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# ENHANCING CUSTOMARY JUSTICE SYSTEMS IN THE MAU FOREST, KENYA

FINAL REPORT



**JANUARY 2013**

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Principal Contacts:      Mark Freudenberger, Tetra Tech ARD  
159 Bank Street, Suite 300  
Burlington, VT 05401 USA  
Tel: (802) 658-3890  
Fax: (802) 658-4247  
[www.ardinc.com](http://www.ardinc.com)

Deborah Espinosa, Landesa  
1424 Fourth Ave., Suite 300  
Seattle, WA 98101 USA  
Tel: (206) 528-5880  
Fax: (206) 528-5881  
[www.landesia.org](http://www.landesia.org)

Photo: Three of the fourteen women who are newly elected as elders of OI Pusimoru, Kenya: Nareyio Letiya Kuyo, Sofi Nampaso, and Parakuo Naimodu (left to right). Courtesy of Deborah Espinosa/Landesia.

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**DISCLAIMER**

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# ACRONYMS AND ABBREVIATIONS

ADR	Alternative Dispute Resolution
<i>Baraza</i>	Swahili word for “public meeting”
CBO	Community-Based Organization
CFA	Community Forest Association
DCHA	USAID’s Office of Democracy, Conflict, and Humanitarian Assistance
DEO	District Education Officer
DRG	USAID’s Office of Democracy, Rights & Governance
FGM	Female genital mutilation
GoK	Government of Kenya
Justice Project	Enhancing Customary Justice Systems in the Mau Forest, Kenya Project
<i>Katiba</i>	Swahili word for “constitution”
M & E	Monitoring and Evaluation
Mau	Mau Forest Complex, Kenya
NGO	Non-governmental Organization
PFM	Participatory Forest Management
PRRG	Property Rights and Resource Governance Program
PVO	Private Voluntary Organization
RDI	Rural Development Institute
SOW	Statement of Work
USAID	United States Agency for International Development

# EXECUTIVE SUMMARY

For the average woman in rural Kenya, access to justice begins and ends in her village. Too often, the obstacles rural women face to access formal courts are formidable, including long travel distances; high costs for legal counsel; time-consuming delays; and language barriers. Instead, they may turn for redress to typically all-male customary justice institutions located within their communities. Here, too, rural women often face obstacles. They may be culturally prohibited from appearing before the customary institution because their community considers women to be minors, or if it is culturally appropriate for women to assert claims, they may face deeply embedded biases against women rooted in tradition or religion.

The vast majority of rule of law, access to justice, and legal empowerment programs have focused on improving access to the *formal* justice system. Far fewer resources have been dedicated to improving access to *informal* justice systems, also known as customary or traditional justice systems.<sup>1</sup> “Until recently, engagement with informal justice systems was not a part of development interventions in justice systems.”<sup>2</sup> Donors have been hesitant to directly support customary justice institutions, particularly since some of those institutions’ practices, based on customary law and tradition, are non-inclusive and run counter to the human rights of women, children, and other vulnerable groups. Thus, the approximately 24,000 customary justice institutions spread throughout sub-Saharan Africa have benefited little from donor support.<sup>3</sup>

Perhaps in recognition of the significance of customary justice institutions to fulfilling rural Kenyans’ constitutional right to access justice, Kenya’s new Constitution specifically calls for the judiciary to promote “traditional dispute resolution mechanisms,” but only so far as those mechanisms do not otherwise violate the Constitution (or any other written law) or act in a manner repugnant to justice and morality. Significantly, the Constitution also prohibits gender discrimination in all matters, including land matters. This constitutional framework formed the basis for the Justice Project.

## THE JUSTICE PILOT PROJECT

The primary objective of the Justice Project was to pilot an approach for improving women’s access to justice related to land rights by building the capacity of customary justice actors, particularly traditional elders, to support and enforce women’s land rights, consistent with the Constitution. Because traditional elders enjoy strong social legitimacy, influence the allocation

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<sup>1</sup> UN Women, *Informal Justice Systems: Charting a Course for Human Rights-based Engagement* at 16 (2013).

<sup>2</sup> *Id.*

<sup>3</sup> USAID, *Africa Regional Rule of Law Status Review* at 58 (2009).

of rights to land and natural resources, and resolve disputes, engaging them in strengthening women's access to justice may lead to more secure resource rights for women, their families, and their communities as well as contribute to a more equitable rule of law.

Legal rights to land are necessary but not sufficient. There must also be in place institutions at the national and local levels that recognize and enforce those rights. Given that in Kenya the typically all-male elder institution wields significant influence over rural women's access to land and resources, the Justice Project tested an approach for transforming such actors through legal literacy training and facilitated dialogue into supporters of women's formal land rights. In so doing, the pilot project intended to help develop a clearer understanding of the relationships between customary and statutory law and thereby develop a model to promote the integration of informal and formal justice mechanisms. This approach was particularly timely in Kenya given the recent adoption of a new constitution that guarantees equal rights for women as well as mandates the promotion of "traditional dispute resolution mechanisms," to the extent such mechanisms are consistent with the Constitution.

The Justice Project technical approach was multi-faceted, coming at access to justice issues from multiple directions, through multiple actors, and using multiple methods. The approach was as participatory as possible, using applied learning techniques appropriate to the target populations, namely: elders and chiefs, women, teachers, and youth (ages 18-35).

The Project expected to see increased sensitivity to and respect for women's land rights in elders' efforts to resolve disputes through several methods: (1) legal literacy trainings focused on governance, land and forest rights, and the rights of women; (2) skills trainings on alternative dispute resolution and public speaking; and (3) facilitated conversations to reflect on the meaning of the above on their lives.

Underlying the pilot approach is the following hypothesis: women's access to customary justice will improve with the confluence of four events: (1) passage of a new constitution creating new land rights or significantly strengthening existing land rights; (2) legal recognition of customary justice institutions; (3) legal literacy trainings; and (4) community conversations, i.e., facilitated dialogue on the implications of such legal changes within a "safe space."

USAID initially funded the pilot for a one-year period, followed by a second commitment of funds to support an impact evaluation as well as a national workshop in Nairobi. All told, the Justice team worked with the pilot community for a 12-month period, with the other twelve months spent on work planning and curriculum development, the evaluation, the National Workshop, and close-out.

Despite its ambitious objective and short-time frame, the pilot generated significant outcomes and impacts for the Justice pilot community, some of which are highlighted here.

## SUMMARY OF KEY OUTCOMES

1. Elder *katiba* (constitution) drafted and adopted to govern their decision making and guide their leadership on issues related to Justice themes, including women's land rights, gender equality, conflict resolution, and the environment.
2. Elder code of conduct drafted and adopted, recognizing the following principles: (1) no favoritism in dispute resolution; (2) fairness and honesty; (3) enforcement of verdicts; (4) taking all evidence very seriously; (5) keeping updated records; (6) disclosing and adjusting for conflicts of interest to avoid biased decision-making.
3. Spousal consent of land transactions now required by elders and chiefs before approving the sale or lease of land. This new requirement is significant because previously, husbands routinely sold family land without consulting their wives, pocketing the proceeds and leaving their wives with little to feed their children and pay school fees.
4. Elders created sub-committees to focus on the most common causes of conflict in the community, including gender equality, conflict resolution, and the environment.
5. Elders' new policy of referring rape cases to the police, rather than continuing elders' prior approach, which involved visiting the home of the victim and apologizing to the family on the rapist's behalf.
6. Women were elected as elders on July 10, 2012, two months after Project field activities ended. Fourteen women now resolve disputes alongside men.
7. Women now can seek justice independently. No longer must a women access the elders via a male relative to represent them.
8. Separated and divorced women are going to the elders for assistance in claiming a portion of the family land. Although it is too soon to know the outcome here, some separated or divorced women doing so expressed utter confidence that they will prevail.
9. **Girls' educational opportunities increased.** According to the OI Pusimoru secondary school principal, the ratio of boys to girls attending secondary school this year is 1:1, as compared to the previous year's ratio before the Project had started, of 3:1. The principal attributes this change to the Justice Project's messaging to parents that girls have an equal right to education and that early marriage in lieu of education is a detriment to girls' futures.
10. Girls' leadership Increased. According to the deputy principal of the secondary school, during the academic year beginning January 2012, girls began challenging boys for leadership roles within the school in numbers never before seen, and in some cases obtained those leadership roles.

## SUMMARY OF KEY EVALUATION FINDINGS

The evaluation was based on a mixed-methods approach, using analysis of quantitative data from interviews with women and men, and qualitative data from key informant interviews and focus group discussions in the Justice community and in an equivalent community where the Project did not operate (a control community). The quantitative survey and qualitative fieldwork were completed within three months of the end of Project field activities in the community, so evaluators focused on measuring discernible short-term impacts with the understanding that the full effects of the Project will likely only be realized over a longer term.

Compared to the control community, the evaluation found improvements in key access to justice factors:

- Men and women's knowledge and understanding of women's basic constitutional rights
- Men and women's respect for women's basic constitutional rights
- Women's confidence in the fairness of the customary justice system and potential outcomes should they ever have to access the system

The evaluation also found significant but smaller improvements over the past year on these factors:

- Easy physical access to the justice system over the past year (perceived by women)
- Equal treatment of men and women, rich and poor, and educated and uneducated (perceived by women)

Although it is far too soon to draw any conclusions, the evaluation also found early signs of positive impacts on the security of women's land tenure.

At the same time, however, the evaluation team found no detectable difference between the Justice community and the control community in these areas:

- Women's perceptions in the promptness and affordability of the local justice system. This may be due to the relatively few women who reported going to the elders for assistance in resolving a dispute within the past year.
- Women's perceptions of improvements in elders' constitutional knowledge over the past year. Qualitative data suggests that this may be due to a variation among trained elders in understanding and applying the Constitution or an uneven spread of information to elders not directly trained by the Project. It also may be due to the relatively few women who reported going to the elders for assistance in resolving a dispute within the past year.

Finally, the evaluation found anecdotal evidence that the Justice community experienced improvements in other potential longer-term impacts as a result of improvements in women's access to justice and increased access to land. Although it is too soon to draw conclusions,

potential longer-term impacts may include improvement in women's overall well-being, increased assertion by women of rights to justice and better services, increased demand for girls' education, and reduced domestic violence.

Given these favorable outcomes and evaluation findings, replication and a national roll-out of the Project is recommended. Project components could be replicated in whole or in part and scaled through strategic partnerships with Judiciary, the Ministry of Justice, the National Land Commission, and/or the Ministry of Education. Civil society is also a key partner given its often deep knowledge of and relationships with communities throughout the country as well as the need to work at the grass-roots level on multiple fronts.

For many rural Kenyans, the new Constitution holds great promise. No doubt, the Justice Project acted during a critical window of opportunity and was able build upon the pilot community's hopes for realization of that promise. It is unclear how long rural Kenyans will remain optimistic and open to change.

In sum, the Justice Project illustrates that customary justice institutions can evolve into strategic partners for helping women realize their constitutional rights to access justice and own land. To disregard such institutions in efforts to secure women's rights runs the risk of rural women never fully realizing those rights.

# 1. INTRODUCTION

For the average woman in rural Kenya, access to justice begins and ends in her village. Too often, the obstacles rural women face to access formal courts are formidable, including long travel distances; high costs for legal counsel; time-consuming delays; and language barriers. Instead, they may turn for redress to typically all-male customary justice institutions located within their communities. Here, too, rural women often face obstacles. They may be culturally prohibited from appearing before the customary institution because their community considers women to be minors, or if it is culturally appropriate for women to assert claims, they may face deeply embedded biases against women rooted in tradition or religion.

The vast majority of rule of law, access to justice, and legal empowerment programs have focused on improving access to the *formal* justice system. Far fewer resources have been dedicated to improving access to *informal* justice systems, also known as customary or traditional justice systems.<sup>4</sup> “Until recently, engagement with informal justice systems was not a part of development interventions in justice systems.”<sup>5</sup> Donors have been hesitant to directly support customary justice institutions particularly since some of those institutions’ practices, based on customary law and tradition, are non-inclusive and run counter to the human rights of women, children and other vulnerable groups.<sup>6</sup> Thus, the approximately 24,000 customary justice institutions spread throughout sub-Saharan Africa have benefited from little donor support.<sup>7</sup>

This report is the final report for the pilot project, *Enhancing Customary Justice Systems in the Mau Forest, Kenya* (the Justice Project or Project), a project that specifically targeted a customary justice institution in an effort to test a model for transforming that institution into supporters and enforcers of women’s land rights. This Final Report discusses: (1) Project background; (2) Project administration and logistics; (3) Project activities and outcomes; (4) a summary of the Project impact evaluation; (5) related communications efforts; and (6) conclusions.

Landesa, an international non-governmental organization and registered private voluntary organization (“PVO”), formerly called the Rural Development Institute (“RDI”), implemented this Project under a USAID sub-contract with Tetra Tech ARD, as part of the Property Rights and Resource Governance (“PRRG”) task order (EPP-I-00-06-00008-00), a six-year initiative

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<sup>4</sup> UN Women at 16.

<sup>5</sup> *Id.*

<sup>6</sup> USAID, *Africa Regional Rule of Law Status Review* at 58 (2009).

<sup>7</sup> *Id.*

(September 2007–2013) under the USAID “Prosperity, Livelihoods and Conserving Ecosystems” Indefinite Quantity Contract. Support for this pilot activity was from the USAID Bureau of Democracy, Conflict, and Humanitarian Assistance (“DCHA”).

The Justice Project complemented a country-wide USAID program in Kenya focused on addressing land/resource tenure, access to justice, and governance challenges, particularly within the USAID/Kenya-supported ProMara Program. Tetra Tech ARD, Landesa, and other partners implemented ProMara in the upper Mara River catchment area within the Mau Forest Complex, Kenya (“Mau”). By design, the Justice Project relied extensively on assessments and other information for and under ProMara, gathered since February 2010.

## 2. PROJECT BACKGROUND

Kenya's new Constitution guarantees access to justice for all citizens, recognizes "traditional dispute resolution mechanisms" as part of the judiciary, and prohibits gender-based discrimination in all matters, including land matters. This constitutional framework formed the basis for the Justice Project.

### OBJECTIVE

The primary objective of the Justice Project was to pilot an approach for improving women's access to justice in land-related matters, i.e., to build capacity of customary justice actors, particularly village elders, to support and enforce women's rights to land, consistent with the recently adopted Constitution and National Land Policy. Because traditional elders enjoy strong social legitimacy as well as influence allocation of rights to land and natural resources, engaging them in strengthening women's access to justice may lead to more secure resource rights for women, their families, and their communities as well as contribute to a more equitable application of law. This work also is intended to result in a clearer understanding of the relationships between customary and statutory institutions and laws, and the development of a model to promote the integration of informal and formal justice systems.

### PILOT COMMUNITY

The pilot community of Ol Pusimoru is located in the Mau Forest Complex, Narok County (formerly, Narok North District). The area is remote with sometimes impassable roads and lacks basic services. The majority of the Ol Pusimoru community is Maasai but with significant Kalenjin and Ogiek minorities. These communities depend exclusively on land, livestock, and forests for their livelihoods.

The majority of land in Ol Pusimoru is privately held with titles issued almost entirely in the names of husbands as heads of household. The surrounding areas consist of government- and privately owned forests.

Land tenure insecurity is high due to a history of arbitrary and illegal government actions and, more recently, government plans to restore forest cover.

The customary justice institution in the area is the village elders, a historically all-male institution that is responsible for resolving disputes. If the elders cannot resolve the dispute, parties will then go to the assistant chief for the sub-location, and then the chief. The chiefs are local-level government representatives.

In this area, women are the primary cultivators of land and heavy users of forest products. Despite this, few are owners of the land they cultivate, few participate in community forest associations, and even fewer are appointed as village elders. Early pre-design fieldwork in the

area found 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 had little ability to influence local resource rights and use arrangements, but also have had no assurance that elders, their first and often only venue for addressing resource issues, will adjudicate in ways that support their rights and interests.

## **DEVELOPMENT HYPOTHESIS**

Legal rights to land are necessary but not sufficient. There must also be in place institutions at the national and local level that recognize and enforce those rights. Given that in Kenya elders wield significant influence over rural women's access to land and resources, the Justice Project tested an approach for transforming such actors through legal literacy training and facilitated dialogue into supporters of women's formal land and resource rights. In so doing, the pilot project intended to help develop a clearer understanding of the relationships between customary and statutory law in order to develop a model to promote the integration of informal and formal justice mechanisms. This approach was particularly timely in Kenya given the recent adoption of a new constitution that guarantees equal rights for women<sup>8</sup> as well as requires "the promotion of traditional dispute resolution mechanisms" to the extent such mechanisms are consistent with the Constitution.<sup>9</sup>

Underlying the pilot approach is the following hypothesis: access to justice is improved, formal and customary justice institutions become more integrated, and the rule of law is strengthened with the confluence of four events: (1) passage of a new constitution creating new land rights or significantly strengthening existing land rights; (2) formal recognition of women's land rights and of informal justice institutions; (3) legal literacy training; and (4) community conversations, i.e., facilitated dialogue on the implications of such legal changes within a "safe space."

Increasing women's access to justice through socially legitimate customary institutions requires that stakeholders within the community learn the same concepts, skills, and information, embrace the same principles, and ultimately exhibit the same behavior, i.e., ensuring women's access to justice. As such, the Project delivered similar legal literacy trainings to and facilitated dialogues with elders/chiefs and women who have assumed some form of leadership role among the women. Finally, the Project intended to reach the broader community through a school art curriculum based on Justice themes. That curriculum involved similar trainings for teachers and educated youth. The teachers then taught their students with assistance from the youth. The curriculum culminated in student and trainee expressions of Justice themes through the arts, i.e., students conveying Justice themes via drama skits, poems, songs, and posters, which they presented to parents in the community.

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<sup>8</sup> The Constitution of Kenya, Arts. 27 & 60(1)(f) (2010).

<sup>9</sup> Id. at Art. 159.

## TECHNICAL APPROACH<sup>10</sup>

The Justice Project technical approach was multi-faceted, coming at access to justice issues from multiple directions, through multiple actors, and using multiple methods. The approach was as participatory as possible, using applied learning techniques appropriate to the target populations, namely: elders and chiefs; women; teachers; and youth (ages 18-35) with a secondary school education. Through this multi-faceted approach, the Project expected to see increased sensitivity to and respect for women's land rights in elders' dispute resolutions.

The Project focused on key subjects and used select methods for building the capacity of target groups in the pilot location.

### Focal Subjects

- Civic education
  - Justice and rule of law / governance
  - Kenyan justice system and the role of customary justice institutions
- Legal literacy
  - Constitution / National Land Policy
  - Rights and responsibilities regarding land and forests, with particular attention to women and children's rights
- Skill building
  - Alternative dispute resolution ("ADR"): negotiation and mediation skills
  - Advocacy and public speaking (for women trainees)

For all themes, emphasis was placed on starting with trainees' existing knowledge base and experience, as well as topic areas with which they easily identify before venturing into the formal training. This approach helped the trainees easily identify home-grown solutions to their challenges, facilitated deeper knowledge retention, and sustained interest during the training sessions.

### Technical methods

The Project encouraged participants to share their experiences through a number of channels, including personal narratives, local proverbs and sayings around the training themes, role plays and presentation of case examples with application of customary and formal laws to resolve them, and questions and answers.

#### ▪ **Trainings & Mentoring Sessions**

Individuals who have a role in governing, resolving land disputes, and/or acting as opinion leaders require more in-depth learning than the average citizen. Therefore, the Project conducted trainings for each group based on their self-identified needs and project objectives. As part of these trainings, a sub-set of the trainees had an opportunity to observe a land-related case at a magistrate court in Nakuru. Following trainings, each

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<sup>10</sup> The remaining part of this section relies heavily on the Project work plan.

woman and youth trainee was asked to convene at least two meetings with his/her peers to share the most relevant subject matter learned.

- **Legal awareness-raising through public information and education activities**

For the general population and children, the Project engaged in awareness-raising activities on topics such as the Constitution, the National Land Policy, rights and responsibilities regarding land and forests, and alternative dispute resolution. The primary developers of such public information and education were the schoolchildren, although all trainees chose to create and participate in skits without being asked.

- **Community conversations**

The intervention called “Community Conversations” refers to a series of facilitated dialogues among community members. According to the United Nations Development Programme, in the context of HIV/AIDS programming, community conversations create an inclusive space for mutual learning that results in new perspectives.<sup>11</sup> “Community Conversations provide a platform for people to think through all the repercussions of a situation – the way their individual values and behaviours, and those of their family and neighbo[u]rs, affect people’s lives. Community Conversations create a space for mutual learning and result in new perspectives. They help reshape relationships in line with transformed values.”<sup>12</sup>

The Justice team first facilitated community conversations among elders alone, women alone, and youth alone as part of their separate training modules. Then the team brought together representatives from each group (selected by each group) to participate in a series of facilitated joint conversations where all representatives were present.

More information about these methods and the outcomes are provided in Section 5 under each Project component.

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<sup>11</sup> UNDP, *Community Capacity Enhancement Book: The Answer Lies Within* at 3-4 (2005). “UNDP has implemented the Community Conversations approach in a number of countries with very different social, economic and political situations . . . . In all instances, this approach has brought about a fundamental shift in the way communities get work done – resulting in a series of actions and decisions that have arisen from communities themselves. It is an approach that can be used to deal with other human development challenges as well, including wealth generation, democratization and good governance.” *Id.* at 4.

<sup>12</sup> *Id.*

# 3. ADMINISTRATION AND LOGISTICS

## MANAGEMENT AND STAFFING

Landesa (formerly the Rural Development Institute (RDI)) led the Justice Project in close cooperation with its prime contractor, TetraTech ARD, which led ProMara in the same area.

The Justice team consisted of:

- Deborah Espinosa – Task Leader, Senior Attorney and Land Tenure Specialist (Landesa). Based in Seattle, Deborah led the project design and provided overall project management and technical inputs on all project activities.
- Soipan Tuya – Land Law and Gender Specialist (half-time consultant for Landesa). Based in Nakuru, Kenya, Soipan led the Kenya field team and provided legal technical expertise for all project activities.
- Caroline Lentupuru – Gender Resource Specialist (half-time consultant for Landesa). Based in Nakuru, Kenya, Caroline led school-based activities and provided assistance to Tuya in all other activities in the target community.
- Amanda Richardson – Fellow, Center for Women’s Land Rights (Landesa). During year one of the Project, Landesa supported Richardson’s labor, assisting in all technical inputs of the project.
- Maurice Otieno Ombok – Alternative Dispute Resolution Specialist (consultant for Landesa). Based in Nairobi, Ombok led ADR curricula development and delivered ADR training to each target group.
- Florence Santos – Monitoring and Evaluation Specialist (Landesa). Based in Seattle, Florence developed the project’s monitoring and evaluation plan and led the impact evaluation team.
- Margaret McClung – Program Associate (Landesa). Based in Seattle, Margi participated in the qualitative impact evaluation and provided contract and administrative support.
- ROC Associates – Based in Kisumu, Kenya, ROC Associates provided logistical support (such as data collection) to the evaluation team.
- Johnson Masiaine – Legal Intern (Landesa). Based in Nakuru, Kenya, Johnson assisted the field team with administrative support and note-taking during field activities.

The only staffing challenge arose near the end of the Project. In early December 2012, with two months of the project left, a key member of the team began a campaign for a seat in the Kenyan Parliament. As such, she was unable to finish her contract on the Justice Project. This

meant that the team did not have the benefit of her experience and insights in contributing to the National Workshop report as well as this Final Report.

## **WEATHER-RELATED DELAYS**

Heavy rains in the Project's target area led to a suspension of most Project activities from mid-August 2011 through November 2011. On many occasions, roads into the pilot area were impassable due to mud. The team was able to rearrange some meetings, however. Instead of the team traveling to Ol Pusimoru, the Project transported elders via motorbike to a location 10 kilometers away along a paved road. This modification entailed unanticipated transportation and venue rental costs, and was unfortunately inappropriate for the women trainees. This meant that the Project had to postpone the start of their training until early December 2011, leaving only six months to work with the women trainees.

## **BUDGETARY AND RELATED ISSUES**

There are two main budgetary issues of note. First, the lack of administrative support for the Kenya-based team imposed a significant burden on an already-stretched team. As a consequence, there were challenges associated with the Kenya-based team providing the Seattle-based team with trainee reports, timesheets, and logbooks from Project trainees, all of which are handwritten and had to be scanned one by one. Also, the Kenya-based team, which conducted all of the field-based activities, found it difficult to prepare comprehensive notes on the contents of the trainings and conversations while they were also conducting the trainings. As a result, the Project was not capturing some of the nuances around the trainings and meetings early in the Project.

To address these challenges, the Project engaged a law student volunteer to help with basic administrative tasks. Also, the volunteer attended all remaining Project trainings, conversations, and some meetings to take detailed notes.

Second, although there were clear benefits associated with implementing this Project in the same geographic area as the USAID/Kenya-supported ProMara Program, the team began to see a few drawbacks that are relevant to a potential roll-out of the pilot. Key benefits to overlapping with ProMara in the target area included sharing an office (at no expense to the Justice Project), the relative ease of sharing information and staff between the projects, as well as the intangible benefit of the Justice Project being able to focus on rule of law issues while ProMara worked on improving livelihoods (among other objectives), which at the beginning of the Justice Project appeared to be of greater concern for Ol Pusimoru residents.

There were three drawbacks to the geographic overlap of ProMara with Justice, however. At the beginning, the Justice Project was unaware that ProMara was providing cash reimbursements to attendees of ProMara meetings for costs associated with their attendance. As such, in order to ensure attendance at its functions, the Justice Project had to do the same and modify its budget to allow for this substantial expense over the course of the project.

In addition, because ProMara had a significant presence in the same community before the Justice Project started, and the two projects shared two staff members, early on there seemed to be identity confusion between the two projects. Often, trainees and community members referred to Justice activities as ProMara activities. Because the Justice Project continued many months beyond ProMara's end, however, this issue seemed to resolve itself.

Finally, with similar programming on different topics, the two projects were in some ways competing for a finite amount of community time and effort, while trying to avoid oversaturation in the community. The team saw some interest amongst trainees shift away from the Justice curriculum to environmental issues after ProMara's extensive environmental training program began in OI Pusimoru and other areas. While both sets of curricula were important, and central to the objectives of each project, the significant ProMara environment-related presence and programming in OI Pusimoru made it difficult at the beginning to sustain community enthusiasm.

## 4. PRELIMINARY ACTIVITIES

As previously noted, the Justice Project complemented the USAID-supported ProMara Program in the Mau Forest Complex (Mau). More specifically, ProMara was based in three sub-catchments of the upper Mara River basin of the Mau and the Justice Project was in one of those areas. Preliminary activities consisted of the Justice team selecting the location for the pilot within those sub-catchments, filling in information gaps needed to design the project, and drafting the work plan.

Based on information gathered during an assessment that led to the design of ProMara as well as information gathered under ProMara,<sup>13</sup> and in consultation with the ProMara Chief of Party, the Justice team decided on the sub-catchment around OI Pusimoru sub-location, which is comprised of three villages: OI Pusimoru town center, Esoit, and Tegat.<sup>14</sup> To supplement the information it already had on local land and justice issues, the team interviewed the OI Pusimoru Chief and three Assistant Chiefs for each OI Pusimoru sub-location. The team also conducted focus group interviews with village elders, women from the three villages, the Deputy Principal of OI Pusimoru Primary School, the Principal of OI Pusimoru Secondary School, and the Narok District Education Officer.

Although initially the Project intended to focus on the OI Pusimoru *sub-location*, which also is the town center of the OI Pusimoru location, it soon became apparent that boundaries between the other two sub-locations were minimal, with residents of each mixing with each other. The Project therefore expanded to work with people from all three sub-locations of OI Pusimoru location. One exception was that, due to constraints on human resources, the Project could work only with the school community of the OI Pusimoru sub-location.

USAID approved the work plan on April 25, 2011, and the team began implementation.

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<sup>13</sup> Both Tuyu and Espinosa were on the ProMara team making information sharing easy.

<sup>14</sup> A “location” and “sub-location” are government administrative units.

# 5. PILOT ACTIVITIES AND OUTCOMES

This section describes pilot activities and outcomes under each Project component and provides commentary on their implementation (see Annex 1 for a chronology of trainings and other activities). To avoid duplication, activities are divided into five components, each of which focuses on the target groups identified above, using the methods also described above. A sixth component included monitoring, an impact evaluation, and a national workshop.

## COMPONENT 1: DEVELOP BASIC JUSTICE MODULES

Under this component, in April 2011, the team developed basic training modules on the following subjects related to access to justice and resource rights:

- **Civic education**
  - Justice & rule of law / governance
  - Kenyan justice system and the role of customary justice institutions
- **Legal literacy**
  - Constitution / National Land Policy
  - Formal law governing land and forests, with particular attention to women and children's rights
- **Skill building**
  - Alternative dispute resolution: negotiation and mediation skills
  - Advocacy and public speaking

After developing a basic curriculum (included as Annex 1 in the Quarterly Report for the period ending October 31, 2011), the Project tailored a curriculum for each target group.

At the beginning of the trainings, each trainee received a copy of the Constitution and the National Land Policy in English, as that was the only language available when the project started. In December 2011, the Kenya Land Alliance (a Kenyan NGO) published a Swahili version of the Constitution. Because no budget remained to purchase the version more useful to most trainees, Landesa used private donor funds to purchase 1,500 copies of the Constitution in Swahili for trainees and community members.

Each trainee also received a summary of the basic curriculum and a summary of the public speaking curriculum for the women trainees, in English and Swahili (the summaries are included as Annexes 2 and 3, respectively, in the Quarterly Report for the period ending May 31, 2012).

There are no outcomes specifically related to this Component.

## **COMPONENT 2: BUILD CAPACITY WITHIN THE CUSTOMARY JUSTICE SYSTEM**

This Component was designed to enhance the customary justice actors' leadership capacity; dispute resolution skills, knowledge of formal law governing women's access and rights to land, and willingness to improve the accessibility, fairness, and transparency of the customary dispute resolution process. In Ol Pusimoru, the customary justice actors included elders and chiefs.<sup>15</sup>

Work under this Component began in July 2011 with a community conversation among 30 trainees, followed shortly thereafter with the first training. Elder trainings focused on the rule of law, governance/leadership, and the Kenya justice system, as well as the Constitution and the National Land Policy, with particular attention to land rights, including women's land rights. Skill building focused on alternative dispute resolution. The trainings also included an examination of the consistency and transparency of the elders' dispute resolution procedure.

Interspersed between trainings were additional facilitated community conversations among the elders and chiefs focused on identifying the most common types of disputes, customary rules that govern the resolution of land disputes and the extent to which those rules may differ from the Constitution, elders' procedure for resolving disputes, ethical standards, allocation of labor within their households, and relationships with community members. The team reviewed minutes of elders' pre-Project decisions, and provided feedback to the actors suggesting ways to increase the transparency of the process. Representatives from the elders' group observed a formal court hearing in Nakuru. Finally, the Justice team provided mentoring to the elders on topics based on their specific requests.

Although the Project asked women and youth trainees to conduct peer sessions, the Project did not ask elders to do so. Despite this, however, elders began voluntarily holding peer sessions to pass on information about Justice themes to their constituents. Details of those peer sessions are not available because most elders could not relate them to the Justice team in writing.

### **▪ Elders Support for Women's Rights.**

Given that the Project objective was to improve women's *access to customary justice*, below are the highlights of the Justice team's trainings, conversations, mentoring sessions, and meetings with elders that illustrate the progression of elders from feeling threatened by women's constitutional rights to supporting and enforcing them. Note that this level of detail is included only for this Component.

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<sup>15</sup> Although the chiefs are technically administrative actors, they were included given their close working relationships with elders on resolving disputes.

The team's engagement with elders began with introductions, an initial conversation about the Justice Project, and a discussion about the elders' informal responsibilities related to dispute resolution and their appreciation of the importance of integrating informal and statutory legal systems. The conversation evolved into a lively, participatory discussion outlining the importance of land as a resource and the critical role informal justice institutions play in managing land and land ownership.

A community conversation helped elders identify the most common land disputes in their areas and the rules and processes they use to adjudicate disputes. For example, in Ol Pusimoru, disputes over inheritance of land and other property were the most commonly resolved by the elders, while Kamrar elders pointed to boundary disputes as the most common dispute in their area. Interestingly, elders from Ol Mariko noted that a lack of access to roads negatively impacts women in their community.

The elders were surprised and excited to learn that Article 159 of the Constitution supports their ADR work and recognizes "traditional dispute resolution mechanisms" as part of the judicial system. In their opinion, this recognition legitimizes their role and makes the justice system at the community level respected. Reflecting on pre- and post-colonial governments' attempts to dismantle the elders' institution, elders seemed proud that they still exist as an institution. From their perspective, the importance and resilience of the customary justice systems is now evidenced by the move to recognize them in the Constitution.

The Justice team then emphasized that alongside the constitutional recognition of their role is a higher bar or standard set for them for upholding fairness and equality: the Constitution only recognizes traditional dispute resolution mechanisms to the extent they do not otherwise violate the Constitution.<sup>16</sup>

The elders expressed eagerness to understand the linkages between their work and that of formal courts, and optimism that the Constitution's recognition of ADR would lead the government to build their capacity to do their work more effectively. They noted the need for clarity on when to refer cases to formal courts, and the need for guidance on how to capture their decisions to ensure their admissibility in formal courts.

When the training turned to women's rights, the elders were especially vocal on contentious themes, including land rights for married women, rights to matrimonial property, and wife beating. At the beginning, there was visible resistance as the group discussed the various rights to land and resources that the Constitution guarantees women. Their questions and statements suggested that they found women's rights threatening. For example, one elder

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<sup>16</sup> Const., Art. 159(2)(c) & (3).

thought that recognition of women's rights would cause strife in families, and that women would use the Constitution as a sword against their husbands, provoking the men.

The team responded that although the Constitution recognizes women's rights, at the same time, it gives primacy to the family as a fundamental unit of society, which must be protected.

Early on, the team challenged the elders on the issue of joint titling of land. The elders acknowledged the value of joint titling, explaining that they have handled cases where widows suffered as they were denied land access after the death of their husbands. They thought joint titling was a good idea, while at the same time appreciating that cultural practices against women owning land would have to be reversed if joint titling was to happen.

During this period, the team worked with the elders to create a pie chart on the hour-by-hour division of labor between husbands and wives during a typical day. At this point, there was clearly an "aha!" moment for the elders. Through that exercise, the elders started to recognize the important role that women play in their family's survival, and that given how much women work on the land, they may in fact have something to contribute to decision-making about the land. As the team went on to state how recognizing women's rights and giving them a say in household decision-making could mean better livelihoods for the entire community, the elders seemed to slowly tone down their resistance. In the end, elders agreed that women indeed were a marginalized and vulnerable group in most ways, and that even women themselves do not support one another, such as in politics. They acknowledged that women are marginalized on all fronts, noting that cultural norms limit the extent to which women can be involved in family or community matters. As an example, they noted the limited role that women play in marrying off their children.

During a facilitated conversation at the end of November 2011, another large shift appeared in elders' attitudes towards women. Some of the common themes the elders articulated were:

- A desire to shift cultural norms related to gender equality – elders expressed a greater appreciation for the contributions women can make to their families and communities. They also committed to guide changes in attitudes towards women in their communities through educational and awareness-raising activities during chiefs' *barazas* (public meetings held by the chief).
- Awareness of the importance the Constitution places on ADR, and a desire to ensure that they are discharging their ADR duties consistent with the Constitution.
- A concern that women should not use their equal rights to break up families or sow conflict.

During this conversation, elders outlined critical next steps to keep the momentum going, including continuing conversations within their own homes and in the communities about gender equality to ensure that everyone comes to a common understanding on the issue

without creating conflict. They also drafted a document to identify key attributes and principles of their customary system and of the Constitution to keep the two aligned.

- **Review of elders' minutes.** Before the Justice Project began, elders had a practice of preparing minutes of some of their cases. At the team's request, the elders allowed the team to review minutes from a 14-year period (1996-2009). In April 2012, the Justice team met with elders to provide them with feedback on their minutes, as well as a suggested template for recording their case information (attached as Annex 5 to the Quarterly Report for the period ending May 2012). Feedback to elders covered topics such as the need for consistency in recording basic facts about each case, clearly articulating and recording their decision-making rationale and explaining it to the concerned parties, giving greater attention to women's rights, and taking threats of physical violence more seriously.

The elders were receptive to the feedback and motivated to use the template because they believed it would guide them to record all the important case information, clearly articulate their decision-making rationale, and improve consistency in their decisions. At the elders' request, the notes template was translated into Swahili and blank copies were distributed to the Chief's office and each of the sub-locations. Although they maintained that they will not provide written copies of the minutes to parties, they have committed to sharing their decision rationale with each claimant. The elders feel the forms will make their jobs easier and improve transparency, which they recognize is important.

- **Court visit.** Representatives of the elders participated in group trips to the courts in Nakuru. Information about their collective reflections appears under Component 5.

## OUTCOMES

There are six significant project outcomes related to this Component: (1) the elders' *katiba* (constitution), which they drafted to guide their implementation of the Constitution; (2) elders' sub-committees formed to focus on specific issues of concern; (3) elders' code of conduct; (4) a new requirement for written spousal consent of land transactions; and (6) referral of rape cases to the police.

### 1. Elder *katiba*.

Soon after their trainings, the elders decided to draft their own *katiba* (constitution) to govern their decision-making and guide their community leadership on issues related to Justice themes, including women's land rights, gender equity and equality, conflict resolution and the environment (attached here as Annex 2). Remarkably, the *katiba* specifically pledges the elders to examine and shift away from regressive cultural practices that harm the community. Of particular interest to the Justice team is the link the elders make in the *katiba* between the practice of excluding women from leadership and decision-making on land-related matters and poverty in their communities.

The *katiba* also commits the elders to ensuring gender equity in all community-level committees, including community based organizations (CBOs), school committees, community

forestry associations, water resource users associations, and even chiefs' committees. The *katiba* suggests that educated and capable women should take on these leadership positions, and that men need to recognize that women have a valuable contribution to make in committees affecting community issues.

For example, the *katiba* calls on elders to “. . . watch out for any regressive cultural practices that we must disregard in our dispute resolution . . . . Any land transactions must be presented before the elders by the entire family so that we ensure that women and children are involved in decision-making over land to discard the traditional approach where the men were the sole decision-makers. This practice has increased poverty in our community.”<sup>17</sup>

Notably, the *katiba* calls on elders to share the information they have learned through Justice training with their communities. During the months of December and January elders convened community meetings passing on information related to women's rights, environment, and equity in community committees to more than 180 community members. Notes from community meetings attended by Justice staff reveal the elders making what appears to be a sincere effort to inform their communities about principles of gender equality enshrined in the new Constitution and calling on community members to abandon traditions that counter these principles, specifically encouraging men to involve their wives and children in decisions related to land.

The only role of the Justice team in the development of the *katiba* was writing it down on a flip chart as they were developing it and typing it up.

OI Pusimoru Assistant Chief Jonathan Sadera read the *katiba* to the community at the Project's Justice Day celebration on May 19, 2012 – in front of an estimated 1,900 people. This public reading was another important step towards transparency and accountability. Presenting these commitments in a public meeting set the stage for the community to hold elders accountable for applying those principles and enforcing women's rights to land.

## **2. Elder Sub-committees.**

In their *katiba*, elders identified the need for and then created sub-committees to help them manage and mitigate the most common causes of conflict in the community, including gender equity and equality, conflict resolution, and environment.

## **3. Elder code of conduct.**

While discussing the issues raised in the elders' minutes, the elders articulated their code of conduct for dispute resolution, based on the following principles:

- No favoritism in dispute resolution

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<sup>17</sup> Note that the elders frequently discuss “women and children” becoming involved in decision-making, which is not surprising given that traditionally, women have been considered more like children than adults.

- Fairness and honesty
- Enforcement of verdicts
- Taking all evidence very seriously
- Keeping updated records
- Disclosing and adjusting for conflicts of interest to avoid biased decision-making

#### **4. Spousal Consent of Land Transactions.**

As indicated in the *katiba*, elders and chiefs now require the written consent of spouses and adult children before approving the sale or lease of land. This new requirement is significant because previously, husbands routinely sold family land without consulting their wives, pocketing the proceeds, and leaving their wives with little to feed their children and pay school fees.

#### **5. Referral of Rape Cases**

At the request of the women trainees, elders in Ol Mariko sub-location no longer hear rape cases, recognizing that rape is a criminal offense and should be handled by the police. This practice is in stark contrast to their prior approach, which involved visiting the home of the victim and apologizing to the family on the rapist's behalf.

#### **6. Open elections**

Beginning July 2012, the procedure for naming elders was revised to be a public election rather than by appointment, allowing women and youth to participate.

### **COMPONENT 3: BUILD WOMEN'S CAPACITY TO GOVERN AND TO KNOW, UNDERSTAND, AND EXERCISE THEIR RIGHTS**

This Component intended to increase women's confidence and competencies to participate in public discourse regarding the Constitution, governance, the justice system, and their resource rights; to share such vital information with other women; and to advocate for their rights. The Project engaged 34 women leaders of small, women-only, community-based organizations.

#### **■ Women training and community conversations.**

The first conversation with women was tense in December 2011, though after assuring the women that conversations would be confidential and that what they said would not be shared with others in the community, participants relaxed. Women noted that the most important issues for women are:

- Poverty – Women have no right to own property and to benefit from crops and animal products despite doing the majority of the work. Once the fruits of their labor are converted to money, men have control.
- Lack of land to farm – Men can lease all the family land without their wife's consent, leaving women without any means to support their family.

- Gender inequality – Communities invest more in boys than in girls because girls are viewed as temporary members of the community who leave at marriage to establish themselves elsewhere. Unfortunately, this means girls get little or nothing from their own families, and can only use animals that belong to their husbands’ families.
- Polygamy – The women view polygamy as a cultural practice that men use to excuse shameful behavior and which causes women to suffer greatly. Often men mistreat or neglect older wives when they remarry, and women are often infected with sexually transmitted diseases following infidelity committed in the guise of polygamy.
- Separation and divorce – Some women in the group separated from or divorced their husbands due to physical abuse or lack of freedom to leave the house.

The first conversation also involved discussion of how disputes arising from the above issues were resolved as well as how the women perceived dispute resolution mechanisms in the community. The women said that they go to the elders, and then to the chiefs when not satisfied with a result. They also said that when they feel those groups have failed to provide justice, they leave the community to return to their parents. Those who are not welcomed by their parents go to the town center and do their best to feed their family.

Because so many disputes that affect women involve intra-family dynamics, women said that the customary system disadvantages women in favor of their husbands. The women said that they believe the elders, all of whom were men at the time and who are themselves guilty of mistreating their wives, do not want to hold each other or other men accountable for their mistakes. They also felt that the chief did not effectively resolve disputes because his prime desire was to see families stay together. In most cases, the chief would send a woman home with a letter instructing her husband to stop mistreating her.

During the second session in January 2012, the group began discussing ways in which women allow themselves to be vulnerable to mistreatment and quickly turned to ways women can improve their situations. Suggestions ranged from working hard to feed their families so that men will respect their contributions to the household, to ensuring that unmarried or divorced women have land registered in their names for food and family security. Women agreed that the opportunity to meet and share ideas with one another was an important way for women to feel like they can create solutions to their own problems, and were eager to begin sharing information with other groups of women in their villages.

After the second conversation, trainings started and focused generally on the constitutional issues of environment and forest management, governance, gender equality, land and land dispute resolution, and women’s rights. The curriculum also included skills training on alternative dispute resolution and public speaking.

All of women trainees were aware of the new Constitution, but had little information about its contents. Most of the women were aware of the executive arm of government, and that women would soon be representatives in Parliament. Only a few had ever been to court and most expressed a strong preference for resolving conflicts at the community-level through

elders and chiefs, though they said that they had seen little evidence of elders protecting women's interests. One trainee suggested that women should be involved in dispute resolution, which led to a vibrant discussion about the necessity of women's involvement in dispute resolution if true justice is to be achieved.

The women demonstrated a deep understanding of private land ownership arrangements and the importance of titles, though only one woman had her own title deed. Most women noted that their husbands have title to their land, and that many men keep important documents inaccessible to their wives. Interestingly, women agreed that unmarried daughters should be given a share of land from their fathers, but most thought that married women should not get land from their families because their husbands' families would allocate land to their sons.

During the training on women's rights, women discussed the myriad of factors that leave women in their communities vulnerable, including lack of land and property ownership, lack of inheritance rights, domestic and sexual violence, bearing sole responsibility for family well-being, and being excluded from household and community decision-making. The team reviewed Article 27 of the Constitution regarding the right to equal opportunities in political, economic, cultural, and social spheres. Women pointed out that they have been left out of the political sphere, which they see leads to women's issues not being adequately addressed. They also revealed that there are strong cultural disincentives for women to engage in business because men often denigrate women's economic activity as leading to prostitution and a "bad character."

Based on the new constitutional requirement that no more than two-thirds of any elected or appointed body can be of the same gender,<sup>18</sup> women discussed the importance of ensuring that at least one-third of government positions are held by women, noting that women have knowledge and new ideas to contribute.

Although the women trainees had a low literacy rate, they were excited to have their children read the Constitution to them and viewed it as an opportunity for their children to also learn about the Constitution.

The facilitated conversation next turned to practical ways to realize joint titling, as articulated in the National Land Policy (NLP),<sup>19</sup> given that most land in the area is already titled and re-registering to add a wife's name would be impractical and deemed confrontational. Women learned about the NLP provision, which makes it nearly impossible for men to sell land without spousal consent, and agreed this was a good protection for women. Most agreed, however, that they would not be fully empowered to stand up for their rights until there was a series of

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<sup>18</sup> Article 27(8) of the Constitution requires that "not more than two-thirds of the members of elective or appointive bodies shall be of the same gender."

<sup>19</sup> Paragraph 223(d) of the National Land Policy requires the Government to protect the rights of women by "[m]ak[ing] provision for joint spousal registration and documentation of land rights . . . ."

community dialogues and education through public meetings that make the whole community aware of the constitutional changes.

Women had many questions about the Constitution's treatment of polygamy, and received with mixed emotions the news that the Constitution recognizes customary and presumptive marriages.<sup>20</sup> They welcomed the news that the Constitution obligates parents to shoulder equal responsibility for children regardless of marital status, but worried that this provision may encourage single women to take up with married men.

During the ADR training, women expressed concern that ADR is used in their communities to address murder and rape cases. They felt that crimes against a person should be handled by formal courts because offenders must be punished in those cases.

The public speaking training was designed to give women trainees the skills and confidence to lead and speak in public meetings. The curriculum included techniques and tips on how to speak in public as well as opportunities to practice speaking on a particular subject. Most women expressed a wish that the public speaking training had come earlier in their training schedule, but thought the skills would be useful in their peer session trainings and in future leadership positions.

The training began with women identifying opportunities to speak in public, including political fora, women-only meetings, church services, school committees, fundraising events, weddings, and funerals. The discussion centered on the fact that many women lack confidence to speak in public. Not only did many feel that they are not talented speakers, but they also acknowledged a cultural practice of admonishing girls for speaking in the presence of adults. The women shared ideas about how to overcome shame, fear, and shyness.

Given that one of the objectives of the women's training was to inspire them to consider their collective and individual power to create positive change, the Justice team wanted to share examples of social change endeavors initiated by other women. Thus, the team screened for the women the documentary *Pray the Devil Back to Hell* about the Liberian women's peace movement that helped lead to the end of the civil war. The session included a brief conversation about the film's context, the women's knowledge of the subject, and pauses for questions during the film. The women debriefed after the screening and then began brainstorming practical actions they would like to take as a group. Key points included:

- Requests for the Justice team to help link the women to the chiefs and elders so as to involve women in decision-making.

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<sup>20</sup> The Constitution of Kenya, Art. 45 (2010).

- Plans to meet and chart a common strategy after analyzing the most pressing human rights/justice issues within their locality, like child labor and cattle rustling, which threaten peace and cohesion among the Maasai and Kalenjin groups in Ol Pusimoru. Acknowledging that the thieves are their own sons and husbands, women felt that they may have a role to play in stopping them, by monitoring situations and developing a rapid response reporting system among their group.
- Women are powerful when they join efforts and tend to focus their concerns beyond their own individual interests. The group committed to organize and set an example for other women in Ol Pusimoru, Narok County, and even the country.

During the third conversation with women in April, they discussed changes they wanted to see in Ol Pusimoru regarding women's rights. They pointed out that women need to be represented in the elders' committees and in the chief's ADR committee, as a matter of constitutional right and as a good practice that allows women to freely address their concerns in the community. The women also noted that to be selected, women need to be above reproach, good housekeepers, and role models, so that the community would respect and have confidence in women's representatives.

The women also identified their need for the right to own land as a key issue, and strategized ways to continue advocating for this in their homes and with men in the community.

▪ **Women peer sessions.**

A key aspect of the women's participation was for them to convene their own meetings (called "peer sessions") with at least ten women. In sharing with others what they had learned during training sessions, they would solidify their own knowledge and benefit many other women as well.

The women organized themselves into seven groups according to sub-location, and each group committed to conducting at least three peer sessions. Due to high illiteracy, most women were not able to write reports about their sessions. Women's peer session themes included:

- The new Constitution and gender equity
- Women's rights and vulnerabilities and their causes
- Equality of men and women
- Women as peace-makers and inclusion of women in village elders committees
- Land and environment – land classifications, land disputes, and the need to care for the Mau Forest
- Forest and environment – the importance of forest cover, effects of deforestation, constitutional articles on the environment, and the importance of planting trees
- Child rights and daughters' rights to inherit land
- The formal court system's challenges in resolving conflicts in society
- Public speaking
- Governmental agencies and county governance

- Poverty and its causes, including polygamy, gender discrimination, and harmful cultural practices like female genital mutilation, early marriage, and moranism, a tradition of initiation of Maasai boys to manhood, sometimes at the expense of their education

By the end of field implementation, women trainees had conducted at least 21 peer sessions that reached more than 268 women in their communities (each trainee reaching about eight women each – less than Project had hoped).

- **Court visit.** Representatives of the women trainees participated in the group trips to the courts in Nakuru. Information about their collective reflections appears below under Component 5.

## OUTCOMES

There are four main outcomes from working with the women trainees:

### 1. Women as Elders

On July 10, 2012, two months after Project field implementation ended, fourteen women were elected to serve as elders (out of 50 men and women elected). In August and in October, the newly elected women elders reported that they were not just resolving “women’s problems” but also resolving disputes involving only men.

### 1. Independent Right to Seek Justice

It is now widely accepted by chiefs, elders, women, and men in the community that women can go directly to elders for assistance in resolving a dispute without the need for a male relative to represent them. Before the Project, women with disputes were expected to air grievances to male family members first, and women’s husbands, fathers or fathers-in-law would take action if they saw fit.

### 2. Separated and Divorced Women

In increasing numbers, separated and divorced women are going to the elders for assistance in claiming a portion of their family’s land. Although it is too soon to know the outcomes, some separated or divorced women doing so expressed utter confidence that they will prevail.

### 3. Safer Community

Although it is too early to make any conclusions, some women reported that they no longer need a male companion to walk to and from the market to feel safe. Before the Project, they risked harassment and/or rape if they walked to the market alone.

## COMPONENT 4: SUPPORT JUSTICE LEARNING WITHIN SCHOOLS AND FAMILIES WITH YOUTH

This Component supported justice learning for the next generation by training principals and teachers, with the assistance of educated youth, to teach their pupils about justice, rule of law,

alternative dispute resolution, and the formal legal framework governing land and forests, with particular emphasis on women's and children's rights. Acknowledging that children are often conduits for disseminating information within families, the Project hoped to increase the number of parents with knowledge of Justice themes through a teacher- and youth-led school curriculum.

The teacher training, which started in May 2011, targeted all teachers at the primary, secondary, and Early Childhood Education (ECD) schools in Ol Pusimoru sub-location. Thirty seven teachers participated (20 female, 17 male) from the primary school (17), secondary school (13), and Early Childhood Education (ECD) classes (7).

As a part of this component, the Justice team trained 20 motivated but unemployed youth, defined as men and women between the ages of 18 to 35 years (7 women, 13 men), to assist teachers with trainings on the above subjects in their classrooms. As a condition of participation, each youth was asked to convene at least two meetings of 10 peers each to share the justice curriculum that they were helping to teach.

With support from the Justice staff, the teachers then integrated their Justice training into an age-appropriate social studies curriculum for their students, which the Narok District Education Officer approved before using the curriculum in the schools. The curriculum culminated in an arts program, targeting approximately 900 students (see Annex 3 in the Quarterly Report for the period ending October 31, 2011). Depending on the grade, the curriculum included competitions for composing and performing songs, writing and reading poems, and drawing posters. The Justice team also supported the development of plays/scripts for demonstration at the schools' closing ceremony in November 2011. A parent-teacher-elder committee decided which students (or student groups) won each competition.

As recorded in teacher and youth logbooks, teachers and youth spent a combined total of 475 hours on the Justice school curriculum in the months of September, October, and November 2011. One of the teachers shared that, "Generally, the whole exercise was of great importance, not only to the pupils but also to the teachers and the community."

#### ▪ **School competitions.**

The student art work exhibited a broad understanding of the basic lessons of the Justice curriculum, and overall the work touched on each one of the Justice subjects in some way. The students' work demonstrated an understanding that the Constitution is the supreme law of Kenya and that it guarantees rights for all Kenyans. That the Constitution prohibits discrimination based on gender and strengthens women's rights was clearly important to the students, demonstrated by the fact that gender equality appeared most frequently as the focus of their work. From the poems, skits, and artwork, it was clear that the students not only understood the constitutional requirement of gender equality, but that they also reflected on the ways in which women are treated unfairly in the community and the gains to be had from granting them equal rights to men.

The artwork created by the students was a key part of the Justice Day celebrations, timed to coincide with the schools' end-of-year closing ceremonies. For more on these events, please see Component 5.

▪ **Youth training.**

Youth training followed the same subjects as the teacher trainings. Many youth said that the Justice curriculum was their first opportunity to understand the new Constitution, and that in addition to their work in the schools, they had been actively working to spread information about gender equality, land rights, and the environment throughout their communities. Several youth said that the idea of gender equality was not well received at first, but that over time their communities began to see the value for the whole community in elevating women's rights to equal status with men.

▪ **Youth peer sessions.**

Between August and November 2011, 16 of the 20 Justice youth volunteers in Ol Pusimoru and surrounding communities convened 37 peer sessions on constitutional topics related to governance, gender equality, land rights, women's land rights, environmental and forest rights, devolution of government, citizenship, ethnic conflict, land conflicts, and conflict resolution.

The youth shared this information with 454 people (of whom 234 were women), plus an additional unknown number of attendees from nine sessions where the youth did not note the number of attendees. Youth did not identify the gender of the remaining attendees.

In addition to information about attendees, the youths' reports revealed a great deal of information about youths' perceptions about the Constitution in the fall of 2011:

- Youth recognized the importance of the Constitution but expressed frustration at their complete lack of knowledge about its contents and what it meant for them and their community.
- Youth expressed a high level of interest in constitutional provisions related to gender equality, land rights generally, women's land rights, environmental and forest rights, and conflict management.
- Some female youth feared voicing their rights because "their husband will beat them and chase them away." They requested public education about their rights together with their husbands.
- Several youth noted that women believe they have no rights to own land and other property and that their only role is to cook, look after cattle and children, and work in the kitchen.

Some youth had difficulty getting their peers to attend sessions because their peers expected to be paid for their participation, as they had been for the ProMara activities. The youth, however, found creative ways to disseminate Justice Project information, including sharing information following ProMara gatherings, meetings of CBOs (women, youth, farmers), and at church gatherings.

- **Court visit.**

Representatives of teacher and youth trainees participated in group trips to the courts in Nakuru. Information about their collective reflections appears below under Component 5.

## **OUTCOMES**

### **1. Girls Education**

According to the Ol Pusimoru secondary school principal, at the beginning of the January 2012 academic year, the ratio of boys to girls attending secondary school was 1:1, as compared to the previous year's ratio, before the Project had started, of 3:1. Eight months into the 2012 school year, no girls had dropped out due to pregnancy or early marriage, a stark contrast to the previous year. The principal attributed this change to the Justice Project's messaging to parents that girls have constitutional rights to an education and that early marriage in lieu of education is a detriment to girls' futures.

### **2. Girls' Leadership Opportunities**

According to the deputy principal of the secondary school, during the same academic year, girls began challenging boys for leadership roles within the school in numbers never seen before, and in some cases were obtaining the leadership roles.

## **COMPONENT 5: RAISE COMMUNITY'S LEGAL AWARENESS**

Because full realization of women's rights requires that such rights be socially legitimate, this Component focused on raising the community's awareness of the new Constitution, particularly its provisions on governance, dispute resolution, land rights, and women's rights (including rights to land). Activities targeted at the community included the peer sessions discussed under Components 3 and 4 above, two public celebrations called "Justice Day *barazas*" (public meetings) and a public information campaign. Under this Component, joint conversations and a trainee visit to the Nakuru court were also facilitated.

- **Justice Day *barazas*.**

There were two Justice Day *barazas*, on November 23, 2011 and May 19, 2012, at which the community came together to celebrate the teacher and youth trainees' Project achievements as well as those of the school children.

November 23, 2011 was the end of the school year in Kenya. On that day, the Project hosted the first Justice Day. About 1,300 people attended, including students, teachers and principals, and community members. Also in attendance were the district education officer, the district officer, and the Ol Pusimoru chiefs.

Students from both the primary and secondary schools participated. Throughout the day, students presented their Justice poems, songs, plays, and speeches to the audience, and posters were on display. At the end of the program, judges awarded blue ribbons to the best

performers, and the Justice Project acknowledged the accomplishments of the trainees and students with certificates. Examples of student and trainees' work are in Annex 4.

On Saturday, May 19, 2012, more than 1,700 people gathered to celebrate the elder and women trainees' achievements under the Project. Among others, attendees included all Justice Project trainees, community members from each sub-location, school principals, school children, the area chief and assistant chiefs, the area councilors, representatives from the USAID-supported ProMara Program, two representatives from USAID/Kenya, Lady Justice Hellen Omollo from Nakuru High Court, and Lady Justice Martha Koome of the Court of Appeals.

The celebration began with a tree planting ceremony, followed by a graduation ceremony for the elder and women trainees, during which they received public recognition of their accomplishment as well as certificates of achievement. Following the ceremony, both trainee groups as well as the youth and teacher trainees made Justice-related presentations. Luckily both groups and the other trainees had volunteered to make such presentations, including speeches, poems, songs, and drama skits. Examples of student and trainees' work are in Annex 4.

Assistant Chief Sadera introduced and read the elders' *katiba*, discussed above.

Lady Justice Koome closed the program with a speech. She indicated that she was impressed with what she had observed at the *baraza*, and the following morning she emailed Kenya's Chief Justice of the Supreme Court to ask for a meeting to discuss possibilities for scaling up the project, in partnership with the Judiciary or the Kenya Magistrate and Judges Association. The Justice team has kept in touch with Lady Justice Koome to help facilitate the conversation about scaling with the Chief Justice.

The second Justice Day marked the end of the Justice work with the trainees and the community.

- **Dissemination of Justice art work.**

Also at Justice Day in May 2012, the team distributed to members of the community 3,000 water-resistant 4x6 cards (in Swahili and English) that outlined land-related rights and responsibilities under the Constitution and National Land Policy, along with 1,500 Swahili copies of the Constitution. In addition, a poem on gender equality that students at OI Pusimoru Primary School wrote was printed on 1,000 waterproof tote bags, which were given to the students at the primary and secondary schools. Eighty hats bearing the USAID logo and the slogan "Justice for All" were also made, with each Justice trainee receiving either a hat or tote bag. Finally, a small plaque was given to the chief's office, thanking the community for its commitment to justice for all.

- **Nakuru court visits.**

The objective of the court visits was to provide an opportunity to observe the formal justice system and reflect upon its relationship to the elders' work. Visits were made by groups of ten from each of the three sub-locations, comprised of youth, women, and elder trainee representatives. Teachers made a separate visit together.

Observations of the groups included the following:

- Record-keeping in the court was impressive, noting that a case filed ten years ago could still easily be followed by the judge and all parties.
- The court was very good at starting cases on time and hearing one at a time, compared to the elders.
- The elders' system is more efficient because it is quick and inexpensive, and there are no costs that accrue to the "loser." There were long delays of cases in the court—a good example was a case filed in 2005 that was still before the court.
- The reconciliatory nature of ADR was a benefit; parties were able to live happily after cases, whereas there was animosity between parties in the courts. Cases before elders could be viewed as win-win situations.
- ADR is more fair and accessible in terms of financial requirements, language barriers, time wasting, and delay.
- There were many parties to a court case, who did not necessarily work collaboratively, creating a major challenge compared to their system.
- They were struck by the possibility that a party to a court case who was probably in the right but did not adequately prepare or present exhibits could easily lose in a formal court case, whereas the elders would rely more on what they knew to be fair and true based on the circumstances of a case rather than evidence from parties. In the court scenario, community members felt that exhibits were stronger than the truth of the matter, and parties without money to hire a lawyer were thus very likely to lose their cases due to a technicality. On the other hand, the elders would ensure a fair decision for poor and rich parties alike.

At one of the sessions, the magistrate advised the elders to keep up their good work in ensuring access to justice, but not to break the law in the execution of their mandate. He said that cases like child abuse should not be handled by the elders but rather should be referred to the police.

▪ **Joint community conversations.**

Beginning in late April 2012, the team facilitated three joint community conversations among representatives of each trainee group in each sub-location. These gatherings were the first opportunity to jointly discuss their participation in the Project, and if and how they would like to institute changes in their communities as a result of what they had learned. Following are some highlights from those conversations:

- **Right to education.** Participants emphasized the importance of education, stating that it is a right for every child. They linked poverty to lack of education, and they

saw the need to give support to all vulnerable groups in their community, including orphans, widows, and single mothers.

- **Right to inherit land.** Participants discussed the importance of land and the need for parents to share land with their children through inheritance. On this note, elders and women supported the idea of using public gatherings to relay the message that the rights of youth and women should be recognized and protected. One elder said that he had learned that it is not enough to share cows among his sons and daughters; now the Constitution requires them to also share land between boys and girls. He said, however, that if a daughter is married to a family from whom she can get land, then she can decide not to ask for her land share from her father. If she asks for it, then she must be given it since it is her right as a daughter.
- **Decision making.** Women from all three sub-locations appealed to the elders to be included in community decision-making and leadership, including ADR. They acknowledged that it is appropriate for elders' committees to address community issues, including women's issues, but noted that it is important for women to be part of committees to ensure they have a voice in decisions that affect women and the broader community. One elder emphasized that there should be a clear separation between rights, roles, and responsibilities—that involving women in decision-making does not mean women should start ordering men to carry water and babies on their backs. Another elder shared, "I did not know that women have rights but now after these trainings I know. . . . I have also realized that it is important to involve women in decision making, including the land sale agreements, because it means the lives of our families will be better if women help us in decision making and we also assist them with the work they do."
- **Elders' impression of women trainees.** The elders indicated that they were impressed with the mature and constructive manner in which women and youth articulated their issues, and said that they were ready to involve women in their committees, but that the process would be gradual.
- **Elders' recordkeeping.** Several elders stressed the need to keep records of all cases to ensure accountability to the entire community and for purposes of follow-up.
- **More trainings.** ADR was discussed and the group identified the need for more training for newly elected village elders, who did not benefit from the Justice trainings on conflict management. The participants also said the community needs and is demanding trainings. One youth said, "justice trainings were like giving them a taste of sugar. . . so sweet; and now we need more of it especially on new land law issues." The participants expressed that they feel a great responsibility to train others so that the greater community could benefit.

## **COMPONENT 6. MONITOR AND EVALUATE PILOT, DOCUMENT AND SHARE FINDINGS AND LESSONS LEARNED TO EXPLORE OPPORTUNITIES FOR BROADER APPLICATION THROUGHOUT KENYA**

This Component was comprised of three activities: (1) monitor the pilot to measure performance against the Work Plan; (2) conduct an impact evaluation of the pilot using quantitative and qualitative approaches; and (3) host a national workshop to share the pilot model and evaluation findings, and also to explore potential opportunities for broader application of successful pilot elements in Kenya.

Throughout the life of the Project, the Justice team monitored activities, indicators, and targets to assess the performance of the pilot. The completed Performance Monitoring Plan (PMP) is attached as Annex 3.

Landesa maintained continuous project monitoring through four quarterly reports to USAID for the following periods:

- May – July 2011
- August – October 2011
- November – January 2011
- February – May 2012<sup>21</sup>

These quarterly reports served as the Project’s reporting tool to USAID/DCHA.

A separate evaluation team conducted a quantitative and qualitative evaluation of short-term impacts, partnering with a Kenyan subcontractor to support the evaluation. See Section 6 for a summary of that evaluation or the report itself, USAID, *Enhancing Customary Justice Systems in the Mau Forest, Kenya: Evaluation Report* (Jan. 2013).

Finally, the Project held a national workshop in Nairobi on December 7, 2012, the objective of which was to share the pilot model and preliminary evaluation findings with Kenya’s broader governmental and non-governmental community that is particularly concerned with justice and land issues. Given the relative success of the pilot, a secondary objective was to generate interest in future partnerships for a national roll-out of the pilot. The workshop attracted 63 participants, 23 of which were members of the OI Pusimoru pilot community. Participants also included representatives from civil society organizations, international donors, the Government of Kenya, and academia. The event was covered by the Kenyan media, including QTV (Daily Nation), Radio Maisha, Radio Umoja, Pamoja FM, and The People. With a keynote speech by

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<sup>21</sup> Field activities ended in May 2012, followed by period of few activities on which to report: content collection for the impact evaluation from June to September 2012, data analysis October through November, and the national workshop in December 2012.

the Honorable Lady Justice Omollo, the workshop involved presentations by the Project team and pilot beneficiaries, a panel of experts on the integration of formal and informal justice institutions, and a screening of a video about the project. See USAID, *Report on the Justice Project National Workshop* (Jan. 2013).

## **OUTCOMES**

### **1. An evaluation of pilot impacts.**

The impact evaluation is summarized in Section 6.

### **2. Potential partnerships.**

At the conclusion of the National Workshop, several Kenyan NGOs approached Landesa with an interest in partnering on a national roll-out of the Project, and several positive follow-up meetings occurred.

### **3. Justices' support for scaling the pilot.**

Both Lady Justice Koome and Lady Justice Omollo expressed strong support for and offered their assistance in replicating and scaling up the Project.

# 6. PILOT EVALUATION

USAID supported an evaluation to measure the impact of the Justice Project on women's access to customary justice related to land rights and to share key lessons. Evaluators measured improvements in the Justice Project area using four access to justice elements specific to local-level justice mechanisms: (1) legal awareness and knowledge of women's rights; (2) women's access to an appropriate forum; (3) effective administration of justice; and (4) social legitimacy and enforceability of these avenues to improve women's rights. In addition, evaluators examined the extent to which the Justice Project contributed to improved land access for women in the Project area. This Final Report summarizes some of the key findings and lessons. For a complete description, please see the Evaluation Report: USAID, *Enhancing Customary Justice Systems in the Mau Forest, Kenya: Evaluation Report* (Jan. 2013).

The evaluation was based on a mixed-methods approach, using analysis of quantitative data from interviews with women and men, and qualitative data from key informant interviews and focus group discussions in the Justice community and in a comparable community where the Project did not operate (the control community). The quantitative survey and qualitative fieldwork were completed within three months of the end of Project implementation, so evaluators focused on measuring discernible short-term impacts with the understanding that the full effects of the Project will likely only be realized over a longer term.

## SUMMARY OF KEY FINDINGS

The evaluation findings are divided into three categories: (1) those in which the Justice Project appears to have made the greatest impact in the Justice community when compared with the control community; (2) those where the Project appears to have had smaller effects; and (3) those in which the Project made no detectable difference in the short time of its implementation.

The Project seems to have made a noticeable difference in the Justice community, compared with the control community, on several measures of increased access to justice at the local level:

- **Legal awareness.** There are noticeable differences between the Justice and control communities on all three measures of legal awareness: (1) women's legal knowledge; (2) men's understanding of the basic rights of women; and (3) women's familiarity with the local justice system and ADR.
- **Fairness of the justice system.** Significantly more women in the Justice community displayed confidence in the fairness of the customary justice system and the outcomes should they ever have to access the system than did women in the control community.

- **Increased respect for women's rights.** Significantly more women and men in the Justice community reported feeling that men's respect for women's rights had increased over the past year than did women and men from the control community. Qualitative data suggests that men's support for changes in women's rights is strongest in relation to those that result in tangible benefits at the household level, such as where women have increased economic activity and asset control.
- **Women's access to land.** The evaluation found early signs of some positive impacts on the security of women's land access and control in the Justice community compared with the control community.

The Justice Project appears to have made significant but smaller improvements in the Justice community as compared with the control on these elements:

- **Easy physical access.** More women in the Justice community reported easy physical access to the elders over the past year than did women in the control group.
- **Equal treatment.** More women from the Justice community reported improvements in the local justice system in the past year regarding equal treatment of men and women, rich and poor, educated and uneducated.

The evaluation notes that these results may be attributable to the relatively low number of women in the sample with experience with the Justice system during the Project period, and greater changes may come to light over time.

Evaluators found no detectable difference between the Justice community and the control community on these elements:

- **Promptness and affordability.** Evaluators found no discernible difference in perceptions between women in the Justice and control communities regarding improvements in the promptness and affordability of the local justice system. This may be due to the relatively few women who reported going to the elders with a dispute during the Project period.
- **Elders' knowledge of the Constitution.** There was no clear difference between the Justice and control communities in women's perceptions of improvements in elders' constitutional knowledge over the past year. Qualitative data suggest that this may be due to variations among trained elders in their understanding and application of the Constitution, particularly among elders who did not participate in the Project.

Finally, the evaluation found anecdotal evidence that the Justice community experienced improvements in other potential longer-term impacts as a result of improvements in women's

access to justice and increased access to land. Although it is too soon to draw conclusions, potential longer-term impacts may include improvement in women's overall well-being, increased assertion by women of rights to justice and better services, increased demand for girls' education, and reduced domestic violence.

## **SOME KEY LESSONS**

Some key lessons based on the evaluation findings are excerpted here:

1. Give more time for effects to materialize and revisit the Justice and control communities in one to two years to examine longer-term differences between the communities. Some results related to women's access to an appropriate forum (promptness, affordability, accessibility and social inclusiveness of the local system) are likely to change, without additional interventions, over time as gains solidify in the community and changes in the practices and procedures of local justice actors become institutionalized and more widely recognized throughout the community.
2. The legal awareness training was effective in increasing legal knowledge among direct trainees, and it appears that the Project's emphasis on peer training and dissemination of Kiswahili translations of the Constitution may have contributed to successful knowledge diffusion to other, non-trainees throughout the Justice community. Inclusion of explicit mechanisms to boost knowledge diffusion amongst non-trained Elders (perhaps by training more Elders or through more formalized support of peer training) could be an important project design improvement.
3. Tangible improvements in processes and procedures of local institutions in the Justice community have contributed to noticeable improvements in the administration of justice after engagement with Chiefs and Elders for only one year. Significant success in such a short timeframe may be attributable to the multi-pronged approach the Project took to capacity-building with local justice actors that combined legal awareness training, skill-building, facilitated discussions of issues, and assisting (through training and a court visit) Elders to understand their position and connection to the formal justice system.<sup>22</sup>

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<sup>22</sup> USAID, *Enhancing Customary Justice Systems in the Mau Forest, Kenya: Evaluation Report 76-79* (Jan. 2013).

# 7. COMMUNICATIONS ABOUT THE PILOT

Given the promising results for such a short pilot, USAID and Landesa sought opportunities to share the pilot and its outcomes with the international development community, popular press, and others interested in women's land rights and access to justice issues. In doing so, a variety of media were used, including video, photo essay and photographs, blogs, and articles.

## MEDIA PLACEMENTS

USAID has published three articles about the Justice Project:

- An article about the National Workshop appeared on USAID/Kenya's website: Karang'ae, J., "Traditional Leaders and High Court Judges Discuss Women's Rights and Land Reform in Kenya" (Dec. 22, 2012). Available at: <http://kenya.usaid.gov/success-story/1400>
- An article about the Project appeared in the November/December issue of USAID's *Frontlines*: Boudreaux, K., "In One Kenyan Town, It's No Longer Just 'Old Wise Men.'" Available at: [http://transition.usaid.gov/press/frontlines/fl\\_dec12/FL\\_dec12\\_KENYAWOMEN.html](http://transition.usaid.gov/press/frontlines/fl_dec12/FL_dec12_KENYAWOMEN.html)
- An article about the Project is on the USAID Land Tenure and Property Rights Portal: <http://usaidlandtenure.net/projects/kenya>

Landesa also secured the following media placements about the Justice Project:

- Espinosa, D., "Maasai Elders Vow to Protect Rights of Women and Girls," ONE Campaign Blog (June 12, 2012). Available at: <http://www.one.org/us/2012/06/20/maasai-elders-vow-to-protect-and-support-rights-of-women-and-girls/>
- McGregor, S. & Clark, S., "Women of Kenya Denied Law's Land Entitlement by Husbands," *Bloomberg* (Oct. 26, 2012). (Note that we provided raw footage to Bloomberg, who created their own 5-minute video. Available at: <http://www.bloomberg.com/news/2012-10-25/women-of-kenya-denied-law-s-land-entitlement-by-husbands.html>
- Note that the above Bloomberg story was picked up by:  
*The San Francisco Chronicle*: link unavailable.  
*The Washington Post*: <http://washpost.bloomberg.com/Story?docId=1376-MBJRCP1A1I4H01-5CCLI4D8UL6F4ENPHMCPL1KN3V>

*Bloomberg Business Week – Global Economics:*

<http://www.businessweek.com/videos/2012-10-25/maasai-tribe-learns-gender-laws-women-seek-land>

- Hanstad, T., “Spanking, drunk driving, and women’s land rights,” *The Global Post* (Dec. 7, 2012). Available at: <http://www.globalpost.com/dispatch/news/regions/africa/kenya/121207/landesa-womens-rights-kenya-aid-women>
- Hanstad, T., “How to make women’s rights advances stick,” *CNN World* (Dec. 11, 2012). Available at: <http://globalpublicsquare.blogs.cnn.com/2012/12/11/how-to-make-womens-rights-advances-stick/>
- Landesa, “How ensuring women’s rights to land keeps girls out of child marriage in Kenya,” *Girls Not Brides* (Jan. 14, 2012). Available at: <http://www.girlsnotbrides.org/how-ensuring-womens-rights-to-land-keeps-girls-out-of-child-marriage-in-kenya/>
- Landesa, *Fiscal Year 2012 Annual Report* (Dec. 2012). Available at: <http://www.landesa.org/annual-report/2012/spotlight-on-kenya>

## VIDEO & PHOTO ESSAY

Nine months into implementation, the Justice team realized that the project was starting to have unexpectedly positive results – results that would be difficult to communicate via traditional methods. Instead, it was important for the community to speak on its own behalf. At that point, Landesa sought and received private funding to produce a 10-minute film showcasing the Justice Project, called *Elders Speak: A New Dawn for Women in Kenya*. The film highlights one family’s journey working with the elders and chiefs, and the transformation that took place in their attitudes about and actions related to women’s access to land and participation in household and community decision-making.

USAID received multiple opportunities to review and comment on the film script and a rough cut of the film. The film was first screened with the community in October 2012. At that time, community members confirmed that it accurately depicts the progress made in the community and, if anything, does not go far enough. Landesa also screened the film at the Project’s national workshop in December 2012, to provide a supplementary demonstration of some of the Project’s impacts. The film is available online at:

<http://www.youtube.com/watch?v=poO5KYQEt5c&list=UUwhBTNawK9iHBzdRKtE0H0g>.

Landesa also captured one of the Project impacts in a photo essay, available here:

<http://www.landesa.org/kenyas-guardians-justice-women-elders-blog/>.

## 8. CONCLUSIONS

Many agree that in Africa customary law is ever evolving. So too is the customary justice institution, as this Project illustrates. With a small budget and an initial time frame of one year, the Justice Project set out to do the perceived impossible: transform elders, i.e., members of an all-male customary justice institution, which holds power over its people and seemingly entrenched biases against women, into enforcers of women's constitutional rights. The team set out on this venture with low expectations of what was possible, hoping that, at a minimum, after one year at least one woman trainee would have the courage to put herself forward for consideration as an elder.

Fast forward two years. The Project community has elected fourteen women to serve as elders alongside men and the fragile progress made over this period is now institutionalized. Girls are enrolled in secondary school in equal numbers to boys. Rape cases are forwarded to the police. And any land sale or lease can only go forward with the written approval of the wife and adult children.

Further, the impact evaluation found tangible improvements in men and women's knowledge of, understanding of, and respect for the basic rights of women; improvements in women's confidence in the justice system; and support for women's rights where they lead to tangible benefits at the household and community level. Although it is far too soon to draw any conclusions, the evaluation also found early signs of positive impacts on the security of women's land access.

Given these favorable outcomes and evaluation findings, replication and a national roll-out of the Project is recommended. The following observations may inform efforts to replicate and roll-out the pilot model:

- The curriculum appears to be at the right level for comprehension, even among trainees with limited schooling.
- The sequencing of trainings, i.e., teachers and youth, elders, and then women should be maintained. Note that this was not the original design – weather-related delays meant that the women were trained last. But this sequence allowed elders to become comfortable with the Justice themes before engaging women.
- The public speaking curriculum for the women trainees was included despite Landesa initially being unsure of its value. Based on immediate feedback from the women trainees, however, the public speaking curriculum was critical to improving their confidence to advocate for themselves and other women's rights. The trainees recommended that the public speaking curriculum be presented earlier in sequence,

however. This is a good suggestion, although that curriculum should not be presented first because it is likely more effective when the women and trainers have developed a rapport.

- The court visit appears to have been a good opportunity for trainees to reflect on the pros and cons of ADR, leading them to greater confidence in their own system.
- Staffing the project with at least one lawyer from the ethnic group with whom the Project worked (but *not* a resident of the pilot community) seemed to have a profound impact, particularly because the lawyer was female. This way the trainees knew that at least one member of the Project team had a deep appreciation for the trainees' customs and traditions.
- Staffing the project with at least one former teacher allowed the Project to develop and present curriculum in a manner most likely to reach the trainees, based on their education levels. It also helped to navigate the school administrative structure, ensuring that the Project received the necessary official approvals to work with the students.

Recommendations for improving the pilot model before replication and roll-out include:

- Extend the length of time engaged with a community to 18 months. The most common comment from beneficiaries throughout was that the length of the Project was too short. Twelve months was too short of a time to work with a community on changing behavior based on deeply held views about the role of women in their culture and community.
- Provide more opportunities for non-elder men to participate in the trainings. During design, the elders were the only institution in Ol Pusimoru where men were organized into groups and therefore easily identifiable. As such, only men within the elders group were targeted for training. When this information was shared with the husband of one woman trainee, he suggested that the Project also train husbands of women trainees.
- Explore opportunities for greater engagement with youth. Although the youth provided significant inputs to the pilot, it was apparent early in implementation that their education, energy, and enthusiasm could have been leveraged far more with potentially greater Project impacts. In an even more ambitious program, educated youth could be engaged in every school in every village throughout the country to assist in teaching about the Constitution (much like the AmeriCorps program in the United States).<sup>23</sup>

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<sup>23</sup> AmeriCorps is a US government-funded national program that provides opportunities for adults to serve their community and their country. See AmeriCorps' website at: <http://www.americorps.gov>.

- Consider if and how to engage the OI Pusimoru trainees in replicating the model. They are keen to share what they have learned with neighboring communities. Also consider how trainees could advocate among the greater council of Maasai elders and the council of Kalenjii elders, and the chiefs within the provincial administration.
- Increase the budget for public information and education (PIE). Landesa underestimated time and costs associated with producing PIE materials, thus reducing the reach of Justice messaging into the community. With more funds, more emphasis should be placed on using verbal and visual means for reaching the broader community.
- Add a lesson to the basic curriculum exploring the difference between civil and criminal issues and whether and to what extent those issues are appropriately within the elders' jurisdiction. This issue was not anticipated, but when it arose the team held a meeting with elders on the issue.
- Following the court visit, facilitate visits by magistrates and judges to come to the community to speak with the trainee groups on specific areas of interest.
- Consider whether and to what extent the police ought to be involved in the Project.
- Explore ways to improve efficiencies, particularly related to the training. For example, the trainings could be filmed and shown to trainees, although trainers would still need to facilitate discussions before, during, and after the video.
- Staff the project with strong administrative support, including a team member responsible for taking notes during all Project meetings.

With these modifications in place, this pilot ought to be implemented throughout rural Kenya.<sup>24</sup> Project components could be replicated in whole or in part and scaled through strategic partnerships with the Government of Kenya and civil society. Key partners include the Ministry of Justice and the Judiciary, which has a constitutional mandate to promote ADR and traditional dispute resolution mechanisms, as well as the new National Land Commission (not yet functioning), which has a statutory mandate “to encourage the application of traditional dispute resolution mechanisms in land conflicts.”<sup>25</sup> The Ministry of Provincial Administration (or its successor) could also be a key partner to reach chiefs and assistant chiefs throughout the country. The Ministry of Education could be key to introducing the Justice curriculum in the schools throughout the country, and along with the Ministry of Youth and Sports, a national

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<sup>24</sup> Note that because the practices and perceptions of customary justice institutions and their communities vary, an assessment will need to be undertaken for each new area where and community with whom the Project works. These assessments would involve interviews with chiefs, assistant chiefs, elders, any other local institution with considerable power, women, men, youth, and school representatives.

<sup>25</sup> Section 5(1)(f) of The National Land Commission Act, No. 5 of 2012.

program could place educated youth in rural schools to assist in teaching about the Constitution.

Given its deep knowledge of and relationships with communities throughout the country, civil society is also a key partner, particularly in light of the need to work at the grass-roots level on multiple fronts.

For many rural Kenyans, the new Constitution holds great promise. No doubt, the Justice Project acted during a critical window of opportunity and was able build upon the pilot community's hopes for realization of that promise. It is unclear how long rural Kenyans will remain optimistic and open to change.

In sum, this Project illustrates that customary justice institutions can evolve into strategic partners for helping women realize their constitutional rights to access justice and own land. To disregard such institutions in efforts to secure women's rights runs the risk of rural women never fully enjoying those rights.

# ANNEX 1. TRAININGS & ACTIVITIES

## Enhancing Customary Justice Systems in the Mau Forest, Kenya Trainings and Community Activities

<b>Quarter</b>	<b>Activity</b>	<b>Date</b>
Q2 May-Jul '11	Teacher training – Constitution and governance	21 May
	Teacher training – Land and land dispute resolution	4 June
	Teacher training – Women’s rights and land rights	11 June
	Youth training – Constitution and governance	17 June
	Teacher training – Environment and forest management	24 June
	Youth training – Land and land dispute resolution	1 July
	Youth training – Women’s rights and land rights	5 July
	Elders – Community conversation	6 July
	Youth training – Environment and forest management	8 July
	Teacher training – Alternative Dispute Resolution	9 July
	School curriculum review meeting with teachers	13 July
	Teachers and Youth joint meeting	15 July
	Elders training – Constitution and governance	27 July
Q3 Aug-Oct '11	Curricula review workshop with teachers and District Education Officer	30 Sept
	Elder training – Land and land dispute resolution	26 Oct
	Elder training – Women’s rights and land rights	27 Oct
Q4 Nov '11- Jan '12	Elder training – Environmental management and conservation	9 Nov
	Elder training – Alternative Dispute Resolution	14 Nov
	Justice day celebration at school closing ceremony	23 Nov
	Elders – Community conversation	30 Nov
	Volunteer youth training assessment meeting	6 Dec
	Elders meeting – drafted <i>katiba</i>	7 Dec
	Elders <i>katiba</i> (constitution) validation meeting	14 Dec
	Women – Community conversation	17 Dec
	Elders community meeting	20 Dec
Elders community meeting	10 Jan	
Women – Community conversation	17 Jan	

	Women training – Constitution and governance	19 Jan
	Women training – Land and land dispute resolution	24 Jan
	Elders community meeting	25 Jan
	Women training – Women’s rights	26 Jan
	Women peer training sessions	28 Jan
	Women training – Land rights and leadership under the new Constitution and National Land Policy	31 Jan
Q5 Feb-May ‘12	Women training – Environment and forest management	2 Feb
	Women peer training session	8 Feb
	Women training – Alternative Dispute Resolution	16 Feb
	USAID meeting with Elders in OI Pusimoru	20 Feb
	Women training – Public speaking	28 Feb
	Women training – Public speaking practice session	27 Mar
	Women’s screening and discussion of <i>Pray the Devil Back to Hell</i> film	3 Apr
	Elders minutes feedback meeting	16 Apr
	Women – Community conversation	17 Apr
	OI Pusimoru joint Justice trainee community conversation	23 Apr
	OI Mariko joint Justice trainee community conversation	24 Apr
	Kamurar joint Justice trainee community conversation	25 Apr
	OI Pusimoru group visit to Nakuru Law Court	26 Apr
	OI Mariko peer session	8 May
	OI Mariko group visit to Nakuru Law Court	11 May
	Kamurar group visit to Nakuru Law Court	16 May
	Justice Day community <i>baraza</i> in OI Pusimoru	19 May

# ANNEX 2. ELDERS' *KATIBA*

USAID Justice Project  
Elders' *Katiba*  
as read to the OI Pusimoru community  
by Assistant Chief Jonathan Sadera  
May 19, 2012

## PREAMBLE

This is the Justice elders' *katiba*. These are the ambassadors of the people of OI Pusimoru Location.

## ARTICLES

1. Identify special interest group and make sure their rights are respected. These are:
  - ❖ Widows
  - ❖ Orphans
  - ❖ Unmarried girls/single women who may be oppressed by male relatives.
  - ❖ Elderly men
2. Enhance public information and awareness to empower those who have not benefited from the JUSTICE trainings in the community. We shall do village-to-village meetings to talk about the JUSTICE messages including women land rights, education and environmental conservation through planting 200 seedlings per household.
3. Ensure gender equity in all grassroots committees i.e. Chiefs committees, School committees, CFAs, WRUAs and CBOs and in order for women to be effective in these committees, we shall ensure the following:
  - ❖ Women themselves to be educated to prepare them for their new roles
  - ❖ We men should agree/accept that these women can actually have meaningful contributions. We must begin to value women contribution
  - ❖ We need to vet women, just like men go through vetting before they are appointed into committees so that we have competent and able women who will make a difference in these committees. Start by looking at how these women live and manage their own homes because charity begins at home.

- ❖ Let us start in our own homes to lead by example in recognizing our wives first by listening to them because that is the only time they will become bold and free to participate in public space. If we recognize them they will not fear to speak out in meetings and committees.
4. With the new focus on women rights, we need focus on peace within our households between wives and their husbands so that women rights do not cause breaking of homes. This will be achieved through continuous dialogue.
  5. We shall identify the key conflict triggers in the community that require our special attention in the dispensation of our dispute resolution mandate. The key ones are:
    - a. Opening up of access roads by ensuring that those already delineated by the government surveys are opened up and in cases where they are supposed to exist but were not marked out, we will initiate dialogue with concerned residents so that community members and women in particular, can have easy access to water points and firewood.
    - b. High girl-child school drop-out due to pregnancy and lack of prioritization of girl-child education.
    - c. Protection of boys from child labor
    - d. Identify ecologically sensitive areas and educate community members on the importance of conserving them as well as ensure that they are not privatized.

For the three issues above, we shall form special sub-committees that will come up with special by-laws to regulate these issues.

6. Let us watch out for any regressive cultural practices that we must disregard in our dispute resolution. We need to sift our cultural practices for example:
  - a. Bride price used as an excuse to pull young girls out of school. Here, culture is used as a conduit for corruption which curtails the future of young girls and eventually, denies women opportunities for empowerment.
  - b. FGM which is has contributed to girl's early marriage
  - c. Warrior hood is also a barrier to ours children's education.
  - d. We need to discard the secrecy and fear for women empowerment because it is for the common good of society. For example, we need to inform women about their rights; those who have secretly registered land titles in their wives names should come out openly to inform them.
  - e. Any land transactions must be presented before the elders by the entire family so that we ensure that women and children are involved in decision-making over land to discard the traditional approach where the men were the sole decision-makers. This practice has increased poverty in our community.
7. Encourage /educate residents to observe procedure in lodging complaints so that they can start with the elders, then the chiefs before they go on to court if need be. This will

help in efficient resolution of cases as well as help with building the case systematically in case of a need to go to court later on.

This *katiba* will be respected by all in the location. In case an elder is threatened as a result of this *katiba* implementation, the chief will be informed and a meeting is convened to fine the culprit.

# ANNEX 3. PERFORMANCE MONITORING PLAN

Landesa constructed the Performance Monitoring Plan (“PMP”) below in support of USAID/Kenya’s Strategy Statement for FY 2006-2011. In particular, the Project contributed to the Mission’s second Operational Goal, to “[i]ncrease the effectiveness of Kenyan institutions in promoting a vibrant private sector and democratic governance.” More specifically, this Project contributed to Democracy and Governance efforts to address gender inequities within cultural and legal spheres, particularly related to women’s access and rights to land. The specific indicators are set out in the PMP.

Using the PMP, monitoring and reporting of Project activities were a vital part of this pilot. The PMP helped the team to track progress of each activity as well as contribute to quarterly reporting. Periodic assessment of progress against targets took place to help the team stay on track, with regular opportunities to adjust approach in the implementation plan.

When the short-term impact evaluation was added to the Project, a few targets in the PMP were dropped, as indicated, because the evaluation would generate far more reliable results.

Also, for a few targets, actuals are not included. This omission is because the staffing issue identified in Section 2, where a key staff member suddenly left the Project in early December 2012, meant that at the time of this writing, the supporting documents are inaccessible.

## Justice Project: Performance Monitoring Plan

Objective	Activities	Indicators	Sources of Data	Targets / Actual
<b>Component 1: Develop Justice modules</b>				
Development and testing of an effective training curriculum	Design and implementation of curriculum	Qualitative feedback from trainees	Written surveys given after trainings	Majority give an above average (80 <sup>th</sup> percentile or above) rating overall / Dropped this target
		Increase in knowledge about women's rights	KAP survey, if possible	Target pending inclusion in KAP survey / Not available
<b>Component 2: Build Capacity within the Customary Justice System</b>				
Increased sensitivity to and respect of women's land rights in dispute resolution	Training elders on alternative dispute resolution, conducting community conversations	Number of elders who receive ADR training	Project record	30 elders / 30 elders
	Training elders on civics and legal literacy	Elders' bias and perceptions over time	Survey of elders before and after the trainings to determine if there is a change in the systemic bias against women in resolving disputes	Perceptible change in elders' decisions resolving land disputes involving women / Dropped this target
	Reviewing and providing feedback on elders' minutes	Number of cases detected to have been resolved with gender bias monitored over time	Minutes of dispute resolution (expert analysis)	10% decrease in gender bias in cases during 10-month period of project compared to previous 10 months / Data unavailable
	Conduct end-of-project focus group interviews, including on 3 priority issues	Qualitative feedback from interviewees	Interviews	Majority articulate enhanced knowledge and respect for women's land rights / Dropped this target
<b>Component 3: Build Women's Capacity to Govern and to Know, Understand, and Exercise Their Rights</b>				
Increase the number of women with knowledge of the Constitution and land/forest laws	Training women in leadership, public speaking, and ADR	Number of women trained by the project	Project record	30 / 34
	Training women in civic education and land-related legal literacy trainings	Number of women trained by the project	Project record	30 / 34
<b>Component 4: Support Justice Learning within Schools &amp; Families, with Youth Participation</b>				

### Justice Project: Performance Monitoring Plan

Objective	Activities	Indicators	Sources of Data	Targets / Actual
Increase the number of parents with knowledge of traditional dispute resolution and women's rights	Train teachers in civic education, land-related legal literacy, and ADR	Number of teachers who received training	Project record	30 / 37
	Assist teachers to pass on civic and legal education to students in primary and secondary schools	Number of hours devoted to subject by each teacher	Teacher logs	450 / 253
		Number of students who received civic and legal education	Attendance sheet	800 / 900
	Assist teachers to hold poster, song, drama, and poetry competitions on these subjects	Number of students participating in competitions	Project record	200 / 900
	Train youth in civic education, land-related legal literacy. ADR	Number of youth trained	Project record	20 / 20
	Train youth in community to assist teachers	Hours youth spend in classroom	Teacher and youth logs	1000/ 222
<b>Component 5: Raise community's legal awareness</b>				
Increase the understanding of women's land and forest rights in the community	Supporting trained women to share content with other women from their communities or CBOs	Number of legal awareness meetings organized by women who received training from the project	Project record and reports from trained women	60 / 21
		Qualitative feedback from women in communities on outcomes regarding three prioritized issues	Interviews	Improved outcomes related to three prioritized issues / Dropped this target
	Disseminating justice messaging to women in the target community	Number of women who attended peer sessions by the women I trainees	Attendance Sheet	400 / 268
	Facilitate integrated community conversations	Number of conversations	Project record	At least 3 / 3
		Number of attendees	Project record	16 / 66
	Facilitate display of winning art and performance of winning play during school closing ceremonies in November	Number of adults reached during school closing ceremonies	Project record	Nov. 2011: 200 adults / approx. 400 May 2012: 200 adults / 1,000
	Hold a "Lessons Learned" baraza in December	Number of attendees	Project record	At least 15% of the adult / no. of adults in the community unknown

### Justice Project: Performance Monitoring Plan

Objective	Activities	Indicators	Sources of Data	Targets / Actual
		Number of trainees who present	Project record	8 / at least 20
	Conduct end-of-project focus group interviews with women and youth related to 3 prioritized issues	Qualitative feedback from interviewees	Interviews	Majority perceive reduction of gender bias among elders in land cases / Dropped this target

# ANNEX 4. SAMPLE ARTWORK

## SAMPLE JUSTICE DAY ART PRESENTATIONS By Justice Trainees & Students

### *Troubles of the Girl Child*

by Nancy Dikirr – woman trainee

1. My birth brought a lot of joy  
A good girl was born in this world of problems  
We have given birth, we have given birth  
It became the new song  
Where will someone come from, to save me a girl child?
2. I attained ten years, something terrible happened  
I was harmfully mutilated  
Poor girl I suffered  
I was denied education, and forced to early marriage without a question  
Where will someone come from, to save me a girl child?
3. About thirteen years of age, I was married off to an old man  
Of 80 years, with problems and sufferings  
We never went for HIV test  
Only to follow the instructions from the parents  
Where will someone come from, to save me a girl child?
4. Nine months later, I gave birth to a child  
A child gave birth to a child, when the child cried  
I cried too  
The child died later, I was left lonely  
Where will someone come from, to save me a girl child?
5. One month later the old man also died

I asked what's up  
He died of AIDS  
I finally realized my end had come  
Where will someone come from, to save me a girl child?

**Song** – Ooh God listen to my cries  
Listen to my prayers  
Open up your ears  
As I call you, answer me quickly

**Chorus** - My God, you know why  
I am going through all these.

6. Four days later my father in-law was mad on me  
He told me to go away, for without a child I never deserve land  
My father also chased me away, for his property belonged to his sons  
Where will someone come from, to save me a girl child?
7. Pain became too much, I ended up in prostitution,  
I didn't have my place or our place to live  
I became just a useless beggar  
I was heading to the grave then, for I had no other alternative  
Where will someone come from, to save me a girl child?
8. I conclude my poem, going ahead I can't  
I beseech you parents, to secure your girls  
They shall be of great help, to generation and generation  
Our gracious father I pray, have mercy on thy people.

---

***Maasai song***

by Nareyio Kuyo - woman trainee

1. Thanks and appreciation to the teachers and the Landesa group as a whole for the excellent job done during the whole episode of training.
2. We are happy to know that women will benefit in any of these three ways.
  - i. Equal land inheritance between boys and girls
  - ii. Equal sharing of property at the time of marriage during and at the dissolution of marriage
  - iii. Joint titling
3. Therefore in that connection (dialogue)  
**Soloist** – What is enough for you

**ALL-** It's this constitution; let's hold it firmly with our hands.

**Soloist** - What is right

**ALL** - When women are involved in everything that pertains to them in the Constitution

**Soloist** – What is the goodness

**ALL** - Both boys and girls to be equal in the family.

---

### ***Maasai song***

by Nalotuesha Tikani – woman trainee

1. Thanks and appreciation to our Heavenly Father,  
For the far that he has taken us despite of the silence of the first constitution that never recognized women.
  2. The Constitution has brought change and sovereign power to the people which will be exercised at the National and county level.
  3. Unlike the first constitution that came from our colonizers, this one is our idea and all its content comes from the people of Kenya.
  4. In 2005 referendum, we said NO to the then constitution, but in 2010 we said YES and this was witnessed by the whole world when our president signed and put a seal to the present constitution.
  5. It has brought equality to both boys and girl when it comes to the sharing of our cows and land.
  6. It has also shown us how to conserve our land through planting of trees and conserving our environment. This will help to minimize poverty level within the people.
  7. It has formulated ways where women will be involved in public bodies' leadership.
- 

### ***Kalenjin song***

by Edna Koech-woman trainee

1. We the women who have trained with Landesa agree with what is written in this constitution.
2. Thanks for knowing that women now have the freedom to exercise their
  - (i) Political
  - (ii) Economical
  - (iii) Social and
  - (iv) Cultural rights

3. We are happy to realize the harm we had done to our forests early enough, therefore correct the situation before it's too late.
- 

### **Women's Skit on "*Equal rights for our Children regardless of sex*"**

by Agnes Nkapani – woman trainee

#### SCENE 1

- Both men and women in the training centre where they are taught on things pertaining the constitution
- They are given constitution manuals and told to go to the village to train others

#### SCENE 2

- At the home of Ole Oiyie a tough alcoholic old man
- The wife is a young oppressed woman who doesn't go anywhere or involve herself in any other business outside taking care of Ole Oiyie's property (livestock).
- She is one of the women visited and trained on the constitution.

#### SCENE 3

- Ole Oiyie's two children (boy and a girl) pass their standard eight examinations, the girl gets 360 and the boy gets 350 out of 500. The father refuses to continue educating the girl and a big quarrel rises up between him and the wife.
- The wife decides to look for help by calling her husband's friends to intervene, but in vain. Ole Oiyie becomes adamant and chase his friends away.
- She does not stop there instead; she goes further to call the ADR elders who were trained at the station. After a long argument the ADR Elders are able to convince him and he agrees to take the children to school.
- We see mzee Oiyie rebuking his wife for not using good procedure to explain this good information about the constitution to him.

#### SCENE 4

- The children are taken to school, the wife takes the boy who goes to Ololulung'a Secondary school because it's near and the husband takes the girl to Alliance girls which is far.

#### Lessons learnt from the skit:

1. Mr. Ole Oiyie is so traditional that he does not listen much from his wife apart from the doings of his livestock only.
2. He believes that a woman has nothing to say in front of a man and his word is always final as he says "from when did the neck come before the head?"
3. He believes that any paper work comes from the white people and not meant for the good of an African. E.g. the constitution, exam results, etc.

4. An Mzee Ole Oiyie belief that educating a girl is like benefiting the man who will marry her. They are “earmarked” for marriage not education. Educating a girl will lead her to prostitution.
  5. Ole Oiyie argues that women should not be involved in the dispute resolution process. He believes that doing so, is like defiling the group that had been so important in his community.
  6. Finally, we learnt that it is possible to change anybody as far as that person is understood in the initial stage, then proper approach is used to explain things.
- 

### **Elders’ Skit on *Equality for Women and Girls***

By Mr. Mutai, Elder trainee, performed by elders

The Heading:

1. EDUCATING A BABY GIRL
2. GENDER EQUALITY
3. INHERITANCE.

The participants are as follows:

1. Mzee Koisikir - father
2. Mrs. Sophy Koisikir - First wife – Beatrice koisikir
3. Mrs. Karsis koisikir - Second wife - Olonana koisikir
4. Elder’s members –
  1. Mr. kesier
  2. Mr. Tanui
  3. Mr. Tikani
  4. Mr. Mbuyuk
  5. Mr. Sanga
5. Mr. Lepore - Elder’s Secretary

Mr. Koisikir as the father insists not to educate Girls of the first wife Sophy, and educate both boys of the second wife Karsis.

The complaint raise up from the first wife Sophy to elder’s member for assistance to educate the two daughters;

- Olonana Koisikir
- Beatrice Koisikir

But the Father insists the two to be married and got his dowry. Not to educate girls for them, not to inherit father’s properties, e.g., Land, Domestic Animals but the constitution says **both boys and girls are all equal to share one cake.**

The second wife Sophy decided to go and follow the regulation of the father and took her girl to school and admit at class one, whereby the Head Teacher Mr. Kesier directed to the class teacher Mr. J Karia to take the new pupil Naneu to class one, but by coincidence when the mother came back home, the father became angry and decided to go to school and take his

daughter back home. So conflict started in between the father and Sophy. The second wife at home, decided to go back to the community elders for assistance whereby she met the following elders:

1. Mr. Kesier
2. Mr. Tanui
3. Mrs. Tikani
4. Mr. Mbuyuk
5. Mr. Sanga

They came back to home and met Mr. Koisikir and the first wife Mrs. Karsis, the discussion started, they discussed it together and attempt to reach to an agreement whereby the father agreed to take his daughter back to school and therefore, they discuss how to subdivide his portion of land into two parts whereby the father directed one of the elders to inquire the land surveyor Mr. J. Towett, to come and subdivide the land equally, so reconciliation comes, in many ways including mediation and negotiation and therefore, the concert came to an end whereby Mr. J Sadera came to read the constitution and all participants started to introduce themselves in a systematically line-up.

Finally the family members the father, the two mothers and children came to reconcile, Truth, Justice and Peace and stayed together.

---

***“News Break on Landesa’s work in Olpusimoru!”***

by Daniel Kirapash, youth trainee

Here are the news following the birth of a new and a young child, constitution, so many non-governmental organizations has gone to different fields so that they can inform, every Kenyan citizen on how to implement what is in the constitution.

Landesa is one of the NGO’s that had supported the citizens in all the means and also teaching them the importance of implementing the new constitution, and the developments (socially and economically). This was a good and interesting part of education in Ol Pusimoru. All people had been able to know in detail the importance of gender balance and equal division of land in accordance with gender.

The citizens had also benefited in other different alternatives that can enable them to get income e.g. growing of different kind of trees, growing of different crops, bee keeping and practicing agro forestry.

Elders also had put aside their ages and coming together in the different meetings which took them time to understand what is in the constitution through Landesa.

Youth who are the leaders of tomorrow had been able to be the role model in practicing the new constitution not considering the race or the ages.

They were able to deliver the messages even to school and to different villages.

When brightness comes darkness disappears and welcomes sunshine and this was noted at Ol Pusimoru whereby they had got the brightness of the new constitution. Our republic of Kenya is remembered for having been in the old constitution that never recognized gender (female) and even others were marginalized.

Immediately, after Landesa had started educating people on the ground, it was noted that it was successful despite many challenges here and there.

The team of Landesa made different people to be keen on hearing what they had to deliver since many were just hearing without knowing what exactly it is.

Due to different views of the people it is noted and seen that so many people had got the information and understand the constitution.

All this on how to conserve forests and environment, equal opportunities to all genders, and national land policies and many others are put in practice. This education shall be passed on from one generation to another, which will bring changes to different communities and also institutions.

That is the end of the news and thank you for your attention

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### **Swahili song, “*We Love our Constitution*”**

By Jacqueline I. Kool, youth trainee

Chorus: The constitution is good for it has brought benefits  
The citizens are happy for getting the new constitution  
The women are happy for knowing their rights  
The disabled people had also known their rights  
Even during politics women got a chance  
We thank Landesa team for bringing this education of the new constitution  
Men had accepted to give us (women) our rights  
The child (female) are now educated.  
All as the family had got equal rights and balance.

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### **Dramatized poem**

by Gideon Munai and William Naimodu – youth trainees

### The Constitution

1. Constitution! Constitution! Constitution!  
The new constitution, new people  
The new country, new beginning  
New things, new things.
2. The constitution that we had voted for,  
The side of “Yes” and the side of “No”  
Did you understand the constitution?
3. The constitution that has eighteen chapters  
Six parts and the last with explanation  
Explanations about the new country Kenya  
Citizens let's follow the constitution  
The person who never follows the constitution  
Is forgotten and thrown away.
4. The first chapter in details  
Explains about the powers of the constitution  
Freedom of the people of Kenya  
And to protect our constitution  
The branch that doesn't produce fruits of the new constitution  
Is cut and thrown away.
5. The second chapter when we expand  
We understand about our country Kenya  
The boundaries, traditions and language  
Let's be proud of our country Kenya  
The branch that doesn't produce fruits of the constitution  
Is cut and thrown away.
6. The third chapter comes with citizenship  
Different kinds of being a Kenyan  
The fourth chapter is the rights of human being  
It confirms the importance of it my colleague  
The branch that doesn't produce fruits of the constitution  
Is cut and thrown away.
7. The fifth chapter knocks on the door,  
Land, natural resources and equality  
The sixth chapter not forgotten  
Leadership without corruption  
The branch that doesn't produce fruits of the constitution  
Is cut and thrown away.

8. The seventh chapter is now her  
Representatives in the government that was set apart  
The eight chapters asks questions  
Does the constitution changes you?  
The branch that doesn't produce fruits for the constitution  
Is cut and thrown away.
  9. The ninth chapter not left behind  
The government and leaders in the republic  
Chapter ten up to fifteen  
Types of leadership is shown/explained  
The branch that does not produce fruits for the constitution  
Is cut and thrown away.
  10. Chapter sixteen of the constitution  
Changes of the new constitution  
Chapter seventeen and eighteen  
Goodbye for explanation of the new constitution  
The branch that doesn't produce fruits for the constitution  
Is cut and thrown away.
- 

## **Speech**

by Gideon Munai – youth trainee

Guests, Elders, ladies and gentlemen, today are a celebration which marks the new dawn in our area. We are now 100% Kenyan because we are in a position to explain some parts of our constitution. Right now we can talk of chapters, articles and claws.

We and I in particular rather, congratulate the Landesa project for this far that we are. The facilitators Soipan and Caro for their effort of taking their time to spread curing words and advice to the community.

Despite the excitement finally we have achieving a new constitution; there is much work that remains to be done. Kenya is now faced with the challenge of implementing the constitution and realizing its objective of equal access to justice and human rights including social, economic and cultural rights for every Kenyan.

Here comes Landesa project on July to date which had brought a light to our path, few months after the promulgation of the new constitution. We were not conversant with the past constitution, those who voted No and those who voted Yes to the new constitution, were guided blindly during voting. This was boldly disclosed and figured out during piloting on customary justice projects where people did not even know the meaning of constitution

Since we started co-operating with landesa, we have achieved a lot and there is strong empowerment of the community.

To begin with, there is a well sensitization on environmental conservation as clearly started in article 42 and 69. This has improved the conversation of forest since it is the vital organ of the environment; many trees have been planted by farmers in their farms. The community can benefit from trees in many ways not only for environmental protection but also economic stability.

On the other hand, land issues as contemplated in article 60, have been put across and all the community members are aware of the article. The Area chiefs, Elders and trained landesa youth groups are working jointly in order to achieve the goal of this article.

In addition, the bill of rights, as stated in chapter four of the constitution is so vital to the communities, rights like, live, education, shelter, health care, protection among others are basically need in our society.

We are so glad, since it is through the project that we know that we as youths are to be represented in the government, not only us but also women who are part of vulnerable groups. The mobilization, sensitization and training have been conducted well in churches, schools and cultural gatherings like initiations ceremony and chief's *Barazas*.

We are so grateful to our administration and the facilitators for the humble time that they had planned for us since the start of landesa to date, although we cannot explain the constitution to 100% but we can explain it to more than 25% unlike the old constitution which was out of our understanding.

May almighty God bless the facilitators, Area chiefs, Elders and the landesa T.O.T.

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### **Shairi/Poem, "*The Environment & Climate Change*"**

by Naeku Naimodu Form 3 student, OI Pusimoru Secondary School

1. Every dawn  
Animals choke for lack of clean air  
Dirt and pollution everywhere  
And we keep asking what global warming is all about?!
  
2. Too much destruction of natural forests  
Brings about too many losses, soil erosion  
Stormy winds, abnormally heavy rains  
And we keep asking what global warming is all about?!
  
3. Too much use of industrial chemicals

And watering our foods with contaminated chemical water,  
Let us not ask what global warming is all about!

4. Let us preserve our Mau forest, its benefits are numerous,  
Lake waters, food for wild and domestic animals alike,  
A support for our tourism, tourist sites, foreign currency earnings  
So we stop asking what global warming is all about!

**U.S. Agency for International Development**

1300 Pennsylvania Avenue, NW

Washington, DC 20523

Tel: (202) 712-0000

Fax: (202) 216-3524

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