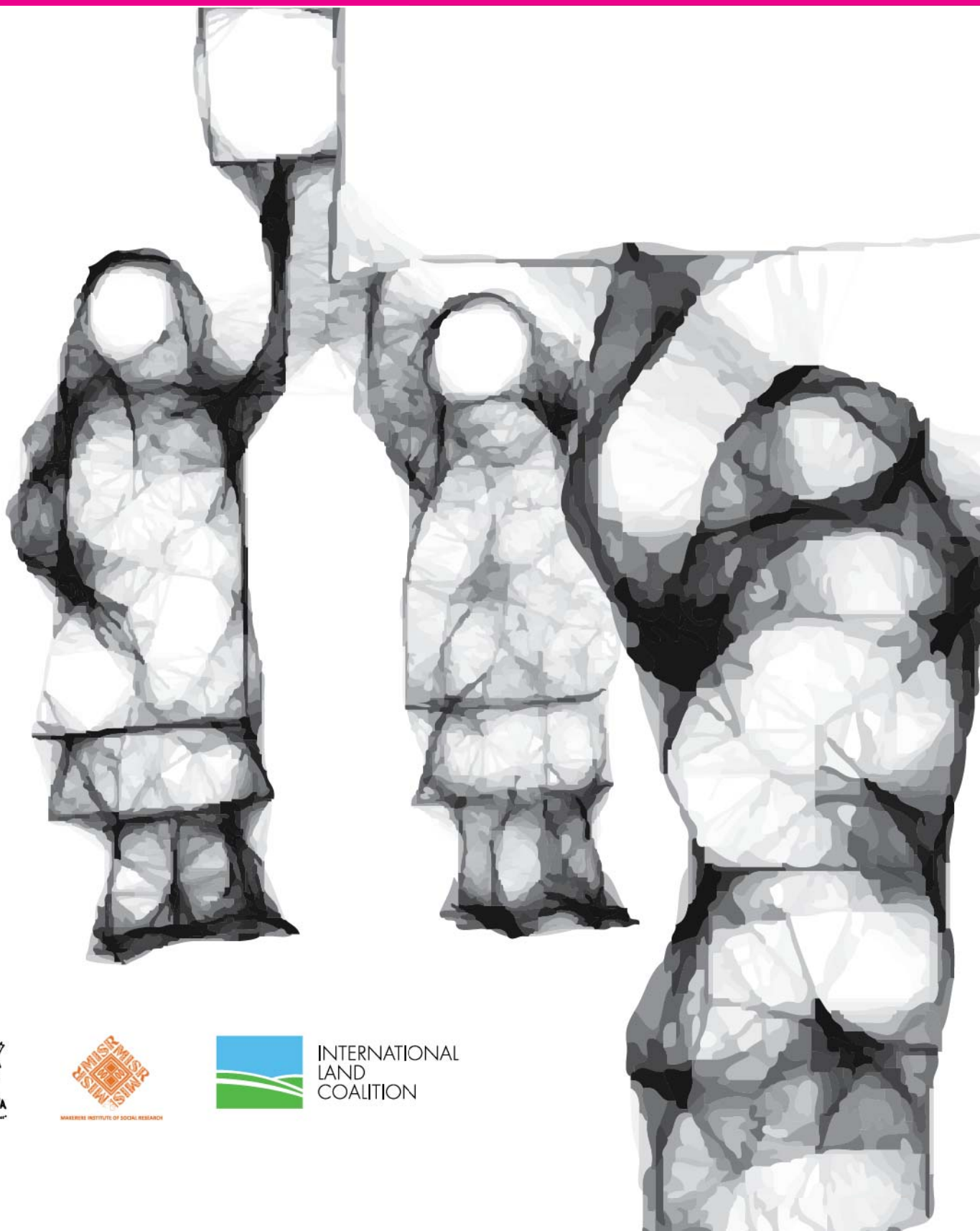


4

RESEARCH REPORT

Complementing the state: the contribution of the “watchdog groups” in protecting women’s land rights in Gatundu District, Kenya



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ILC wishes to thank the IDRC whose support made this Women's Land Rights Initiative research possible.

Complementing the state: the contribution of the “watchdog groups” in protecting women’s land rights in Gatundu District, Kenya

By:
GROOTS Kenya
(Grassroots Organisations Operating Together in Sisterhood)

March 2011

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Esther Mwaura-Muiru
National Coordinator
GROOTS Kenya

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List of acronyms

AIDS	Acquired Immuno-deficiency Syndrome
DO	District Officer
FGD	Focus Group Discussion
GROOTS	Grassroots Organizations Operating Together in Sisterhood
HBCP	Home Based Care Providers
HIV	Human Immunodeficiency Virus
OVC	Orphans and Vulnerable Children
PA	Provincial Administrator
WDG	Watchdog Group

Executive summary

In the experience of GROOTS Kenya, HIV-positive widows are often thrown out of their matrimonial homes, their land grabbed as they are blamed for their husbands' deaths and/or feared to die within a short period of time. According to assistant chiefs' records, of 85 cases of land grabbing reported to the provincial administrations in 10 sub-locations in Gatundu between 2007 and 2009, 48% involved property rights violations of widows, 40% violations of the property rights of orphans and vulnerable children (OVC), and 12% of vulnerable people. During the same period, 70% of cases were presented to the chief by the community land watchdog group (WDG).

Due to a lack of awareness on land rights, as well as the importance of retaining legal documents to lodge court cases against perpetrators of such violations, the ability of widows and orphans to control land and other family assets is threatened. It is further compounded by high legal fees and cases of corruption in government institutions. To address this situation, grassroots communities assisted by GROOTS Kenya have formed community land and property watchdog groups (WDGs) to protect widows and orphans from losing their land and property through disinheritance and asset stripping. WDG members receive referrals from home-based care providers (HBCPs), gather information about vulnerable members of the community and use this information to protect and preserve the rights of those unable to afford or access formal legal services. If necessary, they link them to the formal justice system via partners who offer legal aid.

Community WDGs consist of community members (mostly women) organised in groups no larger than 25 people per location. WDG members work together to preserve, monitor and guard against violations of property and inheritance rights in their communities. The WDGs evolved from the work of HBCPs (mostly local women) caring for sick people, many with HIV-related illnesses. From 2003 onwards, they

began to realize that when community members in their care died, their dependents were often thrown out of their homes and became destitute. Many such vulnerable disinherited families had nowhere to go but the slums. This is because most of the victims cannot afford to engage with the formal legal system due to lack of information, cost, distance, language, procedures and cultural values.

WDGs are based on the idea that concerned community members (both men and women) and local leaders must work together to prevent property rights violations within the community, and are formed using six key steps:

1. Needs assessment/baseline survey
2. Mobilization process
3. Documentation
4. Dialogue
5. Formation of WDG
6. Community feedback

Through 15 community land WDGs in Gatundu district of central Kenya, this research utilizes focus group discussions (FGDs), observation and in-depth interviews to:

1. Document and analyze the work of WDGs in Gatundu district.
2. Identify gaps between implementation of the law and practices in relation to women's property rights, particularly the control over matrimonial land.

This research also looks into how the WDGs have protected widows and OVCs against land rights violations in collaboration with government officials in the provincial administration, and how they empower the community through awareness creation.

1. Women's property rights in Kenya

Introduction

Although the Kenyan government has ratified many international human rights conventions,¹ not enough has been done to effectively protect women's property rights in this country. While Kenya's statutory laws prohibit discrimination against women and uphold gender equality,² the country is not governed by statutory laws alone, but also colonial, customary and religious laws. Furthermore, the "personal" statutory laws that apply to marriage and other family matters, such as inheritance, are often difficult to interpret or apply, and include many legal exceptions. Thus, the few statutes that could advance women's property rights instead defer to religious and customary property laws that privilege men over women.³

It is this widespread application of religious and customary laws that effectively prevents many girls and women from owning, retaining or inheriting property in Kenya. By ignoring the discrimination inherent in these customary laws,⁴ the Kenyan government has failed to enable women to exercise their property rights.

Women's property rights in Kenya: A historical perspective

Since time immemorial, women's rights to own, inherit, manage and dispose property in Kenya have conflicted with discriminatory customary laws and individuals who believe that women and girls do not deserve to own property. A social stigma has also prevailed that discourages women from pursuing their property rights, lest they be perceived as greedy and traitors of customs.⁵

The limited ability of women to own, acquire and control property is the product of patriarchy, traditions and customs that have long persisted in Kenyan communities. This status quo, amplified during the colonial period, was maintained after Kenya's independence by political and legal ideologies that contributed to the reluctance to address women's property rights violations.⁶

Kenya's legal system formally recognizes customary laws. *Section 82* of the Kenyan Constitution⁷ allows customary laws to be applied to matters of succession; hence many Kenyan communities continue to use a customary patrilineal system of inheritance.⁸ Specific recognition is also given to the customary laws of succession in many Kenyan Acts, such as the Africans' Wills Act (Cap. 169) and the Registered Land Act (Cap. 300). Furthermore, the Judicature Act provides that:

"The High Court, the Court of Appeal and all subordinate courts shall be guided by African customary law in civil cases

1 Examples include CEDAW, Convention on Economic, Social and Cultural Rights (CESCR), Cultural Rights (ICESCR), African Charter.

2 The Government of Kenya, 2001. Article 70 of the Constitution provides that all Kenyans are entitled to fundamental rights and freedoms, whatever their sex.

3 See Succession Act Section 32.

4 Section 82(4) of the Constitution exempts certain laws from the discrimination prohibition. The article permits discrimination "...with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law..." and with respect to "...the application in the case of members of a particular race or tribe of customary law with respect to any matter to the exclusion of any law with respect to that matter which is applicable in the case of other persons." This means that for areas crucial to women's property rights, such as marriage, inheritance and the application of customary law, discrimination is effectively condoned. Similarly, section 82(6) provides that if an official body controlling transactions in agricultural land (such as a land control board) gives or withholds consent to a transaction, this decision may not be deemed discriminatory.

5 Limitation of Jurisdiction of Land Dispute Tribunal S.3 Cap 18 Laws of Kenya.

6 The family protection bill and other bills seeking to improve the status of women have been pending in the male-dominated parliament for the past two years.

7 Government of Kenya (2001), The constitution of Kenya revised edition (2001) (1998). Nairobi: Government Printers.

8 In this system, property is passed to the deceased's male children rather than to his wife. If the deceased does not have a male child, his property is treated like that of an unmarried man; as a result, a widow can be deprived of ownership and control of the land upon the death of her husband.

in which one or more of the parties is subject to it or affected by it, so far as it is applicable and is not repugnant to justice and morality or inconsistent with any written law, and shall decide all such cases according to substantial justice without undue regard to technicalities of procedure and without undue delay.”⁹

This means that customary laws may be applied when plaintiffs and defendants are members of a community where traditional laws are established and accepted. Consequently, judges and magistrates often apply customary laws in court proceedings. Since customary law is unwritten and prone to subjective interpretation, it can be used against those advocating for gender equality, especially with respect to women’s property rights.

The Law of Succession Act of 1981 (Cap. 160 of the Laws of Kenya), which tried to bring some consistency to succession in Kenya, should have improved women’s inheritance rights but contains several discriminatory provisions.¹⁰ This law governs both testamentary and intestate succession; that is, inheritance with or without a will. In cases with no will, male and female children should inherit from their parents equally. However, if there is a surviving spouse and a child or children, the spouse is entitled to an absolute interest in the deceased’s personal and household effects and a life interest in the rest of the estate. This means that the surviving spouse becomes the absolute owner of personal and household items and can use them for a lifetime.

If the surviving spouse is a woman, her interest in the property terminates if she remarries. On the other hand, a surviving husband’s interest does not terminate upon remarriage. When the surviving spouse dies (or, in a woman’s case, remarries), the estate goes to the children. The intestate succession rules also state that if one dies without a spouse or

children, the estate goes first to the father, and if the father is dead, to the mother.

Finally, the Law of Succession Act of 1981 exempts agricultural land and crops as well as livestock in certain “gazetted” districts (districts designated in a legal notice in the official gazette) from the above rules.¹¹ The areas where exemptions occur include Wajir, West Pokot, Turkana, Tana river, Kajiado, Garissa, Marsabit, Isiolo, Mandera and Lamu.¹² If a person from these areas dies without leaving a will, customary laws apply to agricultural land and livestock. If the two categories of property excluded are the only property owned by the deceased person, a spouse cannot benefit from or seek protection under the provisions on intestacy, i.e. widows have no control over such property.

In Kenya, it’s a criminal offense to interfere with someone else’s land under the Penal code, yet widow eviction is a unique offence, perpetrated only against one gender. The failure of the Kenyan government to take effective action against the eviction of widows violates women’s equal rights during and after marriage as guaranteed by the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the International Civil and Political Rights (ICCPR) and the African (Banjul) Charter on Human and Peoples Rights, all of which Kenya has ratified. *Article 23* of the ICCPR obligates state parties “to ensure equality of rights and responsibilities of spouses to marriage, during marriage and at dissolution (death and divorce).” This also has an impact on the right to adequate living conditions as required by CEDAW and *Article 11* of the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, and paramount of domestic relevance is the Constitution of Kenya, *section 82*.

9 Section 3(2) of the Judicature Act, 1967, (No. 16 of 1967).

10 Sections 35, 36, 37 and 38.

11 Section 32.

12 Kameri-Mbote, 1995.

Societal challenges to women's property rights

Discriminatory customary laws have a profound impact on women's property rights in Kenya and, in turn, have a catastrophic impact on the country's economy and development process. In addition to these discriminatory laws, other societal factors contribute to women's property rights violations.

Biased attitudes

In Kenya, many men and some women believe that women should not own property and, if they do own land, it should not be on equal terms with men. It is such attitudes that influence the interpretation of customary laws and legitimize women's subordination and inequality - and this is compounded by women's general lack of awareness about their legal rights.

"My husband was involved in a road accident and died. My problems over property started right after his burial. I used to employ people to help me in coffee picking, but they were always chased away by my brother-in-law with assistance from my mother-in-law. He would not allow any worker into the farm. According to him, I was not supposed to inherit anything or make decisions over property, because I am a woman."

– Margaret, 39

Social stigma

Women who pursue property claims are often considered greedy and traitors of customs. This social stigma, in addition to the threat of violence or actual violence experienced by women from the "oppressors", further discourages women from claiming their property rights.

The stigma associated with HIV/AIDS also is another factor that contributes to asset stripping, i.e. if a woman's husband died from HIV/AIDS, she is often blamed by her late husband's family for his death and is expected to die soon afterwards, legitimising the family to strip her of assets she has a right to inherit.

Two days before her husband's burial, Catherine's mother-in-law together with her eldest son chased Catherine out of her matrimonial home, denying her the right to lay her beloved to rest, claiming she was a prostitute who came to infect her husband with the killer virus.

– Case study of Catherine

Poverty

Poverty both contributes to women's property rights violations and hinders women from then claiming their rights. The process of filing a succession claim can be cumbersome and expensive, with the majority of women simply unable to afford the legal fees required to pursue a property rights claim, including court, filing and disbursement fees. Although there is a provision for waiving such fees for low income applicants, the application for waiver also bears a fee.¹³ Therefore, even women with strong claims are unable to pursue their claim if they lack financial resources to pay fees. Corruption in some government institutions further hinders access to justice.

"The officer in charge asked me for a bribe of Ksh. 5,000. I felt discouraged to continue with the succession process as I did not have the money and, even if I had, I did not want to be drawn into corruption."

– Maria, 44

Ignorance

A lack of access to information on land rights, including lack of legal documents to lodge court cases against perpetrators, further weakens widows' ability to control land and other family assets. A recent USAID study found that 90% of poor people are not aware of Kenya's formal inheritance laws.¹⁴

¹³ See Law of Succession Act probate and administration rules (1980), sub-legislation rules 69-71 and third schedule (rule 71) setting fees for 26 different forms.

¹⁴ Empowering Women with Rights to Inheritance, A Report on Amendments to the Law of Succession Act Necessary to Ensure Women's Human Rights. (2008) International Women's Human Rights Clinic, FIDA Kenya and Georgetown University Law Centre. Page 32.

Consequences of women's property rights violations

The national economy

The backbone of Kenya's economy is agriculture and therefore land is an extremely important asset for the inhabitants of the country. Women constitute 75% of the workforce tilling and cultivating agricultural land for both economic and domestic use, thereby ensuring food security. However, only 1% of women in Kenya own the land on which they work.¹⁵

Without land ownership, women are unable to take advantage of the wide range of benefits associated with ownership and control of property.¹⁶ Land and other forms of property (such as livestock, tea and coffee plantations) not only provide sustenance, but can be the basis for income generation. For instance, title to land is a condition in Kenya for securing loans and credit for other activities. Furthermore, women's subsistence and small-scale farming is usually unpaid labour. Together, these factors perpetuate poverty among women and their dependents, with the overall effect of hampering Kenya's development. In fact, it has been recognized internationally that gender inequality in Kenya's land laws is crippling the nation's economy.¹⁷

"The worst came when my brother in-law ordered me to leave my house. Fearing for my safety, I rented a house at the nearby town. Life was difficult considering that I did not have any source of income since I relied on the farm to feed my family. Life was very, very difficult for me and my children."

– Maria, 44

Disease and violence

When a woman's property rights are violated, they lose the economic base of their livelihood and are likely to descend into abject poverty. These women become more vulnerable to violence and, as a result, are exposed to a wide range of diseases. As an example, women who succumb to customary practices, like wife inheritance and cleansing (when a widow must sleep with the deceased's brother in order to be accepted into the home of the in-laws) are vulnerable to sexually transmitted diseases. The situation is worse among HIV-infected women who become deprived of the resources, shelter and medicine they need to survive, and so are likely to die sooner. In fact, inequality and poverty are two core structural factors that shape women's vulnerability to HIV/AIDS.¹⁸

Women's property rights violations affect children as well. Besides the emotional violence, children of a widow suffering property rights violations are also likely to lack the basic needs of decent food, shelter, education and access to health services.

"He ordered me to leave his brother's property and to go back to my place of birth. He also informed me that I could not expect to inherit any of the property left behind by my husband. I resolved not to be moved by his actions, but I contemplated to leave after I found out that my son had been beaten up and chased away from home when I was not at home."

– Margaret, 39

¹⁵ Oduol, 2002.

¹⁶ Steinzor, 2003.

¹⁷ Bardasi E, Blackden CM, Guzman JC. Gender Entrepreneurship and Competitiveness in Africa. In: World Economic Forum, World Bank and African Development Bank, The African Competitiveness Report 2007. Page 70.

¹⁸ Dworkin SL, Ehrhardt AA. Going Beyond ABC to Include GEM (Gender Relations, Economic Contexts and Migration Movements): Critical Reflections on Progress in the HIV/AIDS Epidemic. American Journal of Public Health, 2007;97:13-16.

The role of informal modes of justice

In many developing countries, communities have developed unique methods of providing access to justice where formal systems are inadequate in providing services. *Access to justice* is defined as the ability of people to seek and obtain a remedy through formal and informal institutions of justice and in conformity to human rights standards.¹⁹ Informal modes of settling disputes, which use consensus and reconciliation, are widespread.²⁰ And such systems are often preferred over the formal system, which tends to be adversarial in nature. Many communities also have limited access to the formal justice system, with courts generally located in cities and thus difficult and costly to travel to.

Such informal mechanisms apply social control to resolve disputes, and communities have been able to leverage collective action to counter even perpetrators with higher social status. The biggest success of these organized collectives is the voluntary role taken by those acting within them.²¹ They are highly participatory, giving the victim, the offender and the community a real voice in finding a lasting solution to the dispute. Participants tend to have basic legal training and knowledge, important for any system in parallel of the formal system, to ensure that international human rights standards are applied.²² People involved in community collectives assist in educating all members of the community

about the law and rules to be followed, the circumstances that may lead to them being broken, and how the ensuing disputes can be resolved.²³

The informal justice mechanism offers reconciliation, compensation, restoration and rehabilitation, all of which is more appropriate for people living in close-knit communities and relying on continued social and economic cooperation with their neighbours.²⁴

As more attention is given to understanding the unique methodologies used by community members, the complementary role they play in helping the government to implement policies is being recognized. Community members have been described as “owners of local development efforts as they take stock and respond to the needs of local populace.”²⁵ The work done by grassroots communities through collective organizing has also revolutionized many industries. The banking industry, for instance, has recognized the substantial economy among small scale traders, and now actively seeks business from grassroots people. Similarly, the legal arena needs to recognise the informal systems that serve a larger part of the population compared to formal systems. In addition, academics have noted that “innovative interventions” exist but are not shared with a wider audience. Thus, there is a need for research and policy to catch up with these experiences on the ground to better understand and disseminate best practices and key lessons.²⁶

19 Wojkowska E. Doing Justice: How Informal Justice Systems Can Contribute. UNDP, Oslo governance centre. Democratic Governance Fellowship Programme, 2006. Page 30.

20 Penal Reform International, 2000. Access to justice in Sub-Saharan Africa: The Role of Traditional and Informal Justice System. London: Astron Printers. 1,126,9,33,129.

21 GROOTS Kenya. Taking Actions, Grassroots Women Leading to Curb Asset Stripping, Property and Land Disinheritance in Kenya. 2008.

22 Kenya National Aids Strategic Plan 2009/10–2012/13. National Aids Control Council, 2009, 240.

23 Penal Reform International. Access to Justice in Sub-Saharan Africa: The Role of Traditional and Informal Justice Systems. London: Astron Printers, 2000. 1,126,9,33,129.

24 Penal Reform International, 2000. Access to justice in Sub-Saharan Africa: The Role of Traditional and Informal Justice System. London: Astron Printers. 1,126,9,33,129.

25 Thorne K. November 2005.

26 Drimie S. The impact of HIV/AIDS on Rural Households and Land Issues in Southern and Eastern Africa. Background Paper prepared for the FAO sub-regional office for Southern and Eastern Africa. Pretoria, Human Sciences Research Council, 2002.

2. Research background and methodology

Research site background

The research site is based in Gatundu south district in the central province of Kenya. Gatundu is a peri-urban area consisting of large tea and coffee plantations owned by a few wealthy people (local and external). The locals are from the Kikuyu tribe and most of them, especially young people out of school, work for very low wages to sustain their families. As the area is only two hours from the capital Nairobi, there has been significant rural-urban migration of young people in search of better opportunities.

Such migration has contributed to the rise in HIV prevalence in Gatundu as people living and working in Nairobi return to their communities infected with HIV and engage in risky sexual behaviour with their spouses and sexual partners. The locals who work as casual labourers on the plantations also engage in risky sexual behaviour with commercial sex workers who migrate from other areas during times of harvest.

Idleness among Gatundu's youth and lack of resources to continue with higher education have led to substance abuse, particularly with illicit brews (e.g., chang'aa, kumikumi and konyagi's). Men and women with substance abuse problems often lose inhibitions and engage in casual, extra-marital and unprotected sex, further contributing to the region's high HIV prevalence. There is also a high rate of sexual assault, especially incest, under-age and forced marriages of girls, female genital mutilation and disinheritance of orphans and widows.

In Kenya, it has been assumed that disinheritance and asset stripping of widows occurs mainly in the communities in Western and Nyanza Provinces. However, the same violations occur in Central Province where, although more discreetly, their impact is harsh. There is a need to put in place protection for orphans and widows to secure their future based not only on a rights agenda but as a development agenda.

Over the years, these issues have been addressed by faith-based organizations, as the government and many development agencies have shunned away from directing resources to the area, based on the misconception that the region is part of Central Kenya and thus neither facing poverty nor the impact of HIV/AIDS.

The WDGs in Gatundu were formed in 2005 after encountering many cases of property stripping among widows and children orphaned by HIV/AIDS. Members of the groups and the provincial and local governments have undergone para-legal and human rights training with support from GROOTS Kenya. Following such training, 15 WDGs were formed in Gatundu and Kiambu district to protect land and property rights of women and orphans and resolve disinheritance cases. The groups hold community dialogues, open forums and trainings to promote the rights of the affected people.

Methodology

There are 15 land and property WDGs in Gatundu, South district. They cover six locations of the district, which are made up of roughly of 20 sub-locations. The research was conducted in 10 sub-locations within the five locations in Gatundu south district.

Data collection

The research was carried out through participant observations, reflective community meetings and focus group discussions (FGDs), as well as key informant interviews with the provincial administration and other government officers to enrich the information collected by the key methods.²⁷

²⁷ Provincial administration officers represent the Kenyan Government at the community level; the hierarchy (bottom-to-top) is assistant chiefs, chiefs, district

Members of the WDG, caregivers, beneficiaries, tribunal members and PAs (representing the state) were identified as respondents or informants. In this way, information was captured from those with knowledge on how the model evolved, those who have been assisted and those who collaborated with members of the WDG.

Study design

The study was cross-sectional and utilized both quantitative and qualitative methods of data collection.

Typology

The research gathered information on land cases linked to widowed women whose assets and property had been stripped.

Tools used

1. Focus group discussions

FGDs were conducted with both members of the land and property WDG group and caregivers in the area. The session with the WDG served to identify their origins, activities, successes and challenges. The purpose of the session with the caregivers was to establish their partnership with the WDGs in relation to protecting property rights of widows. The caregivers shortlisted for the focus group were those identified as having previously referred cases to the WDG.

2. Structured questionnaires

Both a checklist for PAs and a data extraction form were used. The checklist served to capture the total number of land-related cases reported to the administrator's office over a three-year period (2007-2009). These cases were further unpacked to identify those related to women specifically.

To better understand the kind of land dispute involved, a quantitative checklist was used to extract information from the service registers. To gauge the time scale of handling a case from date of reporting to conclusion, 85 records were randomly extracted from the offices

of ten administrators.²⁸ The sex of the person reporting the matter was also captured to see whether women or men in the Gatundu area are aware of dispute reporting avenues and make use of the same. Finally, a summary of the actions or decisions made in settling the dispute and the current status of the matter were gathered.

3. Structured interviews

These were conducted with widows whose rights had been violated. This was an opportunity to identify the assistance provided by members of the land and property WDG, and the actors involved in the case. The tool captured the respondent's profile, how they came into contact with the WDG, who was responsible for resolving the dispute, the challenges faced and their recommendations. A total of 30 interviews were conducted. The respondents provided informed consent to participate in the interviews.

4. Key informant interviews

Interviews were conducted with eight senior members of the provincial administration in the district on how they partner and interact with the WDG members and to gather their recommendations on how the government can support the grassroots community initiative. Their knowledge of the law in relation to land rights and women, their role in settling disputes and challenges faced was also captured.

5. Case follow-up

The WDG members deal with various land disputes, but for the purposes of this study, the selection of cases was narrowed down to those involving matrimonial land property. The cases were categorized as:

- ongoing cases for purposes of case follow-up; and
- concluded cases for purposes of reporting on how these were handled.

officers and district commissioner who reports to the permanent secretary of the Ministry of Internal Security.

28 Gachika, Kiganjo, Munduro, Karinga, Ndundu, Ituro, Kigongo, Kiamwangi, Kiamworia and Nembu.

The case follow-up and reporting not only provided an opportunity to tell the story of women who have been stripped of their land rights, but also identified factors leading to land and asset stripping and disinheritance of vulnerable widowed women in relation to their matrimonial property. It also served to identify gaps in the Kenyan legal system and its implementation. The persons responsible and other actors involved in the process were identified. For these purposes, out of 30 cases 10 were selected for intensive follow-up. The annex exhibits some of these cases.

Scope

The study population consisted of members of the land and property WDGs of Gatundu south district in Kenya's Central Province.

Sampling

To choose respondents, purposive sampling was conducted to capture the information sought in relation to the PAs. Random sampling was used to select cases. The service registers of the PAs were consulted to get further information.

Secondary sources

This was achieved by reviewing Acts of Parliament, published books, journals and articles on informal justice systems. In addition, these sources continued to act as reference materials during the entire period of the study.

Changes

A baseline form was created; however, after a mock test it was discarded as being unsuitable. Record extractions were

sought from the offices of the 10 WDGs, but of the ten offices visited only five kept hardcopy records of cases handled. This tool was thus utilized to form hypotheses, as it was not robust enough to form quantitative analysis.

Data processing, analysis and presentation

The Statistical Package for Social Sciences (SPSS) software was used to analyse the quantitative data. A code book was constructed and all the closed-ended items in the questionnaire coded. Qualitative data in form of answers to the open-ended questions were organized, summarized and coded before entering the data.

Qualitative data collected from interviews with key informants and WDGs were sorted, tabulated and interpreted in relation to the research objectives. The findings from these data are presented according to emerging themes.

Other methods, such as content analysis, discourse analysis, direct quotations and selected comments, narratives and verbatim quotes are used in presenting the findings. Where these quotes were in a language other than English, they were translated into English. In addition, bar graphs and pie charts were used to facilitate easier visualization.

This research posed a security risk due to the emotive nature of land disputes. Due to the sensitivity of the cases and to ensure confidentiality, the names of the beneficiaries were changed in this report. Other identifying information has been withheld where necessary.

3. The community land and property Watchdog Group (WDG) model

Background

The community land and property watchdog group (WDG) is a community response to women and orphans' property rights violations. It was established following a mapping exercise in 2004-2005 that revealed an escalation in harassment, disinheritance and asset stripping of vulnerable women and orphans. The main problems were "land grabbing" by in-laws, widows being chased away from their matrimonial homes and orphaned children expelled from their parents' home. Following dialogue sessions, the community leaders (village elders, opinion leaders, chiefs, district government representatives and area councillors) agreed that volunteers could take up the role of community watchdogs, to bridge the gap by providing readily accessible and affordable access to justice for the vulnerable members of the community.

"Because we are women, our property rights have for a long time been trodden and many of us are excluded from inheriting any property, evicted from our lands and homes by our in-laws, and stripped of our possessions; just, because we are women."

– Key informant during FGD, Gatundu

What

A team of 15 to 25 volunteer community members make up a community land and property WDG. Such a number comfortably covers an administrative unit of a location. Depending on the size of a district is, it can have up to 15 WDGs. This is a community-driven intervention with little or no outside funding, and those who participate in WDGs are volunteers working in the best interest of their community.

Who

The WDGs are comprised of key stakeholders and community members (men and women), such as home based care providers (HBCPs), village elders, retired court clerks, widows and orphans who have been assisted by the groups and general well wishers.

The primary beneficiaries of the model are disinherited widows, orphans and vulnerable members of the community. The users include community WDG members, PAs, the office of the civil registrar, the ombudsperson, land tribunal, land board and community paralegals.

"To sustain a watchdog group does not only require sacrifice and commitment. It also demands leadership and accountability to the community at large."

– Margaret Ngina, women's leader and WDG member in Gatundu

Purpose of the model

The services are offered in line with the groups' objective to curb asset stripping, sustain and safeguard property and inheritance of grassroots women, OVC and vulnerable groups, as well as securing tenure rights of women.

How WDGs develop

1. Enumeration, needs assessment and documentation

GROOTS Kenya guides a core group of local grassroots residents to gather information about their community per sub-location. This is done through community-led mapping using a structured questionnaire administered by local members of the community. The aim is to collect the number of affected persons in each vulnerable household identified as having tenure problems within their sub-locations, and documenting the main factors contributing to property and inheritance rights violations. Identified violations and corresponding needs are further validated through community feedback sessions during which community members are given the chance to further analyze the problem and the magnitude of those affected and make recommendations.

2. Mobilization

The community members identify and mobilize all key stakeholders (village elders, human rights organisations, PAs, etc). This involves sharing survey results and explaining the impact that the violations have on individuals and the community. It is important to gain the support of various key individuals so that there are multiple avenues to address any violations. This process also allows the core group to start planning how to address violations they encounter and agree on how to actively engage the stakeholders.

3. Dialogue

The community focal point leaders bring together the key stakeholders to facilitate community dialogues to build relationships between the community members and other stakeholders and continue discussions on the information and recommendations identified.

4. Formation of groups

The WDG is formed at this stage. A group usually has 15 to 25 volunteer members from the community, both women and men, including key stakeholders and community members. Because women face more land rights violations than men, GROOTS Kenya encourages the WDGs to have more women participants.

WDGs meet regularly to discuss land disputes, report on the progress of cases and explore opportunities to collaborate with officials unaware of the initiative. The groups also plan how to raise or create awareness on land rights through barazas (meetings led by the village chief), open forums, church events and funerals. Each group keeps simple records of their meetings and interventions.

5. Case handling

Based on the information gathered in the initial survey, group members know about actual and potential instances of land rights violations. With their detailed knowledge of vulnerable people, the HBCPs also inform the group about problems. If a violation occurs, such as a relative evicting a widow or orphans, the WDG steps in. It determines the facts of the case, alerts other people in the community to the problem and mediates to ensure that the perpetrator returns the property to the rightful owner. Various mediation methods are used, involving community leaders, local government officials, chief and elders. If necessary, the WDG arranges for the case to be filed in court and ensures that the ruling is executed.

6. Community feedback

It is important that a broad section of the community supports and owns the process of safeguarding rights. The WDGs conduct community evaluations and reviews to gauge their effectiveness and assess challenges.

7. Replication

GROOTS Kenya encourages successful WDGs to share their progress and practices through peer exchanges or visits to other communities that face similar problems.

Operation of WDGs

1. Investigation

When cases are brought to its attention, the WDG carries out an investigation and fact finding to determine who is rightfully entitled to the disputed land.

2. Mediation

The WDG invites the parties for a mediation session, listens to both sides, informs them of the legal stipulations and guides them towards a solution; where required they record the agreements at the court. If the parties are unable to reach a consensus, the matter is taken to the provincial administration (area chief) and area leaders to intervene. If need be, the matter can be referred to the courts for arbitration.

"We hold a meeting between our client and the other party. We listen to both parties and explain what the law states regarding property rights of women and children. We encourage both parties to come to an agreement, though we ensure that our client's rights are not violated. We are happy if the other party agrees to our advice. However, if there is no agreement, we forward the case to the assistant chief and follow it up from there".

– FGD participant

3. Vigilance

While attending meetings and funerals, WDG members are alert to the circumstances to try to ensure that traditional processes do not lead to rights violations of widows or orphans.

When there is a matter in dispute, the PAs usually call on the WDG to clarify the situation, as they are able to access vital information about the families involved.

4. Meetings

The members of the WDG undertake their planning, strategizing and procedural and reflective processes through monthly team meetings at district level. However, the different sub-locations meet as required to share and get advice from members on how to proceed with a matter.

5. Referrals

The WDG receives referrals from people or institutions that are aware of their work in assisting vulnerable groups. Similarly, when a matter is one that requires specific intervention from a mandated office, they are able to refer the vulnerable person and even accompany them to seek assistance.

To be able to successfully assist vulnerable community members, the WDG collaborates and has referral agreements with various actors, such as the police, members of the judiciary, PAs, district land registrar, land dispute tribunal and land control board members.

"...a friend advised me to seek help from the WDG. I was informed that the group could assist me in protecting my family's property from my brother in-law. The WDG was very helpful. They introduced my problems to the assistant chief, the chief and eventually to the D.O.

– Ruth, 59

6. Self sustaining

The members of the WDG are volunteers and thus depend on contributions from well-wishers. However, they have taken up group income-generating activities and table banking as an avenue to resource mobilization.

7. Skills

It is preferred that members of WDG have some form of legal knowledge, have been trained as paralegals and have mediation, conflict resolution and counselling skills, as these are key to reaching amicable solutions to disputes as well as filing and following up cases that are referred to the formal justice system. Through partners such as GROOTS Kenya and other human rights agencies, the members have received basic legal training as paralegals. This knowledge is essential to enable them to carry out mediations (sometimes jointly with the Provincial Administration) between disputing parties and to dispense accurate advice. HBSPs provide psychosocial support to heal from the trauma of losing loved ones

and the stigma and discrimination leading to losing their land and property.

The assistant chief organized for a meeting between me, my brother in-law and my mother in-law in the presence of the village elders. Before going for the meeting, the members of the WDG advised me on the questions to ask and what to say during the meeting. Though I was afraid of expressing myself in the meeting, the WDG members present helped me in answering questions.

– Margaret, 39

8. Awareness Creation

Legal awareness is critical to securing access to justice. Poor and disadvantaged people often fail to make use of laws and do not claim rights because they are not aware of them. Poor communities need to be informed about the law, available remedies and how to access them. WDGs create awareness and alert the poor and vulnerable to the proper channels to help them secure the required documents for safeguarding their rights.

The WDG focuses on educating women on securing documents as a responsive mechanism against property stripping, since most cases are related to violated women.

“... we educate the community through open forums, chiefs barazas, in churches and in schools, on property rights and how to prevent such cases by encouraging women to acquire and be included in legal documents. We also explain to them the need to have such documents; for example, the need to have children’s birth certificate, the importance of changing the surname in a woman’s national identity card to read the name of her husband and the need for the woman to secure and retain the burial permit of the husband”.

– FGD participant

The WDGs have enhanced awareness levels on property and human rights and successfully mediated cases. The members of the WDG interviewed explained that for the cases handled, they not only support the beneficiary by accompanying them to the relevant office to ensure they are able

to secure the required documents, but they also give legal advice.

WDG challenges

1. Finances

Due to the voluntary nature of their work the members are obligated to contribute towards assisting the poor community members with processing fees for documents and resettling. This affects the WDGs’ sustainability. As one participant observed, “Our major problem is finances... sometimes our clients need food and we have to assist them as much as we can.”

2. Physical working space

The group members lack a definite working space to be able to properly coordinate their work. In some locations they have meetings in open air space.

3. Lack of recognition

This is an informal mechanism created by the community and therefore relies on good working relations and goodwill from the provincial administration and networking partners to be able to penetrate offices to assist their clients.

4. Corruption

Officials providing services are sometimes corrupt, acting as a hindrance and causing delayed access to services unless bribes are paid.

5. Culture

Although it has its positive aspects, culture sometimes becomes a hurdle. In some areas, elders and those with limited education may be unreceptive to women-led community empowerment strategies.

6. Resources

A lack of or constrained resources to fund learning exchanges and training on basic legal knowledge is a challenge for WDGs.

WDG successes

"We are positive that our clients will get assistance. We have a lot of confidence with the WDG members who we believe are non-partisan and, therefore, our client cases will be arbitrated fairly. We also know that WDG can advise on litigation. In addition, members of WDGs are not corrupt as is the case with some government officials".

– Beneficiary of the WDG services

Through this research, it was determined that WDGs:

- Provide readily available and affordable access to justice.
- Curb asset stripping and disinheritance of vulnerable groups, consequently increasing the number of vulnerable people claiming and enjoying their constitutional and civil rights and mitigating the effects of poverty.
- Preserve and sustain land ownership and control for women.
- Promote the application of human rights.
- Encourage will writing for clarity of intention to avoid disputes upon the death of the head of household.
- Encourage community social responsibility.
- Engage policy makers through advocacy and dialogue to ensure implementation of policies.
- Offer free legal advice.
- Are workable, popular and easy to replicate.

In the sub-locations in Gatundu south district, 58% of cases had been resolved by WDGs between 2007 and 2009, with 42% ongoing. The WDGs were able to achieve such success by the following means:

Community empowerment

Empowering the community through awareness creation, WDGs informed women about documents they need to have in their possession to avoid being stripped of their properties. The WDG members view this as a necessary preventative measure to prevent similar cases in the future.

Community mobilization

From observation, interaction with and testimony from members of the WDG, their astonishing community-mobilizing capacity is apparent. The groups are able to mobilize large numbers of people to support a cause and take part in a dispute resolution process. WDGs mobilize resources to support the development of their communities and provide psychosocial support for vulnerable women and run income-generating projects to help families sustain themselves.

"WDG members interact with other members of the community to an extent that I cannot. Consequently, they are able to get facts about a particular problem. In addition, they are able to cover a wide area and know the problems within the community. We accept one another and communicate regularly. We harmonize our activities and partner in doing this work."

– Provincial Administrator

I also came to learn that the land had been put in the Kenya gazette for sale. I got more confused and informed the members of the WDG who mobilized the whole community to demonstrate outside the D.O.'s office and later outside the court.

– Miriam, 48

Working with government agencies

WDGs complemented government agencies with their interventions by decongesting their offices, thus enhancing efficiency at the chief's office. Members of the WDGs nurtured good working relations and partnerships with government agencies.

Raising standards of performance and accountability through ombudsperson

The ombudsperson is an individual member from the WDG in a particular community who is an agent of enhancing accountability and transparency for the officers in the Provincial Administration. The ombudsperson submits monthly confidential assessment reports to the Ministry of Internal Security (the line ministry in charge of provincial administrations) on the performance of the assistant chief and chief, as a means of participatory governance. We acknowledge that performance contracting introduced by the Kenyan government has contributed towards the enhanced receptiveness of collaboration between the citizenry and administration officials.

4. Research findings

Land-related cases related to widows and orphans and vulnerable children

Extraction from the records from the assistant chiefs in the study area revealed that a significant number of cases related to widows and orphans and vulnerable children (OVC). A

summary of the land-related cases by area is shown in Table 1. Of the current land-related cases (N=43), 39.5% involved widows and OVC and 32.5% were forwarded by the WDGs.

Table 1: Land-related cases 2007-2009

Sub location	2007	2008		2009		Current cases			
	2	Widows/ OVC cases	Total No. of cases	Widows/ OVC cases	Total No. of cases	Widows/ OVC cases	Total No. of cases	Widows/ OVC cases	Forwarded by WDG
Kiamwangi	15	6	13	7	19	5	7	0	0
Kigongo	8	3	7	4	9	2	12	4	3
Nembu	23	14	18	6	4	1	0	0	0
Kiamworia	27	5	11	5	0	0	1	0	2
Gachika	28	4	18	3	16	2	11	4	2
Mundoro	24	4	18	2	15	1	2	2	2
Ndundu	2	1	1	3	5	2	0	2	0
Ituru	61	1	53	0	31	0	3	0	0
Kiganjo	5	3	8	2	3	1	2	1	2
Karanga	28	2	24	4	36	9	5	4	3
Total	221	43	171	36	138	23	43	17	14

Source: GROOTS Kenya, 2011

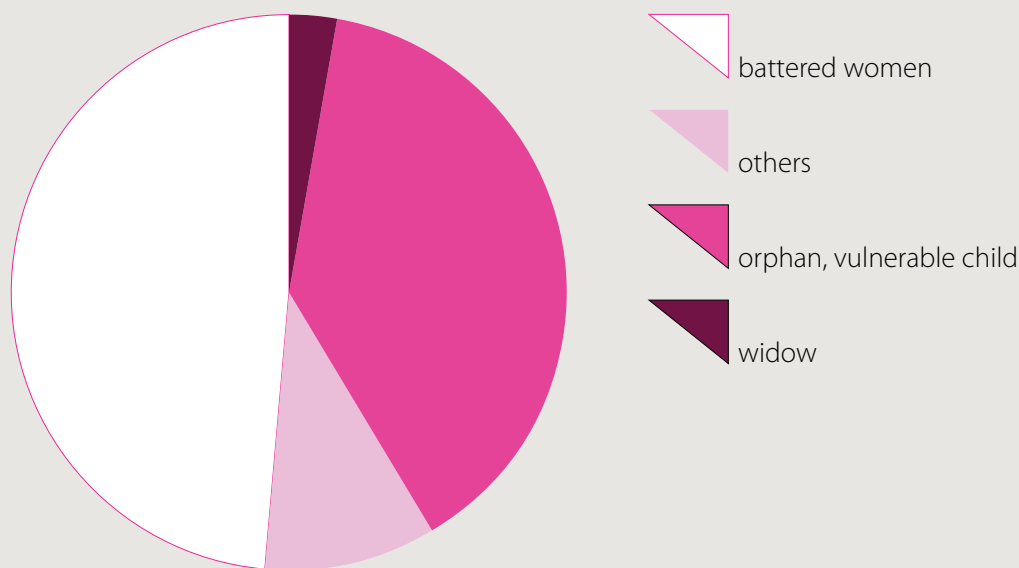
Case status

Of the land cases involving matrimonial property that were researched, 57.6% had been concluded, while 42.4% were still ongoing.

Who were the victims?

The data extraction from the PAs revealed that 48,5% of land and property violation victims were widows (N=70). Other victims included OVC (38,6%) and women who had separated from their husbands (2,9%). This is represented in Figure 1.

Figure 1: Demographics of land and property violation victims

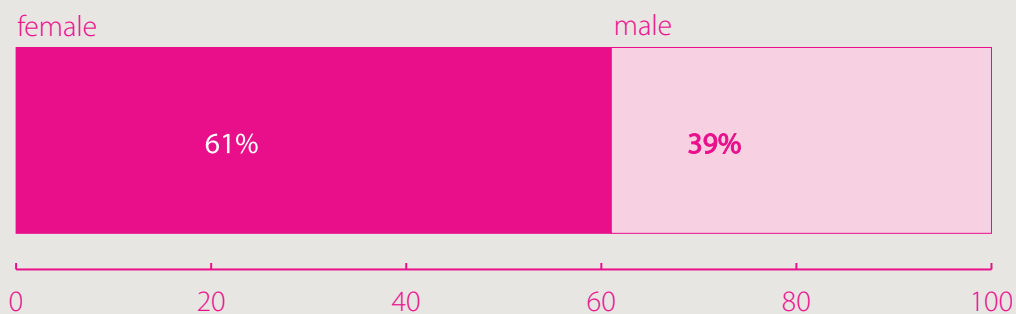


Source: GROOTS Kenya, 2011

Who reported the case?

The majority of the cases reviewed in this research (N=82) were reported by women (58.8%) as compared to men (37.6%; Figure 2). This could be attributed to the fact that most of the victims were either women or children.

Figure 2: Percentage of women vs. men reporting cases of land and property violations

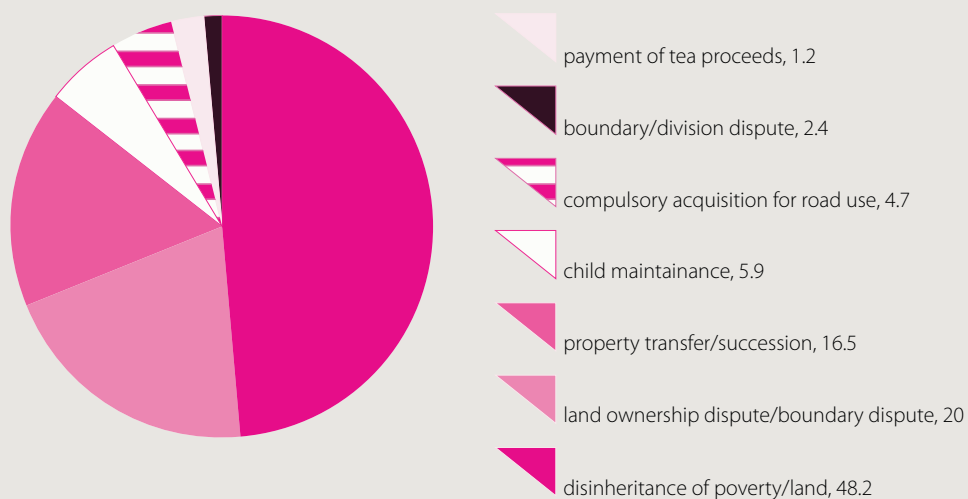


Source: GROOTS Kenya, 2011

Why were cases reported?

There were varied reasons for reporting cases. Disinheritance of properties (mainly land) accounted for 48.2% of cases reported. The other major key issues are presented in Figure 3.

Figure 3: Reasons for cases being reported



Source: GROOTS Kenya, 2011

What action was taken?

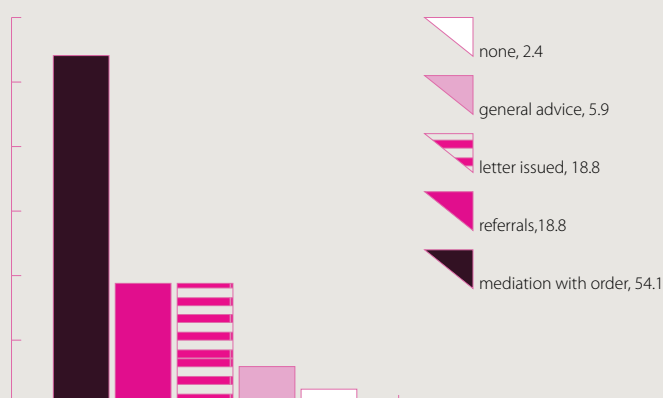
The various actions taken by the provincial administration to address reported cases are depicted in Figure 4 and seem to be related to the magnitude of the case. For example, the administrators, with the assistance of village elders and WDG members, mediated cases successfully by bring the disputing parties into agreement (54.1% of cases). In 18.8% of cases, an official letter was issued by the PA to assist in the transfer or the succession of the property. In other circumstances, the victim was given advice or help with what action to take regarding the property (5.9%). Some of the advice given included:

1. sending the widow to get a death certificate for her late husband and doing a search to ascertain that the titled deed indicated that her late husband was the legal owner of the land in question;
2. having the family file a succession for the land;

3. helping the widow get the death certificate of her late husband and birth certificate of her children;
4. to file a case in court.

However, indications were that 18.8% of the cases were referred to other government officers. PAs took this action if they failed to arbitrate the cases successfully. Cases referred to county council involved the allocation of a portion of victim's land to a road by the government. Other cases were referred to the land tribunal office, which has a mandate of solving land-related cases. Other cases were referred to the children's department mainly involved child neglect (intentional failure of a parent to provide the basic needs to a child). Other cases were referred to a higher Provincial Administration officer to arbitrate, while only 5.9% of cases were referred back to the families involved to settle the dispute peacefully, to have the PA intervene if they failed.

Figure 4: Summary of actions taken



Source: GROOTS Kenya, 2011

Table 2: Referrals to other government officers

Referrals	Frequency	Percent
County council	5	29.4
Land tribunal	4	23.5
Children's department	3	17.6
Court	2	11.8
Higher Provincial Administration office	2	11.8
Family	1	5.9
Total	17	100.0

Source: GROOTS Kenya, 2011

Other violations against widows and OVC

Besides land-related cases, the study suggests that widows and OVC often suffer other kinds of violations. These include non-land related property violation (e.g. disinheritance of family property other than land), crop (coffee or tea) payment disputes, threats of separation, abuse from the husband,

threats of death, denial of husband's burial permit and being chased away from the matrimonial or parents' home. Table 8 summarizes the non-land related cases reported to assistant chiefs between 2007 and 2009.

Table 3: Non-land related cases reported to assistant chiefs, 2007 – 2009

Year	2007			2008			2009		
	Property	Crop payment	Others	Property	Crop payment	Others	Property	Crop payment	Others
Kiamwangi	9	0	16	6	0	8	7	0	6
Kigongo	4	0	0	2	0	0	3	0	0
Nembu	7	0	14	0	13	12	0	8	3
Kiamworia	4	0	0	0	0	6	0	0	7
Gachika	4	14	0	1	8	1	3	9	0
Mundoro	2	13	1	2	10	2	1	10	4
Ndundu	5	0	14	4	10	0	0	3	2
Ituru	1	0	39	0	0	16	0	0	14
Kiganjo	1	1	0	3	0	1	1	0	0
Karanga	1	16	1	2	13	0	2	18	2
Total	38	44	85	20	54	46	17	48	38

Source: GROOTS Kenya, 2011

5. Conclusion

Conclusion

During this research, it was evident that community members were generally aware that laws relating to succession and land existed, but were not clear about the content or provisions of the law. This widespread ignorance renders critical provisions of the Law of Succession Act meaningless, allowing the continued use of cultural practices to determine succession matters and denying women equal rights to inheritance. Where the statutory provisions accord some form of protection for vulnerable groups, they may still be manipulated to suit the perpetrators of illegality.

Legal and policy reform are not enough for women to fully realize their rights to own and use property. This was also an indicator of the challenges the formal system is facing in terms of implementing their policies. The failure to involve widow's in the process of distributing land on their husband's death is highlighted by the WDGs as a factor causing unfair practices. WDGs work towards eliminating such factors that prevent women from enjoying their rights and that are fuelled by the victims' lack of knowledge on legal protection, negative cultural practices and high levels of corruption of some state and non-state actors.

The state needs to be vigilant due to our dual legal system that acknowledges both customary and statutory law. This study further informs us that there is a need for the Kenyan Government to increase investment in public legal

education to ensure the citizenry is able to properly utilize the available legal provisions and/or protections; it is this ignorance coupled with illiteracy that has led to failure to observe and apply property rights among women. The land WDGs have emerged out of a necessity to ensure the rule of law is observed.

In addition to the work of the community land and property WDGs in complementing the state, the efforts of non-governmental organizations in awareness creation on women's legal rights in Kenya must also be acknowledged.

Any provision of support to the formal or informal justice sector should have the overall aim of improving access to justice for the poor and disadvantaged. "Access to justice" is perhaps better envisioned as a process by which a range of inter-related factors combine to enable citizens to obtain a satisfactory remedy for a grievance. Such factors include, but are not limited to, an adequate legislative framework, basic community legal awareness and functioning formal and informal institutions of justice that are accessible in physical, economic and intellectual terms. Public monitoring and scrutiny of formal and informal justice systems is fundamental to achieve a successful framework towards accessing justice.

Recommendations

Although physically more accessible, informal systems reflect the social and political inequities which define poor rural communities. Building access to these systems includes establishing oversight mechanisms; ensuring representation for disadvantaged groups in local-level institutions; capacity building for informal actors; and building bridges between formal and informal systems.

The informal system of WDGs is an invaluable asset that requires further support from the government, development partners and civil society. This study further informs us that there is a need for:

- Government to invest in public legal education to ensure the citizenry are able to properly utilize the available legal provisions and/or protections, as lack of information coupled with illiteracy has led to failure to observe and apply government policy.
- Government to formally recognize and support the work of WDGs as an engendered tool supporting gender equality, including support of its replication in other areas of the country with high incidence of property rights violations. Such support would go towards meeting obligations pledged under the millennium development goals, tackling poverty and promoting gender equality.
- Government and development partners to invest in training to enhance the capacity of WDGs and also to incorporate legal rights of succession into the basic curriculum of schools.
- Government to encourage and support partnership between the provincial administrations and the community WDGs, in order to enhance efficiency and reach out or service more community members.
- Allowing WDG members to address the land tribunal during land cases to assist with presentation of required information, as the client may fail to mention an important requirement or note a procedural impropriety.
- Civil society and development partners to invest in women to allow them to take part in mapping their community's issues and support them to expand and replicate the community land WDG.
- Supporting the training of WDG members as paralegals as an alternative dispute resolution mechanism.
- Legal aid organizations to partner with WDGs as referral partners, especially in relation to technical cases.
- Civil society and development partners to support learning exchanges between different communities in order share best practices and identify practical ways to replicate them.
- The government and civil society to encourage women to own land as opposed to waiting to inherit or holding property in trust for the children upon death of a spouse.

References

- Asegedech Ghirmazion, et al. (eds), *Perspectives on Gender Discourse: Gender and Constitution-Making in Kenya*, 2002.
- Bardasi E, Blackden CM, Guzman JC. *Gender Entrepreneurship and Competitiveness in Africa*. In: *World Economic Forum, World Bank and African Development Bank, The African Competitiveness Report*, 2007.
- Benschop M. *Women's Rights to Land and Property. Women in Human Settlements Development - Challenges and Opportunities*: UN Habitat, 2002.
- Drimie S. *The impact of HIV/AIDS on Rural Households and Land Issues in Southern and Eastern Africa*. Background Paper prepared for the FAO sub-regional office for Southern and Eastern Africa. Pretoria, Human Sciences Research Council, 2002.
- Empowering Women with Rights to Inheritance, A Report on Amendments to the Law of Succession Act Necessary to Ensure Women's Human Rights*. International Women's Human Rights Clinic, FIDA Kenya and Georgetown University Law Centre, 2008
- Government of Kenya. *Poverty Reduction Strategy Paper for the Period 2001-2004 Prepared by the People and Government of Kenya, Vol. I & II*. Nairobi: Ministry of Finance and Planning, 2001.
- Government of Kenya. *Gender Analysis of Agriculture in Kenya*. Nairobi: Ministry of Home Affairs, Heritage and Sports, 2000.
- Government of Kenya. *The constitution of Kenya revised edition (2001)(1998)*. Nairobi: Government printers, 2001.
- GROOTS Kenya. *Taking Actions, Grassroots Women Leading to Curb Asset Stripping, Property and Land Disinheritance in Kenya*. 2008.
- Human Rights Watch. *Double standards: Women's property rights violations in Kenya 2003;15 (5a)*.
- Kabeberi-Macharia J. *Women, Laws, Customs and Practices in East Africa: Laying the Foundation*. *Women and Law in East Africa*, 1995.
- Kameri-Mbote P. *Gender Dimensions of Law, Colonialism and Inheritance in East Africa: Kenyan Women's Experiences*. IELC Working Paper No. 2001-1, 2002.
- Kameri-Mbote P. *The law of succession in Kenya: Gender perspectives and control*. Nairobi: *Women and law in East Africa*, 1995.
- Kenya National AIDS Strategic Plan 2009/10–2012/13. National Aids Control Council, 2009.
- Laws of Kenya. *Judicature Act, 1967 (No. 16 of 1967)*.
- Laws of Kenya. *Land Dispute Tribunal, Cap18*.
- Marjolein B. *Rights and Reality: Are Women's Equal Rights to Land, Housing and Property Implemented in East Africa?* Nairobi: United Nations Human Settlements Programme, 2002.
- Nyamu-Musembi C. *Are Local Norms and Practices Fences or Pathways? The Example of Women's Property Rights*. In: Abdullahi A. An-Na'im, *Cultural Transformation and Human Rights in Africa*. New York: Zed Books Ltd, 2002.
- Oduol J. *Do Customary Issues Have a Role to Play in a Modern Constitution?* In *Perspectives on Gender Discourse: Gender and Constitution-Making in Kenya* 38, 45 (Asegedech Ghirmazion et al. eds., 2002).
- Wojkowska E. *Doing Justice: How Informal Justice Systems Can Contribute*. UNDP, Oslo Governance Centre. Democratic Governance Fellowship Programme, 2006.



Our Mission

A global alliance of civil society and intergovernmental organisations working together to promote secure and equitable access to and control over land for poor women and men through advocacy, dialogue, knowledge sharing and capacity building.

Our Vision

Secure and equitable access to and control over land reduces poverty and contributes to identity, dignity and inclusion.

International Land Coalition Secretariat

Via Paolo di Dono, 44
00142 – Rome, Italy
tel.: +39 06 5459 2445
fax: +39 06 5459 3628
info@landcoalition.org
www.landcoalition.org

This work was carried out by **GROOTS Kenya** as part of a 3-year collaborative project entitled “Securing Women’s Access to Land: Linking Research and Action,” coordinated by the International Land Coalition (ILC), the Makerere Institute for Social Research (MISR) of Makerere University in Uganda, and the Institute for Poverty, Land and Agrarian Studies (PLAAS) of the University of Western Cape in South Africa.

Its overarching aim was to learn from women and respond to their needs through action-oriented research. The purpose of the research carried out under this project was not only to provide an evidence-base for advocacy on women’s rights, but also to strengthen the research and advocacy capacity of civil society organizations, and to build a platform to advocate for a transformative agenda that supports rural poor women to improve their access to and control over land and other natural resources, including the building of linkages with the wider advocacy relationships and programmes of the ILC.

This report is part of a wider initiative on Women’s Land Rights (WLR). If you would like further information on the initiative and on the collaborating partners, please feel free to contact the International Land Coalition.