Introduction

The event that motivated my first interest in gender aspects of privatisation of housing took place in the late eighties, not in Zambia but in Chitungwisa in Zimbabwe.

In a shack at a back yard I met a woman who had been evicted from her home by a new owner. She had lived in a house and paid the rent to the town council for seven years while the husband who had signed the rent-to-buy contract, lived with a second wife in another township. She had never got any support from her husband while they lived as separated.

One morning, a car was parked outside her house. A man with all the legal documents of ownership to her house was angry that the house was not emptied and cleaned out. He threatened with police and demanded her to disappear in a few hours. She did not know that her husband had sold her home under her feet.

At the town council they could not help her. The rent paid over the years was seen as down payments on the house, and that ownership had been transferred to the "sitting tenant" without additional costs. However, it was not the de facto sitting and rent paying tenant who had got the house. The woman's name had also been on the rental contract. Subsidised housing had only been allocated to married men and their wives. But in the privatisation process ownership was transferred to the husband only. Men were empowered with the power of ownership.

This case illustrates that ownership is power, and that power can be misused. This is a trivial fact, but it needs to be highlighted in relation to gender and housing. Was this a single case or is it a general picture that men became empowered in processes of privatisation of housing? In Zambia, the policy of privatisation of housing was rather late in comparison with many other countries. On the other hand, in a very short period of time with a start in 1996, all council houses, most governmental houses, and many houses belonging to parastatals and mines were offered to the sitting tenants for purchase. The president motivated the reform by saying that he wanted to empower people, but did privatisation empower women?
A qualitative study of the privatisation of housing in Lusaka was conducted. 1 Although the starting-point of my study was the tragic case in Chitungwisa that revealed a negative gender impact of privatisation, it is not a presumption of this study that privatisations only have, or always must have, negative consequences. However, very early my investigations in Zambia made it clear that title deeds were most often issued in a man’s name only, although the tenants’ contracts for the council housing called “married quarters” had been in the names of both wife and husband.

Certainly, it would be interesting to assess in quantitative figures to what degree women were deprived of ownership of privatised houses, and also to what degree the houses ended up in the hands of more prosperous people. In other words, to measure the degree of masculinisation and gentrification of ownership. However, at the time of the fieldwork in January 1999 and in January 2000, it was too early to measure such impact in quantitative terms; the process was still ongoing and many title deeds were not issued. The process had gone far enough to interview the people involved about their experiences, their understanding of the processes, and their estimations about tendencies.

The histories of ten informants, which have been selected to represent the variety revealed among about thirty informants in five different housing areas, provide the prime empirical basis of the analyses. Summaries of about twenty-five court cases, more than fifty newspaper articles, a great number of policy documents, and finally about twenty fact-finding interviews with key persons provide supplementary sources of information.

A qualitative analysis of interviews and documents has been applied to identify concepts and rationals in people’s thinking about the process. By looking at how people argue, what ideas they have, and what strategies they elaborate, it was hoped that mechanisms of gender exclusion or inclusion would be revealed. However, the understanding would not be complete if it was not acknowledged that some issues were surrounded by silence. A theoretical model recognising both the power embedded in structural conditions and the power held by actors, individually or in groups can be seen as a tool for understanding of silences. The concept of gender system has provided such a theoretical model and a framework for description and analyses. The gender system consists of power relations, which are seen as constantly renegotiated at all levels of society. Culture and ideology overlay and guide institutions and individuals in their negotiations.

This paper looks closer at the process of privatisation in an effort to reveal the mechanisms of exclusion or inclusion of women. It summarises the history of urban housing with a gender perspective, scrutinises the implementation procedures of the reform and explores how gender and ownership were negotiated at the household level. It finds that while the creation of a housing market opened opportunities for women with resources to buy a house, the majority of women were deprived of ownership rights. It was the men who were empowered with ownership. The paper argues that rights to property and specifically to the home should be put in focus in work for gender equality.

**A history of gendered housing**

The privatisation policy was formulated in gender neutral terms. The “people” was to be empowered. To understand the gendered nature of the reform women’s and men’s different position in relation to housing has to be considered. This position is rooted in the history of housing in Lusaka, which is shortly reviewed below. The housing areas selected for inclusion in this study is here described as examples of housing from various decades and of various standards.

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1 This paper concentrates on women and ownership while the study had a wider approach looking at issues of democracy in the process of privatisation as well as on its effects on class and generation. See the research report “Privatisation of housing in Lusaka, Zambia” (forthcoming) Roma, ISAS.
Colonial housing

Colonial officers were transferred from place to place and at retirement they settled in Europe. Women were excluded from service in the colonies but brought as wives. The residential houses of the colonial staff were part of their employment benefits and this came to set a standard also for African employees. Rental housing tied to employment was a way of avoiding creation of a permanent African urban population. Employers were obliged to provide houses for their employees, and they did so on the factory premises or in special workers camps. Often, the workers houses were only temporary structures. One example in Lusaka is the Railway Camp built in 1945.

In the early times of the colonial towns, African men were seen as guest workers. Their wives were supposed to remain in the village, do the farm work and raise the children. Single women in town were not seen as decent women. There was no legal form of employment open for them, possibly with the exception of being a nanny. Domestic work in general was reserved for men.

In the late forties the system of male migrant workers was modified so that rental family housing was built as a way of accommodating skilled labour on a more permanent basis, still maintaining the idea of Africans retiring to the rural areas (Mashamba 1997). During the fifties, Lusaka city council built a huge housing area, Matero, consisting of small but permanent houses, called “married quarters”. The houses were let to council employees but also to private companies.

In the rental contracts of the “married quarters” the names of both husband and wife were noted. There was still no labour market for women. In the urban household women became dependent on their husbands’ income. Women who in the rural area had been subordinated family power now became subordinated their individual husbands. His role as the head of the household was made very powerful (Munachunga 1989). A gender system, which can be characterised by a male breadwinner, and a female homemaker was established and adopted in the minds of people as the modern way of life.

Post-colonial housing

The housing policies in most independent countries show a striking similarity with the colonial housing policies (Potts 1999). What made a difference was the rapid growth of unauthorised housing areas. The independent governments were reluctant to respond to the needs of rapidly increasing number of rural immigrants. Aspirations were high and in Zambia like elsewhere the government refused to lower the standards of legally built houses, thereby contributing to the growth and consolidation of squatter areas.

The few housing areas that were built were of high or middle class character. The government produced some areas for civil servants, while private contractors produced a few, for example, Lilanda, built in the sixties outside Matero. However, most houses in Lilanda were sold to governmental agencies, parastatals or private employers for them to house their employees.

Lilanda, situated near the heavy industrial area, a working class township and a huge squatter area, was never an attractive area for the middle class. Areas of similar standard and character in the south of Lusaka, such as Libala built by the council in the seventies, rendered higher value. In the seventies, the government also built some relatively modest three-bedroom houses in Woodlands, one of the most attractive areas in Lusaka.

Since the eighties, few houses were built within the formal sector and almost nothing by public providers. In the year 2000, housing officers in the city council estimated that only one forth of the
housing stock belonged to the formal sector. Before privatisation, more than half of the formal sector houses was publicly owned and had tenure tied to employment.

Civil servants and many other employees in the formal sector were privileged by living in houses rented or owned by their employer. Housing or a housing allowance was part of the employees’ remuneration package, thus affecting their wage level. As there were very few women in formal wage employment, a system that tied housing to employment largely left women out. But it was not only this indirect discrimination of women in relation to housing. Women in wage employment were neither given a house or a housing allowance.

Gradually, since the eighties a more liberal praxis had been adopted also in relation to women’s rights. Widows to wage workers were allowed to remain in the house and unmarried working women were accepted as heads of their households and eligible to housing, but discrimination continued against married women employees.

Security of tenure was so high that years of arrears could accumulate without the tenant being evicted. I came across several cases showing that since the late eighties council tenants had even managed to transfer the tenure to a son. Thus, tenure was even inherited. The government seemed to have been stricter than the council on the rule of evicting the tenant at retirement. Nevertheless, at the time for privatisation, due to the history of public housing, most registered tenants were married couples in their upper middle age with the houses tied to the husbands’ employment.

**Privatisation and presidential initiatives**

Before the election in 1991, that brought the Movement for Multi-party Democracy, MMD, to power, housing had played a significant role in the oppositions campaigns. But it took five years before a new housing policy was adopted (MLGH 1996 a). The policy emphasised home ownership and envisaged the removal of rent controls and withdrawal of tied housing, but it did not explicitly mention privatisation as a means of implementation.

Later the same year, without previous circulation and discussion, the privatisation of all council and most governmental housing was ordered by presidential decrees and a handbook (MLGH 1996 b, Cabinet Office 1996). Local governments and parastatals were not that happy. They wanted to keep the houses for their employees and as a basis for revenues. Initially, it was said that houses should be sold to the sitting tenants at a market value, but additional decrees stipulated a number of reductions depending on the age of the house. All houses built before 1959 were given away for free. This applied, for example, to the houses in Matero.

The so-called Presidential Housing Initiative, PHI, was presented as a way to provide home ownership of affordable houses for all Zambians. The idea was that incomes from the sale of governmental and parastatal housing would finance the provision of new housing. The President centralised a lot of economic and decision-making power in the field of housing to an *ad hoc* type of government body under the leadership of his press secretary. He appointed an advisory group of ten persons whereof no woman. Lusaka was selected for the first phase of PHI housing provision. However, the process was slow and in January 2000, no one had moved into the area. The houses turned out to be very expensive.

**Mechanisms of exclusion and inclusion**
In 1996, letters were sent from government institutions and the city council to the residents in public housing offering them to purchase their houses. They were asked to come to the respective office and bring their national registration card, their payment card (showing their payment of rent), and their tenant’s card which had both husband's and wife's name on it. What were the mechanisms of exclusion?

In the nature of this reform is the exclusion of all people who were not sitting tenants, who had not previously gained from the benefit of staff housing. The gender bias among the tenants has been explained in the section on housing history, which also explains a generational bias. The exclusion of the young generation was a matter of concern brought up by many informants.

In this section, I will first look at the process of transfer of ownership and exclusions occurring in as a result of rules and regulations, formal or informal. With the creation of a housing market the economic mechanisms became dominant in the continuing process of exclusion and inclusion. Dynamics of class and gender interplay in the privatisation process.

**Regulated exclusion of non-Zambians and sub-tenants**

Discrimination according to rules was applied against non-Zambian citizen. Regardless of years as sitting tenants they were not to benefit. The number of non-Zambian citizens is quite large among the tenants, especially in the poor council areas. Ever since the time of the federation with Malawi and Zimbabwe before independence, many working class families count their origin from outside the present borders of Zambia. As ordered in the circular letter, only Zambian citizens were eligible to buy the houses they occupied. The council allowed children to non-Zambian tenants to be the buyers of the house, given they were Zambian citizens. For many families this was a solution, but council officers had also noted cases of old mothers being evicted by their sons.

Tenants had been allowed to sub-let if they worked temporarily in another town and if the registered sub-tenant. In these cases the offer of purchase was given to the contract-holding tenant, as the sub-tenant only had a temporary contract. However, a lot of houses were illegally sub-let. As women largely were excluded as formal tenants, it is likely that among the sub-tenants the women headed households were represented in, at least the same rate as in Lusaka as a whole, that is about one in five households. As a sub-tenant a woman had a chance to win if she claimed the house.

The city council did not check who was living in each individual house, although evaluation officers were addressing each property. Thus, sub-tenants had to come forward themselves and claim their right. However, not many did so. They knew they had been living in these houses illegally. For years they had tried to keep away from council officers, and few trusted that their illegal behaviour had rendered them rights. Their lack of trust seemed to have some basis as local housing officers argued that a house was council property even if ten per cent deposit was paid, and that the council was in its full right to evict illegal tenants.

**Non-regulated exclusion or discrimination of women**

All the residents in the privatised housing areas were not gaining ownership rights. With two names on the tenant’s card it was still the husband who was regarded as the sitting tenant. He could ask for the house to be transferred to him only or to joint ownership with his wife or his children. The council never asked for the opinion of the wife. She did not have to give her consent to the transfer of a rental contract in which she was named to ownership in the name of the husband only.
Officers in government and council emphasised that there were no laws or rules to exclude women from ownership, but the procedures vested the power in the husband as head of household, and he could take the decision with or without consultations with his family. However, many women suspected that they were discriminated against by male officers and their informal rules.

The family had lived in the house since 1966. During the 33 years of residence the owner and employer, a small governmental agency, had never made any maintenance to the house. The residents had painted themselves. The family had never paid rent, as the house was staff housing, only water and electricity. In 1997 the man of the house passed away. As the policy of privatisation to sitting tenants was loudly announced the widow wrote to the board asking for a purchase offer. She got an answer about restructuring of the agency why they could not take any decisions.

The widow suspected that the senior officers at the agency wanted the house for themselves. Next year she wrote again and got the answer that the agency would keep the house for members of the staff. They offered help to "repatriate her and her family to wherever she wanted to settle in Zambia". She still suspected that a senior staff member would first be offered the house as staff housing and then is allowed to buy it. She further suspected that they tried to cheat her because she was a woman.

Institutions such as schools or hospitals were not obliged to sell their staff houses. In this case a small governmental agency defined its houses as institutional houses, a definition that was not only contested but also believed to be a fake argument by the widowed resident. Her distrust was in no way unique. Most people we talked to seem to take for granted that rules were manipulated to benefit who ever managed to manipulate them. There were many cases in which administrative discrimination against women was suspected also in the process of privatisation:

When this woman’s husband died in early 1990 the Ministry owning the house evicted her from their home. She was herself employed by a Board that accommodated their staff in houses owned by the city council. As a widow she became eligible to a staff house. Late the same year she got a house in her own name and moved in and started to pay rent. The previous tenant, a man, had been transferred to another town. When the house was to be sold, the Board recommended this man, the previous tenant as purchaser. He got the offer of purchase and demanded the woman to evacuate the house. After showing receipts of rent paying during the last six years at the city council, the house was transferred to her.

The conflict could be due to poor record keeping at the Board, but it could also be, as the woman herself believed, that the staff of the Board favoured an old male colleague. Whatever the truth, in these cases both widows firmly believed that the administrative personnel were manoeuvring in order to get hold of the house for one of themselves.

Market opportunities and women’s priorities

The exclusion of poor people from ownership is inevitable when houses are turned into a scarce commodity and there are rich people ready to pay. The decision to transfer old houses to no cost was a measure taken in order to include also poor people among the owners. Repeated postponements of deadlines for payment were issued to the same end.

Many residents in Matero and other poor council areas were still not able to gain ownership to their house due to heavy depth from years of arrears in rent paying. Many of them found a buyer to their house that paid both the rent arrears and a good sum to themselves. The housing officers in the area
had the impression that women who were heading households due to divorce of widowhood were over-represented within this group. It was impossible, within the limits of the field study, to produce figures to support this.

When attractive houses are put at the market buyers with money or access to credits have their opportunities. The procedures of privatisation of housing in Lusaka were a process of masculinisation of ownership. However, women with resources readily exploited the opportunities opened by the market. Previous studies in Lusaka and the region indicate that for urban women ownership to a house is of higher priority than for men (Schlyter 1988, 1993). They have less options of gaining security and incomes by employment or rural connections. As the main users of houses they also put a higher value on qualitative aspects. The opening up of a market can said to be of special benefit for unmarried women in high and middle-income levels.

One woman bought a house in Woodlands, and accessed a loan to build a large home for herself and her children. Many other informants said that you got to have contacts to manage. And without knowing the details in her case, I noted that a minister visited her house at the time for the interview.

This woman had already built the large extension. She had got the necessary permits without complications and she had borrowed money from a building society to a very high interest rate. Her housing cost would be substantial but she said that she could afford that, and she wanted her children to have rooms of their own.

This woman said that she was prepared to sacrifice a lot for having a nice home. However, most of the interviewed women owners in Lusaka emphasised security, not only the security of having a home, but the security the house provided as a potential source of income. Other woman saw the opportunity to buy the house as a business opportunity. And so did many of the women beneficiaries of privatisation.

The intention of a woman economist in Woodlands was to rebuild her house into a luxurious standard and let it to an international company or an embassy. She intended to move to a simpler place when the house was ready and use the profit to invest in business. In her interpretation this was what the president intended when he said he initiated privatisations in order to empower the people. She acted promptly. She had used all her savings and worked extra as a consultant in order to pay the outstanding sum and complete the purchase.

This woman even paid a lawyer in order to avoid any delays in getting the title deeds:
- Governments come and go. Political promises may fail. Therefore I paid it all and got my deeds.

Also in the less prosperous housing areas many women had been extended their houses during the short period since privatisation. In Matero there were many informal mud brick extensions, but also many properly built ones. Frequently, completely new houses had replaced the old ones.

One woman owner had without any problems got plans for extension of her small house to an eight-roomed house approved by the city council. She had ordered surveying of her plot and bought the house plan from the council. She had also installed electricity. She wanted inside water but had been told by the city council that the water pressure was too low so she had to be content with a tap on the plot. She wanted to have a fully serviced house in order to be able to get a high rent from her rooms. She let rooms to five renting families. The woman planned to extend with another two rooms, and move herself to a cheap rented room, preferably in another area. She found it burdensome to be a resident landlady and she needed the money from all the rooms.
There were women for which the privatisation meant a start of a successful business. For most new owners the obtaining of ownership was not an end to all problems. At the contrary, the new owners often found it rather tough to cope.

One woman owner in Lilanda was in severe difficulties as she was ill and had lost her job. She had sold off her belongings and was prepared to move a cheap room in order to get an income from the house and be able to pay her loan.

The housing officers mentioned that among the few women who gained ownership several had after a short period surrendered their ownership to a male relative. They found it hard to maintain the house, they were in economic crises, and the housing officers recalled, they were under strong pressure from their male relatives.

Ownership and power in the family

The authorities vested the decision-making power in the family in the man. If the house had been tied to his employment, he was regarded as the “sitting tenant”. The men constituted the “people” that was to be empowered. In this section looks into how (if) ownership was negotiated in the families. What kind of conflicts emerged? What were the arguments for exclusion of women from ownership at the family level?

During the interviews I found that there was lively discussed within the families about the concept of family house. Any gender issues I brought up tended to be hidden in discussions about family and family houses. There was a tension in how to view ownership. The conflict between individual ownership and a collective non-commercialised view on housing was also in the centre of many court cases. The arguments for exclusion of women have to be understood in the context of the family house discourse.

Joint ownership rejected

Married couples were asked about their views on joint ownership between spouses. Only one couple among all I interviewed said that they had seriously discussed the possibility in between themselves. Husbands rejected joint ownership between husband and wife. The most common argument was that it would put the children at risk of being disinherited. The widowed wife’s relatives may intervene or she may remarry. The house would not remain within the husband’s family.

I asked if not the house could remain the wife’s even if she married. After all, I argued, most mothers care about their children. But the argument met little understanding. I was said to be ignorant about how a new husband may be able to force his wife to behave. If the wives had different views on the matter they did tell me. It is a wife’s duty to support her husband and not argue in front of a stranger or a guest.

Musonda (undated) assumed in an article about the social impacts of home-ownership that title deeds were issued in the names of both the man and his wife, and he foresaw a situation where marriage breakdowns were drastically reduced. “Resolving marital problems through mutual respect of each other’s opinion is likely to take precedence over arrogance, fighting and disrespect. Legal wrangles of who inherits the property in the case of divorce are likely to discourage many Zambians from divorcing.” Musonda seems to assume that the male spouse initiates most divorces. For the wife joint ownership...
ownership would strengthen her position considerably. Without that she has no rights to the property whatsoever.

Maybe men’s rejection of joint ownership is grounded in the fear that their wives would ask for a divorce and for half of the value of the property. I was told that men rejected joint ownership because they feared being poisoned by their wives who would keep the house for herself. But this fear was only ascribed to other men; no man admitted this to be a reason for his own rejection.

Wives’ inheritance rejected

Although widows had legal rights to stay in their home as long as they did not remarry, all informants knew that property grabbing was still common in all social groups. There were court cases that gave evidence of that.

Caring husbands were conscious about the vulnerability of a widow. Nevertheless, they rejected making their wife to an heir, which would have secured her rights, with the same arguments they rejected the wife as a joint owner. A prosperous or industrious couple managed to plan for the wife’s security by multiple house ownership:

The family had lived in a three-bedroom house in Lilanda since the eighties. The husband had worked ten years for the city council. In 1996, he asked for retirement and for being allowed to buy his house. He was retired and got K 8.5 million plus pension. Although this was very early in the process of privatisation he had no problems in getting the house transferred to him to the cost of K 3,360,000.

I asked the man for permission to interview the woman of the house. He said OK, but then he himself answered all the questions. He praised her for being strong and entrepreneurial. He and I sat at the table, while she sat at the floor close to our feet. The husband told me already in 1970, he bought a plot in a village thirty kilometres from Lusaka and built a two-roomed house. He did so to secure a place for his wife in case he deceased. That house was in his name, but there was no risk for property grabbing in the village. He had let the house to renters and got rent incomes from it, not much though.

More profitable was a house his wife had built to herself in the eighties. She wanted to secure the possibility of remaining in town. She was allocated a plot by in an extension area to Lilanda. The area was not planned according to all legal procedures, but by the local leaders as a medium density area. She did not pay for the plot. No one paid more than a small fee. A builder was contracted and the wife built a three-bedroom house with WC and bathroom. Depending on how big their family continued to be (at present they had two adult children and two grandchildren living with them) they might move to the wife’s house, as the rent they could collect from the council house would be higher.

Several men worried about their wives’ welfare in case of widowhood, but usually they did nothing but putting their trust in their children. The new house owners discussed a lot about inheritance. There were men who, after family consultations, concluded that it would be best if a daughter inherited the house. They argued that a son may sell the house, but a daughter would most likely stay in the house with the family and care for her mother.

The concept of family
Why was it that a daughter’s marriage was not feared in the same way as a widow’s? The men who wrote wills in favour of their daughters would never even think of including the wife in the will. Their rejection of letting the wife own a share of the house was obviously not based on a general rejection of women as property holders.

The same men rejected joint ownership with their wife, still they cared about her. Her wellbeing was part of the argument for giving the house to a daughter. The importance of leaving the wife out of ownership also after the owners own death indicates that the power and control the men wanted to maintain by sole ownership is not just a question of individual power but has to do with the concept of family.

If the widow remarried she would “leave” her former husband’s family, while a daughter married, she and her children was always part of the family. There were also arguments that a daughter’s husband should know that it was a family house and her brothers would defend it as such. I must confess that I was not always able to follow the arguments of a matrilineal logic with patrilineal influences and in the process of adapting to the “modern” logic of ownership. Further more, the concept of “family” varied in meaning.

My male informants talked about their family, sometimes referring to the nucleus of parents and children, sometimes to the present household residing in the house, but sometimes to their larger family, and in this family the wife was not included. This is also noted in a comprehensive study in Lusaka carried out by the Women and Law in Southern Africa: “Although she states that marriage creates one family, in further discussions she sees the family created by marriage as two separate families.” (WLSA, p 32). As property in an urban household is seen as belonging to the husband, and the privatised houses is in his name, the widow remains vulnerable and regarded as an outsider.

Drawing from several respondents representing different ethnic groups the WLSA study concludes that a marriage does not create a family, it creates a household with two distinct but linked lineages. Thus, it was not only my informants who gave contradictory views about a definition of family. I can only confirm the conclusion that “in the Zambian context, there is no consensus on the definition of family” (WLSA 1997, p 5).

As a family member a person can with reference to tradition put claim some rights, for example, on access to accommodation in the house of another family member. However, “traditional rights” were constantly negotiated as were the definition of who was a member of the family or not.

**Married women’s legal rights**

The registrar at the deeds office emphasised in an interview that women have the right to own property in Zambia. Since the early nineties, also married women have been issued title deeds without being asked for the consent of their husband. But the right of ownership is compromised by customary law which until recently have been interpreted as giving married women a status as minors.

Customary law is applied at the local courts in the urban areas. There is no written customary law in Zambia and the proceedings often have the character of negotiation between the parties. Customary law as a reflection of custom is not a rigid system but in continuos adaptation and under contestation. The preceding officers are usually elderly men, respected in the society. I was told that there were two women preceding officers in local courts in Lusaka. However, there were only male preceding officers in the Matero courts where I investigated the archives and identified court cases dealing with women and property.
As late as in the early nineties, there was a case in a Matero court where in the judgement a woman was treated as property of a man rather than as a human being with human rights. The woman had been battered and sought refuge at her mother’s place. Her husband sued her mother, and the mother was ordered to deliver the daughter back to him.

Since then the local courts have also shown ability to adapt. An example is that maintenance often is awarded to divorced women, a thing that has no basis in tradition. Maintenance certainly responds to an urgent need for many divorced women with few possibilities of incomes. But it can also be noted that it fits well into a patriarchal view of men as the sole owners of the matrimonial home and women as perpetuate dependants. There is a patriarchal bias in customary law and in the local courts.

Customary law is subordinated statutory law. The adaptation takes time but a decade after the adoption of the Inheritance Act in 1989, it was fully acknowledged and accepted in the local courts of Matero.

A widow wanted to keep her home, the house of her late husband. The late husband's relatives regarded the house as their property, evicted the widow and put it on rent. In the court the administrator of the property, a sister of the deceased, argued that the house was her brother's, bought before he married. She also claimed that she collected the rent because she intended to use the money to keep the children of her brother. It was not her fault that the widow refuses to leave the children in her custody. With reference to the Inheritance Act the court rules that the widow has the right to remain in the house, but adds that she has to leave it if she remarries.

Poor people take property conflicts to local court, but if the value of the property is substantial, the case is transferred to High Court. Cases in the High Court had the same outcome. The widows were not granted the ownership, only the user rights and the administrators remained in control.

Poor people have to get support from a legal aid organisation in order to get access to High Court. Many widows refrain from claiming their rights not because of lack of information and consciousness or lack of resources to access High court, but in order to keep the good relationship to the in-laws. For a widow a continuos good relationship to the in-laws are often more important than staying in her home and get a share of the matrimonial property. As it is put in a Women in Law Southern Africa study “Rights are easily compromised by social dictates, for example, the gender system” (WLSA 1997, p 8).

Married women feared widowhood and dependence on an administrator or a single son or daughter for accommodation at old age. Therefore, it was common that they argued for a construction of ownership that made the house a family house. They argued for a joint ownership shared between their children. With no chances of ownership to her home, a married woman used the concept of a family house in efforts to secure a home at old age.

Individual ownership or a family house

The meaning of the concept family house varied as much as the meaning of family. The concept of family house was often used by relatives who wanted accommodation in a house, regardless of who hold the title deeds. Individual house owners wanted to see the house as her or his individual property. They argued that the house had been tied to their own employment, or that it was bought by money earned from the owner’s own employment. Claims from relatives on the house as a family house were rejected. They saw the house as their individual property for the future benefit of their own children. With wills and by other means they tried to keep their extended family out. To be a house owner or a
wife to a house owner meant continuous negotiations with relatives which outcomes greatly effected the everyday life.

A wife who complained that the relatives of her husband saw the house as a family house and come and stayed for long periods. She was young and had to serve them and keep quite. She strongly rejected a proposal from the relatives to pay for an extension. She pleaded to me for support:
- As long as my husband has paid it all, it is not a family house?

Although the concept of a family house was frequently used in discussions on utilisation and inheritance, it seemed to be rather unusual that it was a joint family business to buy, build or rebuild a house. To raise money for the purchase within the time limits of privatisation it happened. The number of court cases shows that joint ownership can be a conflict-ridden enterprise. For example, a woman wanted legal advice in the following situation:

When her father that was a tenant of a city council house in Libala Stage Three retired in 1988, he managed to get the tenure changed to his son, her brother. When the house was offered for purchase the son who lived in the house with his mother could only raise K 0.5m. His sister who lived elsewhere paid K 2 m. She wanted the title deeds to be on their mother, but her brother put in his own name only. Now the brother has put tenants in the house without counselling the family or sharing the income. What could she do?

I do not know what advice she got. I visited the house but it was let to tenants who knew nothing about the owners. They had paid the rent in advance to a go-between-man.

The value and power following with property ownership often created conflicts. The concept of family house was often contrasted to individual ownership. In the following case which were brought to the High Court, it was used but disregarded by the court:

The legal tenant and contract-holder of a house in Libala worked outside Lusaka and left his children and his house in the care of female cousin. She was married and brought her husband and own children in the house, where they lived together with the contract-holder’s children. She saw the house as a family house and she paid old arrears and the rent but she was never registered as a sub-tenant. The children of the contract-holder did not contribute to the rent or to household expenditures.

After three years, when the offer of purchase came they had a family counselling and agreed that she bought it in his name, and then it should be transferred to her. She paid K2,060,000 but then her cousin refused to transfer ownership to her. He promised to do so if he could live in the house with them and be “looked after”, which means free boarding, for five years.

In the court he argued that he wanted it to be a family house, and claimed that he never understood the agreement. He offered to refund his cousin by selling the house to somebody else. The market value of the house had increased, so such a deal would have been profitable to him.

In the judgement it noted that agreements over property should be in writing. Nevertheless, it was noted that no one contested that the woman had lived in the house, paid rent and paid the purchase, therefore it was ruled that the house belonged to her. A year later she had gone to court again and she was granted an eviction order. She used police force to evict her cousin.
In High court, the “modern” view on individual ownership is fully accepted. However, conflicts arising from the contradiction between the concept of individual ownership and claims on family houses were also brought to local court:

The owner of a house in Lilanda failed to make a living in Lusaka and moved to the village. He left the house with a nephew who managed to change ownership into his own name. Later came a second nephew, a cousin to the new owner, and asked for accommodation in what he regarded to be a family house, but he was not allowed into the house. The cousin went to the village and complained to the original owner who said that he never sold the house. He had just left it in the care of the first nephew. It was a family house intended for all his nephews.

In court the second nephew claimed access to the house. The first nephew, the present owner, said that the original owner agreed to the change of ownership, and that it is impossible for all fifteen nephews and nieces of the first owner to live in the same small house with their spouses and children. Now he has the ownership and he wants to live there alone with his family.

The court upheld the claims. The defendant was the legal owner as the uncle had sanctioned the change of ownership. However, the court advised that he cares for his relatives and allows them as casual visitors to the house.

The judgement in this case is interesting that it accepts the individual ownership but still advises the owner on how to interpret custom in the contemporary urban situation.

House owners strongly avoided joint ownership and they rejected the view of the house as a family house in the meaning of accepting claims from relatives. In contrast, talking about the future, they strongly argued for the house to be a family house for the benefit of all their children and grandchildren.

Gender conflicts were embedded in conflicts between generations and families-in-law. The conflicts generated by the concept of a family were not primarily between women and men but rather about collective and non-monetal versus individualised and commercialised logics of thinking. The conflicts surfaced around issues of inheritance. And still, in spite of some changes, married women and widows have a very weak position in relation to property and are often deprived of the right to their home. Often women stood against each other in conflicts as sister-in-law against wife, or co-wives against each other. Nevertheless, the conflicts were rooted in a patriarchal gender system, where all women were subordinated.

**Gender equality and property rights**

The privatisation policy was pushed through by an active government showing strong decisiveness to transform the system of tied housing and public ownership into a market system with private ownership. Was there a parallel process for transformation of the gender system, into more equality and recognition of women’s property rights? Were there any efforts to strengthen women’s position so that women equally could benefit from the gender-neutral policy of privatisation?

Was gender considered and negotiated at any stage of the work with the privatisation reform? A largely negative answer to this question raises new questions. It is generally assumed that an increased number of women in decision-making positions would at least put gender issues on the agenda. Were
there any women in policy-formulation or decision-making positions in the field of housing? Why was the strong women’s movement silent?

Gender policy with delays

In 1995, in Zambia like in other countries, women’s issues were put on the political agenda during the preparation for the Beijing conference. A draft National Gender Policy was published in 1996, but not adopted (NCDP 1996). After the Beijing conference women's organisations and non-governmental organisations used the declarations from the conference as a platform for action. The level of activity and engagement reflected the growing number of educated women in wage work.

The expectations on the new government coming to power in 1991 were great among women and women’s organisations (Sampa 1996). But they were disappointed. According to the local NGOs the Government did not want to adopt the National Gender Policy, although in 1997 the heads of state or government of the Southern Africa Development Community had signed a declaration in which they reaffirmed their commitment to the Beijing Declaration and the Platform for Action (UN 1996, SADC & SARDC 1999).

At the end of 1998 a big meeting was held in Lusaka with representatives of organisations in all provinces and with members of parliament. The meeting agreed on a revised draft of a national gender policy. The permanent secretary at the Gender in Development Division at the Cabinet assumed that adoption of the policy would follow the development of its implementation plan. However, the adoption was delayed, and the policy was not taken during 1999. The decisiveness shown by the government in its efforts to transform the housing system did not have a parallel effort to change the gender system.

Without an approved gender policy, the Zambian government has, nevertheless, listed a number of coming reforms in support of gender equality (Chiyenge 2000). One of these is the reserving of ten per cent of available land (for allocation) exclusively for women applicants, while the rest is competed for between women and men. I asked in Lusaka if this was implemented also regarding urban land and properties, but this distribution policy was either not known or believed to refer to land for agriculture only, not for residential purposes.

Women in policy formulating position?

The Zambian government has promised to work for more women in senior civil service positions (Chiyenge 2000). In line with the Beijing Platform for Action the Government has appointed “gender focal points” or “gender desks” in sector ministries, provincial administration and other public institutions to co-ordinate gender mainstreaming in their respective institutions. In the “Social Watch” report the attempts to institutionalise gender equality at various levels of governmental structures are positively acknowledged, although in conclusion, these initiatives are seen as inadequate (Chigunta 1998).

Critical voices in the NGOs claim that the desks are empty or there is a junior person who is not even informed about what is happening and what policies and reforms are prepared. In the Ministry of Local Government and Housing a senior person in superior position held the post. She did not see it as her responsibility to scrutinise reforms, plans and projects from a gender perspective. She saw herself as a watchdog for gender equality in recruitment and other staff issues. Gender aspects were not mainstreamed in the policies, but if she is successful there will be more women in decision-making positions.
Similar efforts were not made to increase the number of women politicians. In 1996, there was one woman among twenty-four ministers and five women among 38 deputy ministers. There were fourteen women of 150 parliament members (CSO 1996). At the level of local government there were only twenty-six women councillors (two per cent) after the 1992 election, a figure which increased to 80 in 1998 (NWLG 1998). Among the hundred mayors there were no woman. None of the ministers appointed by the President were women.

The National Women’s Lobby Group had been working hard with lobbying in order to get more women in decision-making bodies but with limited results (NWLG 1999). A workshop for women politicians identified thresholds and difficulties met by women. For example, one woman had been asked by party officials for her husband’s consent before she was allowed to stand for the party in election. Another was asked to stand back by her uncle/guardian. Still others were warned for witchcraft.

Housing is important to women but there are few women in the housing sector. One woman publisher in Livingstone got 52 per cent of the votes as an independent candidate in the local election. She had become popular as she had written about how councillors and their relatives and friends were allocated plots and how the mayor sold council housing (NWLG 1999). This case illustrates that housing is a hot political issue and that privatisations are contested and that brave women can succeed, but as a whole, women have not been in policy-formulating or decision-making positions when it comes to housing policy.

The priorities of women’s movements

In Beijing in 1995, at the UN conference, there were some efforts to bring up the issue of women’s rights to land and property. Largely it failed and the failure was repeated at the Habitat conference the year after. Women’s right to property was not included in the priority areas of the Plan of Action. Still, there are hardly any other area where gender inequalities are more obvious than in relation to ownership. There is an old phrase about women owning one per cent of the global properties. I have never seen any figures in support of this figure, though. The demands of gendering of statistics have not affected statistics about ownership.

The UN conferences have proved to be tremendous influential. Many non-governmental organisations, specifically the women's organisations, were responding to the priority areas in the Beijing Plan of Action. Property rights, ownership and housing are issues not mentioned in the list of priorities. Women’s organisations in Zambia were preoccupied with their concern about rural poverty and worked to get economic empowerment into action. There was no link made between poverty and ownership to property in form of urban housing. Poverty was often equalised with rural. The aims and goals of the women’s organisations were set and reflected areas where funds were available. Consequently, in spite of its discriminatory effects on women, the transfer of ownership of houses to men was not met by protests from women’s organisations.

It is illustrative that the only article I found in the press by a women’s organisation about housing policy complained not about discrimination of women but of the rural population (The Post 1999, Sept 29). It was not that the women activists were not aware - many were themselves affected in their private lives. But negative experiences were privatised, and positive experiences (to benefit from the market and buy a house) were no ground for protests.

In the answer to my question why there were no protests three other components emerge:
- Few women were involved in the housing sector to inform about lacking equity in policy and procedures;
- There were no pressure and articulated complaints from below, from women deprived of ownership;
- Property rights were no priority for the non-governmental organisations.

**In conclusion**

The transfer of ownership of houses to sitting tenants benefited men more than women, due to the history of male employment and tied housing. The masculinisation of ownership was not total, though. Many prosperous women benefited from the creation of a housing market, which made it possible for them to buy a house. Many women took this chance. Nevertheless, the privatisation of the common asset of council and governmental housing to the male part of the population must be seen as a strategic loss for women in their struggle for empowerment. Men’s power through ownership of homes will effect the power relations at household level for long time to come.

The process of exclusion of women was surrounded by silences. There is a need to raise the issue of property rights, specifically to the home, and put it on the agenda at all levels the struggle for women’s empowerment

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REÇU LE 24/03/03
CONTACT: ann.schlyter@nai.uu.se