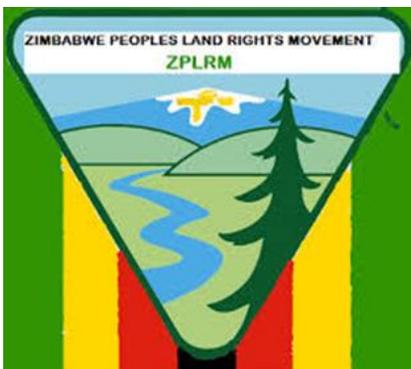




Assessing Impacts of Women's Dispossession from Land and Home

Zimbabwe Technical Workshop Report



**Zimbabwe Peoples
Land Rights
Movement**



**Housing and Land
Rights Network •
Habitat International
Coalition**

Introduction

Having come up with 5 illustrative cases during the normative workshop and first phase of the Learning Workshop - Assessing Impacts of Women's Dispossession from Land and Home in partnership with the Housing and Land Rights Network - Habitat International Coalition the ZPLRM held a technical workshop on 7 and 8 December, at the Grand Selous Hotel.

The main aim being to make an in-depth study of the selected case, in this case the two selected cases Mrs Chipato's case and the Innezdale community case, to ensure that they are complete from the gender perspective and women's values aspect while also making sure that the cases comply with the VIAT application and finalization of the questionnaire which will be the basis of the in depth field study.

Mrs Chipato's case gives an opportunity to quantify and evaluate the impact of dispossessions, for women headed families as it is a post violation case, while giving an insight into the potential damages which might be incurred by the women headed families in the Innezdale community who are living under threats of forced evictions. The technical workshop reviewed the learning of workshop 1 on gender equality approach to human rights, particularly, housing and land-related rights and effective remedy in cases of violation. A review of the VIAT was also done to ensure that the cases and questionnaire were all applicable to the field study. The mixed format workshop included HLRN partners who attended and made presentations online from Egypt, Canada, Kenya, Uganda and Zambia while in Zimbabwe presentations included victims of violations from case study communities and participants from the normative workshop.

Day One

Agenda

Session 1: Welcome and introductions

Session 2: Review of the Learning: Theoretical Part

Session 3: Developing the Chipato and the Innezdale Cases Selected for In-depth Impact-assessment

Session 4: Reviewing the Violation Impact-assessment Tool

Session 5: Kenya and Uganda Experiences

Day Two

Agenda

Session 1: Summary of the first day and introduction to the second day

ZPLRM/Zimbabwe participants

Session 2: Developing the Innezdale Case Selected for In-depth Impact-assessment

Participants/proponents of cases

Session 3: Unpacking the Model Survey Instrument/questionnaire

Session 4: Refinement of draft survey questions for the Chipota and Innezdale cases

Participants in small groups.

Session 4: Groups report back to plenary and discussion

Group rapporteurs

Session 5: SWOT Analysis Exercise

Session 6: Next Steps and Division of Labour.

Day 1

Session 1

After a brief round of introduction from participants both online and in person participants majority of which were from the previous workshop, the National Coordinator of the ZPLRM Mr Hilary Zhou gave a brief overview of the project Assessing Impacts of Women's Dispossession from Land and Home. Recapping on the major highlights of the previous normative workshop which gave a history of the Land and Housing Rights in Zimbabwe and the situation on the ground in terms of women's land and housing rights from a legal standpoint. Also reviewed were the various women's rights and legal frameworks from the local, sub regional (SADC), regional (AU) and international right up to the local spheres (councilors, chiefs, village heads) which are the first point of call in terms of seeking redress. Key in the review were the monitoring and reporting mechanisms on Human Rights violations and the state's local, regional and international obligations and the rights of victims to remedy and reparations.

Session 2

Review of the Normative learning workshop - Joseph Schechla

The session focused on recapping the key aspects of the theoretical workshop which have a bearing on the selected cases for the VIAT application.

State commitments - these being agreements or pledges under local Constitutional laws, regional and international treaties which the state has agreed and pledged to uphold, through these treaties the state then assumes obligations and duties under International law to respect, protect and fulfill these rights. Which makes the state the duty holder in most violations.

The right to adequate housing CESCR General comment no. 4 describes adequacy in terms of the right to housing as being guided by seven aspects which are:

- Legal security of tenure
- Availability of services, materials, facilities and infrastructure
- Affordability
- Habitability
- Accessibility
- Location
- Cultural adequacy

And GC7 defines the requirements of a lawful eviction as required by the International treaty which should be fulfilled for an eviction to be legal hence obliging states to ensure zero forced or illegal evictions. These two general comments GC4&7 are the basis or the norm which every state that has signed and ratified seek guidance from in terms of national laws.

Session 3

Developing the Chipato Case Selected for In-depth Impact-assessment.

The session was centered on a presentation and discussion with the victim Mrs Chipato for the in-depth impact-assessment intervention. The session worked on filling in any information gaps and ultimately focus on the strategic objectives of using the quantification method to provide remedy in this case, as well as the policy implications that may arise. It focused on 7 key areas which completed the case for in-depth impact assessment as mentioned below and was also a review of the normative workshop which focused on the selection of the cases for assessment of this post violation case with an aim to quantify damages incurred in the forced eviction so as to be able to seek remedy.

- Context
- Case and gender aspects
- Type of violation
- Phase
- Redress
- Duty holder(s)
- Remedy sought

Session 4:

Reviewing the Violation Impact-assessment Tool.

In this session led by Joseph the major focus was on reviewing the VIAT focusing on the key aspects of the tool to make sure that they are in sync with the selected case. The session discussed the various household, communal, state and social assets that are important in violation impact assessment and how best to adjust these to the local or case specific requirements. The discussion focused primarily on defining the below stated terms with a focus on their local and case specific context.

1. A: Values and Assets (household)
2. B: Regular Expenditures (household)
3. C: Social Assets (household)
4. D: Civic Assets (non-material)
5. E: Public/State Costs/Expenditures

Session 5: Kenya and Uganda Experiences

Diana Lee-Smith and Sam Ikua, Mazingira Institute (Kenya); Dorothy Boziwe and Brian Odella (Shelter and Settlements Alternatives: Uganda Human Settlements Network—SSA: HSNET)

Participants heard from the experiences at developing, validating and applying a survey questionnaire based on the VIAT in the cases of partners in Uganda and Kenya. The session explored the objectives, challenges

and adjustments to the VIAT and survey tool in order to suit the requirements of the particular case or community situation.

Day Two

Session 1:

Summary of the first day and introduction to the second day

ZPLRM/Zimbabwe participants

Session 2:

Developing the Innezdale Case Selected for In-depth Impact-assessment

Participants/proponents of cases.

As in the Chipato case the focus was on the filling in of information gaps and clearly laying out the case for in-depth violation impact assessment this being an on going pre violation it was important to make clear remedy which would prevent future violation. This case has a potential for feeding into the currently underway land policy crafting as it has a national scope considering the number of women headed families from this particular community which can be taken as a sample of the bigger national picture in resettlement communities around the country. A full inquiry into, and documentation of the affected women's issues and quantification of their (material and nonmaterial) values at stake would contribute to the desired remedy. So unlike Mrs Chipato's case this case sought a more of policy related remedy which protect the Innezdale community in general and particularly Women headed families from violations in the future.

In order to fully describe the case six elements were taken into consideration (1) the context as drawn from the typology of typical and actual social, institutional, legal, developmental or environmental determiners causing or enabling the violation; (2) the identification of the specific case, including its title (location or other distinguishing feature) and gender issues and/or values at stake; (3) the type of violation as a contravention of any of the codified elements of adequate housing and/or land; (4) the stage of potential intervention: before (pre-violation), during (ongoing) and/or after (post-violation); (5) identification of the duty holder and (6) form of remedy sought.

Session 3:

Unpacking the Model Survey Instrument/questionnaire.

The session provided an overview of the previous models of the survey questionnaire and the values they seek to capture. Participants made adjustments to the questionnaire to suit the local cases in terms of the terms used, currencies, and adjustments to the questions to the local context. The session also focused on ensuring that the questionnaire spoke to the remedy sought and addressing grey areas of the questionnaire not compatible with the selected cases.

Session 4:

Refinement of draft survey questions for the Chipato and Innezdale cases (Participants in 2 groups.)

Two cases have been selected for the in-depth assessments with one being in the post violation phase which is the case of Mrs Chipato where she has already suffered gross violations and still continues to incur losses daily, and the Innezdale community case is a pre violation or ongoing as the community is living under constant threats of violations it is important for each case have its own tailor made questionnaire to ensure that the objectives are reached. Divided into two case specific groups the session was mainly focused on ensuring that the information contained in the questionnaire speaks to the objectives and remedies sought by each case.

While Mrs Chipato's case is a post violation scenario its questionnaire focused on quantifying losses incurred and losses continuing to be incurred by her continued violation by her not being able to get remedy to her situation. Hence the Chipato case questionnaire dwelt on mostly material, social and civic losses suffered by the violation and the most appropriate remedy. The gender insensitivity of inheritance laws in the country's land resettlement communities nationwide is a threat to hundreds of thousands of women headed families as is shown by Mrs Chipato's case. Mrs Chipato's group also had a pre field test of the questionnaire as they were able to interview her (Mrs Chipato) while at the same time adjusting the content to the land resettlement context.

The Innezdale community questionnaire mostly sought policy and legal related remedy and to quantify mostly non material damages from continuous forced eviction threats, lack of inheritance laws within the land resettlement communities. A combination of the two then produced the complete revised and in context version for field application.

Session 5:

SWOT Analysis Exercise.

At this stage having completed the selected cases and refined the assessment tool this session led by Joseph was aimed at performing a SWOT analysis of our overall strategy in archiving our objectives. Key was selection of a SMART strategy which is defined by five attributes which are :

- Specific
- Measurable
- Attainable
- Resonable / Resourced
- Time bound

Session 6:

Making our case(s)

In both cases there is a very high moral argument as both cases are being targeted at vulnerable sectors in the community who are already in disadvantaged societal positions. In Mrs Chipato's case she is a widow and being disenfranchised of her rightful inheritance by a stranger simply because of her being a woman and widowed. While the Innezdale case focuses on Women headed households who are about a third of the 255 families resettled at Innezdale farm, who are living under threat of a possible violation as the one experienced by Mrs Chipato. The numbers involved of about 100 women headed families involved in the Innezdale case adds weight to our cases as the challenge is highly possible to be of national importance making the cases an issue of national policy concern and pursuable in regional and international frameworks of seeking redress.

Another key element is the legal authorities involved in the process of seeking redress from the local spheres which are the local chiefs, councilors, district administrators who are key as the first point of contact. These local spheres play a critical role in the first steps of dispute resolution and remedy. While in this case an impartial land commission and national courts also have a bearing in seeking redress and addressing cases. Below are there SWOT Analysis tables for the 2 cases.

Mrs Chipato's SWOT Analysis

Strength	Weaknesses	Opportunities	Threats
<ul style="list-style-type: none"> • Experience and guidance from partners in Kenya, Uganda and other countries • Human resources (intelligent and capable colleagues) • Local and first hand knowledge of the case • Offer letter and a strong case • Solidarity of the local community with Mrs Chipato • Solidarity support from the global HIC community • A budget enough to cover the costs of a local survey • Mrs Chipato herself makes a strong case as a women with strength and she 	<ul style="list-style-type: none"> • Limited Budget • Mrs C continues to incurr loses daily • The case is not yet known nationally (will change soon) • Lack of legal representation for Mrs Chipato • Mrs Chipato's documents 	<ul style="list-style-type: none"> • The potential of a strong case with all the data captured and analysis • The potential of Mrs C's case having national, regional and international relevance • Possible challenge to the court decision based on its failure to consider state obligations to Mrs C • Taking the analysis to the SDG views in New York July2020 • Making a press case to raise awareness • Possible collaboration with other actors (academics, journalist, civil society, politicians) • The political situation, including critics of the states behavior in the aftermath of the Fast 	<ul style="list-style-type: none"> • We need to apply our strengths (mentioned above) to minimize threats • Violence • Corruption • Corrupt Judiciary • Apparent refusal by lawyers to deal with FTLR cases • Corrupt Land Commission • The attempt of the authorities, interested parties to break the solidarity between Mrs C and the community (single her out)

<p>clearly understands the case</p> <ul style="list-style-type: none"> • Proximity and accessibility of the crime scene • A smart strategy 		<p>Track Land Reform programme</p> <ul style="list-style-type: none"> • The state did not fulfill the legal criteria of a lawful eviction as in general comment no 7 • Emerging state land policy under development 	
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Innezdale Case SWOT Analysis

Strengths	Weaknesses	Opportunities	Threats
<ul style="list-style-type: none"> • We have a SMART strategy • Budget to carry out the survey • Mrs C's case is a strength by informing us and the Innezdale case of what to expect i.e experience with many other cases • The advantage of numbers over a 100 families involved • Visibility of the case (related to the publicity and numbers of affected persons) • The moral argument arising from the wellbeing of the affected women headed families and children 	<ul style="list-style-type: none"> • Limits to the budget • Lack of legal representation as in Mrs C's case • The vulnerability of the people without means of defense against big actors (politicians, wealthy adversaries) • Lack of tenure documents 	<ul style="list-style-type: none"> • Rehabilitating the reputation of the community which has been portrayed as a bunch of trespassers in the press and political elite circles • Rehabilitating the reputation of the liberation war legacy • Opportunity to build upon the legal definition of the state (territory, people and institutions including government) to spread the understanding that land and natural resources belong to the people in the first instance • Increasing understanding in the world about forced evictions as a gross human rights violation • The universal (UN) acceptance of the full definition of 	<ul style="list-style-type: none"> • Inadequate political will to fulfill the human rights obligations of the state • Use of force/violence • Misunderstanding among journalists that portray the community as criminals in contempt of court • Decisions of judges/authorities who are also improperly trained or politically biased in favor of the strong and wealthy • Attempts to bribe or otherwise favour certain members, including leaders, in the Innezdale community to break the group solidarity that is one of the classical threats to diminish the strength of numbers

reparations as a deterrent against committing such a gross violation

- **The pattern of such cases shows systematic violations that we can raise in the SDG review**
- **Using all of our tools of argument to raise awareness of the community and the public about the people's land and housing rights**
- **Using those same arguments to protect and preserve local solidarity and help them feel more empowered.**
- **The sheer numbers of the (potential) losses, costs and damages should scare off the perpetrators when they know how much entitled reparations would cost them**
- **Turning some threats into opportunities eg training and advocating with journalists to make them aware of the (very interesting and newsworthy) contradiction of the obligations of the state and the violations against the Innezdale community**
- **In such strategic planning, we always seek to turn our weaknesses and external threats to opportunities that we count as eventual strengths in support of oppressed and victims of violations**

Lessons learnt and next steps

One of the major obstacles which face victims of forced evictions is the lack of know how in terms of quantifying damages and frameworks of seeking remedy which leads to many victims failing to seek remedy. The workshop concluded the second phase of the process of assessing and quantifying the damages due to housing and land rights violations with a particular focus on Women. The workshop gave participants an

opportunity to learn how to assess and quantify damages, the sources or origins of the right to housing in cases of forced evictions.

Below are the major lessons learnt during the 2 workshops:

- Norms/Sources of the human right to housing and land

In these sessions participants learnt on the sources of the treaties, comments and state obligations which promote and protect the right to housing and land. Tracing the laws from local authorities, national laws, regional and international treaties which guarantees the right to housing. Basically there are 3 sources of law international, regional law (AU&Sadc) and national from the constitution of the country. Of note was Article 27 of the Vienna Convention on the Laws of Treaties, which says that States cannot argue that their local law or Constitution excuses them for not performing their duties under international law and in these particular cases ICESCR General Comment number 4 and 7 on the right to adequate housing and procedures to be taken when an eviction is to be deemed legal.

- Frameworks/structures of seeking remedy

Participants were taught of the structures of seeking remedy which is one of the major setbacks when victims are seeking reparations. In cases of habitat violations usually the local spheres of authority are key as the first point of call or responders, these include the traditional courts and local authority governed by the chiefs and councilors. After these comes the national courts followed by regional and international frameworks guided by agreements signed and ratified by the government in organisations like the SADC, AU and the UN. This sessions gave a clear pathway of the frameworks of seeking reparations for participants in the case where by the state fails to meet its international obligations under international law and treaties it has signed and ratified.

- Typology of cases

In order to seek reparations the most important thing is to clearly define the case, in this section participants we taught on how to fully define the case in question by defining the context, numbers involved, and an in depth description of the case so as to make a case solid. This also has two key elements of the process of seeking remedy which are the selection of a SMART strategy to resolve the problem and a SWOT analysis of the strategy which identifies the weaknesses, strengths, opportunities and challenges which might be faced in seeking reparations.

- Violation assessment tool and quantification

The technical workshop included mostly the practical aspects of seeking recourse, during the various session participants were taught on how to develop an assessment tool (questionnaire) and its application in the field. During the group discussions one group focused on reviewing the questionnaire to the local context mainly, while another was working on the application of the assessment tool. This gave the opportunity for the group interviewing one of the victims a field test of the tool as they had an opportunity to make adjustments from both the victims perspective and the interviewees perspective. At the end of the workshop a questionnaire was produced awaiting further field testing during the next phase of data collection and quantification during the field application of the assessment tool. A team will be selected for the field survey from among the workshop participants.

The ZPLRM with partner civil society organizations will coordinate the finalization of the impact assessment tool and coordinate the initial pre visit meeting with community leaders and field study.