early twenties.

All women were literate, with some level of formal education; few had completed their graduate degree. This is reflective of the fact that our sample was drawn from urban areas. Several women were employed as outreach workers by the organisations in which they were members.

1. **Findings**

3.1 Experiences of HIV, violence, and property dispossession

Women's experience of HIV was complex and multi-layered, reflecting deep rooted gender inequities and skewed power relationships. A woman is subjected to multiple biases; of being a woman, a widow, poor, and HIV-positive.

Disclosure of status

The first brush with HIV and AIDS for many women was coupled with a sense of betrayal within the marital relationship. Nearly half of the women were unaware of their husband's status prior to their marriage. Some were sure that the status was deliberately withheld from them, while others suspected it to be so.

"The day after I was married I noticed my husband taking many pills. When I asked my mother-in-law, she told me he was unwell because of the pressures of marriage. When he became critically ill, my father-in-law took him to Mumbai for some test and I insisted on joining them. The doctor in Mumbai refused to talk to my father-in-law and asked for me ... that is when I realised that his status was known even before marriage. Their family doctor later told me the whole family knew my husband's status and despite the doctor's advice still went ahead with marriage." [Positive widow, age 28]

"My husband was an ex-serviceman and was ill all the time. He used to come to Madurai to undergo treatment. Everybody in my husband's family and in the village knew but I was kept in the dark. Only after he died that I came to know that he had AIDS." [Positive widow, focus group]

Women usually learnt of their status at the time of pregnancy or if they underwent testing when their husbands' health deteriorated. All of them believed they were infected by their husbands, but families often blamed them for bringing HIV into the household. This was especially true when their status was revealed before the husbands', as is the case during pregnancy. Often the husbands refused to get tested or to disclose the results of testing. In some instances, they were quick to distance themselves from their wives as well as the children, in order to preserve the confidentiality of their own status.

Violence

Although the research did not specially aim to collect information on violence, it was copiously present in the women's lives. Their stories revealed a subtext of violence in their marital relationships; 10 women experienced violence, four women did not experience any while the information was unclear for one woman. The experience of violence included intimate partner and family-level and spanned the continuum of physical, emotional, and sexual. One of our respondents narrated,

"After my second pregnancy, my husband started beating me and using abusive language. After the death of my husband, my mother-in-law and my sister-in-law started beating me. I was not given food or other basic amenities and was made to work in the field the whole day." [Positive widow, age 26].

Four women stated explicitly that their husbands had extra marital affairs and two of them separated from their husbands due to the experience of physical and sexual violence.

"*I separated from my husband because of his bad habits. We met in college, fell in love and got married. He got a job as a salesman in a cloth shop, but he never gave money at home. We stayed near my mother's place so I used to help out my mother in her shop to help run the house. While I was at the shop, he used to bring women home. When I asked him about it, he would get angry. Twice he slapped me and I filed a complaint at the police station against him. After that I decided to leave him. How long could I put up with it*?" [Positive woman, age 30]

There is also a suggestion that HIV exacerbates an already hostile environment for women. The narratives reveal a range of ways that positive widows suffer discrimination with little financial, emotional, or social support. At times, the marital family simply cuts off all ties with the widow refusing to support her or help her or her children financially. Yet another form of harassment is in cases where the children are negative and their positive mother is denied access to them.

"*After my husband's death my in-laws behaviour towards me changed; they start treating me very badly, I was forced to do all house hold work. I was sick and needed proper care but my in-laws were not worried about me. I felt very much depressed. With my daughter I came back to my parent's house. Two months later my in laws forcefully took my daughter with them. When I went to meet her I was treated very badly. I am still not allowed to see her."* [Positive widow, age 25]

In the focus group discussions, organisational staff revealed that when "husband and wife are both positive, the women face a lot of torture and abuse. The husband often blames them for the infection". Two women shared their husband's deliberate insistence on sexual relations, sometimes forcibly, inspite of his knowledge about his status. Our only non HIV-positive woman shared her trauma at the various forms of violence that she faced saying at one point that "I felt that I'd rather be positive than bear such harassment".

"He used the withdrawal technique with me and told other positive men that they could use this method (not condoms) without transmitting HIV to their wives. When I started working with Cheyutha I realised this was not true. After my joining Cheyutha and my husband acknowledged his status, he started doubting my character thinking that because I was negative I was ignoring him. He forced me to have a button-hole operation for family planning. He would taunt me saying that even if I wanted to remarry (after his death), no one would marry me due to his HIV-positive status and my family planning operation. Gradually, he became a drunkard and stopped caring for our child. Once he beat me a lot and I had fever. Since I could not go to work, somebody called from Cheyutha and my son told them about my health. Then some of the outreach workers and staff visited me. At that time, my husband was forcing me to remove the last pair of earrings I had and my 'thaali', he even brought a knife and threatened to kill me in front of everyone".

Property-related conflicts

Property, as articulated by the women goes beyond land and housing and is situated within a livelihoods and economic security framework. It includes all that she receives from her natal family at the time of her marriage, and all that she is entitled to as a wife, including jewellery, dowry, furniture, insurance, pensions, bank accounts, fixed deposits and land/house or any other asset acquired by her husband. It is in this context, this paper discusses the property-related conflicts and its causes.

Our findings suggest that property-related conflicts are fuelled by a cocktail of several forces – patriarchal attitudes, biased gender norms, and unequal power relations. While widows in general may be susceptible to these forces, HIV adds yet another layer of exploitation and discrimination. Apart from a generic context of economic insecurity, HIV can deepen the vulnerability and add a sense of urgency if positive widows also need financial resources for care and treatment.

Property denial and dispossession is both complex and nuanced. The experience of denial spanned a broad continuum ranging from eviction from marital home to promise of inheritance rights for the children, but not for the woman. The denial is not absolute in all cases; even when women were denied inheritance or asked to leave the marital home, a few of them were allowed to take their jewellery and the other assets that they had brought at the time of marriage. It appears that these are usually households who want to "wash their hands off anything to do with the woman" and thus lets her take away what she gets at the time of her marriage, but deprives her of any other support. There is also a concern among families to safeguard their property which leads to a reluctance to transfer it to the daughter-in-law. The fear being that it will get passed on to her natal family and thus be lost to them.

Focus group discussants reflected that positive widows were disadvantaged on multiple fronts, mainly due to widespread ignorance about HIV and the associated stigma and morality. There widespread misconception among families and sometimes among the women themselves is that HIV is fatal. Thus, property is denied to positive women on the premise that they don't have a use for it. One discussant said "*people who are HIV+ are more vulnerable because in their case the in-laws use the excuse of HIV to deny them property. They say that you are going to die in any case so why do you need property; In case of other women they cannot use this as an excuse*."

The stigma and gendered morality associated with the disease become tools used to deprive women as they are considered '*bad*' with no right to any share in family property. A focus group participant noted, "*positive women are also accused of giving the infection to their husbands, so they have to live with the added guilt*." Several women felt stigmatised and discriminated against due to their positive status by both their marital and to a lesser extent, their natal families. "*My sons were taken away from me. Our belongings (mine and my husband's who was also positive) were burnt by my marital family. I was kept in a separate room and given separate utensils to*

cook. I was given dal and rice to cook at the end of the day. I was not allowed to touch anything or even use the toilet. If they found me using it, my mother-in-law and sister-in-law would beat me up. I was not treated or given medicine." [Positive widow, age 26]

In a few cases, women's positive status was deliberately used to instil fear and stigma within the extended family and community, which forced them to migrate away from their marital homes.

A few women were also denied property by promises to transfer the shares of inheritance to the children, or hold the children's share of property for the future, especially if they are negative and if they are sons. In such cases, women hesitate to jeopardise their children's inheritance by demanding their share, particularly when they are unsure of their in-laws intentions. Often, they do not want to precipitate conflict by taking any action. Sometimes, however, the husband's family members will force or deceive the women into signing legal documents, which would either disinherit or prevent any claims by her or the children's rights over matrimonial property. Talking about cases where both the parents are not alive, a PWN+ staff adds, "*Relatives are willing to keep the children if they know that the parents have property. In such cases, the family takes in the children and then forces them or dupes them into signing the property over to them*".

Household assets were often liquidated to finance the husband's treatment leaving the wife and family with meagre resources in the event of the death of the husband. As one woman noted, "*My husband died in 2003. We had sold our land for Rs. 3.75 lakhs, of which Rs. 3 lakhs were spent on survival, treatment and loan repayment. After spending Rs. 50,000 on necessary expenses, I was left with Rs. 25,000. How will I survive on this money?"* [Positive widow, age 22]. Women's personal assets – jewellery and other gold ornaments were often pawned or sold to finance their health expenditures. Depletion of these assets places women in a particularly vulnerable position as these usually fall within the purview of *streedhan,* (the portion they received during marriage), that women are entitled to take with them when they exit their marital household.

Gender biases play out as families sell assets for treatment-related expenses of their sons, but deprive the daughters-in-law or refuse them shelter once husbands die. The cost of the son's treatment is also equated to his share of property, thus his widow loses any claim to the matrimonial property.

"*My mother-in-law said they had spent more than Rs 40,000 on my husband's treatment so they refused to give me any share in the property. In fact they accused my family of murdering my husband. They refused to believe that he died of HIV*." [Positive widow, age 27].

3.2 Women's responses

Women's responses to property conflicts and discrimination were both dynamic and heterogeneous. They were influenced by several factors -- their own financial situation, HIV awareness, the status of their children, their social networks, awareness of the type of property, and most importantly their sense of agency.

Most women did not report staking formal claims to inheritance immediately; they needed time to reconcile to their positive status as well as deliberate on their immediate needs. The dominant concerns for women who were evicted from their marital homes were shelter and income. Women who had supportive natal families had the luxury of time to contemplate their options, but for others not so lucky, there are few choices. Two organisations, Cheyutha and AAS, helped women find housing through rentals, shelters, and working women's hostels. But the stigma of being HIV positive was found to be a limiting factor. One focus group discussant had this to say, "*[h]ouse is the main thing. It is the most important thing. When people come to know that we are HIV positive, they ask us to vacate. We then find it very difficult to find another house. We live in constant fear that the owners will come to know. This uncertainty is the worst part."* [Positive widow, focus group].

Property-related conflicts also led to sexual violence in some cases. A Cheyutha member said, "*Some of the positive widows face sexual exploitation by the marital family members as they do not have access to any other shelter and need to continue in the marital house."* The lawyer associated with Cheyutha mentions this discrimination as one of the key areas for action, counselling and litigation:

"We find that when the husband dies, many women are sexually harassed by family members, especially the father-in-law, because she is already considered 'bad'. Her sexual favours are used as a condition for allowing her to stay in the house. The father-in-law does not care that he may get HIV; his only concern is that he is getting a younger woman since his wife is now old and unable to satisfy him sexually. We need to look at humiliation, discrimination and sexual abuse and focus on the safety of the woman."

Property or assets gained importance as realisation of the ability to lead a 'normal' life with HIV became a reality. Women largely saw property as crucial to secure the future of their children. Asset security gained prominence with a growing understanding of the limitations of finding and retaining employment. Women did not possess employable skills and those who had jobs were haunted by the fear of losing their jobs due to ill-health and fear of disclosure of status.

The trauma of eviction played out in several ways, either inducing feelings of loss of emotional support or a sense of humiliation at the wrongful treatment meted out to them. *"My mother-in-law and sister-in-law are only interested in the property, not in any love and affection. I would like love and affection from my in-laws for myself and my children but since I won't get it I may as well demand compensation for my children's sake since they should have a share in their father's property."* [Positive, married, age 30]. Another respondent did not want to claim her rights due to the sense of humiliation she experienced. But she was able to retain her dowry and assets she bought with her own money.

The type of property the woman claims often goes hand in hand with the nature of her response. Usually, the first level of response is negotiation for retrieval of her dowry (household items, gold ornaments if they have not been pawned for treatment). Claims for more substantial assets such as share of land, house, insurance or fixed deposits are made usually with the support of the natal family, or formal networks and organisations (discussed in the next section). There is usually a phase of informal negotiation that precedes thoughts of filing a legal case, which is mediated by factors such as awareness of assets that the family has, and knowledge and access to legal documents. For example, during the interview, one woman asked, "*I have some land papers in which some survey numbers are written and I am not sure whether there is any other land in my husband's name on that paper! I want to find about that, can Cheyutha help me*?" It is a difficult emotional journey that women make while moving from informal negotiations to formal processes. There is a realisation that the act of initiating formal proceedings would likely sever all ties to their marital family; if not for themselves, women are usually eager to keep up family ties for the benefit of their children.

Most discussions were centred on marital property, presumably because all interviewees were either married women or widows. In the context of natal property, positive women, whether separated married or widowed, felt they had received their share at the time of marriage in the form of dowry and the expenditure on marriage. They also received gifts from their parents and brothers' family every time they visited their natal home. Therefore, women felt that they had no rights over their parents' land or house. Further, they didn't want to compromise their little social support and shelter options. Moreover, they also believed that the natal property rightfully belonged to their brother; the obligation for their upkeep resided with the marital family.

"Though my parents have promised me a share in their property, but it is only in words. I cannot ask them because they have given shelter and food for my children and myself…I am already indebted to them. I worry about my children and their education all the time, what will they do after I die? What will I do after the death of my parents? I wonder if my brother will support me or keep me." [Positive widow].

3.3 Organisational approaches

Organisational responses to property issues have to be understood as a reaction to women's own response to the crisis in their lives. The evolutionary nature of women's reactions is mirrored to a certain extent in the organisational interventions and processes. Since property related issues largely emerge around the time of AIDS related mortality, it is at that time that positive widows may approach the organisations for support. Additionally, the organisations' *ad hoc*, fragmented approach reflects their real financial, technical, and human resource constraints. One organisation defined their initial focus around health, and described that they neither had the mandate, the funds, nor the skills to enter into the purview of handling family and property related issues. One staff member said, "*[at]this time, several other discrimination issues started coming up, including that of property rights. But our focus was on welfare services so we were not prepared to handle these problems at the first instance. In rural areas, once a person is tested positive that person does not want to come to the health centre again due to the fear of stigmatising. The first issue for a person living with HIV and AIDS (PLHA) is of self-realisation and acceptance of the positive status, and then only can we reach the societal level*."

When women approached organisations, it was for immediate financial help, shelter, employment /income generation. The organisational interventions at that point were primarily economic in nature, in the sense that they attempted to enhance women's access to income and/or asset security. The strategies included helping them find employment by hiring them as staff or placing them elsewhere; providing vocational and skills training (ie, making phenyl, incense, soap or providing computer training); providing loans for income-generating activities; and using legal (formal) and informal mechanisms to help women secure their property rights. However, organisations soon recognised the limitations of employment; lack of well-paying jobs, limited skills among women; and the effect of HIV related illness, and fear of disclosure on employment.

Accessing the formal legal system was the immediate organisational response to handling issues of property dispossession, though its limitations resulted in organisations reshaping their strategies to include engagement with families and communities as well to ensure women's property rights in the context of HIV.

Legal mechanisms

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

For AAS, who were the first to set up legal services, working through the legal system has helped several positive members file cases in court: *"Lawyers Collective would visit monthly to discuss problems with our members and offer help on what should be done. Their visits raised interest as members realised they could take legal action against the family*." They have also pursued legal action for compensation, settlement of dues and access to bank accounts. The following instance is an example of a successful case undertaken by them.

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

Formal legal processes can be quite effective in claiming property rights. Cases related to inheritance shares could however, be time consuming, expensive and require sustained follow-up. Organisations often lacked the resources and capacity to undertake the legal process and see it through to its logical conclusion, especially when

associations with lawyers are not formalised or sustainable over time. Cases need to be followed up at the district level, or at the place of residence of the positive woman and so require a network of lawyers to pursue it through the system. For PWN+, this has been a major limiting factor.

Another constraint of legal action is the financial and social burden imposed on women. Legal claims can languish in the system because of weak legal precedents and evidence. Summing up how a woman feels when she approaches institutions for help, the director of one organisation noted that she did not pursue her claim to property. "*I went to the police station, the collector and then I got fed up with the entire process. Even if we are motivated, the system does not cooperate. We have to give money at the police station. Women are afraid to go to the court because the system itself scares them. They also feel that in the future they have to get their children married and she would need the family to come for the wedding. In some cases the lawyers are also not willing to take the case*". Families may use lengthy court disputes to delay justice for women because they believe the complainant may not live long enough to see the case to its conclusion. Awareness about assets, financial liabilities of their husbands, investments owned, and their own legal rights, is abysmally low. In many cases, women do not have the money or the required papers to prove their claims.

A key strategy adopted by PWN+ is to conduct legal awareness workshops among its positive member groups and also with lawyers to sensitise them to the specific concerns of positive people. Legal action often means women have to disclose their HIV status and face the associated consequences; this may be done by the lawyer to help speed up the process or may be breached by the legal system during its proceedings. This stigma prevents many women from pursuing their rights due to the fear of their status being disclosed. It could also ruin the gains in practical terms of fighting a long and public battle in court, as illustrated by the following story:

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

Our study suggests the exploration of mediation through Alternative Dispute Resolution (ADR) as an alternative for legal action. Citing one case, a key informant (lawyer) noted it could be possible and desirable to maximise use of "*the legal civil services authority, which is an alternative legal dispute redressal mechanism or lok adalat (people's court) to provide legal services to the marginalised in a simplified manner. There is no court fee, no court process; both parties are called for a mutual consent resolution of the dispute. The order is non-appealable and if not implemented, then one can demand for the same as also ask for it to be taken to the formal court. The redressal process is funded by the government and only incidental costs are incurred by the petitioner.*" An additional potential of ADR, as stated by another lawyer, is that it is a process of both parties arriving at a decision, where the NGOs can play an effective role. Besides it can counter the bias introduced by the insensitivity of the judiciary associated with the formal legal process.

Engaging families and communities

Given the limitations of the legal system, the positive networks explored alternative solutions, such as direct mediation between women and their families and other groups. Women perceived this as a more viable option as it allowed them to maintain family relationships which was not possible with legal proceedings. AAS used "pressure groups," which comprised of articulate people who negotiated with the family on behalf of a woman. AAS used the pressure group to "shame" families by suggesting that respectable families do not disown or disinherit their daughters-in-law. The pressure groups also leveraged public opinion and used radio and other media and other forms of social pressure to persuade families or communities to meet women's demands. The following case illustrates this point.

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

Rs12,000 the factory offered her a reduced amount. She learned that her brother-in–law, who was unhappy about losing the tractor, had not made a payment to the factory and instead asked them to deduct it from his late brother's account. She refused the reduced amount, and the factory refused to consider her case. At this point, she approached AAS and a pressure group visited the factory. Management continued to refuse payment. When the pressure group threatened to organise a public gathering in front of the factory, the chairman relented and promised to transfer the full amount to her account within a week.

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

A community-level model of dispute resolution can potentially be more accessible and effective for poor women with the added advantage of engaging community gatekeepers to shift gender inequitable norms and attitudes. PWN+ and Cheyutha, through the resolution of cases, were beginning to realise the importance of understanding and working with family, communities and larger social groups. The danger with any community-based mediation system is that it could be captured by vested interests and thus ends up reinforcing the gender biases that constrain women in the first place. According to PWN+, community mediation bodies, or *kotta panchayats*, exist, which arbitrate on property disputes. However, powerful male arbitrators often discourage women from making any property claims at the request of the marital family.

A successful example identified through the larger South Asia study was in Bangladesh, where Nagorik Uddyog, an organisation working on human rights and social justice, uses *shalish,* a traditional informal mechanism for dispute resolution around cases of alimony, domestic violence, dowry harassment, desertion, and land dispute resolution. Informal mediation in the community setting between the two disputed families by a trained mediator aims to use community involvement in arriving at a solution that the community participates in and monitors. If mediation fails, then legal aid is resorted to. One reason for the success of this model is the community engagement in arbitration and the creation of a public space for discussion, which encourages community ownership of the decision. Nagorik Uddyog's *shalish* however, has not yet been tested for dispute resolution by positive women.

1. **Discussion**

Our findings suggest that addressing the property-HIV linkage can have significant impact on the lives of infected and affected women. Property related conflicts, dispossession, loss of assets, and emotional trauma further intensifies the marginalisation and poverty already experienced by these women, making it difficult to cope with the consequences of living with HIV. Interviews with women highlight how HIV exacerbates the discrimination women already face - by virtue of being a woman, a widow, poor, and finally being positive. HIV further widens the cracks created by gender inequities in a woman's life, resulting in dire circumstances of discrimination, destitution, economic insecurity, and loss of shelter.

Women's claims for property emerge against a backdrop of financial fragility and desperation, rather than from a notion of rights and entitlements. Most women seek help for immediate financial needs or shelter, and their articulated needs shape the support organisations' responses and priorities. Obvious responses to economic needs included employment, providing trainings on vocational skills or loans for income generation. However, employment and income generation are plagued with limitations of adequate jobs, competitive skills, ready markets and sustainability. Positive widows, who need urgent help, may be unskilled or unqualified; mainstream employers are not sensitised to special needs to positive people. Additionally, HIV-related illness limits the nature of jobs and heightens the fear of stigma. Moreover, dispossession creates an immediate and critical need for safe shelter that needs securing property rights, dialogue with families, and state support in the form of temporary shelters, and safe, affordable housing.

Given our finding that property related issues emerge slowly in the progression of HIV, and usually at the time of AIDS-related mortality, it is among formalised positive networks that this linkage emerges as an issue. While organisations are beginning to recognise the need to think and plan systematically for long-term economic security, the ways to do so are still ambiguous. Fighting for employment rights for positive people, ensuring rights to schemes and grants of the government, seeking claims to assets, are all seen as different options. However, what is needed is a comprehensive strategy incorporating a range of options ensuring safe shelter, income, and asset security that can be customised for women in different circumstances. Different options need to be explored for women from families that have no assets (livelihoods training, for example), as opposed to those who show interest in pursuing their inheritance claims. Securing women property ownership and lobbying with national governments for economic yet safe housing options would be definite steps in this direction. Additionally, strategies must include those women who have no property to claim.

In the current study, organisations attempted a range of interventions to claims rights to assets - formal legal, mediation, and community based pressure groups. The limitations of legal responses are obvious, but non-legal options require skills and capacities in community-level engagement. Often it is a combination of both that is effective in any claim to rights where gender norms can be questioned against the backdrop of legal sanction for fulfilment of those rights. Organisations need to be able to assess which combination or individual strategy (community, family, formal legal) is most relevant in a particular context.

The strategies adopted so far are narrowly focused on fulfilment of economic needs, an outcome of their organic evolution. A key challenge is to ensure these interventions are complemented with others that seek to address the gendered pathways that increase both HIV risk and property dispossession for women; these could include strategies that attempt to shift gender norms and attitudes within families and communities, men and boys as well as women and girls; directly improve women's negotiating and decision making skills; and enhance women's self esteem, and sense of agency. Creating an enabling environment is critical for both opportunities and capabilities to be realized.

Such a comprehensive package of strategies requires diverse skills and possibly, diverse organisational visions and mandates; establishing coalitions to promote collaboration and provide complementary services could be an effective way to proceed. Coalitions should include legal practitioners, HIV-positive women, activists and advocacy groups, women's movements, organisations involved in livelihood training or income generating programs and other stakeholders. Such coalitions can expand organisational capacity; facilitate peer-to-peer exchange of experiences, skills and strategies; ensure complementary services and diverse strategies are used; and strengthen policy advocacy at national and regional forums.

This study focused on women's (as opposed to men's) experiences of dispossession in the context of HIV, given the premise that women, especially positive widows, face layered vulnerabilities. During the course of our fieldwork, men's stories of conflicts, dispossession and economic insecurity were often shared, underscoring the need for interventions that enable sustainable livelihoods and reduce stigma and discrimination for both HIV infected and affected men and women.

Lastly, more context specific research and evidence building is required to guide policy dialogue and design effective interventions – interactions between women's property ownership and control over assets, decision-making powers and other measures of empowerment; role of support services (ie, credit, extension services, access to markets, education, vocational training) in ensuring sustainable livelihoods for women, for example. Rigorous evaluation research is a missing component that has to be conceptualised at the intervention design stage to understand the impact of the interventions and to gauge the potential for replication and scaling up.

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