

Enhancing Customary Justice Systems in the Mau Forest, Kenya

Within the Mau Forest Complex (Mau), women are the primary cultivators of land and heavy users of forest products. However, few are owners of the land they cultivate, few participate in community forest associations in the Mau, and even fewer act as elders within their communities. Early fieldwork in the area demonstrated deeply entrenched cultural norms against women engaging in public affairs, particularly related to resource use and dispute resolution. As a result, women not only have little ability to influence local resource rights and use arrangements, but also have no assurance that village elders, their first and often only venue for addressing resource issues, will adjudicate in ways that support their rights and interests.



Photo Credit: Deborah Espinosa/Landesia

Legal rights to land are necessary, but not alone sufficient, to improving women's access to justice related to land. There must also be in place institutions and mechanisms at the national and local levels—both formal and informal—to recognize, support and enforce those rights. Because traditional elders enjoy strong social legitimacy and influence the allocation of rights to natural resources, engaging them in strengthening women's access to justice is key to more secure resource and ownership rights for women and contributes to a more fair and equitable rule of law.

USAID's Bureau for Democracy, Conflict, and Humanitarian Assistance (USAID/DCHA/DRG), in partnership with the Bureau for Economic Growth, Education, and Environment (USAID/E3/LTPR), has funded "Enhancing Customary Justice Systems in the Mau Forest, Kenya" (*Kenya Justice Project*), which is being implemented by Landesa. This pilot serves as a model for improving rural women's access to justice related to land while building processes to bridge the gap between formal and informal justice systems.



Photo Credit: Deborah Espinosa/Landesia

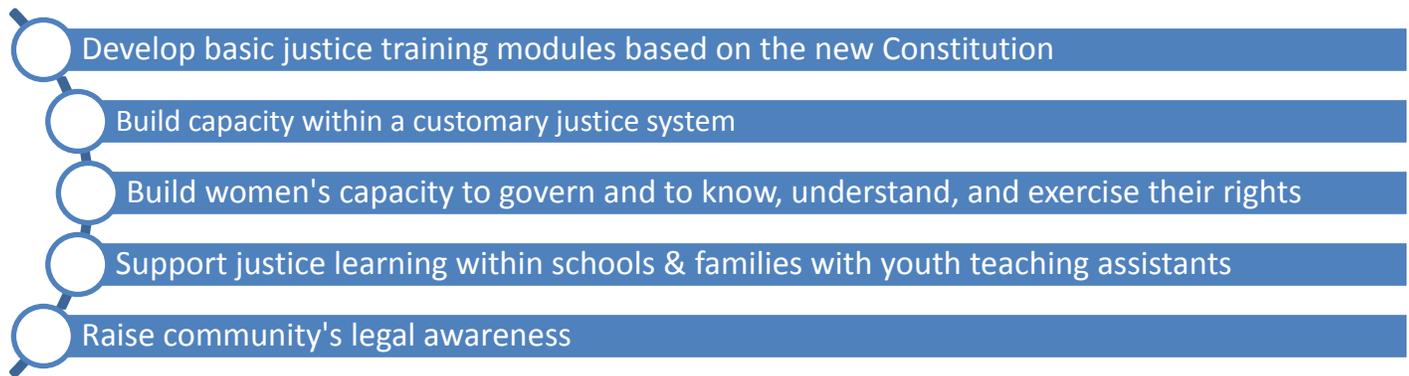
PILOT COMMUNITY

- Land tenure insecurity is high due to a history of arbitrary and illegal government actions
- 2,500 people (spill over to approx. 3,000)
- Remote and marginalized community
- Majority Maasai, with Kalenjin and Ogiek minorities
- Dependent exclusively on land and forests for livelihoods
- Majority of the land is privately owned

BRIDGING THE GAP BETWEEN FORMAL AND INFORMAL JUSTICE SECTORS

The pilot aimed to improve women's access to justice related to land by bridging the gap between formal and informal justice sectors. The Constitution (2010) guarantees women's land rights as well as recognizes the role of traditional dispute resolution mechanisms, i.e., elders, in implementing the Constitution. Using applied legal literacy training with a focus on developing legitimate processes, the Justice Project provided the time and space for beneficiaries to consider the implication of these historic constitutional changes. In so doing, the pilot aimed to shift attitudes regarding women's land rights and thereby improve community practice towards women's access and rights to land. Assuming financial resources are in place, the ultimate goal is to partner with the Government of Kenya to replicate and scale the model throughout the country.

PROJECT COMPONENTS



RESULTS

Following pilot activities that ended in May 2012, a quantitative and qualitative evaluation was undertaken to measure the short-term impacts of the Justice Project on women's access to justice and land in the pilot community. The evaluation revealed that the Justice Project generated significant and higher magnitude improvements (as compared to a control community) in several key areas:

- Establishment and strengthening of procedures and processes in local dispute resolution institutions, including enactment of community bylaws or constitutions to guide elders' actions, requirement of family consent for land transactions, enhanced recordkeeping of proceedings, consistently forwarding criminal cases to the police, and a new election process for the Council of Elders, resulting in women and youth being elected as members of the Council.
- Increased legal awareness, particularly women's legal knowledge, men's knowledge of women's rights, and women's familiarity with the local justice system and alternative dispute resolution.
- Increased and improved respect for women's rights by men in the community. Men's support seems to be highest for changes in women's rights that have resulted in observable benefits at the household and community level, such as women's increased economic activity or their increased involvement in dispute resolution.
- Increased women's access to land, as well as increased control and management over assets at the family level.

At the conclusion of the pilot 14 women were elected to the local Council of Elders and by March 2014 that number had risen to 22. As of this writing, the Justice Project team continues to seek opportunities for national scaling of the project model through partnerships with the Government of Kenya and civil society organizations.