



# Huirou Commission

## The Commission on the Legal Empowerment of the Poor: A Huirou Commission Perspective

Women represent two thirds of the world's poorest people. They serve as primary caregivers for children, the elderly and the infirm. The Huirou Commission considers that any changes to improve the lives of the poor require a strong gender perspective if they are to truly be effective in eradicating poverty. The recommendations in this report have been deliberated and presented by grassroots women leaders, often with large constituencies. Their recommendations as women caregivers, as local advocates, entrepreneurs and individuals with needs make their perspectives highly relevant for the poor in general.

While women suffer burdens of poverty and lack of implementation of their rights, they also provide innovative strategies and solutions. The Huirou Commission seeks to share these best practices with others, so that the strides made by empowered poor women themselves may be resourced and replicated by partners of influence. Such partners include the local and national governments, towards whom Legal Empowerment aims its advocacy efforts. In partnership, grassroots women, governments, the UN and other supportive institutions can support legal empowerment to become reality.

Legal rights are an important framework for women, yet these rights co-exist with cultural, social, economic and political realities that often obstruct poor women from enjoying their rights. In seeking to strengthen women's access to and control over assets, for example, traditional rights-based approaches often prioritize legal rights and legal reform, overlooking the underlying power dynamics that exist within families and communities that keep women from owning and controlling land and businesses and overlooking women's successful practices at the community level. Together, these perspectives can lead to tangible change at high levels of government as well as community levels.

Women leaders from informal settlements and rural communities provide solutions and contributions. They collectively support one another as well as men and youth in their communities to travel to courts or to lobby for their property rights. The Huirou Commission recommends that governments draw on these local practices as a resource for their common goals. Organized groups of women that already work to overcome the barriers to the legal empowerment of the poor and marginalized can bring services and community knowledge to government representatives seeking to disseminate information, include the poor in consultations or train communities on accessing their rights.



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## Participation in Legal Empowerment

The Huairou Commission has seized the opportunity to partner with the Commission on the Legal Empowerment of the Poor to include the voices of poor women directly in their global consultation and legal reformation process. Grassroots Academies, or grassroots women's consultations, were carried out by local affiliates of the Huairou Commission in preparation for the Legal Empowerment consultation process in their countries. Meaningful participation of grassroots women in setting policy agendas requires preparatory processes that enable grassroots women leaders to collectively determine their priorities, to identify barriers to their development work and to frame their recommendations.

Grassroots women leaders from groups in poor urban and rural communities gathered in Kenya, Uganda, Indonesia and Tanzania. GROOTS Kenya, Uganda Community Based Association for Child Welfare (UCOBAC) and UPLINK (Indonesia) held Grassroots Academies prior to the national consultation processes. In Tanzania, the Maasai Women's Development Organization participated in the national consultation process.

### **In the Grassroots Academies, women:**

- Shared personal and community **experiences and practices.**
- **Raised their awareness** of the national legal context
- Developed a consolidated statement of **recommendations.**
- Presented their recommendations at the **Focus Group Discussions and National Conferences held by Legal Empowerment.**
- Spoke of their concerns directly to **national ministers** of land and high level judges.
- Demonstrated their constituency as **visible and knowledgeable stakeholders** that are contributing to the empowerment of their communities.

The Huairou Commission envisions a plan to advocate for Legal Empowerment's final recommendations with national governments. In this plan, governments can be recommended to replicate and support practices that have been proven to create positive change. Grassroots women bring many practices and methodologies for empowerment to the table. More specifically, they bring the Local to Local Dialogue method for local authorities and grassroots organizations to hold dialogues, leading to a win-win sharing of knowledge and collaboration on practical paths to change. In the final section of this report, several organizations that are part of the Huairou Commission suggest successful practices that could be supported or replicated toward achieving the goals of Legal Empowerment.



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## Property Rights

Women from the four countries presented several common problems and priorities, as well as more country-specific recommendations on the theme of Property Rights. Widows face the threat of being removed from their land and houses by relatives and in-laws. Residents of informal settlements face threats of eviction when government determines alternate uses for the land. Such settlers often include the very widows who were forced to migrate to informal settlements. These are just a few of the barriers women face in enjoying security of tenure.

Women are clearly pushing for citizen **participation in the decisions made on the use of public land and natural resources**. They see how their lack of participation in such decisions leads to their disempowerment over the lands that they might informally occupy. From their standpoint as women living in informal settlements, some women state that **compensations should be made for people displaced** from such land. An increased power of influence in the decisions made on such land would allow them to invest more permanently in their homes and communities. They also call for **national legal structures regarding property rights**.

Women bring strong community practices in the area of securing property rights. For example, through their work as volunteer caregivers for people with HIV/AIDS, Kenyan women have formed “watchdog” groups on behalf of women seeking to enforce their property rights. They organize dialogues with provincial administrators and have successfully begun to protect women’s property rights. In cases where widows are left without land, suffering from the multiple impacts of HIV/AIDS, community support is vital to securing land and housing.

## Recommendations

### ***Citizen Participation in Use of Public Land***

- Information on existing public properties should be made public. The poor should be involved in decisions concerning the allocation and use of such properties. (Kenya)
- In the event that government wishes to utilize public land currently settled on, those settling on it must be fully compensated. (Kenya)
- Public resources, such as funds, are public property and as such all citizens have a right to participate and decide how they are generated, distributed, utilized and accounted for. Any law or regulation that stifles that spirit must be declared injurious to public good. (Kenya)



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- Resources in a given area should benefit the local community, and decisions made concerning the use of such resources must involve them. Examples include national parks, coastal beaches, forests and mines. (Kenya)
- Land designated for public use should take into account the rights of communities living there. The government should clarify laws pertaining to lands designated for public use. (Tanzania)
- Eminent domain: the state or the government should not have the authority to annul the ownership of lands on behalf of “the development for public interest”. The limitation of development on behalf of public interest must be apparent which is implemented and owned by Government or local government and not purposed to profit oriented. (Indonesia)
- The government should recognize and support community efforts to organize committees to increase their bargaining power in cases of compulsory acquisition of property. (Uganda)

## ***Urban housing, slums and evictions***

- Laws that govern the possession and distribution of land, particularly in the slums, should be more effective. (Kenya)
- Eviction guidelines must be formulated to curtail homelessness, destruction of property, infringement of human rights and to ensure that the rule of law is respected during eviction. (Kenya)
- Legitimate property must not be forcefully acquired unless it is fully compensated for and the process agreeable to the owner. (Kenya)
- Government should focus efforts on housing renovation rather than eviction or relocation projects in poor communities. (Indonesia)
- Government should work with community-based groups in developing housing plans.
- All 99 year leases on land should not be renewed but be redistributed to poor people. (Kenya)

## ***Access to information***

- Knowledge dissemination on land laws and land rights and process is crucial, and should be delivered in a language that most people understand. (Tanzania and Uganda)
- The Trainer of Trainers methods could be used for such awareness-raising. (Uganda)

## ***Enforcement of laws and rights***



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- Cost of registering property such as land and livestock needs to be reduced, and the process should be simplified, decentralized, and more inclusive. (Tanzania)
- The government, through the Land Ministry, should ensure that the National Land Policy is entrenched in the Constitution. (Kenya)
- The government must put in place structures and mechanisms of curtailing piracy and counterfeiting by patenting and protecting both intellectual and mechanical property rights to enhance industry, innovations and wealth creation. (Kenya)
- The government should adopt internationally agreed instruments/ treaties that are intended to protect and safeguard access and ownership of property rights of citizens.

## ***Rural land***

- The basic eradication of poverty could be achieved if agrarian reform and nationalization of private companies are performed by government. (Indonesia)

## ***Women's individual property rights***

- Women should have greater access to property rights. (Tanzania)
- The law of co-ownership of property in families between husband and wives must be passed and enforced immediately. (Kenya)
- The government should enforce laws that ensure no person is discriminated against in property ownership and especially in regard to inheritance. Matrimonial property must be equally owned by the spouses and therefore:
  1. Distributed equally amongst the spouses in the event there is dissolution of the marriage.
  2. Is left in custody of their surviving spouses in the event of the death of one spouse.
  3. Is left in the custody of the children or is held in trust by a custodian in lieu of the children as provided for by the law. (Kenya)
- Grassroots women's initiatives enabling them to acquire property through credit and savings should be recognized, supported and strengthened to provide sustainable sources of livelihoods. (Tanzania)
- Gender relations and the right to properties should be taken into consideration, especially within the pastoral communities. (Tanzania)
- Women in pastoral communities should benefit fully from the Program of Business and Property Formalization within the pastoralist communities. (Tanzania)



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## Legal Mechanisms to Empower Informal Businesses

Poor women lack collateral to acquire loans from banking institutions. Their informal assets such as land are often not backed with legal documents and the high interest rates and short grace periods for repayment make loans difficult to manage.

Across the four countries involved, women made various suggestions in this area. They noted that **regulatory reform and support services** are required to support women's entrepreneurship and **simplification of bureaucratic procedures** are necessary for women's small businesses to succeed.

In Uganda women use "Nigina merry-go-rounds" as a collective way of saving in order to provide loans and thus acquisition of property. UCOBAC specifically recommends that this successful community initiative be recognized and as part of the national policy being promoted. The national policy, "Bonabagawale - Wealth for All," aims to promote entrepreneurship skills and financial management, but combining it with groups and practices that already exist would increase its effect. Such a collaboration would be an ideal win-win partnership.

## Recommendations

### ***Microfinance***

- Microfinance should be reformed to reduce obstacles and increase accessibility in acquiring loans. To that end, the conditions on guarantee should be flexible so that the few assets owned by the poor (such as livestock and land) can be taken into account and valued as collateral. (Kenya)
- Community-led savings and credit initiatives such as merry-go-round should be recognized, supported and strengthened to provide effective sources of loans, as they have amassed important skills and a strong track record. (Kenya)
- Microfinance systems should draw lessons from merry-go-rounds and daily savings managed by grassroots women themselves and should be adapted to support women who want to acquire properties. Government should support merry-go-rounds as a way of accessing loans for small businesses. (Kenya and Uganda)
- Ensure that existing microfinances institutions are targeting the poor, and in particular poor women, or if they have shifted their target to be seen as sustainable. (Indonesia)

## ***Women's participation in economic development***



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- Government should assign a budget for women every year managed by grassroots women themselves to sustain their own livelihoods and that of their families. (Indonesia)
- Development initiatives should work with existing women's groups and other organized community groups already sustaining their communities as entry points for community development. (Indonesia)

## ***Rural livelihoods***

- Local industries should be protected to avoid the dumping of goods and products through corrupt deals, particularly that of farm produce that has rendered small-scale farmers poor. (Indonesia)
- Government should invest in marketing and promoting ecotourism business, particularly in indigenous communities. (Indonesia)
- Governments should support poor people's rural income-generation activities through in kind "start up" income, such as livestock. (Uganda)
- Governments should support the poor's entrepreneurial skills through Training of Trainers. (Uganda)
- For rural trade to flourish among the poor, dependence on intermediaries must be reduced and producers supported. (Uganda)

## ***Informal economy***

- Informal economic activities should be acknowledged as a legal part of the economic system, and should be facilitated and strengthened by government, taking into account that the high level of bureaucracy that accompanies formalization of the informal economy may cause bankruptcy of small businesses. (Indonesia)
- The process of authorization and licensing to hawkers and small traders should be short, affordable and flexible. (Kenya)
- In the agricultural sectors, government should strengthen the services of extension workers and provide farm equipment, access to credit and subsidies. They should support farmers to market goods by re-establishing cooperatives, identifying markets and improving infrastructure and security for transport of produce. (Indonesia and Uganda)
- Recognize and acknowledge the role of the informal sector as a contributor to large business either in providing markets or services. (All)

## **Access to Justice and Rule of Law**

Women, with their multiple responsibilities in the home and community, face many barriers in accessing courts. **Decentralization for greater accessibility** is necessary for women to travel more easily to courts, to acquire legal



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information, expedite their legal processes and receive services in their own language.

While traditional courts in Uganda and Kenya are accessible, fees are minimal and the language is familiar, the courts discriminate heavily against women. The courts follow a tradition of men as judges, and the judges give preference to men, prioritizing traditional gender roles over constitutional anti-discrimination laws. Formal courts, on the other hand, require high fees, are far away, have much bureaucracy and procedures that communities do not know about. GROOTS Kenya and UCOBAC suggest practical ways that governments can make courts and other legal systems accessible to all, without compromising one need for another.

## ***Legal system improvement and reform including greater participation of women and the poor***

- In contexts where traditional cultures deny women their fundamental rights, measures must be taken to increase women's participation in decision-making processes. (Kenya)
- Decentralize legal institutions for courts to be more accessible to poor communities living in rural areas and/or informal settlements, and to facilitate the speedy hearing of cases.
- Legal services need to be made easily available and affordable to the poor.
- Local development committees should consist of an equal number of men and women
- Representatives in local development committees should be elected, not appointed

## ***Access to information***

- Efforts need to be made to educate the poor in understanding the rights and legal protections afforded to them.
- Women and the poor require greater accessibility to information on the law and legal services
- Dissemination of this information needs to be delivered in a language that most people understand. (Tanzania)

## ***Reform of laws***

- The poor should be given direct compensation when they are the victims of a crime. Intermediaries such as lawyers or insurance companies should be compensated through alternative means.
- Customary law should not supersede laws that protect the poor, especially poor women. (Kenya and Uganda)



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- No person should suffer or have his or her life endangered unless it is as a result of a punishment for crime proven by the court of law.
- Many laws that discriminate against women or uphold the oppressive traditional gender roles must be reformed or annulled in order to truly ensure women's access to justice. Some of these laws are: Law on Employment, Citizenship and Family, National Education System, Regulations on dispatching migrant workers, Laws on Moslem clothes, electoral system regulations and other Islamic Shariah laws. (Indonesia)

## Labor Rights

Women face egregious acts of discrimination in the workforce. In Grassroots Academies, women described instances of being denied leave for health issues and being led into traditionally women's work for low pay. The Ugandan participants described how their lack of information and awareness often leads women to "whole-heartedly accept [a job with low wages] with an assumption that they are being helped by the employers."

In the area of Labor Rights women call for regulations on **minimum wages**, **profit-sharing** and freedom from **discrimination**.

In Indonesia, domestic workers have successfully organized and gained support for a draft form of domestic worker's insurance. The insurance would cover a working contract, standard payment, work load, working hours, health insurance and vacation and sick leave.

- Streamline the rights of laborers in informal sectors. An example would be to establish minimum wages.
- Make laws to ensure that profit-making companies share profits more equitably with their workers, particularly in horticultural companies, coffee industries, communication companies and sugar cane industries that currently post huge profits in Kenya.
- Enforce policies/laws that provide job security for employees. For example, working as a casual laborer for a long period of time without being permanently employed should not be permitted.
- The rights of workers living with HIV/AIDS must be protected
- A new form of domestic worker (housekeeper) insurance should account for a gender perspective and be included in a working agreement/contract.
- All individuals should be employed based on their qualifications and given contracts according to a clearly laid out job description.
- A worker's agreement/contract should include:
  1. Working agreement/contract



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2. Standard payment
  3. Load of job
  4. Working hours
  5. Day off/leaves
  6. Vacancy
  7. Facilities (Indonesia)
- Commercialization toward women, who are among the most vulnerable groups in society, in the form of trafficking, should be eradicated. (Indonesia)
  - Formulate law that will protect worker's right, especially women workers. There should be a fulfilment of woman worker's right to menstruation leave, freedom toward any kind of discrimination (treatment, opportunities, salary, financial support) and protection from sexual harassment. (Indonesia)
  - Companies that hire women to do piecemeal work from their homes should supply working facilities or substitute cost for production process. Government should acknowledge the workers and grant them full workers' rights.
  - Commercialization and exploitation in a form of migrant workers also should be eradicated, and people who work on those sectors should access protection, warranty and welfare.
  - Government should support working fields and acknowledge their contribution as a source of income. Working fields include street vendors, food carts and pedicabs.



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### Proposed Demand-Driven Local Actions for Legal Empowerment

#### *Pachacutec, Lima, Peru*

#### **Women United for a Better Community Go National with their Advocacy**

##### **Current Practices:**

Grassroots women in poor zones of Lima, Peru have collectively organized to create **communal dining rooms, “glass of milk” programs, mothers’ clubs and other projects. Women have been instrumental in creating community block assemblies.** Community members have organized **local vigilance brigades** to block surprise forced evictions.

These leaders have carried out mapping of mapping community needs and tenure. They are now collectively organizing for national legislation to grant credit for women. Among their various small business enterprises is a set of women’s businesses to manufacture construction components for anti-seismic housing.

##### **Support Required:**

Advocacy support in implementing national legislation for housing credit for women and land titling. Women also seek support to build anti-seismic housing.

#### *Rural Kenya*

#### **Watchdog Groups:**

##### **Current Practices:**

Through home based care, grassroots women have created a holistic women-led community-driven response to HIV/AIDS. Rather than tying women into traditional roles of caregivers, home based care groups come together to improve not just the quality of health care for infected people, but also their ability to **secure access to basic services, livelihoods, and food security.** Women are federating their groups regionally as the African Home Based Care Alliance. Home-based caregivers are also mapping and standing up against the **asset and property stripping** that accompanies personal and social crisis. They have begun **Watch Dog groups to monitor tenure systems, preventing land grabbing and drawing attention** to such cases. They also assist women and orphans to **navigate legal systems** to regain their land. The home-based caregivers supplement their volunteer work with **savings groups** and **income-generating projects.**

##### **Support Required:**

Home-based caregivers in local communities of Kenya, Rwanda, Uganda and Nigeria seek partner support in

- documentation and advocacy for recognition of Watch Dog group
- highlighting the importance of local government collaborations with the community to both resolve and prevent cases of asset stripping from those that are infected, widows, orphans and other vulnerable persons.

## Rural Tanzania

### **Rural Women Seek a Space of Their Own**

#### **Current Practices**

Women pastoralists carry out economic livelihoods activities, purchase and maintain land and advocate for their inheritance rights

#### **Support Required**

- A women's center where women can meet and scale up their activities and advocacy efforts.
- Support advocating for inheritance rights

## Cebu City, Visayas, Southern Luzon and the Mindanao area, Philippines

### **Grassroots Women and NGOs Negotiate and Partner With Local Government for Basic Services**

#### **Current Practices**

Five networks of grassroots women's groups and NGO partners have begun a year-long dialogue process. They will ensure that grassroots women increase their access to basic services and programs through negotiations with government at the barangay, city, municipal, regional and national levels.

They advocate for the full **implementation of the national mandate for 5% of barangay, city and municipal budgets to be allocated to gender and development**. Women establish their priorities to advocate for full allocation of the 5% of the budget.

This campaign will bring poor peoples' needs and priorities from varied regions of the Philippines to the national platform. After the regional dialogues, a National Assembly meeting will be held with government representatives, members of civil society, participating communities, and other stakeholders to **form local work plans** that reflect community priorities.

The grassroots groups have a **track record of success stories** such as: **women-led community pharmacies**, negotiations for **mortgage programs** and agreements on **relocation strategies** with local governments.

#### **Support Required:**

Documentation and endorsement of the community-led processes that make budgetary and participatory mandates a reality.



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## **Rural Uganda**

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### **Uganda Community Based Association for Child Welfare “Community Advocacy to Support Women’s Improved Livelihoods”**

#### **Current Practice**

UCOBAC is an NGO working with home-based caregivers and other groups of organized grassroots women. They are empowering 2,280 rural poor women and their children through **training** and a **savings and credit revolving fund for IGAs in farming activities** and a few **business enterprises**.

Challenges: Men insist on marketing the women’s produce, thus diverting the income from the household. Men also deny women the use of land and use violence against their wives.

To overcome the men’s opposition to women’s empowerment, women have elected each other to the local legislative councils.

#### **Support Required:**

- Capacity building to make the elected women more effective
- Advocacy materials (posters, issue briefs, stickers, badges and banners) sensitize the community and local officials
- Support and advocacy for a platform of recommendations from the community and the elected women