



British Institute
in Eastern Africa



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Care, Work and Property: How is Care Labour Valued? Addressing SDG Goal 5:

Target 4 in Plural Legal Systems

Two-day workshop to be held at the British Institute in Eastern Africa, Nairobi

12 -13th September 2017

Day One

8.30 – 8.55 Registration

9.00 - 9.30 Welcome (hosts) and Introduction (Prof. Ann Stewart)

- Remarks from distinguished older member of society
- Remarks from Albert Njeru, KUDHEIHA
- Remarks from Dr. Prafulla Mishra, Regional Director, HelpAge International
- Remarks from Representative from the Ministry of Eastern African Community, Labour and Social Protection
- Key note Address: Remarks from Commissioner Winfred Lichuma, National Gender and Equality Commission

9.30 – 10: Context and Purpose of the Workshop (Prof. Ann Stewart)

- Making care visible; recognising and protecting care givers and care recipients – where and how?
- Using rights? The role of law in different contexts
- SDG 5 (4) – what relevance? how to use?
- Case study of woman to woman marriages - understanding caring in plural legal contexts
- Workshop methodology

10.00 – 10.30 Coffee/Tea break & Photo Session

10.30 - 12.00 What is “Caring”? Older Persons: The Policy Context

Chair and discussant: **Dr. Prafulla Mishra (Regional Director, HelpAge International)**

Winfred Lichuma (National Gender and Equality Commission): (Title TBC)

Dr. Isabella Aboderin (African Population and Health Research Centre, Nairobi): (Title TBC)

12.00 – 13.10 Workshop Discussion

Focus: present socio-legal framework relating to the rights of and responsibilities towards older people (with an explicit gender perspective)

- What is it? – international/regional/national/customary? Spatial/social economic differences geographies of care – what would a progressive care framework look like?
- Tackling neglect, violence, dispossession, familial support, rights and protection of widows, welfare provision and delivery – accountability and transparency, the relationship between older persons' rights and carers' rights

Presentations (40 mins):

Representative TBC (Ministry of East African Community, Labour and Social Protection): (Title TBC)

Jedidah Wakonyo Waruhiu (Commissioner, Kenya National Commission on Human Rights):

The Legal Framework for the Protection of Older Persons

Lydia Lugazia (Kwawazee, Tanzania): *From Path to the Road of Kwawazee Organisation*

Group Discussion (50 mins): Developing an Agenda for Action

- Compilation of 'elder law' measures/provisions – for particular audiences – educational providers; legal practitioners, courts, dispute resolvers; government officials; civil society advocates; easy to use guides?
- Guidelines for institutions working with and for older persons, implementing the Older Persons Bill with a human rights and gender perspective.

13.10 – 14.00 Lunch

14.00 – 15.30 **Gender, Property and Work: Contexts of Care Recognition**

Chair and discussant: **Dr. Pacificah Okemwa (Kenyatta University)**

Professor Winifred Kamau (Faculty of Law, University of Nairobi): *Gender and Succession in Kenya: Constraints and Possibilities for Women's Care in a Plural Legal Context*

Hon. Lady Justice (rtd) Dr. Nancy Baraza (Faculty of Law, University of Nairobi): *The Impact of the Kenyan Legal Framework for Marriage Recognition on Woman-to-Woman Marriages*

Professor Ambreena Manji (School of Law and Politics, Cardiff University): *Historical Perspectives on Recognising and Rewarding Care Labour: Rereading Luis and Janet Bujra*

Dr. Pacificah Okemwa (Kenyatta University): *Women, Care-Giving and Recognition: A Case of Domestic Workers in Kenya*

15.30 - 15.45 **Coffee/Tea break**

15.45 – 17.15 **Workshop Discussion**

Focus: present socio-legal framework relating to ‘carers’

- Who are they? Wives/spouses, children (male and female)? Spatial/social economic differences? Recognition in family law, property/inheritance claims, state provision? In the existing rights framework, what would a progressive carer policy/rights framework look like? What would a right to care look like? Use Uruguay as an example?
- Care workers – are domestic workers “stranger carers”? Protection, development of a market in care services? Institutional context? Regulation and training?

Presentations (30 mins):

Albert Njeru (KUDHEIHA – Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers): (Title TBC)

Faith Ochieng (Kituo Cha Sheria): *Employment and Labour Relations in Kenya*

Group discussion (50 mins): Developing an Agenda for Action

- Developing a social care perspective within education and training contexts – model courses, training material?
- Implementing ILO Domestic Workers Convention in a national/local care context
- SDG 5 (4) and family policy development; Implementing SDG 5(4) in family/property law contexts

17.15-17.45 Round up Day One, depart for workshop dinner at Monikos

Restaurant

Day 2

8.40 – 8: 55 Arrival with coffee/tea

9.00 – 11.00 Customary Caring: Woman to Woman Marriage Research Findings

Chair and discussant: Dr. Celestine Nyamu-Musembi (Faculty of Law, University of Nairobi/Zambia)

Professor Ann Stewart (Law School, University of Warwick): *Who Cares for Elderly Women in Africa? Reflections on Ageing and Gender-Based Policy Frameworks*

Dr. Agnes Meroka (Faculty of Law, University of Nairobi) and David Ngira Otieno (Mount Kenya University Law School/Utrecht Law School): *Legal Pluralism in Kenya and the Meaning of Marriage*

Dr. Jennifer Lander (Law School, University of Warwick): *Framing the Social Significance of Woman-to-Woman Marriage: A Critical Literature Review*

11.00 – 11.15 Coffee/Tea break

11.15 – 12.45 Group Discussion

Reflecting on woman-to-woman marriage research

- Lessons learned from/issues arising in relation to WTW specifically – recognition within customary, court and marriage registration contexts; recognising care and succession rights; bringing a care perspective to the issue

Presentations (30 mins):

Professor Catherine Wawasi Kitetu (formerly Egerton University, Nakuru County Executive Officer): (Title TBC)

Dr. Mildred Lodiaga (Kenyatta University): (Title TBC)

Group Discussion (50 mins): Small Group Reflections

- Defining key issues regarding woman-to-woman marriage from stakeholders

12.45 – 13.45 Lunch

13.45- 15.15 Challenges to the Recognition of Woman-to-Woman Marriage

Chair and discussant: Hon. Justice Prof. Jackton Ojwang (Supreme Court of Kenya)

Professor Chukwuemeka George Nnona (Faculty of Law, University of Nigeria): *Elder Care, Work, Property and the Woman to Woman Marriage in Nigerian Law*

Dr. Duncan Ojwang (Faculty of Law, University of Nairobi): (Title TBC)

Emily Kinama (Litigation & Research Counsel, Katiba Institute/Advocate of the High Court of Kenya): *Challenges of Woman-to-Woman Marriage: A Critical Analysis of the Case Law in Kenyan Courts*

15.15-15.30 – Coffee/Tea Break

15.30 – 17.00 **Workshop Discussion**

Building on Woman-to-Woman Marriage Research: Dispute Resolution

- How can customary law, paralegal support, alternative justice forums, and courts support existing recognised processes, whilst infusing them with constitutional norms such as gender equality and the rights of older persons?
- What is the future of woman-to-woman marriage in the courts?

Presentations (40 mins):

Hon. Lady Justice Ruth Sitati (High Court of Kenya): *The Role of the Courts in Recognising Woman-to-Woman Marriages in Kenya's Plural Legal System (Title TBC)*

Hon. Lady Justice Martha Koome (Kenya Court of Appeal): *Adjudicating Woman-to-Woman Marriage Cases in Kenya (Title TBC)*

Onyango Ondeng with Jessica Oluoch (KELIN - Kenya Ethical Legal Issues Network): *Traditional Dispute Resolution Mechanisms in Relation to Woman-to-Woman Marriage*

Agnes Rogo with Janet Anyango (FIDA – Federation of Women Lawyers): *Value for Care: Gains and Gaps for the Kenyan Woman, a Cultural and Constitutional Overview*

Group Discussion (50 mins): Developing an Agenda for Action

- Providing briefing/training for community/paralegal leaders, and family law practitioners

17.00 – 17.30 **Concluding and Moving On**