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ENHANCING CUSTOMARY JUSTICE SYSTEMS IN THE MAU FOREST, KENYA

IMPACT EVALUATION REPORT



JANUARY 2013

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Photo: Upon graduating from the Justice Project training program, women trainees are publicly recognized by approximately 1,900 people from OI Pusimoru. Courtesy of Deborah Espinosa/Landesa.

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ACRONYMS AND ABBREVIATIONS

ADR	Alternative dispute resolution
FGDs	Focus group discussions
IQC	Indefinite Quantity Contract
Justice community	Justice Project Community
Justice area	OI Pusimoru location
<i>katiba</i>	Constitution
KIIs	Key informant interviews
LEP	Legal Empowerment of the Poor
LEP Framework	USAID’s Legal Empowerment of the Poor Framework
PLACE	Prosperity, Livelihood, and Conserving Ecosystems
Project	Justice Project
PRRG	Property Rights and Resource Governance
RDI	Rural Development Institute
ROL	Rule of Law
ROL Framework	USAID’s Rule of Law Strategic Framework
USAID	United States Agency for International Development
USAID/DCHA/DRG	USAID’s Bureau for Democracy, Conflict, and Humanitarian Assistance
USAID/E3/LTPR	USAID’s Bureau for Economic Growth, Education, and Environment

EXECUTIVE SUMMARY

INTRODUCTION

Land has come under increasing pressure in Kenya due to population increases and land expropriation (some of questionable legality or motivation), among other things, which contributes to significant tensions over land that frequently result in violent conflict. Although post-electoral violence in 2008 was proximately of ethno-political origin, ancient and recent competition for land is arguably the ultimate cause.¹ As land becomes scarcer, women in particular face increased vulnerability to landlessness and associated social and economic hardships as they must generally rely on male relatives to gain and maintain access to land.

Local informal justice institutions are the primary venue for resolution of the overwhelming majority of disputes in Kenya, including disputes over land, due to their accessibility and social legitimacy. However, women often face barriers to accessing and achieving justice from these institutions because of long-standing social norms and practices that discourage women from taking cases to local authorities, and a tendency for institutions to rule against women's interests in the name of tradition when women do insist on airing their grievances. These barriers and constraints are generally especially rigid related to women's land rights.

A new Constitution was promulgated in 2010 through a national referendum with broad public support. The new Constitution and National Land Policy 2009, from which relevant constitutional principles were derived, strengthened legal rights for women and substantially increased the prominence of traditional dispute resolution systems. Specifically, the Constitution enshrines gender equality,² eliminates gender discrimination in law, customs and practices related to land and property,³ and clearly recognizes the authority of informal justice institutions and actors (among them traditional leaders), charging them with important responsibilities for delivering constitutional guarantees in their role as the primary arbiters of disputes at the community level.⁴

This report is an impact evaluation of the United States Agency for International Development's (USAID) Justice Project, which was implemented by Landesa and its prime contractor Tetra Tech ARD, to pilot an approach for improving women's access to justice, particularly related to women's land rights, by enhancing the customary justice system in one target area: Ol Pusimoru sub-location, Mau Forest, Kenya. The Justice Project consisted of: (1) delivery of a training curriculum to targeted groups (Chiefs, Elders, women and youth) focused on civic education, legal literacy, rights and responsibilities related to land and forest resources (with

¹ Wakhungu, Judi, Elvin Nyukuri, and Chris Huggins. "Land Tenure and Violent Conflict in Kenya in the Context of Local, National and Regional Legal and Policy Frameworks." Nairobi: African Centre for Technology Studies, 2008.

² The Constitution of Kenya, 2010, Art. 27.

³ Ibid, Art. 60 (1)(f).

⁴ Ibid, Art. 159 (3).

special emphasis on rights of women and children), and skill-building; (2) facilitated community conversations with target groups; (3) peer training for targeted groups to share information with others in the community; and (4) public information and education activities to reach the broader community.

The purpose of this evaluation is to measure the impact of the Justice Project on women's access to justice and women's land access. To do so, evaluators measured improvements in the Justice Project area in each of the following four local access to justice elements: (1) women's awareness and knowledge of their rights; (2) women's access to appropriate forum; (3) effective administration of justice; and (4) social legitimacy and enforceability of these solutions. Evaluators also examined the extent to which the Justice Project contributed to increased land access for women in the Project area.

The short-term impact evaluation is based on a mixed methods approach, using analysis of quantitative data from interviews with 522 women and 396 men, and qualitative data from 12 key informant interviews and 17 focus group discussions in the Justice community and a similar community where the Project did not operate (control community). Quantitative fieldwork was carried out in June and July 2012, and qualitative fieldwork was conducted over 14 days in August and September 2012.

KEY FINDINGS

The Justice Project has demonstrated significant and higher magnitude improvements in:

- Legal awareness, particularly women's legal knowledge, men's knowledge of women's rights, and women's familiarity with the local justice system and alternative dispute resolution, though, as may be expected, knowledge seems to be highest among those directly trained by the Project and amongst the population living closest to the site of Project activities.
- Women's confidence in both fairness and outcomes if they need to access the local justice system, and procedural and process improvements in local dispute resolution institutions, including enactment of community bylaws or constitutions to guide their actions, requirement of family consent for land transactions, enhanced recordkeeping of proceedings, a new election process for the Council of Elders (resulting in women and youth representation on the Council), and consistently forwarding criminal cases to the police.
- Respect for women's rights by men in the community. Men's support seems to be highest for changes in women's rights that have resulted in observable benefits at the household and community level, like women's increased economic activity or their increased involvement in dispute resolution, but not all men seem to understand and accept changes related to women's rights to own and inherit land.
- Women's access to land, which has increased. Women have gained more control over assets at the family level.

The Project has achieved significant but more modest impacts in:

- Improvements in women’s perceptions that they have access to an appropriate forum for dispute resolution, particularly related to physical accessibility and social inclusiveness, and that local institutions treat all people equally. Changes in these measures may be more evident over time as more people in the community have direct experience with local justice institutions.
- Women’s land rights and tenure security, particularly in men’s expressed intentions to leave equal inheritance to all children, including girls, and women’s confidence in their ability to protect their land rights with support from local institutions. However, there appear to be dichotomous interpretations of the meaning of women’s land ownership rights, particularly on the issue of whether girls retain family land inheritance after marriage, which could have influenced results in this area.

The Project does not appear to have made detectable impacts on:

- Women’s perceptions of improvements in the promptness and affordability of the local justice system, though this may be due to the fact that the local system is already prompt and affordable, or that few women have had disputes that brought them in contact with local institutions in the short time since the Project began.
- Women’s perceptions of improvements in Chiefs and Elders’ knowledge of the Constitution. This may be due to reported variations amongst trained Elders in their understanding and application of the Constitution, and an uneven spread of information to untrained Elders.

Finally, there is anecdotal evidence that the Justice community has experienced improvements in other potential longer-term impacts as a result of improvements in women’s access to justice and increased access to land. While these other impacts are outside the scope of this evaluation, we share anecdotal information reported from the community about improvements in overall well-being for women, increased assertion by women of rights to justice and better services, increased education for girls, and reduced domestic violence.

KEY LESSONS

Evaluation findings suggest a number of lessons relevant for the Justice Project and similar projects in the future:

- Behavior change is difficult and interventions often take a long time to bear fruit, particularly when addressing socially-embedded gender norms that must be confronted with women’s land rights issues. It may be useful to train more men in the Justice community and facilitate community conversations amongst groups of men to give them the space to clarify the nature of women’s constitutional rights to own and inherit land, and grapple with the practical implications of enacting those rights.
- The Justice Project’s approach to combining legal awareness training with provision of translated copies of the Constitution and peer training mechanisms seems to have been

effective both in terms of increasing knowledge among trainees and diffusing knowledge through the broader community.

- After only one year of engagement with Chiefs and Elders, they have made concrete improvements in their processes and procedures which contributed to the improved administration of justice. This success may be attributable to the Project's multi-pronged approach to capacity building, which combined legal awareness training, skill-building, facilitated discussion of issues, and assisting Elders to understand their position and connection to the formal justice system.
- Social legitimacy of women's rights may solidify over time if Elders consistently enforce women's constitutional rights and men in the community continue receiving information about women's rights from Project trainees.
- Projects aimed at behavior change, and those involving training on technical issues like constitutional rights and legal concepts, will benefit from careful consideration of community and target participant characteristics that are likely to impact project success and shape interventions.
- Chiefs are key stakeholders with the power to impact the success of a project similar in nature to the Justice Project. As such, it may be important to seek out Chiefs who are open to the project's objectives from the outset (though not necessarily predisposed to be sympathetic to women's land rights) and to keep them engaged throughout the life of the project.
- Revisit the Justice and control communities in one or two years to allow more time for impacts to manifest. This short-term impact evaluation began within a month of the end of the Project, which involved only one year of activities in the Justice community. Some impacts may require more time to be fully realized assuming the positive trends continue.

1.0 INTRODUCTION

1.1 WOMEN AND ACCESS TO LAND IN KENYA

Land pressure due to a rapidly increasing population, the prevalence of illegal/irregular allocation of public land by powerful individuals, and a history of politicized land distribution have led to serious tensions over land in Kenya,⁵ which was identified as one of the main underlying causes of the 2008 post-electoral violence in the country.⁶ Although having a land title does not equate to having secure land rights, Kenyan women account for only 1% of formal land title holders.^{7,8} Inheritance is the primary means for women to access land in Kenya,⁹ and as land becomes scarcer women in particular face increased vulnerability to landlessness as they must generally rely on male relatives to gain and maintain access to land. Widows, women who are divorced or abandoned, and unmarried girls constitute especially vulnerable groups because the rising demand for land increases incentives for in-laws to drive widows away from their land, for husbands to withhold land shares to former wives, and for brothers to deny family land inheritance to their sisters.¹⁰

1.2 WOMEN AND ACCESS TO JUSTICE IN KENYA

The legal and administrative framework impacting women's land access and ownership rights is still taking shape in Kenya, in large part because the 2010 Constitution mandates the adoption of a large slate of new legislation to synchronize law and governance with the Constitution.¹¹ While some of this legislation has been enacted, including key land-related laws and some legislation related to mandated devolution, a number of bills that have a bearing on women's land access and ownership remain in draft form and local land-related administrative structures have yet to be clearly defined due to remaining questions about how devolution requirements will ultimately be implemented.¹² Thus, it is worth noting that women's land-related rights, and the local justice and administrative actors with authority to affect women's rights, may change over time when new legislation is enacted and devolution is fully realized.

⁵ Harrington, Andrew and Tanja Chopra. "Arguing Tradition: Denying Kenya's Women Access to Land Rights." Washington DC: World Bank, 2010.

⁶ Wakhungu, Nyukuri, and Huggins, 2008.

⁷ "Voices of Women Entrepreneurs in Kenya." Washington DC: IFC, 2006.

⁸ DFID. "Land: Better Access and Secure Rights for Poor People." London: DFID, 2007.

⁹ Harrington and Chopra, 2010.

¹⁰ Ibid.

¹¹ The Constitution of Kenya, Fifth Schedule, 2010.

¹² According to the Kenya Law Reports website (www.kenyalawreports.org), land-related legislation passed in 2012 includes the Land Act (No 6 of 2012), Land Registration Act (No 3 of 2012), and the National Land Commission Act (No 5 of 2012). As of January 2013, other enabling land-related legislation that could have a significant impact on gender-equitable land rights, including the Matrimonial Property Bill and the Marriage Bill, are still pending. Last accessed Jan 30, 2013.

At present in Kenya, the majority of disputes are resolved at the local level under customary (Elders) and formal (Chiefs) justice mechanisms.¹³ Physical, procedural and financial barriers to reach the formal courts and their inability to restore social harmony are among the reasons why most Kenyans prefer to access the local justice system. However, local norms and practices that are not favorable for women are frequently reflected in traditional dispute resolution, and these norms and practices often do not conform to statutory laws promoting gender equality.

Women seeking to assert land rights or redress in land disputes frequently face significant barriers. Harrington and Chopra (2010) found that, “[c]ultural practices alone may be strong enough to deter a woman from pursuing her case and lead her to abandon a claim entirely.” Women with land disputes follow a rough hierarchy of steps that generally begins with family and community (mainly Elders).¹⁴ Since women’s land disputes often involve the family, women may find themselves in extremely difficult, sometimes hostile, situations should they continue to pursue a land grievance. Women may be seen as disruptors of family harmony and can face family and community alienation, with economically devastating consequences, for following through with land cases.

If women are unable to find resolution at the family and Elders level, they can bring matters to the Assistant Chief and Chief.¹⁵ Chiefs are key dispute resolution actors in their communities, yet most lack training in dispute resolution and have limited legal knowledge. As a result, their decisions on women’s land rights issues may be ad hoc and inconsistent. As Harrington and Chopra (2010) note, “Chiefs have the greatest opportunity to have a positive impact on women’s access to land once a woman approaches this body for help...However, this means that decisions may depend on their personality and opinions, which often leads to inconsistent results. Some were described as proactive in their efforts to direct the equal subdivision of lands for daughters and protect widows; others were not.”

In early 2010, USAID conducted an assessment in the Upper Mara River Basin of the Mau Forest Complex to inform program development for a comprehensive conservation project at the recommendation of Kenya’s Task Force on the Conservation of the Mau Forests Complex.¹⁶ The assessment identified challenges and programming opportunities for USAID in this conflict-prone and ecologically important catchment area, which led to the design and implementation of ProMara by Landesa’s partner Tetra Tech ARD, focused on conservation, food security and livelihoods, land administration, and land and resource tenure. Using information from that assessment, the Justice Project was designed as a complement to the ProMara Program to test an approach to improving access to justice issues for women related to land rights in one sub-section of the ProMara Program area. USAID’s Bureau for Democracy, Conflict, and Humanitarian Assistance (USAID/DCHA/DRG), in partnership with the Bureau for Economic Growth, Education, and Environment (USAID/E3/LTPR), provided funding through USAID’s

¹³ USAID Kenya Country Profile, Property Rights and Resource Governance. 2010.

¹⁴ Harrington and Chopra, 2010.

¹⁵ Chiefs and Assistant Chiefs are local civil servants in the Executive Branch, deployed at the location and sub-location levels, respectively.

¹⁶ Enhancing Customary Justice Systems in the Mau Forest, Kenya. Revised Statement of Work. April 2011.

Property Rights and Resource Governance (PRRG) IQC for the Justice Project, which Landesa implemented.

The primary objective of the Justice Project is to pilot an approach for improving women's access to justice, particularly related to women's land rights, by enhancing the customary justice system in one target area: Ol Pusimoru sub-location, Mau Forest, Kenya. A new Constitution and a new National Land Policy have substantially increased the prominence of traditional dispute resolution systems, prohibited gender-based discrimination in land matters, and fundamentally improved women's access and rights to land. Thus, proponents of the Justice Project believed that the year 2011 was a particularly opportune time to initiate an access to justice pilot focusing on the customary system and women's land rights.

2.0 EVALUATION FRAMEWORK

Within USAID, there are two primary conceptions of access to justice: one which is articulated as part of a broader Rule of Law (ROL) Framework aimed at democracy and governance goals at the national level, and one that is framed as Legal Empowerment of the Poor (LEP) with the aim of empowering the poor for poverty alleviation. While both of these conceptions of access to justice contain useful elements for assessing the Justice Project in Kenya (which was designed taking the ROL framework into consideration), the evaluation team developed a new access to justice framework for the purposes of this evaluation. Our Evaluation Framework borrows heavily from USAID’s LEP concepts because they are more directly applicable to assessing local-level engagements with individuals as opposed to national-level justice sector reforms. The evaluation team enhanced the LEP framework by borrowing the World Bank access to justice definition, which introduces elements of local institutional improvements as another means of increasing access to justice at the community-level. In order to operationalize assessment of improvements in women’s land access and tenure security, evaluators also considered Landesa’s conceptualization of elements of land tenure security specifically for women.

2.1 USAID’S CONCEPTIONS OF ACCESS TO JUSTICE

Rule of Law Strategic Framework

The Rule of Law Division of the USAID Office of Democracy and Governance published an updated Rule of Law Strategic Framework (ROL Framework) in 2010 to guide Officers conducting rule of law country assessments and designing projects. The ROL Framework focuses most closely on reform of state institutions, primarily at the national level, to strengthen the rule of law as a fundamental platform for democracy and improved governance. It outlines five critical components of the rule of law, namely order and security, legitimacy, checks and balances, fairness, and effective application.¹⁷

Access to justice is articulated as a sub-element of the fairness component of rule of law, alongside equal application of the law, procedural fairness, and protection of human rights and civil liberties. The ROL Framework defines access to justice as, “the ability [of citizens] to prevent the abuse of their rights and obtain remedies when such rights are abused.”¹⁸ This ROL Framework informed the Justice Project design, but for the purposes of this evaluation evaluators needed an expanded framework that could be operationalized to perform gender sensitive measurement of access to justice impacts at a local level, focused on both individuals and institutions.

¹⁷ USAID. “Guide to Rule of Law Country Analysis: The Rule of Law Strategic Framework.” USAID, 2010. <http://pdf.usaid.gov/pdf_docs/PNADT593.pdf>.

¹⁸ Ibid.

Legal Empowerment of the Poor Framework

USAID’s Legal Empowerment of the Poor framework (LEP Framework), adopted by the Land Tenure and Property Rights Division of the Bureau for Economic Growth, Education and Environment in some of its work, focuses on the rights of the poor and marginalized, particularly those rights that impact economic opportunities. The primary aim of LEP is to give the poor and other marginalized groups the tools they need to help shape and enact rights that contribute to wealth generation and poverty alleviation.

Projects using the LEP Framework may focus on one or more of the following LEP components:

- Rights enhancement, including legal reform and efforts to give the poor a voice in the development of laws and policies that impact their economic opportunities.
- Rights awareness, to give the poor knowledge of their rights and the processes for enacting and enforcing those rights.
- Rights enablement, to ensure the poor can overcome barriers to economic opportunities.
- Rights enforcement, including making sure the poor can protect their assets, access opportunities, and have fair mechanisms for enforcement and dispute resolution.¹⁹

The LEP Framework highlights a connection between access to justice and concrete outcomes for the poor to establish that, “legal empowerment of the poor occurs when the poor, their supporters, or governments—employing legal and other means—create rights, capacities, and/or opportunities for the poor that give them new power to use law and legal tools to escape poverty and marginalization. Empowerment is a process, an end in itself, and a means of escaping poverty.”²⁰

The LEP Framework is well-suited to individual-level analysis, but its lack of focus on community-level justice institutions somewhat limited its applicability to the Justice Project for the purposes of this evaluation. As such, the evaluation team used the LEP as a starting point for developing our Evaluation Framework (articulated more fully below), which allows for assessment of changes in access to justice at the local level (through local institutions) for women, and incorporates considerations for assessing changes in women’s access to land and tenure security.

2.2 JUSTICE PROJECT EVALUATION FRAMEWORK

For the purposes of this evaluation, we adopt a broad definition of access to justice from the World Bank that encompasses the legal framework, individuals, institutions and legal culture. The World Bank defines access to justice as, “[a]ccess by people, in particular from poor and

¹⁹ USAID. “Legal Empowerment of the Poor: From Concepts to Assessment.” Washington, DC: USAID, 2007.

²⁰ Ibid.

disadvantaged groups, to fair, effective and accountable mechanisms for the protection of rights, control of abuse of power and resolution of conflicts.”²¹

Building on the World Bank definition, and USAID’s ROL and LEP frameworks, our Justice Project Evaluation Framework (shown in Figure 1) illustrates the causal links between improvements in women’s access to justice and long term poverty alleviation goals. First, when women’s access to justice improves, they are better able to assert and secure their current and future (via inheritance) rights to land. This reduces women’s vulnerability to income shocks. Second, when women’s access to justice improves they become legally empowered to demand their rights, including their rights to land. These improved rights to land enable them to increase the income they can derive from agricultural activities.

Thus, to evaluate the Justice project we follow a three-prong strategy. First, we assess whether the project has led to short term improvements in women’s access to justice by considering these five elements:

- The legal framework. It is widely recognized that the law alone is not sufficient to ensure women have secure land rights, however a supportive legal context is often the necessary starting point.²²
- Legal awareness and knowledge of women’s rights. In order for women’s rights to be enforced, women need to be aware of their rights and must understand the processes and institutions through which they should raise their grievances when those rights are violated. In order to seek justice, women first need to know if and when they have been wronged in some way. Furthermore, for women’s rights to be respected, men, who are typically the primary conduit through which their female relatives can gain access to land, and who may often be the ones with the capacity to constrain it, must also be aware of women’s rights to land.
- Access to appropriate forum. Women must be able to access affordable, socially-inclusive dispute resolution bodies that will address land rights grievances. This means women must have access to institutions that are physically accessible, affordable, and able to adequately resolve disputes without undue delay. In addition, women must feel comfortable approaching local justice actors with their issues, and have confidence that they will not face social and cultural barriers to achieving justice.
- Effective administration of justice. For women to receive a fair and impartial resolution, it is necessary that local dispute actors know that the Constitution prohibits gender-based discrimination, are familiar with laws that protect the rights of women, and are skilled at resolving disputes. It is also important to ensure that there are processes and procedures in place to ensure consistency, effectiveness and proper enforcement of decisions. Finally, both women and men must be able to trust that local justice institutions will perform in an efficient, neutral, consistent, and professional manner.

²¹ “A Framework for Strengthening Access to Justice in Indonesia.” World Bank, n.d. <<http://siteresources.worldbank.org/INTJUSFORPOOR/Resources/A2JFrameworkEnglish.pdf>>.

²² Daley, Elizabeth and Birgit Englert. “Securing Women’s Land Rights.” *Journal of Eastern African Studies* 4.1: 91-113 (March 2010).

- Social legitimacy and enforceable solutions. Women’s rights can be realized in practice only when they are accepted as socially legitimate by key actors in the community, and when relevant local institutions are willing and able to enforce them. Achieving this status requires shifting some deeply held norms and traditions in the community, and requires a shared understanding and agreement among men, women, youth, Elders, and other community leaders about women’s rights.

In addition, we assess the Justice project’s impact on women’s access to land by relying on Landesa’s women’s land rights framework, discussed in detail below. Landesa’s women’s land rights framework allows us to define, create indicators for, and measure the security of women’s land rights and as a result identify possible improvements.

Finally, we also do a qualitative assessment using anecdotal evidence to identify possible short term impacts the Project might have had on reducing women’s vulnerability to economic shocks, increasing women’s well-being, and enhancing their demand for better services. All of these outcomes are expected to lead to improvements in women’s income and overall welfare.²³

Landesa women’s land rights framework

In assessing improvements in women’s land rights, Landesa’s framework focuses on improvements in women’s access, control and security over land. We view women’s land rights as a continuum of rights, rather than narrowly defined as land ownership through individual land titling.

Therefore, to understand and assess changes in women’s land rights, Landesa considers that:

A woman’s access and control over land can improve if: (i) she gains access to more land; (ii) she gains access to land of higher quality or in a better location; (iii) she gains additional rights over a plot of land to which she already had access; or, (iv) her land rights become more secure.

A woman’s land rights are secure if: (i) they are legitimate; (ii) they are unaffected by changes in her social status; (iii) they are granted for an extended period of time; (iv) they are enforceable; and (v) her ability to exercise them does not require an additional layer of approval that only applies to women.

First, the degree to which a woman’s land rights are *legitimate*, and therefore secure, depends on who recognizes these rights. That is, whether her land rights are recognized by law, by custom, by her family, her clan, and her community. Second, a woman’s land rights are secure if they are *not vulnerable* to changes in her family structure, such as the death of her father or husband, or her husband taking a second wife, or to changes in her clan or community, such as changes in the leadership which granted her those rights. Third, for rights that are granted for fixed period of time, the *longer* the period the more secure her rights are. Fourth, for her rights to be secure a woman must be able to *enforce* them. She is able to enforce her rights if she is

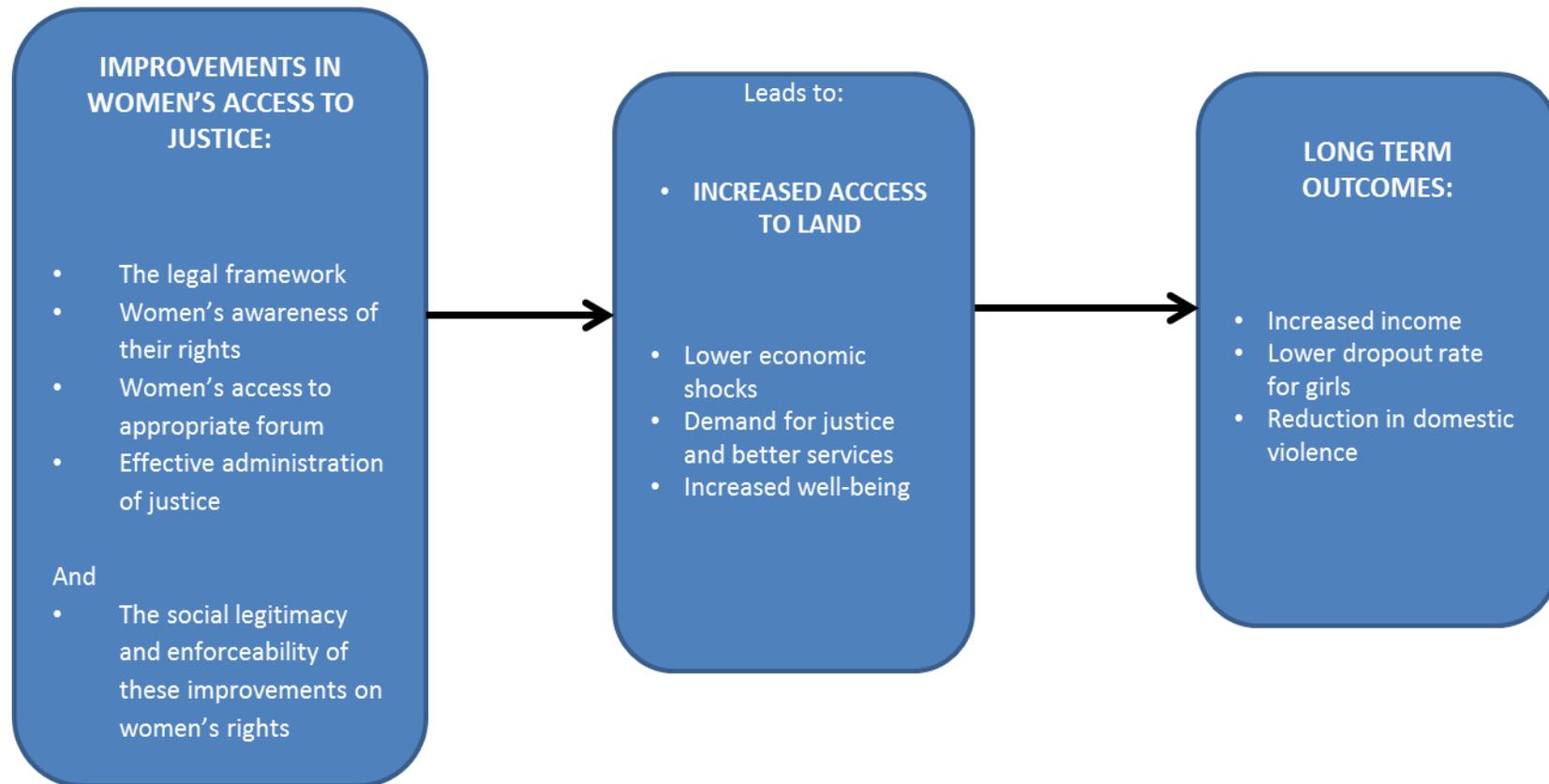
²³ “A Framework for Strengthening Access to Justice in Indonesia.”

aware of where to present her claim, if she can easily get to that forum, if she has the ability and the means to present her claim, if her case will be heard, if the overall process will not take a very long time, and if a decision in her favor will be implemented. Lastly, a woman's land rights are more secure if they *can be exercised without being subject to conditions that men are not asked to fulfill*, such as obtaining the approval and permission of her husband, father, or other male relative.

Thus, a woman's land rights become more secure when:

- i. Her land rights become more legitimate; or
- ii. Her land rights become less vulnerable; or
- iii. Her land rights are more easily enforceable; or
- iv. For fixed-term rights, her rights are granted for a longer period; or
- v. She is able to exercise her land rights without engaging in layers of consulting and approval that are not required of men.

FIGURE 1. EVALUATION FRAMEWORK AND PROJECT THEORY OF CHANGE



2.3 PROJECT OBJECTIVES

Assessments and early field work indicated that within the Mau, like most of Kenya, women were heavily involved in subsistence cultivation but very few had clear ownership or control over land. In addition, there were deeply entrenched cultural biases in the area against women engaging in public affairs, particularly related to resource use, and women reported a perception that Elders were biased against women in cases where the opposing party was a man. As such, women had little ability to influence local resource rights and use arrangements, and no assurance that Elders, as their first and often only avenue for addressing resource issues, would rule in ways that supported their interests.²⁴

The Justice Project was developed to test an approach for transforming such Elders and other local authorities into supporters of women's land and resource rights. In so doing, the pilot Project was envisioned as a means of enhancing understanding of the relationships between customary and statutory law with an eye towards creating a model to promote the integration of informal and formal justice mechanisms.²⁵

The primary objective of the Justice Project was to, "pilot an approach for improving women's access to justice, particularly related to women's land rights, by enhancing the customary justice system in one target area."²⁶ 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.

Underlying this pilot approach was the hypothesis that, with the confluence of three events: (1) passage of a new law creating new rights or significantly strengthening existing rights; (2) formal recognition of informal justice institutions; and (3) legal literacy training combined with facilitated dialogue within a "safe space," formal and customary justice institutions will become more integrated, the rule of law will be strengthened, and access to justice for women related to land will be improved.

2.4 PROJECT IMPLEMENTATION DETAILS

Pilot design

The Justice Project was designed as a multi-faceted intervention, approaching access to justice issues from multiple directions, through multiple actors, and using multiple methods. The primary Project components focused on delivery of tailored, but similar, training curriculums and facilitated community conversations with target groups, as well as peer training and public

²⁴ Enhancing Customary Justice Systems in the Mau Forest, Kenya. Work Plan. April 2011.

²⁵ Ibid.

²⁶ Ibid.

information and education to reach the broader communities in the OI Pusimoru sub-location, of OI Pusimoru location, Narok North District.

Target groups

Target groups identified in the Project's work plan for direct Project involvement included:

- Women leaders and women generally
- Elders
- Chiefs and Assistant Chiefs
- Peace committee members
- Headmasters, school teachers, school governing members (who are parents), and school children
- Educated youth (between the ages of 18-35, as defined in Kenya)

By design, the pilot was meant to impact the whole community (as opposed to direct participants only) through these target groups. The Project approach aimed at affecting change amongst target groups key to improving women's access to justice (namely Chiefs, Elders and women leaders), and achieving impact at the community level through engagement with target groups perceived as viable channels for disseminating information to others in the community (namely teachers, youth and school children).

Project components and activities

The Justice Project consisted of six primary components with supporting activities.²⁷

1. Develop basic training modules (see curriculum subjects listed below) and tailor the curriculum as needed for different target groups.
2. Build capacity within the customary justice system through curriculum training for the area Chief, Assistant Chiefs and Elders, community conversations with these local justice actors, and feedback to Elders on prior land dispute decisions.
3. Build women's capacity to govern and to know, understand, and exercise their land and forest rights through curriculum training, community conversations, and peer sessions.
4. Support justice learning within schools and families with youth by training teachers, engaging and training youth volunteers, and supporting the integration of the Justice Project curriculum into primary and secondary school instruction, resulting in student arts projects related to the Justice Project.
5. Raise community's land and forest rights awareness through trainee peer sessions (sharing Justice Project information with others in the community), facilitation of integrated community conversations, dissemination of Justice Project themed student art, and public meetings.
6. Monitor and evaluate the pilot Project, document and share findings and lessons learned to explore opportunities for broader application throughout Kenya – initially this activity was limited to monitoring Project activities and assessing pilot

²⁷ Ibid.

implementation. In March 2012, USAID provided additional funding and extended the Justice Project to expand monitoring and evaluation efforts to include this impact evaluation and a national workshop to share findings and explore opportunities for increasing scale within Kenya.²⁸

Curriculum subjects

Subjects addressed in trainings for the targeted groups described above focused on:

- 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 rights of women and children
- Skill building
 - Alternative dispute resolution (ADR): negotiation and mediation skills
 - Advocacy and public speaking

Management and staffing

Landesa (formerly the Rural Development Institute (RDI)) led the Justice Project in close cooperation with its prime contractor, Tetra Tech ARD, which led ProMara. The Justice team consisted of US-based lawyers and program specialists involved in project design, management and administration; a Kenya-based team composed of a lawyer, a former teacher and a conflict specialist in charge of implementation; and an evaluation team composed of US-based evaluation specialists and a Kenya-based team of evaluation consultants.

Modifications to pilot in implementation

Expansions in pilot scope

At the beginning of the pilot, the Justice Project team selected the sub-catchment area around OI Pusimoru sub-location, containing the villages of OI Pusimoru town center, Esoit and Tegat, as the pilot site.²⁹ However, participant Chiefs, Elders, women and youth volunteers came from villages within the adjacent locations of OI Mariko and Kamurar, which are within the OI Pusimoru location. As such, the pilot's geographic reach extended beyond the anticipated pilot site from the outset.³⁰

Modifications to pilot activities

²⁸ Enhancing Customary Justice Systems in the Mau Forest, Kenya. Work Plan. Revised March 2012.

²⁹ Enhancing Customary Justice Systems in the Mau Forest, Kenya. Draft Quarterly Report for the Period February – April, 2011. April 2011.

³⁰ Enhancing Customary Justice Systems in the Mau Forest, Kenya. Justice Project List of Participants. May 2012.

The Justice Project faced unusually heavy rains which severely flooded roads and limited access by vehicle to Ol Pusimoru town center from August through mid-December 2011, which led to a delay in beginning activities with women leaders (unlike Elders and Chiefs, women were unable to travel via motorcycle to another location for training).³¹ This problem led to an unintended sequencing of engagement with target groups, beginning with teachers and youth, then Elders and Chiefs, and lastly women leaders. This delay in women's training prevented ADR Specialist Ombok from delivering ADR training to women. Instead, Justice Project team members Tuya and Lentupuru delivered the ADR curriculum to women leaders.³²

During implementation of activities with the women, Justice Project staff procured a screening license for the film *Pray the Devil Back to Hell*. Justice Project staff screened the film for women Project participants, and facilitated a discussion about women's leadership roles in the community and the potential for women to be powerful advocates for peace.³³

The Justice Project team articulated a development hypothesis at the request of USAID in December 2011 as part of the approval process for a revised SOW programming additional funding for evaluation.³⁴ Prior to that, the Project's theoretical framework was not specifically defined and Justice Project team members indicated they did not start out with clear impact indicators because they understood that this was a process-oriented project, and they assumed the implementation timeline was too short to be able to measure impact.³⁵ However, the Project's original and revised work plans included a Performance Monitoring Plan focused on concrete measures of Project implementation milestones.

Other Landesa activities in pilot location

In May 2012, Landesa received private funding to produce and distribute a short film about the Justice Project.³⁶ Landesa communications staff and Justice Project team members accompanied a film crew to the pilot site to film interviews with community members and Project participants during a period from late July through early August 2012. This filming occurred between the quantitative survey and the qualitative fieldwork conducted for this evaluation.

Private funding also enabled Justice Project staff to purchase Kiswahili translations of the Kenyan Constitution, and to distribute copies to each household in the pilot site area. At the beginning of the project, only English versions of the Constitution were available for purchase.

³¹ Enhancing Customary Justice Systems in the Mau Forest, Kenya. Draft Quarterly Report for the Period November 2011 – January, 2012. February 2012.

³² Enhancing Customary Justice Systems in the Mau Forest, Kenya. Draft Quarterly Report for the Period February – May, 2012. June 2012.

³³ Ibid.

³⁴ Enhancing Customary Justice Systems in the Mau Forest, Kenya. Work Plan. Revised March 2012.

³⁵ Ibid.

³⁶ Enhancing Customary Justice Systems in the Mau Forest, Kenya. Draft Quarterly Report for the Period February – May, 2012. June 2012.

3. EVALUATION METHODOLOGY

To assess the Justice Project’s effectiveness in improving women’s local access to justice and their access to land in Ol Pusimoru location, in the Mau Forest, the evaluation team employed a mixed-methods approach and interviewed women and men in the Justice Project community (Justice community)³⁷ as well as in a similar community in the same district, Ololong’oi, where the Project has not been implemented (control community).³⁸

3.1 QUALITATIVE METHODS

The qualitative work was designed to help identify causal mechanisms and explore behavioral explanations for Project outcomes related to improvements in elements of women’s access to justice, increased land access for women, and early indications of other potential longer-term impacts. Qualitative fieldwork enabled participants from the Justice and control communities to frame the context, articulate how the Project ultimately played out in the Justice community, provide explanations, point out issues, and explain dynamics that we might have otherwise overlooked. It also allowed for identification of any unintended consequences of this intervention.

Evaluators conducted 12 key informant interviews (KIIs) with Chiefs, school officials, women who had disputes, and Justice Project staff. Semi-structured interviews were conducted with each of the Assistant Chiefs by sub-location, though the Ol Pusimoru location Chief and Ol Pusimoru sub-location Assistant Chief were interviewed together.

The evaluation team conducted 17 focus group discussions (FGDs) with groups of men, women, youth, and Elders in both the Justice and control communities. In the Justice community, Elders and women were grouped into 2 categories: trainees/direct beneficiaries and non-trainees (community members who did not directly benefit from the Project). Men were also distinguished between men whose wives directly participated in a Justice activity (usually peer sessions) and those whose wives did not participate in any Project activities. However, evaluators ended up also mixing both groups of men in the FGDs because a number of men showed up and waited to be interviewed even though they had not been invited to join an FGD.

³⁷ The project’s target area is Ol Pusimoru sub-location but we later learned through our pre-survey research in these communities that the project also directly reached Kamurar and Ol mariko sublocations so we decided to include these 2 sublocations on the survey, covering the entire Ol pusimoru location (hereafter Justice area) as our treatment area.

³⁸ We identified Ololong’oi sublocation as the control area with about similar community characteristics such as population size, density and composition; main economic activities; community amenities (educational institutions, health facilities, communication, electricity, water source), etc. Data attached as Annex 1.

Table 1 below shows the breakdown of the categories and the number of interviews conducted.

Invitees for FGDs with women non-beneficiaries and all FGDs with men in both the Justice and control communities were selected from amongst survey respondents, with the intention of having geographically representative FGD sessions. However, difficulties in mobilization led evaluators to conduct FGDs with groups of women non-beneficiaries and men in both communities that were a mix of targeted invitees and uninvited local men and women, which resulted in FGD sessions that overrepresented people residing within walking distance of OI Pusimoru town center, and underrepresented people residing further from the site of FGD sessions. Evaluators chose to proceed with FGDs despite these mobilization challenges to avoid conflict that may have resulted from turning people away, many of whom walked a long distance and/or waited a number of hours to be interviewed.

TABLE 1. INTERVIEWS AND FOCUS GROUPS BY CATEGORY

Key Informant Interviews				
Category	Justice community		Control community	
	# of sessions	# of people	# of sessions	# of people
Women with Disputes	3	3	1	1
Deputy Principal	1	1		
Primary School Teacher	1	1		
Assistant Chiefs	2	2	1	1
Chief and Assistant Chief	1	2		
Project Implementing Staff	2	2		
Sub-total	10	11	2	2
Focus Group Discussions				
Category	Justice community		Control community	
	# of sessions	# of people	# of sessions	# of people
Trainee Elders	2	15		
Non-trainee Elders	2	16		
Mixed Elders and men			1	18
Trainee Women	4	22		
Non-trainee Women	2	19	1	18
Men (wives participated in Project activity)	1	11		
Men (primarily wives did not participate)	3	16		
Trainee Youth	1	9		
Sub-total	15	108	2	36
Total	25	119	4	38

Conducting KIIs and FGDs with this cross-section of individuals allowed evaluators to capture experiences and perceptions related to access to justice and Project impacts from multiple angles, and to identify and understand differences in their knowledge and perceptions.

The qualitative tools (attached as Annex 2) were tailored to each category of participant. Interviews and focus group discussions followed a semi-structured format with open-ended guide questions that were broad in scope and served as prompts to initiate and facilitate discussion, while maintaining consistency and objectivity in the interviews. The aim of each session was to allow participants to freely discuss the issues and questions posed by the guide, giving interviewers the flexibility to probe issues and seek deeper understanding with follow up questions.

The interviews were conducted by Landesa staff in English, with simultaneous translation into Maasai, Kalenjin and/or Kiswahili depending on the composition of the respondent group. KIIs and FGDs were voice recorded and later transcribed. In addition, a bilingual note taker recorded discussions and general observations from each of the interviews. The transcribed recordings and session notes were coded and analyzed using NVIVO, a software package designed for working with qualitative data.

3.2 QUANTITATIVE METHODS

To quantitatively estimate Project outcomes at the community level, evaluators measured women’s local access to justice and their access to land in the Justice community and compared them to the same measures in the control community. To obtain these measures, households were randomly sampled from both communities.

Sample design

Table 2 outlines how the sample size was determined. Using a 95% level of confidence and based on the 2010 Census, the evaluation team should have interviewed a minimum of 314 households in the Justice community and 228 in the control community. However, the control community sample was drawn from an incomplete list of households provided by the sub-location chief and village Elders, which resulted in a lower sample size in the control community.³⁹ Our total sample, combining both communities consists of 521 women and 396 men.

TABLE 2. SAMPLE SIZE DETERMINATION

	Justice Community	Control Community
Household population (2010 Census)	1,710	557
Estimated household sample size	314	228
Executed household sample size	341	180
Women surveyed	341	180
Men/husbands surveyed	259	137

³⁹ Making the margin of error slightly higher in the Control community (6% instead of 5%).

The survey instrument for women asked about (i) individual and household demographics and socioeconomic characteristics; (ii) land ownership and well-being indicators; (iii) potential and actual issues and disputes; (iv) their perceptions about improvements in the local justice system within the past year; (v) their legal knowledge; (vi) their familiarity with and participation in the Justice Project; and, (vii) their awareness, recognition, and perception of women's land rights.

While the survey instrument was primarily designed to capture women's perceived improvements in access to justice and access to land, some of the outcomes require measuring changes in men's perceptions, so the following questions were also administered to husbands to allow us to directly measure those changes: (i) their familiarity with the Justice Project; (ii) their awareness, recognition, and perception of women's land rights; and, (iii) their perceptions about improvements in the local justice system within the past year. The English version of the questionnaire is attached as Annex 3.

Landesa staff trained a data collection team composed of 18 enumerators and 3 field supervisors who are primary Maasai, Kalenjin or Kikuyu speakers and who also speak Kiswahili and English. ROC Associate consultants supervised the enumerators. All interviews were done in the respondents' local dialects and conducted at the respondents' homes.

Since the evaluation team is ultimately interested in determining whether the Justice Project improved women's local access to justice and their land rights in the community, we focused on four indicators:

- Proportion of men and women who recognize women's constitutional rights to own land;
- Proportion of men who intend to provide equal inheritance to their sons and daughters;
- Perceived likelihood that women will inherit land from their husbands; and,
- Perceived likelihood that women will access the local justice system if they experience threats to land rights.

While for much of the analysis it suffices to compare outcomes from the Justice and control communities, women's access to land requires additional multivariate analyses to obtain a more precise assessment of what aspects of the Justice Project worked well, and thereby take advantage of this data to provide insights that may help guide the design of projects seeking to improve women's access to land.

More specifically, evaluators use a model:

$$Y = \beta_0 + \beta_1 \text{Justice} + \beta_2 \text{IC} + \beta_3 \text{HC} + e$$

Using *Justice*, a variable that indicates whether or not the respondent is from the Justice community, as well as individual (i.e. indicator for income-earner, age, education, and ethnicity) and household characteristics (i.e. total household landholding, and number of children), *IC* and

HC, to identify the effect of the Project, β_1 on the outcome of interest, Y.⁴⁰ Individual and household characteristics are controlled for because it is possible that the outcomes of interest -- people's perceptions, intentions, or behavior related to women's access to land-- vary systematically based on characteristics other than whether they are in the Justice community. This outcome would be the case, for instance, if, regardless of whether they are from the Justice community or the control community, men's perceptions changed more than women's, the behavior of the Elders changed more than that of the youth, or people from different ethnicities report different intentions to bequeath land to their children.⁴¹

⁴⁰ B_0 is the intercept and e is the error term.

⁴¹ We use multivariate analysis because even though the Justice and control communities are statistically equivalent in a number of characteristics, they do differ slightly in a few others such as men's education, men's age, women's occupation, and average cultivable land holdings. This allows us to reduce statistical biases that may have been otherwise caused by heterogeneity between the Justice and control communities related to the outcomes we are studying. The added control variables reduce the error of the estimate and increase the statistical power of the model to measure the magnitude of the program effects (*Schultz 1999; Manning et al. 1982*).

4. SAMPLE DESCRIPTION

Table 3 presents individual and household characteristics of the women and men surveyed and allows for a comparison between the Justice and control communities. Even though both communities are very similar, there are statistically significant differences in a few characteristics (see Annex 1).

On average, women are 33.6 years old and are in a monogamous marriage. They have attended primary school, derive their livelihoods primarily from farming and livestock, and earn some cash income. However, compared to the control community, women in the Justice community tend to be older, more educated, and less likely to farm or earn cash income. Differences between men in the Justice and control communities follow the same pattern regarding age, education level, occupation, and cash earnings.

Households typically have five members, with each household owning an average of three plots of land. Homesteads average 3.6 acres, while total cultivable land averages 9.2 acres per household. However, compared to the control community, households in the Justice community tend to have smaller homestead plots and less total cultivable land.

TABLE 3. HOUSEHOLD DEMOGRAPHY (JUSTICE VS CONTROL COMMUNITIES)

	Women			Men		
	Justice (N = 337)	Control (N = 179)	Significance level	Justice (N = 284)	Control (N = 152) ⁱ	Significance level
Age	35	31	n.s.	40	36	1% ⁱ
Education						
No schooling	24.3%	64.3%	} 1%	22.5%	46.1%	} 1%
Primary	51.3%	30.7%		45.8%	42.1%	
Secondary	19.6%	2.8%		21.1%	8.6%	
University/Tertiary	4.5%	2.2%		10.6%	3.3%	
Marital Status						
Never married	2.1%	2.8%	} n.s.	0.7%	0.7%	} n.s.
Monogamous	76.9%	82.1%		87.3%	89.5%	
Polygamous	6.8%	2.2%		11.6%	9.2%	
Separated	0.3%	0.0%		0.0%	0.0%	
Divorced	0.3%	0.6%		0.0%	0.0%	
Widow/er	13.4%	12.3%		0.0%	0.7%	
Occupation						

	Women			Men		
	Justice	Control	Significance level	Justice	Control	Significance level
Farming & livestock	89.0%	96.7%	5%	78.9%	88.2%	n.s.
Agricultural day labor	0.3%			0.7%	0.7%	
Non-agricultural day labor	1.8%			2.8%	0.7%	
Salaried	8.6%	2.8%		16.6%	9.9%	
Student				0.7%	0.0%	
Income						
% of interviewees earning cash income	38.6%	58.1%	1%	48.2%	66.5%	1%
Mean weekly income (in Kenya Shillings)	1,649	763	n.s.	3,162	2,120	n.s.
	Justice	Control		Justice	Control	
	(N = 337)			(N = 179)		
Household demographics						
Average household size	5.3			5.1		n.s.
Average number of children	3.3			3.2		n.s.
Average number of sons	1.8			1.7		n.s.
Average number of daughters	1.5			1.5		n.s.
	(N = 341)			(N = 180)		
Average number of plots owned	2.7			3.4		n.s.
Average homestead size (in acres)	3.1			4.0		n.s.
Average cultivable land size (in acres)	6.7			11.9		1%
Households with members participating in Non-Government Organization/Micro Finance Institution programs	6.5%			8.9%		1%

i some data missing from roster; n.s. means difference between the communities is not significant

5.0 FINDINGS

This section discusses evaluation findings for the Justice Project related to women’s access to justice, improvements in women’s access to land in the Justice community, other potential long-term outcomes, and anecdotal evidence related to key factors of success for the Justice Project model. The first sub-section assesses the relevance of the Project’s approach to improving local access to justice for women by exploring survey findings on which institutions women access to resolve disputes and what motivates their selection of institutions. The second sub-section examines Project outcomes on women’s access to justice measured against the Evaluation Framework, namely: legal awareness, access to an appropriate forum, administration of justice, and the social legitimacy and enforceability of these avenues to improve women’s rights. The third sub-section addresses impacts on women’s land access as a result of increased access to justice, using the Landesa framework for measuring changes in women’s land access and tenure security. The fourth sub-section briefly discusses early anecdotal evidence from the Justice community related to potential long-term outcomes that may be expected when women have increased access to justice and land. These include overall improved well-being, increased demand for justice and better services, increased rates of education for girls, and reductions in domestic violence. The last sub-section examines findings from interviews and FGDs on successful Project elements and key Project stakeholders to inform lessons relevant for potential future replication or scaling.

5.1 FINDINGS RELATED TO COMMUNITY DISPUTE RESOLUTION PROCESSES

Before turning to evaluation results, it is useful to examine information that helps establish the relevance of the local justice system for women to validate the approach of the Justice Project. The information in this section provides an overview of the importance of the local justice system for women in the Justice and control communities, as well as factors that influence their decision-making about which institutions to approach. The information supports the Project’s assumption that local justice institutions are highly relevant for women, and thus the degree to which women are likely to benefit from the Justice Project depends in large part on improving the local justice system.

This section provides insight on the issues of greatest concern to women in the Justice and control communities, which institutions they intend to access, and which institutions women with disputes *did* access to address these concerns. This gives us a snapshot of how important local institutions are to women in terms of accessing justice in the Justice and control communities. Moreover, by knowing women’s motivations for preferring certain justice institutions, we may ascertain if the improvements that the Project targeted were indeed relevant and attuned to the justice needs of women in these communities.

5.1.1 ISSUES CONCERNING WOMEN

Table 4 indicates that personal property theft, post-election violence, and land boundary issues are top concerns for women. Land issues in general, due to internal/intra-household or external threats, are prevailing concerns for women in both communities. The table also indicates that women in the Justice community are more likely to report that disputes related to selling or buying land, trespassing, post-election violence, and issues with other business matters are top concerns.

TABLE 4. ISSUES OF CONCERN TO WOMEN IN JUSTICE AND CONTROL COMMUNITIES

	% of Women who consider the following issues to be worrying			
	Overall (n = 521)	Justice (n=341)	Control (n=180)	Significance level
Land property Related problems				
Dispute with neighbors over boundaries	31.7	34.6	26.7	
Land expropriation by government	29.2	31.4	25.0	
Land taken by powerful individuals	28.6	30.8	24.4	
Dispute related to selling or buying land from a private individual	22.7	26.1	16.1	**
Trespassing	22.3	26.1	16.1	**
Family or Intra-household conflict				
Disputes involving property due to divorce/separation	27.5	29.0	24.4	
Disputes involving inheritance of land/property	22.3	23.8	19.4	
Domestic violence	29.2	32.0	23.9	
Crimes				
Personal property related theft	34.7	42.2	20.6	
Violence using weapons	31.5	34.0	26.7	
Religious/ethnic violence	20.7	23.5	15.6	
Post-election violence	33.5	38.7	23.9	***
Business Matters				
Inability to recover loans	22.4	25.2	17.2	**
Difficulties with contract enforcement	21.5	24.9	15.0	**
Difficulties in obtaining government permits/license	19.6	23.5	12.2	**

Differences between communities *** significant at 1%; **significant at 5%

5.1.2 WOMEN'S PERCEPTIONS, INTENTIONS AND ACCESS TO DISPUTE RESOLUTION INSTITUTIONS IN THE JUSTICE AND CONTROL COMMUNITIES

Our analysis revealed that women in the Justice community have an understanding that they ought to approach the Elders or Chiefs for civil disputes and the police for criminal disputes, but they intend to go to all three institutions if they are personally faced with a dispute. Women from the control community tend to believe that they ought to go to Elders for both civil and criminal disputes, but, similar to women from the Justice community, they intend to go to all three institutions if they personally have a dispute. Women's decision-making about which institution to approach rests primarily on their assessments of the promptness, impartiality and affordability of institutions.

Women's perceptions and intentions to use a dispute resolution institution

When women from the Justice community were asked where one should go to solve civil disputes,⁴² 57% said Elders and 56% said Chiefs. For criminal disputes, 47% of the women in the Justice community answered that one should go to the police, 30% answered Elders and another 35% answered Chiefs. However, when asked where *she* would go if she had a dispute, almost all the women in the Justice community said they would go to all three institutions for civil disputes, while for criminal disputes 89% would go to the police and 97% said they would go to both Elders and Chiefs. Results are shown in Table 1 of Annex 4.

The majority of the women in the control community said one should go to the Elders for both civil and criminal disputes (83% and 61%, respectively), and to the Chief for civil (22%) and criminal (45%) disputes. Only 2% and 26% of women from the control community said one should go to the police for civil and criminal disputes, respectively. However, much like women from the Justice community, almost all women in the control community indicated that they intend to go to all three institutions if they personally have a civil or criminal dispute to settle. Results are shown in Table 2 of Annex 4.

The majority of women in the Justice community cited promptness and impartiality as the main reasons for opting to go to the Elders and Chiefs for civil disputes, while some women also cited financial affordability. Women who indicated they would take issues to the police cited promptness, impartiality and familiarity with the police as primary reasons.

In the case of criminal disputes, promptness and impartiality were primary drivers for women intending to go to Elders and Chiefs in the Justice community. In addition, they cited proximity to Chiefs as another factor influencing their decision. Women in the Justice community cited police competence to understand and apply the law as the number one reason for wanting to go to the police in case of criminal dispute, followed by promptness and impartiality.

⁴² This is a multiple response question; meaning, women could choose one or more answers so the total percentage may exceed 100%.

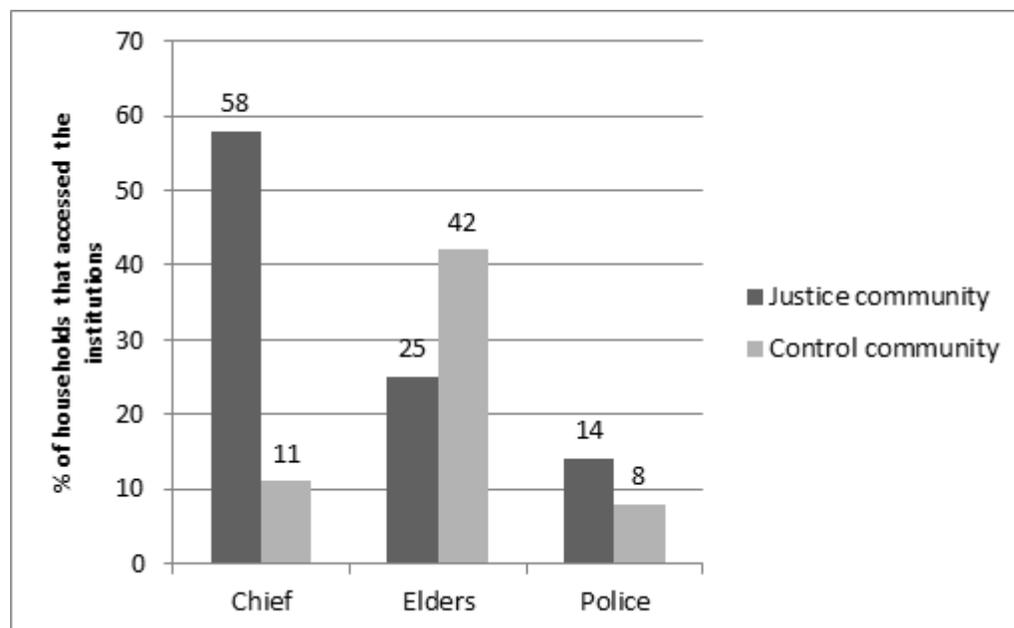
Control women also indicated that promptness, affordability, competence in understanding the law (in the case of police), familiarity, and proximity to a particular institution are among the top reasons for intending to access institutions in case of a dispute.

These results seem to indicate that women may be inclined to forum shop at the local level based on a variety of factors like the perceived promptness, impartiality, affordability and legal competence of local institutions.

Institutions accessed by women

In reality, among women from the Justice community who reported that they or someone in their household had a dispute for which they approached a third party to settle, more than half of them went to the Chief, a quarter went to the Elders, and a small percentage approached the police. In contrast, in the control community almost half went to the Elders, few went to the Chief, even fewer went to the police, and a small number (3%) went to other dispute resolution institutions. Results are shown in Figure 2 below.

FIGURE 2. TOP THREE DISPUTE RESOLUTION MECHANISMS ACCESSED IN THE JUSTICE AND CONTROL COMMUNITIES



The most common types of conflicts that women respondents took to a third party institution for resolution were crime-related issues (16%) and land-related problems (10%). As there were very few women in the control community who reported using a third party to settle a dispute, it is not possible to draw any conclusions or observe any relevant patterns from their responses. Therefore, our analysis focuses on results from the responses of women in the Justice community.⁴³

⁴³ Since most of the women went to the Elders, this is the only institution with a relatively large sample size that would permit us to analyze trends and draw some comparisons between Justice and control areas.

Table 5 shows that theft, boundary disputes and post-election violence were the primary issues brought to Elders and Chiefs in the Justice community. Most women who took disputes to the Chief reported fairly positive feedback on their experience. Almost all of them thought that Chiefs were approachable and easy to access. The majority reported that they understood the procedure, the procedure was fair and easy to follow, the Chief understood the relevant laws, and they felt the outcome was fair. However, only two-thirds of respondents reported that both parties got to tell their side of the story when appearing before the Chief. Nearly all women said they would go to the Chief again for a similar problem in the future, reinforcing that notion most were fairly satisfied with how their cases were handled. An even higher proportion of women in the Justice community who went to the Elders reported satisfaction, but their experiences contrast significantly with those of women from the control community.

Across the board, women in the Justice community reported being more satisfied with their experience with Elders than did women in the control community. They expressed higher satisfaction on all dimensions: physical and procedural accessibility, inclusiveness, fairness, and competence. As a result, 89% of women in the Justice community who went to the Elders said they will go back for similar problems in the future, compared to 73% of women in the control community. Women in the control community reported unsatisfactory experiences with taking issues to the Chiefs and police.⁴⁴ Nevertheless, 33% of women in the control reported they would opt to go back to the Elders in the future despite negative feedback on the experience.

Women from the Justice community, who went to the police for mostly criminal disputes, reported being the least satisfied with their experience. Most women indicated that the procedure was unfair and hard to follow, and not all parties were able to tell their side of the story. Only 45% expressed intentions to go back to the police for a similar problem in the future.

TABLE 5. IMPRESSIONS OF THE TOP THREE INSTITUTIONS ACCESSED BY WOMEN IN THE JUSTICE AND CONTROL COMMUNITIES

Top three accessed institutions	Justice (in %)	Control (in %)
Chiefs	(n = 44)	(n =4)
Top 3 disputes		
Theft	25	~
Boundary disputes	20	25
Post-election violence	18	~
Religious/ethnic violence		50
Domestic Violence		25
Impression of respondents who went to the institution		
Respondent found the institution easy to access	93	50

⁴⁴ Though inconclusive due to the small sample size.

Top three accessed institutions	Justice (in %)	Control (in %)
Respondent found the institution approachable	86	50
Respondent understood the procedure	75	25
Respondent thought the procedure was easy to follow	75	25
Both parties got to tell their side of the story	68	50
Respondents thought the procedure followed was fair	77	25
Respondent thought the authority understood/considered the relevant laws	75	25
Respondents thought the outcome was fair	75	25
Respondent would go to the institution again for similar problem	82	25
<u>Elders</u>	(n=19)	(n=15)
Top 3 disputes		
Theft	32	20
Boundary disputes	26	13
Post-election violence	21	~
Domestic Violence	~	13
Violence with weapons	~	13
Impression of respondents who went to the institution		
Respondent found the institution easy to access	95	67
Respondent found the institution approachable	89	60
Respondent understood the procedure	84	80
Respondent thought the procedure was easy to follow	74	60
Both parties got to tell their side of the story	68	53
Respondents thought the procedure followed was fair	89	53
Respondent thought the authority understood/considered the relevant laws	74	53
Respondents thought the outcome was fair	84	60
Respondent would go to the institution again for similar problem	89	73
<u>Police</u>	(n=11)	(n=3)
Top 3 disputes		
Divorce & prop	27	~
Theft	27	67
Weapons	18	~
Election	18	33
Impression of respondents who went to the institution		
Respondent found the institution easy to access	91	67
Respondent found the institution approachable	82	67
Respondent understood the procedure	55	33
Respondent thought the procedure was easy to follow	36	33
Both parties got to tell their side of the story	27	33
Respondents thought the procedure followed was fair	45	33
Respondent thought the authority understood/considered the relevant laws	55	33

Top three accessed institutions	Justice (in %)	Control (in %)
Respondents thought the outcome was fair	37	33
Respondent would go to the institution again for similar problem	45	33

Overall, these results suggest that the Chiefs and Elders are the primary third-party institutions that women from the Justice community access for the majority of their disputes, while women in the control approached only Elders for almost all of their justice needs. Moreover, more than 70% of women in both communities reported intentions to go back to these Elders if they encounter a similar issue in the future, indicating the importance of targeting local institutions to improve women’s access to justice.

5.2 FINDINGS RELATED TO WOMEN’S ACCESS TO JUSTICE

5.2.1 INCREASED LEGAL AWARENESS

Even though the legal framework that protects women’s rights is already in place, for women to meaningfully assert or protect their rights they must have a basic understanding of those rights, men must have knowledge of women’s rights under the law, and both women and men must know how women should access the appropriate institutions.

5.2.1.1 WOMEN’S LEGAL KNOWLEDGE

To measure their level of legal awareness, women respondents were asked a number of basic questions regarding provisions of the new Constitution, particularly those involving basic rights of citizens. As shown in Figure 3, for all but one question, women in the Justice community were more likely than those in the control community to give a correct response. Sixty-two percent of women from the control community knew that Kenya had recently passed a new Constitution compared to 82% from the Justice community. Furthermore, 50% of women in the control community expressed a belief that the Constitution is important in their daily life, compared to 67% from the Justice community.

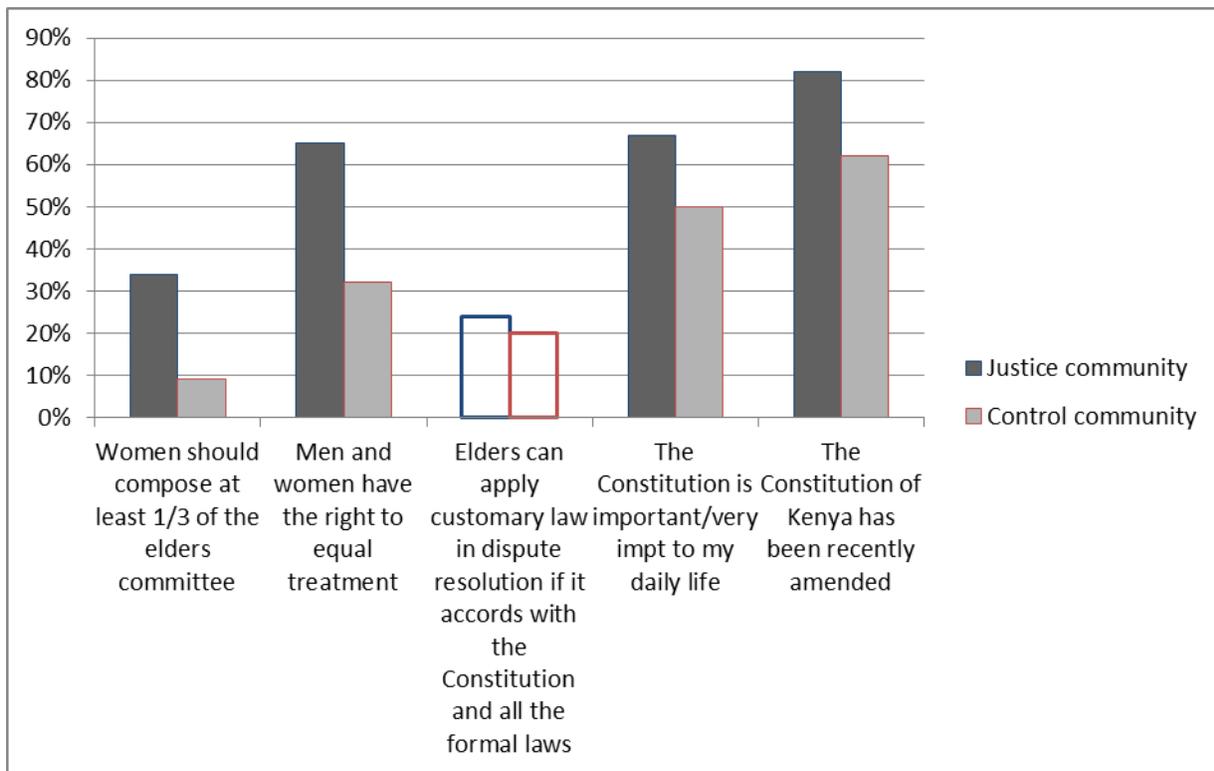
There were significant differences in women’s knowledge of their rights to equal treatment between women in the Justice and control communities. Twice as many women from the Justice community than in the control community knew that men and women have the right to equal treatment.

While still exhibiting higher knowledge compared to the control, a smaller percentage of women from the Justice community fared well on questions pertaining to the local justice system and what the Constitution says about women’s political representation. Only a third of the sampled women from the Justice community knew that women should compose at least a third of the Elders committee. Some of them (16%) indicated that there should be at least one woman on the committee, 23% answered this is not required, and about one third said they did not know.

Meanwhile, only 9% of women in the control group knew that women should compose one-third of the Elders committee. When asked about this, more than half of the control women interviewed said they did not know, while 22% of them said women do not have to be elected to the Elders committee.

When asked if Elders can apply customary law in dispute resolution, only about 23% of women in both communities reported that the Elders can apply customary law if it accords with the Constitution and with all formal laws. The majority of them thought that Elders can apply customary law without restriction. This was the only question about the Constitution that women from the control community were just as likely as those in the Justice community to answer correctly. This result is not surprising in light of the fact that women seek justice primarily through the customary system, and many may have experienced Elders making decisions based solely on custom. Results are shown in Figure 3.

FIGURE 3. COMPARISON OF WOMEN'S LEGAL KNOWLEDGE BETWEEN JUSTICE AND CONTROL COMMUNITIES

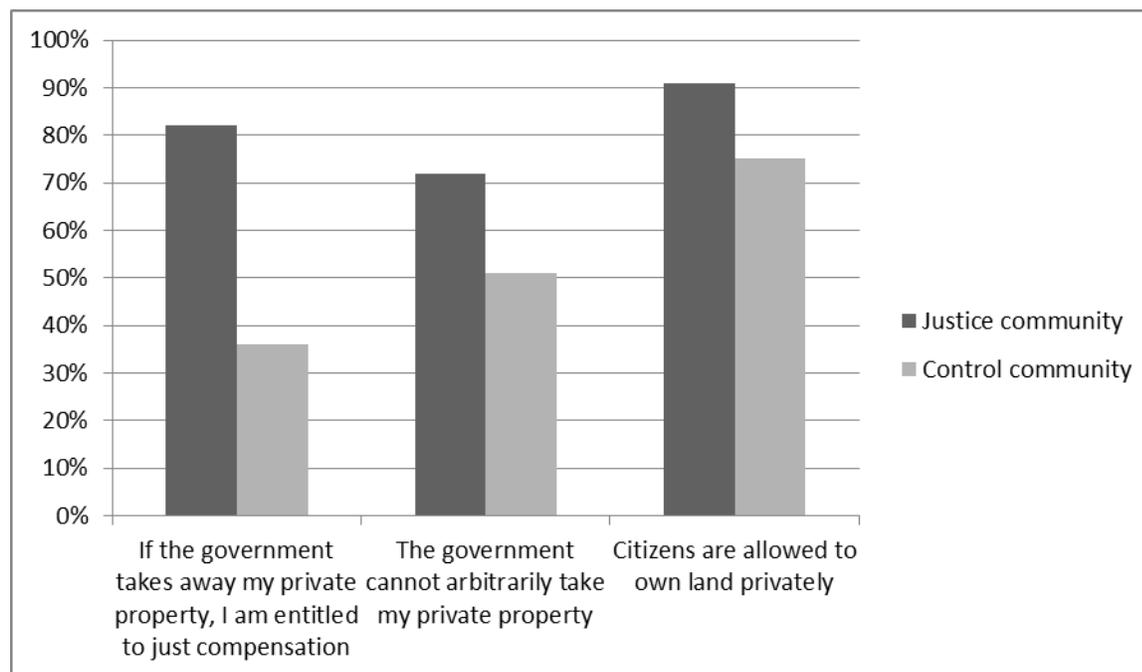


All the filled bars show differences between Justice and control communities that are statistically significant at 1%; unfilled bars show differences between communities that are not statistically significant.

Figure 4 below shows that a sizeable majority of women in the Justice community knew that the Constitution grants them rights to own property. Almost every woman respondent from the Justice community (91%) knew they have the right to own land privately, while 75% of women from the control community were aware of this. Seventy-two percent of women from the Justice community also knew that the government cannot arbitrarily take away their private

property, and 82% indicated that if the government does expropriate their property they are entitled to just compensation. On the other hand, only half of the women in the control community indicated that the government cannot arbitrarily take their private property and less than half knew that they are entitled to just compensation.

FIGURE 4. COMPARISON OF WOMEN'S LEGAL KNOWLEDGE PERTAINING TO OWNING PROPERTY BETWEEN JUSTICE AND CONTROL COMMUNITIES



Differences between Justice and control communities are statistically significant at 1%.

Qualitative information from focus group discussions with women make a strong, direct connection between the Justice Project and women’s increased knowledge of their rights and the Constitution. In particular, women trainees repeatedly pointed to their increased knowledge of women’s rights as the most important impact the Justice Project has had on their lives. When asked to share information about their rights, women FGD participants (direct trainees and non-trainees)⁴⁵ made particular note of their knowledge of: the right to conduct their own activities; the right to own land and wealth; equal rights of boys and girls; that Elders should not handle criminal cases; and that women should hold one third of elected positions.

Women trainees also said that they pass information about women’s rights gained from the Project to other women in their community through peer training sessions conducted with women’s groups and at church meetings. This is consistent with comments from non-trainee women who also asserted in FGDs that women in the community have come to know their

⁴⁵ Interviews with women trainees focus groups and women non-trainees focus groups. OI Pusimoru. August 2012.

rights through these peer sessions, in churches, and by directly reading the Constitution, which they acquired through the Project.⁴⁶

All other Justice community interviewee groups—Chiefs, Elders, men and youth—conveyed the perception that women know their rights and know they are equal to men. When asked to give examples of how women’s knowledge of their rights has manifested in the community, they cited:

- Women’s involvement in dispute resolution
- Women fighting for their rights (i.e., advocating for a share of land from ex-husband upon separation or divorce)
- Women’s involvement in family decision-making and negotiating problems with husbands at the household level
- Women’s increased economic activities and incomes
- Women trainees teaching their husbands what they learned

In contrast, women in the control community FGD said that they have heard about the Constitution but they do not know what it contains.⁴⁷

5.2.1.2 MEN UNDERSTAND BASIC RIGHTS OF WOMEN AND CHILDREN

In order for women to realize greater access to justice, it is important that men, not just women, understand the basic rights of women and girls. This section reports on information gathered related to men’s knowledge of women’s rights.

Figure 5 shows that, at the community level, roughly two-thirds of the men in the Justice community reported an increased understanding of women’s rights over the past year, compared to less than half of men from the control community. Women’s perceptions validate these results as 63% of women from the Justice community, while 44% from the control community, reported a perceived increase in men’s knowledge of women’s rights in their village. While increases are significantly higher for the Justice community, there are also reported improvements in the control community, particularly in men’s understanding of women’s rights (Figure 5) and familiarity with the local justice system (Figure 6). The exact causes for these changes in the control community are not known, however women from the control community indicated in an FGD session that men are hearing about the Constitution from radio programs and other sources.⁴⁸

⁴⁶ Interviews with women non-trainees focus groups. Ol Pusimoru. August 2012.

⁴⁷ Interviews with control women focus group. Ololong’oi. August 2012.

⁴⁸ FGD with control women. Ololong’oi. August 2012.

FIGURE 5. COMPARISON OF PERCEPTIONS REGARDING INCREASES IN MEN'S UNDERSTANDING OF WOMEN'S RIGHTS BETWEEN JUSTICE AND CONTROL COMMUNITIES



***Differences between Justice and control communities are statistically significant at 1%

Findings from the qualitative study further validate these results. Elders, Chiefs and women all agree that there is a marked improvement in men's understanding of women's rights, but not among all men and not concerning all women's rights. This result was also demonstrated during focus groups with different types of men. Men's understanding of women's rights was highly uniform regarding rights of women to freedom of expression and general rights, but varied when it came to issues pertaining to women's land rights.

Men from each of the men-only focus groups in the Justice community said they now have a greater understanding of the Constitution and women's rights. They repeatedly mentioned that they know that the Constitution grants equal rights to men and women. They cited particular knowledge of women's right to freedom of expression, the right to stand before men, the right to be involved in family decision-making, the right to form self-help groups, and the right to engage in business activities.⁴⁹

According to the Chiefs and Elders in the Justice community, men know more now about women's rights that are supported by the new Constitution, including that women can now be heard and express themselves, that women can now go directly to Elders with cases, and that girls have a right to be educated.⁵⁰ Women trainees also indicated they believe that overall men are beginning to understand women's rights, but not all men understand and they do not understand all women's rights.⁵¹

⁴⁹ Interviews with men focus groups. OI Pusimoru. August 2012

⁵⁰ Interviews with Assistant Chiefs and Chief, and Elders focus groups. OI Pusimoru and Olenguruone. August 2012.

⁵¹ FGD with women trainees. OI Pusimoru. August 2012.

Men from all Justice community focus groups also attributed their knowledge of women's Constitutional rights to the Justice Project.⁵² They cited the Constitution as their main source of information after they acquired a copy from their wives, or directly from Project staff or other direct Project beneficiaries. Men whose wives have attended peer training sessions also reported that their wives shared what they learned about women's rights from peer sessions, and in some instances brought a copy of the Constitution home so their husbands could read about these rights for themselves.⁵³ While the exact causes for changes in the control community in legal knowledge and familiarity with the local justice system are not known, women from the control community indicated in an FGD session that men are hearing about the Constitution from radio programs and other sources.⁵⁴

5.2.1.3 MEN AND WOMEN ARE MORE FAMILIAR WITH THE LOCAL JUSTICE SYSTEM AND ALTERNATIVE DISPUTE RESOLUTION (ADR)

In order for women to effectively access justice at the local level, women must be familiar with local justice institutions and understand the processes involved in asserting rights or resolving disputes. Men in the community, particularly husbands, must also understand the ways in which women must access local institutions so that men do not feel women are inappropriately circumventing male relatives to approach local institutions on their own.

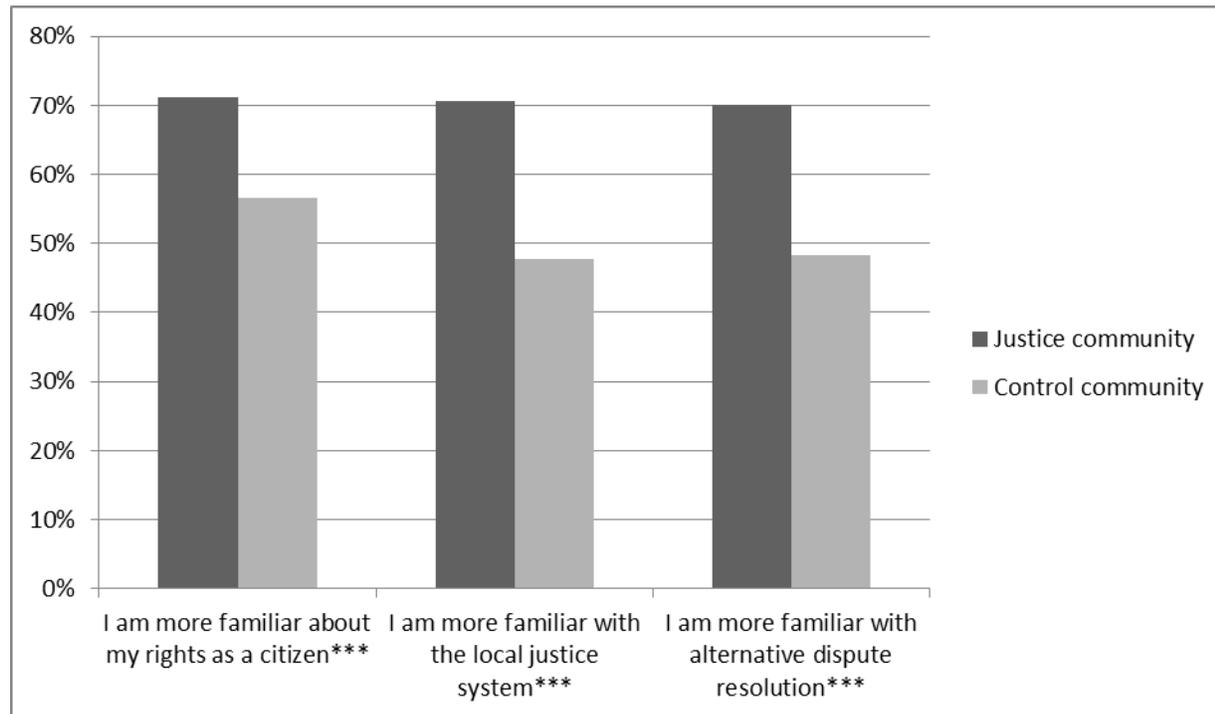
Figure 6 shows that compared to women from the control community, women in the Justice community are more likely to believe that they have increased their knowledge of citizen rights (71% in the Justice community versus 57% in the control community), are more familiar with the local justice system (71% in the Justice community versus 48% in the control community), and are more familiar with alternative dispute resolution (70% in the Justice community versus 48% in the control community).

⁵² Interviews with men focus groups. Ol Pusimoru. August 2012.

⁵³ FGD with men whose wives have attended a peer training session. Ol Pusimoru. August 2012.

⁵⁴ FGD with control women. Ololong'oi. August 2012.

FIGURE 6. COMPARISON OF WOMEN'S PERCEPTION OF INCREASED FAMILIARITY WITH RIGHTS, LOCAL JUSTICE SYSTEM AND ADR BETWEEN JUSTICE AND CONTROL COMMUNITIES



***Differences between Justice and control communities are statistically significant at 1%

Qualitative evidence substantiates these perceptions of increased understanding among women from the Justice community. When asked about alternative dispute resolution, women trainees could clearly articulate what ADR means to them, the role it plays in the community, and could discuss the advantages that they think ADR brings.⁵⁵ Women trainees generally believe that ADR means solving cases through the Elders rather the formal courts, and see the benefits of ADR in its flexibility to handle different kinds of disputes, that it is closer to women than the formal system, and that it is a means for the Chief to be involved with women’s issues. In addition, women trainees from the Justice community noted that learning about ADR helped women and men begin to negotiate in order to resolve problems within their families.⁵⁶

In explaining its advantages and disadvantages relative to the formal system, women trainees, in their own words, asserted that the formal system is less biased and that formal laws are more powerful, but noted that now that women in the community are empowered and know their rights, they feel more confident using the local system.⁵⁷

However, women non-trainees in the Justice community were less articulate and fewer could explain ADR.⁵⁸

⁵⁵ FGD with women trainees. OI Pusimoru. August 2012.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ FGD with women non-trainees. OI Pusimoru. August 2012.

Meanwhile, men in the Justice community stated some of the benefits of ADR, including Elders using traditional processes and having local and contextual knowledge of cases, a focus on reconciliation rather than individual responsibility, and the ability to solve problems at the local level.⁵⁹ Men believe that Elders have a better understanding of local disputes because of their proximity, so they often have first-hand knowledge of on the details in a particular case.⁶⁰

One of the Assistant Chiefs said that within the past year he has outlined what the dispute process should be, what kinds of disputes are handled by different actors/bodies at the local level, and what kinds of disputes can be handled by people on their own by talking through problems at home.⁶¹ This information has been shared with the whole community, which has contributed to more cases being taken to Elders first rather than directly to Chiefs, and has likely helped increase women's and men's understanding of ADR and familiarity with the local justice system. Chiefs report that, as would be expected, those directly trained by the Project have a better understanding of the process compared with others in the community.

5.2.2 ACCESS TO APPROPRIATE FORUMS

In addition to knowledge of local justice institutions and processes, women must also be able to easily access institutions in the event of a dispute. As such, institutions must be physically accessible and affordable for women, and their processes must not be unduly slow. Finally, women must not be subject to social barriers that prevent them from achieving justice through local institutions, meaning that institutions must perform well and be socially-inclusive and responsive to women.

5.2.2.1 PROMPTNESS, AFFORDABILITY AND PHYSICAL ACCESSIBILITY OF LOCAL JUSTICE SYSTEM

As discussed in Section V, the *relative* promptness, affordability and physical accessibility of local institutions are among the top reasons that motivate women to access local justice more than the formal institutions, making these important entry points to improve women's access to justice.

Figure 7 shows that women from the control community are just as likely as women from the Justice community to report that their local justice system is prompt and affordable.

Nevertheless, during the FGDs, some women from the Justice community reported that Elders have improved their ability to solve cases quickly. They say Elders used to be slow and solved few disputes but now they are able to solve several disputes in a single day, and are quicker to respond and secure resolution for parties following a decision.⁶² Some men from the Justice

⁵⁹ FGD with men whose wives did not participate in Justice activities. OI Pusimoru. August 2012.

⁶⁰ Ibid.

⁶¹ FGD with Location Chief and OI Pusimoru sub-location Assistant Chief. Olenguruone. August 2012.

⁶² FGD with women non-trainees. OI Pusimoru. August 2012.

community also mentioned in one of the FGDs that there is no longer a need to make payment in order for the Chief to hear a case, making the dispute resolution mechanism more affordable.⁶³ However, very few members of the community have actually experienced these improvements due to the short timespan over which these changes took place.⁶⁴ As such, it is possible that these improvements will only become apparent to the whole community over time as more community members use the local justice system to find resolution for their disputes.

Women from the Justice community were more likely to report that they have easy physical access to the local justice system.

FGDs and interviews with Chiefs may shed light on this result, as the Project improved Elders' capacity to resolve disputes (discussed further in subsequent sections) and Elders are often the dispute resolution institution closest to women: typically there are local Elders in each village within the community. Women trainees from the Justice community also said that Elders and Chiefs are now sharing their contact information with the community so that they can be reached when needed,⁶⁵ and men from the Justice community reported that the Chief is more easily found in his office now than previously.⁶⁶

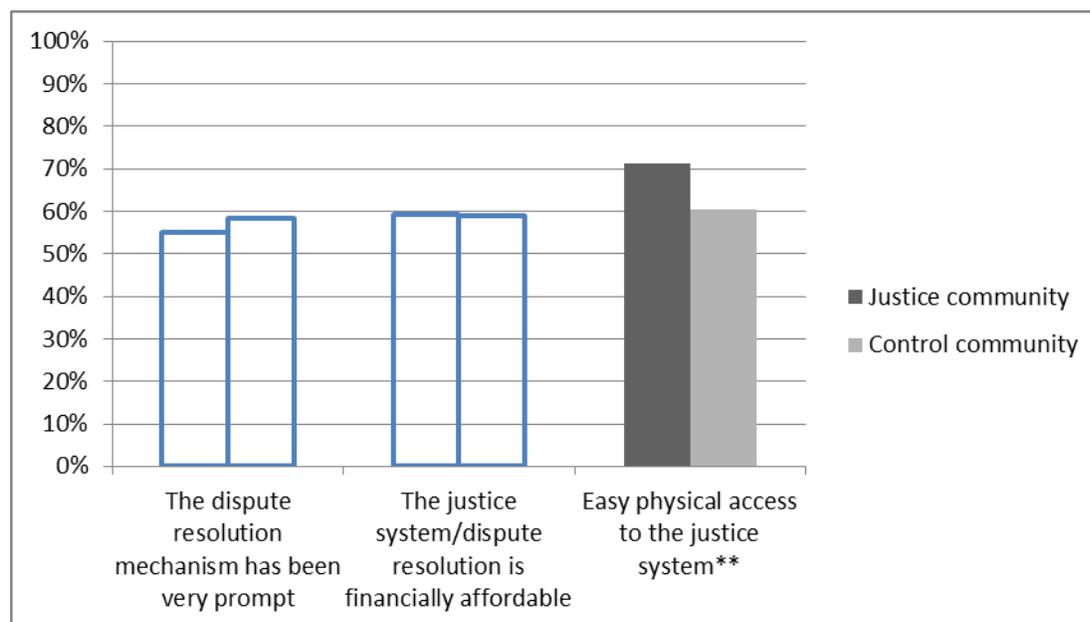
⁶³ FGD with men whose wives did not participate in Justice activities. OI Pusimoru. August 2012.

⁶⁴ During our KII, the OI Pusimoru Assistant Chief suggested that quantitative results on this point may be explained by the relatively small number of people in the community with a dispute in the preceding months. Only those with a recent dispute would have direct knowledge of changes.

⁶⁵ FGD with women trainees. OI Pusimoru. August 2012.

⁶⁶ FGD with men whose wives have attended a peer training session. OI Pusimoru. August 2012.

FIGURE 7. COMPARISON OF WOMEN'S PERCEPTION REGARDING ACCESSIBILITY, PROMPTNESS AND AFFORDABILITY OF THE LOCAL JUSTICE SYSTEM IN THE LAST YEAR BETWEEN JUSTICE AND CONTROL COMMUNITIES



Filled bars show the difference between Justice and control communities that is **statistically significant at 5%; unfilled bars show differences between communities that are not statistically significant.

Elders from the Justice community indicated in focus groups that they believe that people use the customary system because it is local, fast, and socially-embedded, saying, “In our society we have much confidence in our Elders because they are much closer to the people of the community.”⁶⁷ Elder trainees said they believe that people prefer taking cases to Elders because they are much more prompt in their decision-making than the courts and formal institutions. In particular, they noted that reconciliation between husbands and wives is much faster with Elders than with the courts, which is why women prefer to go to the Elders. The Elders also indicated that it takes some time for them to fully understand the issues in any case and that one cannot rush good decision-making.⁶⁸

The Chiefs also feel that the traditional system is faster than the formal system, and now traditional processes are augmented by formal law, the combination of which they feel makes for a more effective outcome than either in isolation.⁶⁹ Chiefs have established a set of targets for how long it should take to resolve different kinds of cases, but noted that it takes time to come to the right decision using the right process.⁷⁰

⁶⁷ FGD with non-trainees Elders. Olenguruone. August 2012.

⁶⁸ FGD with trainees Elders. Ol Pusimoru and Olenguruone. August 2012.

⁶⁹ FGD with Location Chief and Ol Pusimoru sub-location Assistant Chief. Olenguruone. August 2012

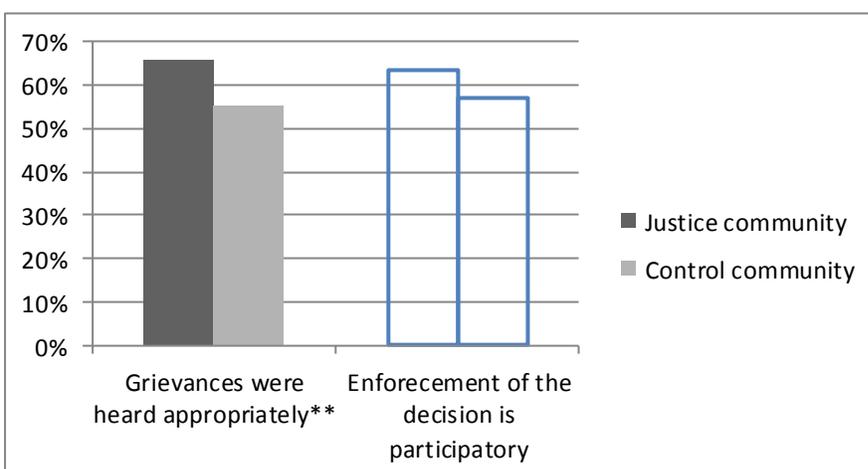
⁷⁰ Ibid.

5.2.2.2 PERFORMANCE AND SOCIAL INCLUSIVENESS OF THE LOCAL JUSTICE SYSTEM

Eliminating intangible social barriers to women’s access to justice is as important as removing physical and financial barriers. Women may never approach Elders and Chiefs because social norms prevent them from doing so. Women must be given a chance to address their issues without fear of being ostracized by members of their own family, and they must feel that Elders and Chiefs will hear their cases appropriately.

Compared to those in the control community, women in the Justice community were more likely to report feeling that grievances were heard appropriately in their community: 66% in the Justice community versus 55% in the control community. Sixty-four percent of women in the Justice community, versus 57% in the control community expressed that they thought the process for enforcement of decisions was participatory, a difference that was not statistically significant.

FIGURE 8. COMPARISON OF WOMEN'S PERCEPTION OF INCLUSIVENESS OF THE LOCAL JUSTICE SYSTEM WITHIN THE PAST YEAR BETWEEN JUSTICE AND CONTROL COMMUNITIES



Filled bars show the difference between Justice and control communities that is **statistically significant at 5%; unfilled bars show the difference between communities that is not statistically significant.

There is anecdotal evidence from focus group discussions in the Justice community of improvements in the local justice system that impact the performance and social inclusiveness experience for women accessing justice. In particular, we heard that local justice institutions are taking women’s issues more seriously, women are more comfortable approaching local justice actors, and women’s recent election to the Elders council makes the Council more responsive to women’s issues.

Elders and Chiefs are treating women’s cases seriously

The Chiefs said that women now have the space to air their problems and be heard, understood, and taken seriously by Elders, Chiefs, and police. In women-only FGDs, women confirmed they have seen improved treatment from Chiefs. They further disclosed that the

Chiefs used to turn women away when they came without their husbands, but that is no longer the case. According to the women, in the past they could not stand before authorities, but now the law supports their right to be heard.⁷¹

Women are not intimidated to go to the Elders and Chiefs

Traditionally, when women had disputes they were expected to air grievances to male family members first, and women's husbands, fathers, or fathers-in law would take action as they saw fit. If these male relatives decided to take a case to the Elders or Chief, they often represented the women, as the head of the household, in the case. This was a long standing tradition in the Justice community and is still the prevalent practice in the control community.⁷² This practice can be problematic for women in cases where the grievance is with another household member, as is routinely the situation with land inheritance disputes that women raise. The will of male relatives can constrain women's ability to push for their cases to go before local dispute resolution bodies. Women's ability to approach local bodies on their own behalf may often be limited or outwardly discouraged.

Now, it is widely accepted by Chiefs, Elders, women, and men in the Justice community that women can directly approach Elders with their cases,⁷³ without the need for male relatives to represent them. Before, women were only witnesses in cases, but they can now take their own cases directly to the Elders Council.⁷⁴

Women elected in the Council of Elders

Election of women to the Council of Elders is evidence of efforts to incorporate women in the dispute resolution process, and provides a mechanism for ensuring social inclusiveness in dispute resolution. Holding elections for Elder Council positions also gives women more agency in the community. According to the Chiefs, now that there are women on the Council of Elders, other women in the community feel their issues will be better understood and appropriately addressed by the Council.⁷⁵ The effect of this has been an increase in the instance of women approaching the Council for assistance.⁷⁶ Women also said they have plans to ensure there are women on all other community bodies for proper representation.⁷⁷ Men also noted that women are now participating in politics, specifically that women have been elected to the Elders Council, and can now solve cases alongside men.

⁷¹ FGD with women trainees. Ol Pusimoru. August 2012.

⁷² FGD with mixed Elders and men. Ololong'oi. August 2012.

⁷³ FGD and interviews with Chief and Assistant Chiefs. Olenguruone. August 2012; FGD with Elder trainees. Ol Pusimoru. August 2012; FGD with women trainees. Ol Pusimoru. August 2012; FGD with all groups of men from Justice area. Ol Pusimoru. August 2012.

⁷⁴ FGD with men whose wives attended peer sessions. Ol Pusimoru. August 2012.

⁷⁵ Interviews with Chief and Assistant Chiefs. Olenguruone. August 2012.

⁷⁶ Ibid.

⁷⁷ FGD with women trainees. Ol Pusimoru. August 2012.

5.2.3 IMPROVED EFFECTIVE ADMINISTRATION OF JUSTICE

Improvements in the administration of justice at the local level are important for women because they demonstrate the practical shifts necessary within local institutions to put protection of women’s rights into practice in sustainable ways. In order to improve administration of justice related to women’s rights, local justice actors must demonstrate improved knowledge and application of relevant laws, and local institutions must adapt their practices and justice procedures to align with the law and guard against regressive traditions. Women must see evidence of improvement so they have confidence in the performance and impartiality of the local justice system. Finally, men must also see improvements in the impartiality of the local system to increase their likelihood to accept the legitimacy of decisions that no longer routinely favor men over women.

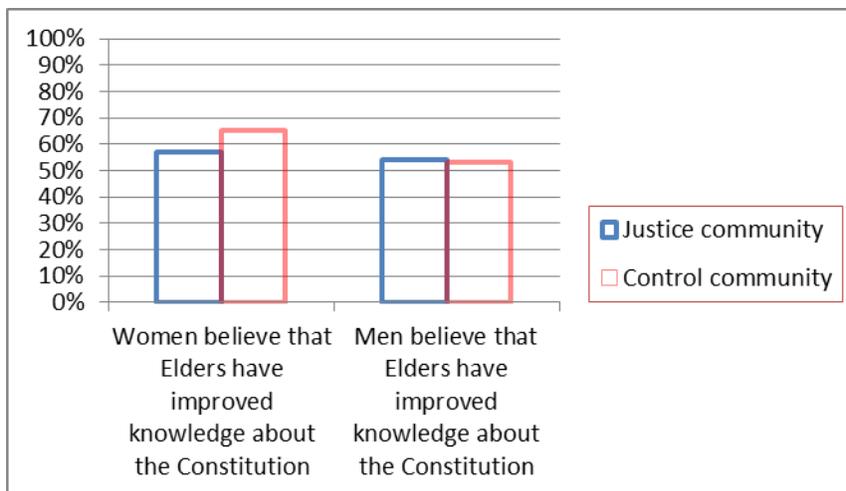
5.2.3.1 CHIEFS’ AND ELDERS’ KNOWLEDGE OF THE CONSTITUTION

Local and customary leaders’ knowledge of laws that protect women’s rights and eliminate gender discrimination is essential to the effective administration of justice for women.

Elders

Quantitative results, shown in Figure 9, fail to indicate significant differences between the Justice and control communities in women’s and men’s belief that Elders have improved knowledge about the Constitution over the past year.

FIGURE 9. COMPARISON OF WOMEN’S AND MEN’S PERCEPTIONS OF ELDER’S IMPROVEMENTS IN THEIR KNOWLEDGE OF THE CONSTITUTION BETWEEN JUSTICE AND CONTROL COMMUNITIES



Unfilled bars show differences between communities that are not statistically significant.

Qualitative results from women, men, and Chiefs suggest reasons for the lack of significant difference. While some trained Elders now have an increased understanding of the laws, are

working with traditional processes, and are being more effective; other trained Elders lack the level of literacy and education needed to fully understand the Constitution. Also some of the trained Elders are not implementing what they learned. And, importantly, the transmission of this new knowledge has not spread fully to non-trained Elders.

It is worth noting that during discussions with women trainees in the Justice community, they expressed the belief that Elders have an increased capacity and constitutional knowledge to solve disputes, which has elevated their role and led people to take more cases to Elders, although these views are not shared by all women in the community.⁷⁸ They say Elders still use traditional processes, but now follow the Constitution in their decisions. Having worked closely with Elders, it is quite likely that women trainees have seen improvements in Elders' knowledge throughout the course of the Project that is not yet apparent to women in the community who were not directly involved in the Project, and who likely have not had direct interaction with Elders for dispute resolution.

During FGDs with Elder trainees, they reported that they have increased skills, and knowledge of the Constitution and other laws as a result of the Project. In particular, they noted that their training helped them understand children's rights and the need to discontinue the practice of female circumcision. Elder non-trainees also reported that Elders know the laws, but said they believe that "the current Constitution and the laws of society are the same,"⁷⁹ which may demonstrate a lack of understanding of the contents of the new Constitution. Regardless, Elders not trained directly by the Project reported that they have increased knowledge of the rights of children to own land (boys and girls), and girls' rights to education.

On the other hand, Elders in the control community conveyed the desire to reference the Constitution when making decisions over disputes brought to them, but noted that they do not possess knowledge about what is contained on the Constitution. They have heard about the new Constitution and know that it is important but they do not know what it contains or how it applies to them. Therefore, they say they have made no changes in how they settle disputes or make decisions as a result of the new Constitution.⁸⁰

Chiefs

Qualitative information from non-trained Elders, trained women, and mixed groups of men in the Justice community also indicates that people in the Justice community have seen increased evidence that Chiefs know the Constitution and are applying it in their cases. This is supported by reports from Chiefs that the training they received from the Project enabled them to understand the Constitution and how to apply the law in their dispute resolution processes. Elders and Chiefs all have a copy of the Constitution now and refer to it in their cases, which they say makes dispute resolution easier. Chiefs and Elders report they did not have access to

⁷⁸ FGD with women trainees. Ol Pusimoru. August 2012.

⁷⁹ Transcript from FGD with Ol Mariko elder non-trainees, Olenguruone. August 2012.

⁸⁰ FGD with mixed Elders and men. Ololong'oi. August 2012

legal information before, and used to rely on tradition and assumptions about the law to decide cases. Chiefs said the biggest benefit of the Project to them was learning how to handle different kinds of cases in accordance with the law and figuring out how to work with Elders. The processes they use have not changed, but their decisions now reference the legal basis for the outcome.⁸¹

The Chiefs conveyed that it has not been difficult to implement changes in the community after gaining an understanding of the Constitution. Chiefs described specific changes they have implemented as a result of their newly acquired knowledge, of which include automatically forwarding criminal cases to the police “because it is a constitutional matter,”⁸² and meeting with Elders weekly to discuss events and issues in the villages and how to handle them according to the Constitution.

5.2.3.2 PUBLIC CONFIDENCE THAT INSTITUTIONS WILL PERFORM IN AN EFFICIENT, NEUTRAL, AND PROFESSIONAL MANNER

Improving the performance of justice institutions is a key element of any access to justice intervention. Public confidence in institutions and justice outcomes is traditionally the main focus of access to justice interventions.

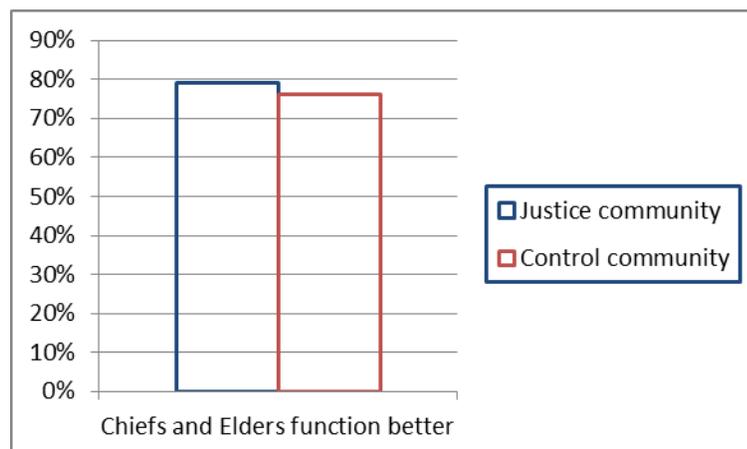
Figure 10 shows that women from the Justice community are just as likely as women from the control community to report that Chiefs and Elders function better in the past year. Despite this, qualitative results suggest that the Justice community is increasingly bringing cases to the Elders first rather than going to Chiefs, that the Chiefs are more serious and interested in making sure both parties to a dispute are satisfied with the outcome, and are consistently following the Constitution.⁸³ Similar to some other outcomes, these improvements have an understandably limited reach as these changes are likely to be experienced only by those who have recently had a dispute which brought them in contact with local justice actors.

⁸¹ Interviews with Chief and Assistant Chiefs. Olenguruone. August 2012.

⁸² Notes from FGD discussion with OI Pusimoru Chief and Assistant Chief. Olenguruone. August 2012.

⁸³ FGD with men whose wives attended peer sessions, and men whose wives did not attend Justice activities. OI Pusimoru. August 2012; FGD with women trainees. OI Pusimoru. August 2012.

FIGURE 10. COMPARISON OF WOMEN'S PERCEPTIONS THAT CHIEFS AND ELDERS FUNCTION BETTER BETWEEN JUSTICE AND CONTROL COMMUNITIES

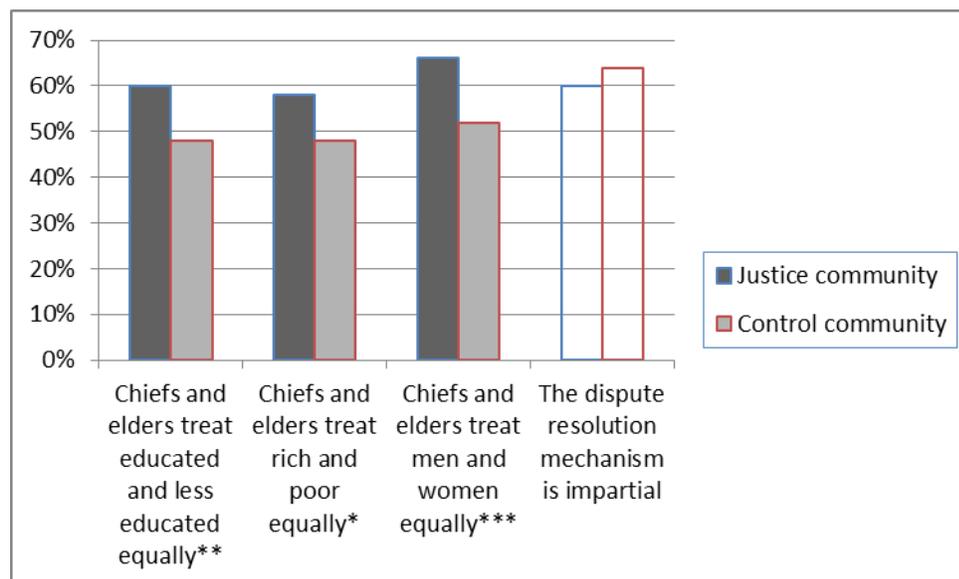


* The unfilled bars represent differences between Justice and control communities that are not statistically significant.

Figure 11 shows that men and women, rich and poor, and educated and less educated are more likely to be treated equally in the Justice community than in the control community. Notably, women in the Justice community reported the greatest perceived improvement in equal treatment of men and women. During FGDs in the Justice community, women reported a reduction in the bias of Elders over the past year, and attributed improved impartiality of Elders to their increased knowledge of women’s rights, inclusion of women on the Elders Council, and women’s knowledge of their own rights and confidence to advocate for themselves.⁸⁴ However, we found that women from both communities are just as likely to report that the dispute resolution mechanism in their community has been impartial within the last year.

⁸⁴ FGD with women trainees. OI Pusimoru. August 2012.

FIGURE 11. COMPARISON OF WOMEN'S PERCEPTIONS OF IMPARTIALITY OF THE LOCAL JUSTICE SYSTEM BETWEEN JUSTICE AND CONTROL COMMUNITIES



Filled bars show differences between Justice and control communities that are statistically significant at ***1%, **5% and *10%; unfilled bars show the difference between communities that is not statistically significant.

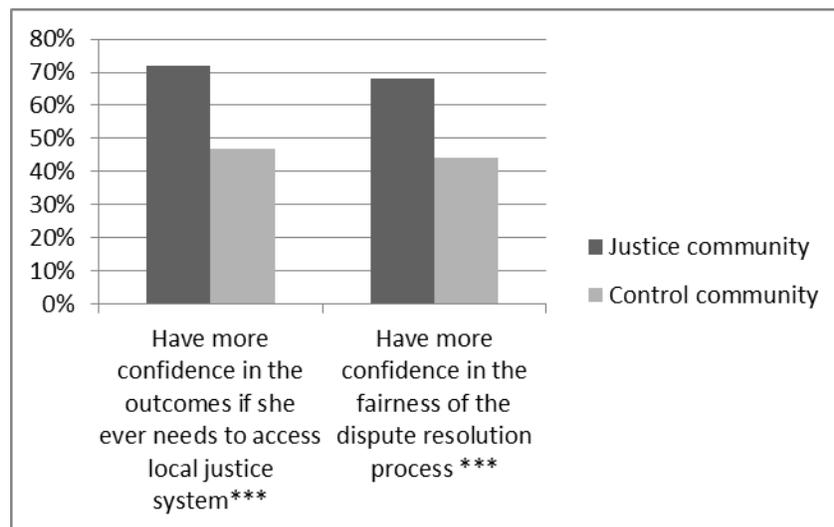
Women in the Justice community are 24 percentage points more likely than women in the control community to report that they have more confidence in the fairness of the dispute resolution process, and 25 percentage points more likely to have more confidence in the outcome if they ever need to access the local justice system. This difference may be explained by information gleaned from FGDs.

Men from mixed focus groups noted that people in the Justice community are more satisfied with Elder decisions and view them as competent and fair.⁸⁵ Also, according to non-trainee Elders, now that there are more Elders than in the past, there is less possibility for the wealthy in the community to influence decisions through bribery.⁸⁶

⁸⁵ FGDs with men whose wives attended peer sessions, and men whose wives did not attend Justice activities. OI Pusimoru. August 2012.

⁸⁶ FGD with non-trainee Elders. Olenguruone. August 2012.

FIGURE 12. COMPARISON OF IMPROVEMENTS IN WOMEN'S CONFIDENCE IN THE FAIRNESS AND OUTCOMES OF THE LOCAL DISPUTE RESOLUTION MECHANISM BETWEEN JUSTICE AND CONTROL COMMUNITIES



***Filled bars show differences between Justice and control communities that are statistically significant at 1%

5.2.3.3 PROCEDURAL AND PROCESS IMPROVEMENTS IN THE LOCAL JUSTICE SYSTEM

In order for women to receive a fair and impartial resolution, local dispute institutions must adapt their processes and procedures to ensure consistency, effectiveness, and proper enforcement of decisions to align with legal protections for women. This section explores improvements in local institutions in the Justice community that are concrete, direct positive outcomes of the Project, and reinforce perceptions reported in FGDs that local institutions are taking concrete measures to align with the Constitution and National Land Policy.

Enactment of community constitutions or bylaws, and subsequent adherence to requirement of family consent for land transactions

Elders in the Justice community created their own *katiba* (constitution) during the course of the Project (attached as Annex 5). Through the *katiba*, the Elders articulated their commitment to apply a specific set of principles, aligned with the national Constitution, to their decision-making and community leadership on a variety of issues, including women's land rights, gender equity and equality, conflict resolution, and the environment.⁸⁷ For example, the *katiba* calls on Elders to "...watch out for any regressive cultural practices that we must disregard in our dispute resolution..." and specifies that, "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-

⁸⁷ Enhancing Customary Justice Systems in the Mau Forest, Kenya. Draft Quarterly Report for the Period February – May, 2012. June 2012.

making over land to discard the traditional approach where the men were the sole decision-makers. This practice has increased poverty in our community.”⁸⁸

Chiefs and Elder trainees in the Justice community all noted during interviews that they are *implementing* the new procedure of requiring family consent for land transactions, including leasing and sales. They consistently expressed that, if anyone in the family objects to a land transaction, the process stops. They are also now dealing with cases in which women are seeking compensation or reversal of land transactions her husband carried out without her consent. It seems that these cases are generally being forwarded to the Chief, and if they are older or more complex cases that the Chief is unable to unwind, he is giving women advice about how to present their case to the District Land Office.⁸⁹

Record keeping for cases

Elder trainees said that the Justice Project helped them solve disputes, particularly by improving their record keeping. Elders now keep records of all cases that come to them, using a template they received from Project staff (See Annex 6). Elders said they believe that record-keeping will enhance the consistency of their decision-making over time because it will allow them to refer back to similar cases to review the basis for prior decisions.⁹⁰

The Kamurar Assistant Chief also disclosed that they are recording their case decisions in writing and having all parties—disputing parties, the presiding Chief, Elders, and witnesses—sign to signal their understanding of, and agreement with, a decision. If either party disagrees with the decision, they do not sign the document and the case is forwarded to the full Chief or to the police.⁹¹ The OI Mariko Assistant Chief also pointed out that documentation helps in the enforcement of decisions as this serves as proof to the higher resolution body (Chief or police) in case of non-compliance.⁹²

New Elder election process

During joint community conversations at the end of the Project, facilitated by Justice Project staff, women made a direct appeal to Elders to be included in local dispute resolution bodies. Women trainees noted that it is appropriate for Elder committees to address community issues, including women’s issues, but that women should be represented on the committees to ensure they have a voice in issues that impact women and the broader community.⁹³

To align local practices with the Constitution, the Chief implemented community elections for the Council of Elders instead of appointing the members of the Council of Elders as has been

⁸⁸ USAID Justice Project Final Elders’ *katiba*, May 2012.

⁸⁹ Transcript from FGD discussion with OI Pusimoru Chief and Assistant Chief, 8/29/12, Olenguruone.

⁹⁰ FGD with Elder trainees. OI Pusimoru and Olenguruone. August 2012.

⁹¹ Interview with Kamurar Assistant Chief. Olenguruone. August 2012.

⁹² Interview with OI Mariko Assistant Chief. Olenguruone. August 2012.

⁹³ Enhancing Customary Justice Systems in the Mau Forest, Kenya. Draft Quarterly Report for the Period February – May, 2012. June 2012.

the prior practice. Elders also sensitized the community to the fact that there should be gender balance in elected positions.

Women's requests for inclusion, Chiefs' commitment to the Constitution, and Elders' efforts at community education resulted in the election of women and youth to the Council of Elders in most of the Justice Project villages with the following gender breakdown⁹⁴:

- Ol Mariko sub-location⁹⁵
 - Total of 27, with 6 women and 21 men
- Ol Pusimoru village⁹⁶
 - Total of 16, with 6 women and 10 men
- Esoit village⁹⁷
 - Total of 4, with 1 woman and 3 men
- Tegat village⁹⁸
 - Total of 9, with 4 women and 5 men

Each village in Ol Pusimoru sub-location (Ol Pusimoru village, Esoit, and Tegat), which was the primary site for the Justice Project, achieved at least one-third representation by women on the Council in these elections. Ol Mariko sub-location fell short of the one-third threshold by three women. As of October 2012, elections had not yet been conducted in Kamurar sub-location.⁹⁹

Achievement of constitutionally mandated levels of representation for women on the Elders Council in several Justice Project villages is a significant and direct outcome of the Project's interventions. The Justice Project's curriculum and community conversations featured women's representation rights as a major theme. The fact that women trainees approached the Chiefs and Elders to negotiate for representation on the Council in accordance with the Constitution is, in itself, evidence of positive Project impact.

Other process changes

Chiefs in the Justice community are ensuring that criminal cases are being handled by the police, and if people come to them with a rape or murder case, Chiefs are helping to facilitate getting the matter before the police.¹⁰⁰ Chiefs are also opening up the dispute resolution forum so that more people can observe and contribute to cases. In Ol Pusimoru, the Assistant Chief noted that case sessions are now open to observation and testimony by unelected (neighbor) Elders, family, and clan members of parties to the dispute.

⁹⁴ Justice Project staff have different figures for this election, and indicate that 14 women were elected in Ol Pusimoru sub-location.

⁹⁵ Interview with Ol Mariko leader of Elders. Olenguruone, August 2012

⁹⁶ Election minutes for Ol Pusimoru sub-location, including the villages of Ol Pusimoru, Tegat and Esoit. July 10, 2012.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Interview with Project Lead Deborah Espinosa. Seattle. December 2012.

¹⁰⁰ Interviews with Chief and Assistant Chiefs. Olenguruone. August 2012.

Elder trainees reported during the FGDs that they are now explaining decisions in front of both parties of a dispute, and that the court visits helped them better understand how to approach cases. The Project also helped them appreciate the need for confidentiality, and they think this has improved women's confidence in Elders because women know their privacy will be respected.¹⁰¹

5.2.4 SOCIAL LEGITIMACY AND ENFORCEABILITY OF IMPROVEMENTS IN WOMEN'S RIGHTS

Impacts can only be realized if solutions to women's justice problems are enforceable. As noted in Chopra (2010), "...Official laws can be difficult to apply when they are not socially acknowledged, contextualized or received..."

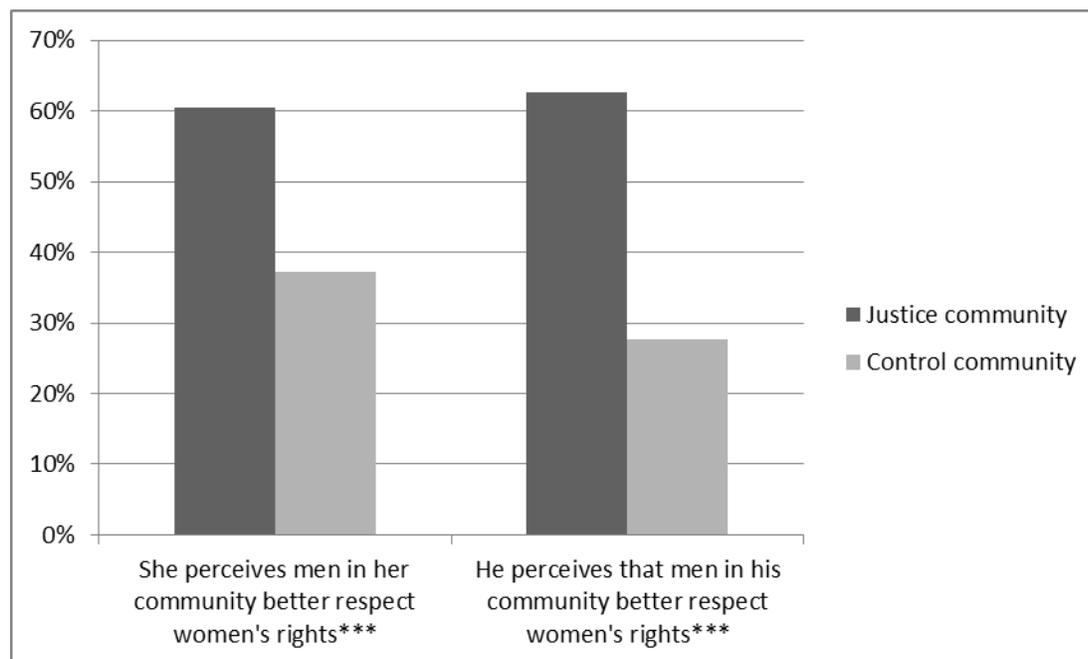
5.2.4.1 RESPECT FOR WOMEN'S RIGHTS

The quantitative survey asked men and women from the Justice and control communities their perceptions regarding men's *respect* for women's rights. In order to avoid social desirability bias or get an answer which men think the interviewer wants to hear, men were asked whether *other* men in their village respect women's rights instead of asking about their own opinion. Results are shown in Figure 13.

Nearly twice as many women in the Justice community (60%) believed that men's respect for women's rights has increased in their village over the past year, compared to women in the control community (37%). Similarly, men in the Justice area were also much more likely (63%) to report that men better respect women's rights in their village, compared to men in the control community (only 28%).

¹⁰¹ FGD with Elder trainees. OI Pusimoru. August 2012.

FIGURE 13. COMPARISON OF PERCEPTIONS REGARDING MEN'S INCREASED RESPECT OF WOMEN'S RIGHTS BETWEEN JUSTICE AND CONTROL COMMUNITIES



***Filled bars show differences between Justice and control communities that are statistically significant at 1%

Qualitative methods were used to further investigate specific sentiments on women's rights in the two communities, and to gather insights on how men and women in the Justice communities view the changes in their community within the past year.

Women from all focus groups in the Justice community say they feel confident to speak with their husbands now, to tell them what they need, and to negotiate solutions to problems when they arise. Women also reported that men consult with their wives more when they want to sell family assets or make other significant household decisions.

When reflecting on what has motivated changes in men's attitudes, women said that men know that the new women Elders will support women's rights in cases, and that men fear being taken to Chief or Elders if they do not provide for their families. However, women said that they feel changes to realize women's rights have not spread throughout the whole community and there are still a lot of men who need to be sensitized.¹⁰²

Men reported that they support the changes they see in the community related to women's land rights, not just among women but also Elders, Chiefs, and other men.¹⁰³ It was a common theme for men to mention that they notice increased recognition of women's roles and rights at the community and household levels. When asked about how they feel about these changes, men consistently conveyed support for changes because they see the benefits they

¹⁰² FGD with women trainees. OI Pusimoru. August 2012.

¹⁰³ FGD with men whose wives attended peer sessions, and men whose wives did not attend Justice activities. OI Pusimoru. August 2012.

have brought their households and community. Men noted that husbands and wives are now supporting each other, women are contributing financially to their households, and there are fewer disputes because everyone knows the rights of others. In addition, men repeatedly expressed that women's rights are backed by the Constitution and they can see/read for themselves.

Probing deeper, it was evident that some men are wary of the rights given to women. A common sentiment expressed by those who are dissatisfied with these changes is a feeling that their authority as men is now being usurped by women. Some felt the changes undermine men's traditional role as the representative of the household in the community and as the primary decision-maker, going as far as to say they feel the law now favors women. Some men expressed that they understand that these rights are valid and backed by the Constitution so they are bound to comply, but they do not truly believe in them.¹⁰⁴

While we only conducted four FGDs among men in the Justice community,¹⁰⁵ we noted general agreement amongst all groups of positive outcomes, and specific support among men whose wives have attended peer sessions.¹⁰⁶ On the other hand, men whose wives are not direct beneficiaries expressed more mixed support. Some men in those groups were more skeptical and requested training for men as well in order for them to understand the Constitution better and the motivations behind mandates for changes in women's rights.¹⁰⁷ Furthermore, men's views on women's rights were highly uniform regarding rights of women to freedom of expression and general rights, but varied when it comes to women's land rights.

Elder trainees in the Justice community expressed positive support for the increase in women's rights and noted that changes have contributed to peace within households and increased family incomes. Specifically, Elder trainees said that women can be educated to take leadership positions in the community. Both Chiefs and Elders reported actively working to uphold women's land rights,¹⁰⁸ confirming the sentiments of men and women about the strong backing of community leaders in advancing rights of women, especially related to land.

Meanwhile, there was clear reluctance among men and Elders in the control community to talk about women's rights, especially pertaining to land. Men repeatedly asked FGD facilitators to explain the real nature of the interviews, as a few expressed serious concerns when the topic shifted towards land and women.¹⁰⁹

¹⁰⁴ FGD with men whose wives have not attended a peer session or any Justice Project activity. OI Pusimoru. August 2012.

¹⁰⁵ Therefore, the four groups of men cannot be seen as representative of all men in the Justice community.

¹⁰⁶ FGD with men whose wives attended peer sessions. OI Pusimoru. August 2012.

¹⁰⁷ FGD with men whose wives have not attended Justice activities. OI Pusimoru. August 2012; FGD with men, mixed group. OI Pusimoru. August 2012.

¹⁰⁸ FGD and interviews with Elders and Chiefs. OI Pusimoru and Olenguruone. August 2012.

¹⁰⁹ FGD with mixed group of Elders and men. Ololong'oi. August 2012.

5.3 FINDINGS RELATED TO WOMEN'S ACCESS TO LAND

This sub-section employs indicators derived from the Landesa women's land rights framework to measure early impacts on women's land access and tenure security as a result of improvements in women's access to justice.

5.3.1 WOMEN AND LAND BACKGROUND

When asked how many women in their communities own land, 65% of women in the Justice community and 52% of women in the control community answered they knew of no women land owners.¹¹⁰ The rest primarily answered that they knew only a few women who own land. Yet when we asked women if they personally owned land or will own land, 62% from the Justice community and 58% from the control answered positively, and the majority said that they acquired (or will acquire) this land through their husbands. Only a tiny fraction of women from the Justice and control communities purchased land (10% in the Justice community and 5% in the control community).

Similar to other studies, we find that inheritance from men, particularly husbands, is the main means for women to access land.¹¹¹ Daughters are typically denied access to land through inheritance under the patrilineal system because giving land to daughters means relinquishing land to their husband's family.¹¹² In fact, only 7% and 4% of the women from the Justice and control communities, respectively, acquired land through their parents. Similar to findings from national surveys,¹¹³ only 24% and 10% among those who said they own land in the Justice and control communities, respectively, said their name was on the ownership document for that land. Results are shown in Table 6.

¹¹⁰ We purposefully did not pre-define land ownership for the respondents on the survey. We are interested in the community definition of land ownership as opposed to a more restrictive meaning of land ownership tied to land documents. Qualitative data suggests that land ownership is typically understood in the community as long term user rights with full decision-making authority over the land.

¹¹¹ Harrington, Andrew. "Women's Access to Land in Kenya." Justice for the Poor Briefing Note 4.1 (2010). Washington, DC: World Bank.

¹¹² Ibid.

¹¹³ "Voices of Women Entrepreneurs in Kenya." Washington DC: IFC, 2006.

TABLE 6. WOMEN AND LAND OWNERSHIP AND ACQUISITION BETWEEN JUSTICE AND CONTROL COMMUNITIES

	Justice community	Control community	Significance level
How many women do you know own land:			1%
None	65%	52%	
Few	30%	44%	
Several/Many	5%	2%	
She personally owns (or will own) land	62%	58%	1%
She has acquired (or will acquire) land through:			n.s.
Her Husband	80%	89%	
Her Parents	7%	4%	
Purchase	10%	5%	
Her name is on the ownership document	24%	10%	5%

n.s. means non-significant

5.3.2 EARLY INDICATIONS OF IMPROVEMENT ON WOMEN’S LAND RIGHTS

This section assesses early indications of improvements on women’s land rights by examining men’s and women’s reported recognition of land rights, and perceptions regarding land access, inheritance, and vulnerabilities for women.

The mere recognition by both men and women that women have a constitutional right to own land is a crucial first step towards achieving secure land rights for women. There are significantly more women and men in the Justice community who said that women have constitutional rights to own land. However, a much lower number reported that their community recognized this right: 44% in the Justice community compared to an even lower 21% in the control community.

A very encouraging outcome of this Project is that women and girls from the Justice community appear more likely to inherit land than those in the control community (84% Justice vs. 67% control for wives and 39% Justice vs. 3% control for girls); see Table 7.

TABLE 7. LAND OWNERSHIP AND LAND INHERITANCE FOR WOMEN BETWEEN JUSTICE AND CONTROL COMMUNITIES

	% Women			% Men		
	Justice	Control	Significance level	Justice	Control	Significance level
Women have a constitutional right to own land	82	64	1%	76	61	1%
The community recognize women's right to own land	44	21	1%			
When your husband pass away, will you inherit land from him	84	67	1%			
Sons will inherit land	88	86	n.s.	92	95	n.s.
Daughters will inherit land equal to their brothers	39	3	1%	32	8	1%

n.s. means non-significant

All women in FGD sessions in the Justice community noted that there are already some improvements in women's access to land.¹¹⁴ There was consensus among all groups of women interviewed (trainees and non-trainees) that they now have access to land or have access to more land from their husbands.¹¹⁵ Men are now accepting of women asking them for access to household land so they can farm, though women reported that before that request might have sparked an argument. One woman trainee said, "Our husbands have accepted that we should have a [land] share because the law says so."¹¹⁶ In fact, women have only started demanding access to land recently after learning that they have rights to land under the law,¹¹⁷ and women trainees noted that they are working on asserting land rights through educating their husbands.¹¹⁸ Men also noted that they know there is a new law that allows women to own land on the same footing as men.¹¹⁹ Conversely, women in the control area reported that very few married women in their communities have access to land through their husbands, and that some unmarried women have access through their parents.¹²⁰

Perhaps more importantly, women from all focus group discussions in the Justice community reported that they are now able to independently make business decisions, including how to use land, what to plant, and where to sell crops, and are controlling the proceeds derived from the land they access and other business activities.¹²¹ Women trainees also reported that their husbands have begun to involve wives in important household economic decision-making, including decisions over the sale of key assets like land and livestock.¹²² The increased

¹¹⁴ FGD with women trainees and women non-trainees. OI Pusimoru. August 2012.

¹¹⁵ Ibid.

¹¹⁶ Transcript from FGD with women trainees. OI Pusimoru. August 2012.

¹¹⁷ FGD with women trainees and women non-trainees. OI Pusimoru. August 2012.

¹¹⁸ FGD with women trainees. OI Pusimoru. August 2012.

¹¹⁹ FGD with mixed group of men (majority wives did not attend Justice activities). OI Pusimoru. August 2012.

¹²⁰ FGD with control women. Ololong'oi. August 2012.

¹²¹ FGD with women trainees. OI Pusimoru. August 2012; FGD with women non-trainees. OI Pusimoru. August 2012.

¹²² FGD with women trainees. OI Pusimoru. August 2012.

participation of women in family asset decision-making was corroborated by respondents in FGD sessions with Chiefs,¹²³ Elder trainees,¹²⁴ and one mixed group of men.¹²⁵

During our interviews with the Chiefs, Elder trainees, and women trainees in the Justice community, all said that the Constitution guarantees equal inheritance among all children. In one group of women trainees, a woman said that she has no sons but she has gained the confidence to ask her husband for inheritance for her daughters.¹²⁶ Another woman in the same FGD session who only has daughters said that her husband wanted to adopt a son to inherit the family land but, through discussions of the laws with her husband, she has negotiated land for her daughters.¹²⁷ All women in one group of women non-trainees expressed the intention to sub-divide their land equally between all their children in the future.

Most Elder non-trainees, women non-trainees, and men acknowledged that the Constitution gives girls equal inheritance rights, but noted that when a girl marries her family land share would go to her brothers. Men who reported their daughters will have to relinquish their natal family land shares when they are married expressed the belief that their daughters will gain access to land through their husbands.¹²⁸ When asked what will happen to their married daughters in the case of a divorce or separation, men said they no longer worry about their daughters because they know they will now have land from their husbands even if their marriages do not work out. In another discussion group among men whose wives did not participate in any Justice activity, some men expressed concerns about equal rights to land among children and were seeking clarity as to what this means once their daughters get married.

There has not yet been a case before Chiefs of a girl inheritor getting married, so they don't know if she would keep the land or if it would revert back to her natal family in such a case.¹²⁹ The OI Pusimoru Assistant Chief says that he hopes it will become the practice for girls to keep their land in such cases, but the corresponding family, inheritance, and matrimonial laws have yet to be drafted, so they will have to confront the issue when it comes up.¹³⁰ The OI Mariko Assistant Chief said that if a girl comes to the Chief asking for land inheritance, he would look at the main reason she wants land and make a decision from there.¹³¹

Moreover, Chiefs and Elders reported during interviews that wives are now inheriting land from deceased husbands in compliance with the law, and that widows will divide the land amongst

¹²³ Transcript of interview with Chief and Assistant Chief. Olenguruone. August 2012.

¹²⁴ FGD with Elder trainees. OI Pusimoru. August 2012.

¹²⁵ FGD with mixed group of men (majority wives did not attend Justice activities). OI Pusimoru. August 2012.

¹²⁶ FGD with women trainees. OI Pusimoru. August 2012.

¹²⁷ Ibid.

¹²⁸ FGD with men whose wives attended peer sessions. OI Pusimoru. August 2012.

¹²⁹ FGD with OI Pusimoru Chief and Assistant Chief. Olenguruone. August 2012.

¹³⁰ Ibid.

¹³¹ Transcript from interview with OI Mariko Assistant Chief, 8/27/12, Olenguruone.

their children when they are grown. Some men expressed support and agreement saying this means they have assurance that land will stay within the family.

Examining factors that influence women’s land rights

While the evaluation framework combined with the analysis in previous sections suggest that a project designed to improve women’s local access to justice can lead to improvements in women’s access to land, the analysis in this section seeks to assess the magnitude of this effect. More precisely, since women’s access to land can depend on factors beyond those directly impacted by the project, a rigorous assessment of the effect of the project requires that the analysis takes all these factors into consideration. Results from this multivariate analysis are presented in tables 8, 9, 10, and 12 and discussed below. To interpret these results it is important to note that figures listed under the columns labeled “marginal effect” report the percentage increase (or decrease) in the outcome of interest associated with the factor in the corresponding row. For example, the first row of table 8 suggests that, other things equal, a men from the Justice community is 21% more likely to recognize women’s Constitutional right to own land. Numbers in bold identify effects that are statistically significant.

Factors that influence recognition of women’s constitutional rights over land

Table 8 suggests that the Justice Project led to a 16 percentage-point increase in women’s recognition of their own Constitutional rights to own land. Women (from either community) who are older, are earning cash income, and have completed primary education (compared to those who have not attended school at all) are also more likely to recognize their own Constitutional rights to own land.

Men from the Justice community, men who are earning cash income, and men from Kikuyu, Kisii and Ogiek communities (compared to men from Maasai and Kalenjin communities) are more likely to report that they recognize women’s Constitutional rights to own land.

TABLE 8. EFFECT OF THE JUSTICE PROJECT ON MEN'S AND WOMEN'S RECOGNITION OF WOMEN'S RIGHTS TO OWN LAND

	Likelihood that he recognizes women's Constitutional rights to own land		Likelihood that she recognizes her Constitutional rights to own land	
	Marginal Effect	p-value	Marginal Effect	p-value
Justice community	0.21	0.00	0.16	0.00
Household Land (in acres)	-0.00	0.21	-0.00	0.17
Age	0.00	1.61	0.00	0.02
Attended primary school	0.03	0.63	0.10	0.03
Attended secondary school	-0.07	0.42	0.08	0.15
Attended University school	-0.15	0.21	0.02	0.84
Earns income	0.11	0.03	0.12	0.00
Kalenjin ethnicity*	-0.06	0.32	-0.04	0.40
Other ethnicity *	0.25	0.00	0.10	0.22

The bold numbers mean that the marginal effect is statistically significant.

Factors that influence equal inheritance for daughters

Table 9 indicates that, after taking other factors into consideration, the Justice project led to a 20 percentage-point increase in men reporting that their daughters and sons will inherit equally. In considering other factors that might also affect the chances that girls will inherit land equally, evaluators find that (i) Maasai men are significantly less likely than Kalenjin, Kikuyo, Kisii and Ogiek men to say they will bequeath land equally among their sons and daughters; and that (ii) men who have more daughters are more likely to bequeath land equally among their sons and daughters.

TABLE 9. EFFECT OF THE JUSTICE PROJECT ON EQUAL INHERITANCE BETWEEN SONS AND DAUGHTERS

	Likelihood that men report that their daughters will inherit land equal to their brothers	
	<u>Marginal Effect</u>	<u>p-value</u>
Justice community	0.20	0.00
HH Land (acres)	0.00	0.28
Number of sons	-0.01	0.74
Number of daughters	0.06	0.00
Age	-0.00	0.91
Attended primary school	0.02	0.79
Attended secondary school	-0.04	0.62
Attended University school	0.20	0.14
Earns income	-0.03	0.52
Kalenjin ethnicity	0.27	0.00
Other ethnicity	0.51	0.00

*The bold numbers mean that the marginal effect is statistically significant.

Factors that influence wives' inheritance

As shown in Table 10, controlling for other factors, the Justice Project led to a 9 percentage-point increase in women reporting that they will inherit land from their husbands. Results indicate that women are also more likely to inherit land from their husbands if they are older, have completed secondary education, and do not earn an income.

TABLE 10. EFFECT OF THE JUSTICE PROJECT ON INHERITANCE FOR WOMEN

	Likelihood that women say they will inherit land from their husbands	
	<u>Marginal Effect</u>	<u>p-value</u>
Justice community	0.09	0.02
HH Land (in acres)	0.00	0.84
Number of sons	-0.01	0.53
Number of daughters	0.01	0.41
Age	0.00	0.06
Attended primary school	0.05	0.11
Attended secondary school	0.10	0.00
Attended University school	0.06	0.18
Earns income	-0.08	0.01
Kalenjin ethnicity	0.03	0.52
Other ethnicity	-0.02	0.77

*The bold numbers mean that the marginal effect is statistically significant.

Women and land vulnerability within the community

Finally, we assessed the security of women’s access to land in their communities. In particular, improvements in women’s land rights were assessed by examining how women’s access to land is affected by changes in their family structure, clan, or community.

Table 11 indicates that compared to those in the control community, women in the Justice community feel less vulnerable to losing land if they divorce or if the village leaders change. Women in the Justice community appear to be more vulnerable to losing land if their husbands marry another wife according to women, though not according to men.

Women in the Justice community are significantly more likely to present a land dispute to Elders or the Chief and to regain access to land as a result of doing so. This sentiment was corroborated by men’s responses.

TABLE 11. LAND VULNERABILITY DUE TO CHANGES IN WOMEN'S FAMILY OR COMMUNITY CIRCUMSTANCE

	Women			Men		
	Justice	Control	Significance level	Justice	Control	Significance level
Women in this community are very likely/likely to lose land if...						
They get divorced/abandoned by their husbands	35%	45%	5%	28%	32%	n.s.
Their husbands marry another wife	16%	9%	10%	17%	14%	n.s.
Their husbands pass away	15%	19%	n.s.	31%	27%	n.s.
The village leaders change	17%	15%	10%	19%	10%	5%
Women in this community are very likely/likely to:						
Raise a land dispute if they lose access to land	93%	79%	1%	89%	77%	1%
Regain access to land as a result of going to the Elders and/or the Chief	97%	86%	1%	94%	73%	1%

n.s. means non-significant

Factors that influence women’s propensity to access justice related to land

We found that women from the Justice community are 12 percent more likely than those from the control community to report that if women in their community lose access to land they will raise a dispute with the Elders or Chief. Similar results were found in the responses of husbands (13%). Men’s responses also suggest that women in the Kikuyu, Kisii and Ogiek communities are more likely than those in the Maasai and Kalenjin communities to raise disputes if they lose access to land.

TABLE 12. ACCESS TO JUSTICE RELATED TO LAND

	Likelihood that a man says women in his village will raise a dispute if she loses access to land		Likelihood that a woman reports that women in her village will raise a dispute if she loses access to land	
	Marginal Effect	p-value	Marginal Effect	p-value
Justice community	0.13	0.00	0.12	0.00
Household Land (in acres)	-0.00	0.67	-0.00	0.45
Age	0.00	0.77	0.00	0.76
Attended primary school	0.02	0.72	0.05	0.15
Attended secondary school	0.05	0.30	-0.01	0.85
Attended University school*	-0.02	0.78		
Earns income	-0.03	0.37	0.04	0.23
Kalenjin ethnicity	-0.04	0.45	0.04	0.45
Other ethnicity*	0.10	0.04		

*The bold numbers mean that the marginal effect is statistically significant.

5.4 FINDINGS RELATED TO OTHER POTENTIAL LONG-TERM OUTCOMES

Although the Project aimed specifically at short-term impacts on women's land access, the evaluation team also found anecdotal evidence of improvements in some other potential longer-term impacts consistent with what might be expected using our Evaluation Framework. This section briefly discusses early indications from the Justice community of improvements in overall well-being, women's increasing demand for justice and better services, increased education of girls, and reduced domestic violence. However, it is not possible to measure the extent to which these impacts are attributable to the Project, as it is outside the scope of this evaluation

Increased well-being for women

Women trainees in the Justice community said knowing their rights under the Constitution and public speaking training through the Project helped empower them to negotiate with their husbands to start their own businesses and farming activities. In the summer of 2011, several women in the Justice community came together to create merry-go-round groups where each member gives periodic payments to the whole group, and each periodically receives a lump sum equivalent to invest in her farm or business. They are able to control their income from these endeavors, which means more resources for family needs, including children's education. In these groups, women are also educating each other about women's land rights and supporting each other in business and family management. Women said they plan to keep these groups going.¹³²

¹³² FGD with women trainees. OI Pusimoru. August 2012.

Chiefs, Elders, and men all noted that women are empowered and have been productive in farming and conducting businesses, thus bringing more income into their households. They noted that groups women have formed serve a dual purpose: they are an avenue to learn and discuss more about their rights, and a financial network and source of small capital for farming and business. All groups repeatedly expressed that women know their rights and now participate in family and community decision-making.

Increased demand for justice and better services

Women in the Justice community indicated that it used to be hard just speaking to their husbands. Now, those trained by the Project have improved public speaking skills and have already spoken in front of people at Chief's *barazas*, school meetings, churches, and in negotiating with police for resolution of disputes. Women say they are now confident to speak without fear.

The Kamurar Assistant Chief noted that he never used to hear women's cases because women had no perceived right to express themselves before as they had no authority and were viewed as children. They did not have the ability to approach authorities on their own in the past, but that has changed and women are now bringing cases directly to authorities.¹³³ He said he is now hearing just as many cases from women as from men. Women are coming to him with cases on the sale of family property to which they did not consent (e.g., cows) and domestic violence.

Elder trainees agree that they are now handling a lot of disputes because women know their rights and are bringing problems to the Elders. They say that women have copies of the Constitution and are reading for themselves and then coming to Elders with issues, because women now have the right to ask for what they need. In one case interview, a woman who was divorced in the past came to the Elders seeking a share of land and support for her children from her ex-husband.

Education among boys and girls

Women trainees said that their training helped them understand that boys and girls have the same rights, so girls cannot be married at an early age. Before, they thought they were just raising their daughters for marriage, but now they know their daughters have equal rights and value as their sons. Their daughters can grow up as land owners, income earners, and community leaders, so they see the value of their girls beyond just being wives, making them more inclined to invest in their education.

Chiefs also see significant improvements in the status of girls within families after the Project, because girls are now viewed as having more value and being capable of earning income to contribute to supporting their elderly parents in the future. They also see improvements in

¹³³ Notes from KII with Kamurar Assistant Chief, 8/29/12, Olenguruone.

education rates for girls, and decreased rates of early marriage and female circumcision. Elders say that before the Project, men used to remove daughters from school for early marriage, but now that people know girls have a right to an education; they have observed a reduction in early marriage. Education of girls is now understood to be important, and people believe girls can earn their own living and may be able to purchase their own land in the future.

Reduced domestic violence

Women across the board indicated that there is less domestic violence in the community because men now realize there is a law against it. One woman trainee said that one of the biggest benefits she gained from the Project is that there are now people in the community to help her assert her right to not be beaten by her husband. Because others in the community now also know that the law says she should not suffer, she can get help for herself.

Men said they have realized that domestic violence is not always the solution and they can sit down with their wives to talk through problems and settle them without resorting to violence.

5.5 FINDINGS RELATED TO THE JUSTICE PROJECT MODEL

The Justice Project was developed to test a model to transform Chiefs and Elders into supporters of women's rights, particularly women's land rights. This section discusses elements of the model that were particularly effective and stakeholders in the community who were fundamental to the model's success based on qualitative information gathered from trainees in the Justice community and Project staff.

5.5.1 MOST EFFECTIVE PILOT ELEMENTS

Evaluators asked Justice community trainees and Project staff to share their thoughts about what aspects of the Project were most effective. What follows is a synopsis of their feedback.

Community conversations

Beginning interactions with Elders and women by conducting community conversations was an effective way to break the ice, and laid the groundwork to begin discussions of potentially contentious issues. Project staff felt they would not have been able to make much progress with Elders or women if they did not begin with community conversations. The community conversations allowed the groups to organically define and discuss the relevant issues, and these discussions served as an important reference for staff performing training, as they were able to draw on examples discussed during community conversations to illustrate complex and legally technical concepts.¹³⁴ The final joint community conversation was also particularly

¹³⁴ Interview with Caroline Lentupuru. Nakuru. August 2012.

effective because participants were able to have frank, but respectful conversations that may have contributed to the subsequent election of women and youth to the Elders Council.¹³⁵

Justice Project curriculum training and court visits for Elders and Chiefs

Elders and Chiefs noted that education about rights in the Constitution helped them align their decisions with statutory laws. The court visits helped Elders understand differences between ADR and formal court approaches and procedures.¹³⁶ More importantly, highlighting the importance of local and customary justice, and building their knowledge and skills through these activities seems to have empowered these local leaders.

Justice Project curriculum training for Women

Women trainees consistently reported that education about rights was the most effective part of the Justice project, and had the biggest impact for them personally. They specifically called out training on girls' rights to education, land and inheritance rights for women and girls, women's rights generally, and gender equality in elected positions as most relevant and impactful for them. Justice Project staff also felt that training with women was vitally important because it provided the opening for the Project to address the issues it was designed to confront.¹³⁷ Women trainees reported that the skill-building trainings in ADR and public speaking helped them develop confidence to voice their needs to Chiefs and Elders and speak up about women's rights in front of men and women.¹³⁸

Peer sessions and student training

Women trainees, youth volunteers, and Project staff indicated that conducting peer sessions was both an effective means of spreading training and rights information to others in the community and a confidence-building activity for peer trainers. Women trainees also said they have continued to conduct peer sessions in women's groups, churches, and other community venues even after the end of the Justice project.

Youth volunteers, teachers, and Project staff all felt that integrating the Justice Project curriculum into the schools was also successful. Youth indicated that teaching children was a good way to get information on the curriculum to parents.¹³⁹ Teachers noted that training on girls rights in the schools empowered girls in the community and at home, and contributed to increased gender equality within the schools.¹⁴⁰

¹³⁵ Interview with Soipan Tuya. Nakuru. 30 August 2012.

¹³⁶ Interview with Caroline Lentupuru. Nakuru. 21 August 2012

¹³⁷ Interview with Soipan Tuya. Nakuru. 30 August 2012.

¹³⁸ Transcript from FGD with women trainees. OI Pusimoru. August 2012.

¹³⁹ Transcript from FGD with youth. OI Pusimoru. August 2012.

¹⁴⁰ Interview with Deputy Principal. OI Pusimoru. September 9, 2012.

While we highlight these individual successful components, it is important to note that Project staff and women trainees repeatedly stressed that the success of the Project is likely due to its multi-faceted approach that used multiple complementary approaches and involved multiple actors.

5.5.2 KEY ACTORS FOR PILOT SUCCESS

Evaluators also asked Justice community trainees if they thought the Project involved the right people in the community. Trainees from each target group overwhelmingly agreed that the Project appropriately engaged key leaders from each group (Chiefs, Elders, women, and youth), but many also suggested the Project should have trained more men.¹⁴¹

Evaluators sought Project staff insight on key stakeholders in the community who had the power to materially impact the Project's success, and their reflections on how well the Project engaged them. Justice Project staff stressed the critical role the area Chief and Assistant Chiefs played in ensuring the pilot's success. In particular, the OI Pusimoru Assistant Chief was very supportive of the Project and actively encouraged people in the community to participate in Project activities when the pilot was just beginning in OI Pusimoru.¹⁴² Given the role that Chiefs play in local communities,¹⁴³ staff felt that integrating them into the pilot training to emphasize their duties to adhere to and facilitate enforcement of statutory law was an important element of the pilot's design.¹⁴⁴

Justice Project staff also felt it was key to train men (Chiefs, Elders, teachers, and youth volunteers) throughout the Project, and that working with male community leaders before focusing on women may have helped to avoid opposition and other unintended negative impacts to the community.¹⁴⁵ Staff also indicated that teachers and youth volunteers were vital elements in the schools component of the Project and were central to planning and carrying out the Justice Day school celebration, which was a pillar of the Project's public information efforts.¹⁴⁶

¹⁴¹ Project trainees from all target groups included 61 men and 64 women.

¹⁴² Interview with Caroline Lentupuru, Nakuru, August 21, 2012.

¹⁴³ It is important to note that devolution efforts in Kenya, once fully clarified and implemented, could substantially change or eliminate the Assistant Chief and Chief positions.

¹⁴⁴ Interview with Soipan Tuya, Nakuru, August 30, 2012.

¹⁴⁵ Interview with Caroline Lentupuru. Nakuru. 21 August 2012; Interview with Soipan Tuya. Nakuru. 30 August 2012.

¹⁴⁶ Interview with Soipan Tuya. Nakuru. 30 August 2012.

6.0 CONCLUSIONS AND LESSONS

The Justice Project piloted an approach for improving women’s access to justice, particularly related to women’s land rights, by enhancing the customary justice system in Ol Pusimoru, Kenya. Project activities targeted groups of key stakeholders in the community regarding women’s rights, including women, Chiefs, Elders, and youth, as well as members of the school community as a mechanism for reaching the broader community. Project activities consisted of: (1) delivery of a training curriculum to targeted groups focused on civic education, legal literacy, rights and responsibilities related to land and forest resources (with special emphasis on rights of women and children), and skill-building; (2) facilitated community conversations with target groups; (3) peer training for targeted groups to share information with others in the community; and (4) public information and education activities to reach the broader community.

USAID supported this evaluation to measure the impact of the Justice Project on women’s access to justice and women’s land access, and to share key lessons. Evaluators measured improvements in the Justice Project area in four local access to justice elements: (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 increased land access for women in the Project area.

The evaluation is 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 equivalent communities where the Project did not operate (control community). The quantitative survey and qualitative fieldwork were completed within three months of the end of Project implementation in the community, so evaluators focused on measurement of discernible short-term Project impacts with the understanding that the full effects of the Project will likely only be realized over a longer term.

6.1 KEY FINDINGS

The most significant findings from the evaluation are summarized here, focusing first on areas in which the Justice Project appears to have made the greatest significant impact in the Justice community when compared with the control, followed by discussion of areas in which the Project appears to have had significant but smaller magnitude effects, and finally a review of areas in which the Project did not make a detectable difference in the short time of its implementation.

The Justice Project seems to have made the greatest significant impact 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: women's legal knowledge; men's understanding of the basic rights of women; and women's familiarity with the local justice system and ADR, though there appears to be some variation in spread of knowledge between trained and untrained members of the Justice community, and related to distance from the center of Project activities.
- Improved effective administration of justice: confidence in fairness and outcomes; and procedural and process improvements. Significantly more women in the Justice community displayed confidence in the fairness of the local justice system and the outcomes should they ever have to access the system than did women in the control community. Qualitative information from the Justice community suggests that people view Elders as competent and fair, which may mean that people feel more confidence in the local system on these points because the role of Elders in dispute resolution has increased over the Project period. In addition, there were concrete changes in local justice processes and procedures in the Justice community that resulted in short-term gains for women, including enactment of a community constitution and bylaws, requirement of family consent for land transactions, enhanced recordkeeping for cases, a new election process for the Council of Elders (resulting in women and youth representation on the Council), and forwarding criminal cases to police, among others.
- Demonstrated social legitimacy and enforceability of these solutions to improve women's rights: 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 has increased over the past year than did women and men from the control community. Qualitative information suggests that men's support is strongest related to changes in women's rights which result in tangible benefits at the household and community level, like women's increased economic activity and asset control, or women's involvement in dispute resolution, but that not all men fully understand and accept changes related to women's rights to own and inherit land.
- Women's access to land. The Project also demonstrated early evidence of some positive impacts on women's land access and control of assets in the Justice community compared with the control community. Anecdotal evidence indicates women have started to gain access to (more) land and importantly, women reported gaining more control over decisions pertaining to their family land, including decisions over how to use the land, what to plant, and where to sell crops, and are controlling the proceeds derived from the land they access.

The Justice Project appears to have made significant but smaller positive differences in the Justice community on additional measured access to justice and women's land access elements:

- Access to appropriate forum: Physical accessibility and performance/social inclusiveness. More women in the Justice community reported easy physical access to the local justice system over the past year than did women from the control community,

but the difference was not of great magnitude. Qualitative information from the Justice community suggests that the improvement in accessibility may be related to Elders achieving an elevated role in dispute resolution, as Elders are generally more prevalent and closer in proximity than Chiefs or other local justice actors. Similarly, though significantly more women in the Justice community tend to perceive that grievances are being handled appropriately, the magnitude of the difference is not large. Qualitative information from the Justice community indicates that those with experience of the local justice system are seeing improvements in responsiveness to women's issues, and women feeling empowered to take cases the Elders and Chiefs. However, more significant and discernible differences between the two communities on these measures may only manifest over time (given the low rate of dispute referral and short Project period) as more members of the community experience disputes that bring them into personal contact with Elders and Chiefs for resolution. The election of women to the Council of Elders (shortly before evaluation fieldwork began) may have a longer-term impact on women's perceptions of the social inclusiveness of dispute resolution in the Justice community.

- Improved effective administration of justice: equal treatment. While 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 contrast with the control community was not striking. Again, it is possible these results may be due to the low number of women in the sample with experience of the justice system during the Project period, and greater changes may come to light over time.
- Women's access to land. There are early signs of some positive impacts on the security of women's land rights in the Justice community compared with the control community. Men in the Justice community are more likely to have intentions to leave equal inheritance among their children and women in the Justice community are more likely to feel secure about maintaining their access to land if they are widowed. Though some of the difference may be due to variations in interpretations of what those rights mean, particularly related to girls inheritance. For instance, men who interpreted equal inheritance for daughters to mean that their daughters will inherit and control the same amount of land as their brothers, but will give up the land upon marriage tend to support and promote equal inheritance among children. On the other hand, men who interpreted equal rights for daughters to mean that daughters will retain ownership of the land even after marriage tend to question the reasoning and implications of leaving land inheritance to daughters. This dichotomy could prevent significant improvements in women's access and tenure security beyond the status quo.

On a few measured impacts, evaluators found no detectable difference between the Justice community and the control community:

- Access to appropriate forum: 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 having

experienced a dispute during the Project period. Given the small number of women with disputes, it may be that few of the women surveyed have direct knowledge of the timeline for resolution of disputes and the costs involved, or women could have unrealistic expectations on these points. It is possible that results on these measures may change over time as more women acquire first-hand experience with the local justice system to resolve disputes.

- Improved effective administration of justice: Chiefs' and 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 information proposes this may be due to variations amongst trained Elders in their understanding and application of constitutional knowledge, and an uneven spread of information to Elders not directly trained by the Project. Qualitative information from the control community also suggests that not all Elders there have knowledge regarding the contents of the Constitution and have made no changes to their dispute processes or decision-making in light of the new Constitution.

Finally, there is anecdotal evidence that the Justice community has experienced improvements in other potential longer-term impacts as a result of improvements in women's access to justice and increased access to land. While these other impacts are outside of the scope of this evaluation, the Justice community reported improvements in overall well-being for women, increased assertion by women of rights to justice and better services, increased education for girls, and reduced domestic violence.

6.2 KEY LESSONS

Evaluation findings point to a few lessons about what was effective, and what may be needed to realize greater improvements in Project targeted impacts:

- Behavior change is difficult and interventions often take a long time to bear fruit. This is particularly true when targeting behavior change in socially-embedded gender norms like those impacting women's land rights. Significant and sustainable improvements in women's land rights take time and require shared understanding and acceptance of the meaning of those rights. It may be useful to conduct additional training with groups of men in the Justice community and facilitated community conversations with these groups to bring more clarity to the nature of women's land ownership and inheritance rights under the Constitution, and give men the space to explore practical implications of institutionalizing these changes over the long-term.
- 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.

- Tangible improvements in processes and procedures of local institutions in the Justice community 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 time 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.
- Solidification of the social legitimacy of women's rights in the community may be realized over time if Elders consistently enforce women's constitutional rights, and men in the community continue receiving information about women's legal rights from Project trainees.
- Projects aimed at behavior change, and those involving training on technical issues like constitutional rights and legal concepts, will benefit from careful consideration of community and target participant characteristics. In the case of behavior change related to women's land rights, projects would benefit from researching target communities before engagement in order to understand possible differences in attitudes and perceptions related to ethnicity, education levels, economic status, etc. so that interventions are relevant to the target community. These considerations may also be relevant to selection of target communities, as some characteristics may make communities more or less receptive to project goals involving women's land rights. In the case of legal literacy training, projects must understand literacy levels of target participants and design a curriculum that can be adapted to the needs of different groups. For instance, it may be necessary to shift from dissemination of written material to verbal explanation with locally relevant examples, role playing, and/or use of drama to effectively convey complex technical or legal concepts to groups with lower literacy levels.
- Chiefs were key stakeholders to the Justice Project and played a vital role in giving Project staff entrée into the community and enabling Project success through their continued engagement. Although it does not seem to be critical to find Chiefs who are already sympathetic to women's rights, it would likely be important to find Chiefs who are open to the purpose of the project from the outset, and who are willing to remain involved in the project as it unfolds in their communities. It may also be important to carefully consider how and when to engage Chiefs in any similar projects in the future, and to ensure that Project design incorporates effective mechanisms for keeping Chiefs informed and involved during the life of the project. If devolution results in significant changes to the role Chiefs play in communities (or the elimination of their position), it may be necessary to conduct research to identify key stakeholders at the local level and explore effective means for approaching and engaging them.
- Finally, 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.

ANNEX 1: THE SELECTION OF A CONTROL COMMUNITY: COMPARISON OF COMMUNITY CHARACTERISTICS AMONG JUSTICE AND CANDIDATE CONTROL COMMUNITIES

Sublocations	Treatment sub-location: Olposumoru	Candidate sub-location for the Control: Olengape	Selected control sub-location: Ololongoi	Candidate sub-location for the Control: Nkokolani
Name of village Elder	Leonard Kuyo	Silas Sicheny	Sammy Kerema	John Sureya
Population estimate according to Kenya Census 2009	2575	2945	2957	3049
Number of Males	1352	1484	1461	1524
Number of Females	1206	1461	1496	1525
Number of Households	668	570	557	538
Average household size	6	6	6	6
Population Density	107.38	120.31	112.43	98.65
Sub Location size in km squared	33.87	24.48	26.3	30.91
Tribal Distribution Estimates (%)				
Maasai	60	70	85	90
Kalenjin	20	15	10	5

Sublocations	Treatment sub-location: Olposumoru	Candidate sub-location for the Control: Olengape	Selected control sub-location: Ololongoi	Candidate sub-location for the Control: Nkokolani
Kikuyu	<5	5	1	<1
Kisii	1	4	1	<1
Others	1	1	1	<1
Land Ownership by Gender (%)				
Male	92	94	89	95
Female	8	6	11	5
Estimated % of the Main Economic Activities				
Agriculture	65	62	70	80
Formal employment	10	15	10	10
Wage employment	10	8	5	5
Self-employment	15	15	15	5
Availability of Educational Institutions				
Primary schools	yes	yes	Yes	yes
Secondary schools	yes	yes	No	no
Skill training institutions	no	yes	No	no
Availability of health facilities				
Clinics	yes	yes	No	no
Dispensaries	no	no	No	no
District Hospitals	no	no	No	no
Referral Hospital	no	no	No	no
Ambulance	no	no	No	no
Availability of Electricity				
	yes	yes	Yes	yes
Transport Vehicles (%)				
Public transport vehicles	10	10	<10	<10
Private vehicles	<5	<3	<5	<5
Motor cycle	80	>80	>85	>85
Bicycles	5	7	10	10
Coverage of Mobile (%)				
Safaricom	60	60	60	60
Yu	5	5	5	5
Orange	5	5	5	5

Sublocations	Treatment sub-location: Olposumoru	Candidate sub-location for the Control: Olengape	Selected control sub-location: Ololongoi	Candidate sub-location for the Control: Nkokolani
Water Sources				
Bore holes	0	0	0	0
Streams	1	1	1	1
Rivers	1	1	1	1
Water pans	0	1	1	1
Community facilities				
Community halls	0	0	0	0
Sporting events	1	0	0	0
Community Information Centers	0	0	0	0

ANNEX 2: INTERVIEW AND FGD GUIDES

Elder FGD Guide

Agenda

1. Introduction of focus group facilitator(s), note-taker and interpreter.
2. Overview of project and focus group goals
3. Introduction of participants.
4. Group establishment of ground rules.
5. Questions and answers (1 hour and 50 minutes) See breakdown below.
6. Summary & next steps (how information will be used, and plans to come back to present findings before national workshop) (10 minutes)

Time:

- Items 1-4: 10-14 minutes
- Elder trainees: 2 hours 15 minutes
- Elder non-trainees: 105 minutes
- Elder CONTROL: 90 minutes

Objectives

1. Learn about customary laws and practices and particularly understand how land rights disputes are resolved.
2. Learn about the effectiveness of the Justice Project Model → project impacts and model for scaling up
3. Validate and understand the results from the household survey

Questions

1. Describe the customary laws and practices in your community

Time: 40 minutes

Emaimaki sharia olmaasai oh olkuaki tole osho

Prompts and probes

1. What are the most significant problems in your village?

Kakua inyamalitin maitanyamalisho tena murua

2. What is the process used to resolve a problem/dispute?

Kakua oitoi oshi eimari peye etumi osotua taitua enyamali arashu eryangar tele osho

- a. Where do men go first? Next?
Kaji oshi engas ilpayiani aapuo tenepuku enyamali tena murua
 - b. Where do women go first? Next?
Kaji oshi engas ingituak aapuo tenepuku enyamali tena murua
 - c. How do men and women start a complaint/dispute?
Ketii oshi qanadi naishori ndai tenindakiki olorere osotuci tena murua
 - d. Is there a compensation/gift/appreciation?
 - e. Is the process different for different kinds of disputes?
Amaa too nyamaliritin naapaasha tena murua ke nkoitoy nabo oshi etumioki osotua
 - f. Is the process different for different kinds of people in the community?
Amaa too nyamaliritin naapaasha tena murua ke nkoitoy nabo eimaa olorere pooki
3. Who are responsible in solving community problems?
Ke ngaie oshi naltayu osotua tena murua
 4. Is the process consistently enforced and applied?
Ke lazima peye esuji ina oitoy peye etumi osotua
 5. How do you handle cases pertaining to land?
Kaji inyoko ilkesin oipinta ilenambai
 6. As traditional leaders how do you handle criminal cases?
Amaa ana ilarikok kaji nkuko ilkesin loo laruok
 7. What is the punishment for guilty people?
Kainyoo eituasi arashu eitalaki lelo oota makosa tena murua
- I. Talk about the impacts (if any) of the Landesa Justice Project to a) their dispute resolution processes and practices; b) norms
➔ Note: this is focused on capturing changes attributable to the project

Time: 40 minutes

Prompts and probes:

8. Have you heard about the Landesa Justice Project? Have you participated in the project?
Itoningo oikata project ee Landesa eeh Ishomo entumo arashu Haasa esiai to Landesa

9. Did the Justice Project help elders solve disputes? If so, how?
Ketaretuo Landesa ilarikok tenkitainoto osotua tena murua

Tenetareto – kaji eikuna teneretu

- a. What kinds of skills have the elders developed and applied?
Kaa ngeno onotito ilarikok neitumia temuru enye
- b. Are there more or less disputes in the community now than there were one year ago? Why?
Amaa tiatua oluri obo otulusoye ketoponari arashu ketaa kutu inyamalaritin tena murua

Eeh – Ainyoo

10. What kinds of changes have you imposed because of the project?
Kakua mabadiliko naatupukutuo anaa peye eiteru Landesa

- a. Focus on last election of elders. Was the process different this time? What was different? Why? Did this result in a difference in the elders body? What?
Egelunoto oo larikok
- b. (Verify IF Elders were involved on this decision. Note that according to Caroline, this was imposed by the Chief(s). If involved:) Discuss the required documentation of land transactions and ensuring spousal consent)? How did this come about? Why is this important? How are you involved in implementing this process?

11. What kind of changes have you noticed in norms and attitudes have you noticed in the community (particularly between men and women) that you think is attributable to the Justice Project?
Kakua kibeleyenat orkuaki itayolito tena murua tengaraki ilpayiani ongituak

12. How do you think about formal system and traditional system?
a. What is the current role of elders? How is this different than before?

13. Are there other factors, aside from the Justice Project, that contributed to the changes mentioned above? (Specify which change & factor.)

14. What activity did you find most useful? Why?
Kaa sias ee project inoitito eeta tipat oleng? Ainyoo?

15. What would you add or take away in the model to make it more effective/ provide more improvements in the community?

16. In your opinion, did the Justice Project involve the right people in the community to reach the project's goals? If not, what groups should have been involved or should have been left out?

17. Now that the project has ended, will you continue to implement the lessons you learned from the project?

Amaa amu eishunye Landesa intumiyaa engeno ninotito tena project ee Landesa?

a. Do you have your own plans moving forward?

Latuta ibaa nitipika dukuya

b. Which lessons do you plan to implement? Why? How?

Kakua baa iyeu ninteruru? Ainyoo?

c. Which lessons/activities(?) will you not continue to implement? Why?

Non trainees:

18. From what you know about the Justice Project, what training or other activity/ies do you think they need and will find most useful? Why?

II. Validate results from the household survey.

Time: *30 minutes*

Procedure: Show results on the following:

(Due to time constraints, we shall show and discuss results of one out of the three key topics for each group of elders. There are 4 different groups of elders.)

a) Most significant problems in the village according to men and women. Pay attention on how this is different or similar to their own answers and discuss why. Discuss these problems in relation to land issues. Pay attention on how significant land issues are in the community. Note we define significant in terms of volume and magnitude and not the severity of the problem.

b) Women's perceived improvements of elder's performance and the dispute resolution mechanism. What are their thoughts on the results? Do they agree/disagree? What do they find surprising, if any? Why? For those where women said there's improvement, what do they think were the specific improvements? For those that did not change (neither worsen nor improve), which ones remained the same because they think there's no need to improve on this? Which ones need improvement in the future? Which ones do they think improvements were already made but women have a different perception?

Example of results/table we will present: (To be translated in Maasai)

<u>Areas where women noticed a positive change in the past year. Namely:</u>	<u>Areas where women did not perceive a change within the past year:</u>
Elders & chief function better	Elders' treatment of women and men
Grievances were heard	Elders' treatment of rich & poor
Enforcement is participatory	Elders' treatment of educated & less educated
Dispute resolution system is financially affordable	Promptness of the dispute resolution mechanism
Justice system is physically accessible	Elders' knowledge of the Constitution
Women have more confidence in the fairness of the dispute resolution process	Impartiality of the dispute resolution mechanism
Women have more confidence in the outcomes if ever they need to access the local justice system	

- c) Show areas in which men and women perceived as areas that there have been improvements and areas in which there has been no change. Discuss if they agree and why? Note comments about this area we still need to improve on, this area we already have made improvements, this area needs no further improvements. Talk about what kinds of improvements and how did they improve?

Project Staff Semi-structured Interview Guide

Objectives:

1. Understand how the model was implemented.
2. Understand disputes and dispute resolution mechanisms and processes in the treatment areas to help inform FGD's.
3. Confirm quantitative assessment results

I. Justice Project Model

- 1) Describe the model as you understand it
 - a. Most effective components of the model and why?
 - b. What did not work and why?
 - c. Talk about the activities and who are involved
 - d. Talk about the substance/message for each group
 - e. Talk about what was set out as measure of success for the project as you understand it.
- 2) Her role in the project
 - a. Original
 - b. Any changes?
- 3) Changes in the design from the original. Why?
 - a. What adjustments were made along the way and why? Describe changes in activities and changes in the model.
 - b. Are there changes or additions/supplements that you made to the curriculum? If so, what did you change or add? With which groups? What were the reasons for the changes?
- 4) What would you have changed in the project design? Why?
 - a. What would you have added given budget constraints? Why?
 - b. What would you remove if you have to? Why?
- 5) What changes have you noticed among a) elders, b) chiefs, c) men, d) women in the community that you think are attributable to the project?
- 6) Who are the key persons aside from project staff that made this project effective? Why and how? (Note that we want to identify people if any, that if not present, the project would have been ineffective or impacts would have been significantly lower)
- 7) Do you think the project is sustainable even without external support/funding? Why? How?
- 8) Are there other factors that you think influenced the impacts of the project?
 - a. Positive
 - b. Negative/setbacks

- c. Conditions in the area that supported or hindered the project
- II. Describe the customary laws and practice, particularly related to disputes resolution in the community as you understand it.
- 9) What is the process used to resolve a problem/dispute?
 - a. Where do men and women go first? Next?
 - b. How do men and women start a complaint/dispute?
 - c. Is there a fee?
 - d. Is the process different depending on gender, socio-economic status, ethnicity, or the kind of problem/dispute?
 - 10) Which leaders are involved in solving community problems?
 - 11) How do they handle cases pertaining to land?

III. Discuss the results of the quantitative assessment

- Most significant problems in the village according to men and women. Pay attention to how this is different or similar to her own or project staff' assessment
- Difference between treatment and control on perceptions about the improvements in dispute resolution and perception pertaining to women in the area. What does she think of these results? Discuss explanations for this pattern.
- Show areas in which men and women perceived as areas that there have been improvements and areas in which there has been no change. Discuss if she agrees and why? (Relate this to the project.)

Youth FGD Guide

Agenda:

7. Introduction of focus group sponsors and facilitator(s).
8. Overview of project and focus group goals
9. Introduction of participants.
10. Group establishment of ground rules.
11. Questions and Answers
12. Summary and next steps (plan to share findings before national workshop)

Objectives:

2. Learn about the role of youth volunteers in the Justice Project, particularly the school curriculum and peer sessions
3. Learn about the effectiveness of the Justice Project Model → project impacts and relevance for youth

Questions

- III. Describe your role in the Justice Project as you understand it

Prompts and probes:

19. What activities did you participate in with the Justice Project?
 20. What were your responsibilities as youth volunteers?
 21. How were you involved with teachers and children in the schools? How often did you work in the school? What did you do when you were there?
 22. What was your experience in conducting peer trainings/information sessions?
 - a. Did you find the peer sessions useful for yourself? If so, how? If not, why?
 23. Do you think the peer sessions were an effective way to share Justice Project information with others in the community? Why or why not?
- IV. Talk about the impacts (if any) of the Justice Project to a) their knowledge, attitudes and perceptions; b) norms in the community
- Note: this is focused on capturing changes attributable to the project
24. What activity did you find most useful? Why?
 25. What kind of knowledge or skills did the Justice Project help build for youth volunteers?
 26. How have you used this new knowledge or skill?
 27. Now that the project has ended, will you continue to implement the lessons you learned from the project?
 - a. Do you have your own plans moving forward?

- b. Which lessons do you plan to implement? Why? How?
 - c. Which lessons/activities(?) will you not continue to implement? Why?
28. What kind of changes in norms and attitudes have they noticed in the community (particularly amongst youth) that they think is attributable to the Justice Project?

Deputy Principal and Teacher Semi-structured Interview Guide

Objectives:

4. Understand how the school component of the Landesa Justice Project was implemented.
5. Understand impacts (if any) of Justice Project in schools.

IV. School component of the Landesa Justice Project

- 12) Describe the school component of the Landesa Justice Project as you understand it
 - a. Most effective aspects of the Landesa Justice Project work in schools and why?
 - b. What did not work and why?
 - c. Talk about the activities in schools and who are involved
 - 13) Role in the project (Deputy Principal or teacher)
 - a. What was your understanding of your role at the beginning of the project?
 - b. Did your role change over time? If so, how and why?
 - 14) Did anything change in the way the school curriculum was delivered? Why?
 - a. Are there changes or additions/supplements that you made to the curriculum? If so, what did you change or add? What were the reasons for the changes?
 - b. Are there parts of the curriculum that you did not end up teaching? If yes, why? (We want to find out whether he/she deliberately did not include it because he/she found it to be irrelevant/controversial/difficult/etc OR he/she simply did not get to teach it because there was not enough time or any other unforeseen reason)
 - 15) Describe your interaction with the youth group and the role that they played and please give us feedback on how effective that was.
 - a. Did you find working together with the youth to be helpful? Easy/difficult? Productive? Effective?
 - 16) What would you have changed about the way the Project worked in schools? Why?
 - a. What would you have added? Why?
 - b. What would you remove if you have to? Why?
- II. Talk about the impacts (if any) of the Justice Project to a) their teaching practices; b) norms in the community
- Note: this is focused on capturing changes attributable to the project
- 17) Do you do anything differently in your work in the schools as a result of the Justice Project? What? Why?
 - a. Do you plan to continue implementing these changes even after the Landesa Justice Project is over?
 - i. Why or why not?

- 18) What changes have you noticed among a) youth, b) teachers, c) students, d) parents (wife and husband), e) others in the community that you think are attributable to the project?
- 19) What other factors, if any, contribute to these changes aside from the project?
- 20) Do you think the project is sustainable even without external support/funding? Why? How?
- 21) If something similar was to be implemented in other schools in Kenya, do you think it would be effective? Why or why not? What would need to be changed in your opinion for that scale?

Chief and Assistant Chiefs FGD Guide

Agenda

13. Introduction of focus group facilitator(s), note-taker and interpreter.

14. Overview of project and focus group goals

15. Introduction of participants.

16. Group establishment of ground rules.

(Items 1-4: 10 minutes)

17. Questions and Answer (1 hour and 10 minutes) See breakdown below.

Summary & next steps (how information will be used, and plans to come back to present findings before national workshop) (10 minutes)

Total time: 90 minutes

Objectives

4. Learn about customary laws and practices and particularly understand how land rights disputes are resolved.
5. Learn about the effectiveness of the Justice Project Model → project impacts and model for scaling up
6. Validate and understand the results from the household survey

Questions

V. Describe the customary laws and practices in your community

Time: 25 minutes

Emaimaki sharia olmaasai oh olkuaki tole osho

Prompts and probes:

29. What are the most significant problems in your village?

Kakua inyamalitin maitanyamalisho tena murua

30. What is the process used to resolve a problem/dispute?

Kakua oitoi oshi eimari peye etumi osotua taitua enyamali arashu eryangar tele osho

a. Where do men go first? Next?

Kaji oshi engas ilpayiani aapuo tenepuku enyamali tena murua

b. Where do women go first? Next?

Kaji oshi engas ingituak aapuo tenepuku enyamali tena murua

c. How do men and women start a complaint/dispute?

Ketii oshi qanadi naishori ndai tenindakiki olorere osotuci tena murua

d. Is there a compensation/gift/appreciation?

e. Is there a fine? How is it imposed?

f. Is the process different for different kinds of disputes?

Amaa too nyamaliritin naapaasha tena murua ke nkoitoi nabo oshi etumioki osotua

g. Is the process different for different kinds of people in the community?

Amaa too nyamaliritin naapaasha tena murua ke nkoitoi nabo eimaa olorere pooki

h. Is the process consistently enforced and applied?

Ke lazima peye esuji ina oitoy peye etumi osotua

31. How do you handle cases pertaining to land?

Kaji inyoko ilkesin oipinta ilenambai

32. As traditional leaders how do you handle criminal cases?

Amaa anaa ilarikok kaji nkuko ilkesin loo laruok

33. What is the punishment for guilty people?

Kainyoo eituasi arashu eitalaki lelo oota makosa tena murua

34. How do you think about formal system and traditional system?

a. What is the current role of elders? How is this different than before?

VI. Talk about the impacts (if any) of the Landesa Justice Project to a) their dispute resolution processes and practices; b) norms

➔ Note: this is focused on capturing changes attributable to the project

Time: 35 minutes

Prompts and probes:

35. Have you participated in the Landesa Justice project? If yes, how?

36. What activity did you find most useful? Why?

Kaa sias ee project inoitito eeta tipat oleng? Ainyoo?

37. Did the Justice Project help you solve disputes? If so, how?

Ketaretuo Landesa ilarikok tenkitainoto osotua tena murua

Tenetareto – kaji eikuna teneretu

a. Are there more or less disputes in the community now than there were one year ago? Why?

Amaa tiatua oluri obo otulusoye ketoponari arashu ketaa kutu inyamalaritin tena murua

Eeh – Ainyoo

- b. Are more or less disputes going to the Assistant Chiefs and Chief now that a year ago?

38. What kinds of changes have you imposed because of the project?

Kakua mabadiliko naatupukutuo anaa peye eiteru Landesa

- a. Focus on the required documentation of land transactions and ensuring spousal consent). How did this come about? Why is this important? How are you involved in implementing this process?

39. What kind of changes have you noticed in norms and attitudes have you noticed in the community (particularly between men and women) that you think is attributable to the Justice Project?

Kakua kibeleyenat orkuaki itayolito tena murua tengaraki ilpayiani ongituak

40. Are there other factors, aside from the Justice Project, that contributed to the changes mentioned above? (Specify which change & factor.)

41. What would you add or take away in the model to make it more effective/ provide more improvements in the community?

42. In your opinion, did the Justice Project involve the right people in the community to reach the project's goals? If not, what groups should have been involved or should have been left out?

43. Now that the project has ended, will you continue to implement the lessons you learned from the project?

Amaa amu eishunye Landesa intumiyaa engeno ninotito tena project ee Landesa?

- a. Do you have your own plans moving forward?

Latuta ibaa nitipika dukuya

- b. Which lessons do you plan to implement? Why? How?

Kakua baa iyeu ninteruru? Ainyoo?

- c. Which lessons/activities(?) will you not continue to implement? Why?

VII. Validate results from the household survey.

Time: 20 minutes

Procedure: Show results on the following:

- d) Most significant problems in the village according to men and women. Pay attention on how this is different or similar to their own answers and discuss why. Discuss these problems in relation to land issues. Pay attention on how significant land issues are in the community. Note we define significant in terms of volume and magnitude and not the severity of the problem.
- e) Women's perceived improvements of elder's performance and the dispute resolution mechanism. What are their thoughts on the results? Do they agree/disagree? What do they find surprising, if any? Why? For those where women said there's improvement, what do they think were the specific improvements? For those that did not change (neither worsen nor improve), which ones remained the same because they think there's no need to improve on this? Which ones need improvement in the future? Which ones do they think improvements were already made but women have a different perception?

Example of results/table we will present: (To be translated in Maasai)

<u>Areas where women noticed a positive change in the past year. Namely:</u>	<u>Areas where women did not perceive a change within the past year:</u>
Elders & chief function better	Elders' treatment of women and men
Grievances were heard	Elders' treatment of rich & poor
Enforcement is participatory	Elders' treatment of educated & less educated
Dispute resolution system is financially affordable	Promptness of the dispute resolution mechanism
Justice system is physically accessible	Elders' knowledge of the Constitution
Women have more confidence in the fairness of the dispute resolution process	Impartiality of the dispute resolution mechanism
Women have more confidence in the outcomes if ever they need to access the local justice system	

- f) Show areas in which men and women perceived as areas that there have been improvements and areas in which there has been no change. Discuss if they agree and why? Note comments about this area we still need to improve on, this area we already have made improvements, this area needs no further improvements. Talk about what kinds of improvements and how did they improve?

Women beneficiaries FGD Guide

Agenda

18. Introduction of focus group facilitator(s), note-taker and interpreter.
19. Overview of project and focus group goals
20. Introduction of participants.
21. Group establishment of ground rules.
(Items 1-4: 10-15 minutes)
22. Questions and Answer (1 hour and 40 minutes)
23. Summary & next steps (how information will be used, and plans to come back to present findings before national workshop) (10 minutes)

Total time: 2 hours

Objectives

- 1) Provide context, validate and understand the results from the household survey.
- 2) Learn about the factors that led to changes in women's perceptions about their access to justice in their community and examine to what extent these impacts are attributable to the Landesa Justice Project
 - a. Understand the extent of the impacts (women beneficiaries vs. non-beneficiaries in the community, women vs. men, this community vs. other communities)
 - b. Understand the factors that led to the elements of access to justice that were most impacted, less impacted, and not impacted.

Part I. Question and Answer Portion

44. What is the process that women in the community go through when they have a problem or a dispute? Who do you go to first? Next?
45. How do you think about formal system and traditional system?
 - a. What is the current role of elders? How is this different than before?
46. What does Alternative Dispute Resolution mean to you?
47. Thinking about the Justice Project, what activity did you find most useful? Why?
48. Did the Justice Project help you understand your rights? If so, how?
 - a. What are those rights?
 - b. (If they express increased understanding of rights) How does/did knowing your rights help you?
49. What kinds of skills have you developed through the Justice Project and how have these skills helped (will help) you?
50. What kinds of changes have you imposed because of the project?

51. What kind of changes in norms and attitudes have you noticed in the community (particularly between the chiefs, elders and men in the community) that you think are attributable to the Justice Project?
52. Are there other factors, aside from the Justice Project, that contributed to the changes mentioned above? (Specify which change & factor.)
53. What would you add or take away in the model to make it more effective/ provide more improvements in the community?
54. In your opinion, did the Justice Project involve the right people in the community to reach the project's goals? If not, what groups should have been involved or should have been left out?
55. Now that the project has ended, will you continue to implement the lessons you learned from the project?
 - a. Do you have your own plans moving forward?
 - b. Which lessons do you plan to implement? Why? How?
 - c. Which lessons/activities(?) will you not continue to implement? Why?

Part II. Participatory validation of results

- I. Perceptions results between those who have heard about the Justice Project vs those who have not heard about the project
- II. Perceptions results between men and women
- III. Perceptions results between treatment and control villages

Women non-beneficiaries FGD Guide

Agenda

24. Introduction of focus group facilitator(s), note-taker and interpreter.
25. Overview of project and focus group goals
26. Introduction of participants.
27. Group establishment of ground rules.
(Items 1-4: 10-15 minutes)
28. Questions and Answer (40 minutes)
29. Summary & next steps (how information will be used, and plans to come back to present findings before national workshop) (10 minutes)

Total time: 1 hour

Objectives

- 3) Provide context, validate and understand the results from the household survey.
- 4) Learn about the factors that led to changes in women's perceptions about their access to justice in their community and examine to what extent these impacts are attributable to the Landesa Justice Project
 - a. Understand the extent of the impacts (women beneficiaries vs. non-beneficiaries in the community, women vs. men, this community vs. other communities)
 - b. Understand the factors that led to the elements of access to justice that were most impacted, less impacted, and not impacted.

Part I. Question and Answer Portion

56. What is the process that women in the community go through when they have a problem or a dispute? Who do you go to first? Next?
57. How difficult/easy is it for women to start a dispute?
58. Is this process the same for men? If not, what is different for men?
59. How do you think about formal system and traditional system?
 - a. What is the current role of elders?
 - b. What is the current role of the Chief and Assistant Chiefs?
 - c. Are their roles different than before? If so, how?
60. Traditionally, how do women get access to land?
 - a. Has it changed over time? If yes, how?
 - b. What factors led to those changes
61. What kind of changes in norms and attitudes have you noticed, if any, in the community (particularly between the chiefs, elders, men and other women in the community) over the past year?

62. What do you think contributed to the changes mentioned above?

63. Have you heard about the Landesa Justice Project? Have you participated in the project?

Itoningo oikata project ee Landesa eeh Ishomo entumo arashu Haasa esiai to Landesa

64. From what you know about the Justice Project, what training or other activity/ies do you think you need and will find most useful? Why?

Part II. Participatory validation of results

IV. Perceptions results between those who have heard about the Justice Project vs those who have not heard about the project

V. Perceptions results between men and women

VI. Perceptions results between treatment and control villages

Men FGD Guide

Agenda

30. Introduction of focus group facilitator(s), note-taker and interpreter.
31. Overview of project and focus group goals
32. Introduction of participants.
33. Group establishment of ground rules.
(Items 1-4: 10-15 minutes)
34. Questions and Answer (40 minutes)
35. Summary & next steps (how information will be used, and plans to come back to present findings before national workshop) (10 minutes)

Total time: 1 hour

Objectives

- 5) Understand men's perceptions about women's rights and women's land rights and if and how these perceptions changed over time.
- 6) Understand the extent of the impacts of the project in the community particularly among men.
- 7) Validate and understand the results from the household survey.

Part I. Question and Answer Portion

65. What is the process that women in the community go through when they have a problem or a dispute? Who do you go to first? Next?
 - a. IF for instance a woman has an issue/dispute with a neighbor, where should she go first?
66. What role do women play in a) the household and b) in the community?
 - a. Is there a role for women in dispute resolution?
67. What kinds of rights do women have in your community?
 - a. Has this changed over time? If so, how?
 - b. What brought about this change?
 - c. How do you feel about this change?
68. Traditionally, how do women get access to land?
 - a. Has it change over time? If yes, how?
 - b. What factors led to those changes?
 - c. How do you feel about these changes? Do they bring positive or negative impacts?
69. What kind of changes in norms and attitudes have you noticed, if any, in the community particularly between the chiefs, elders, and other men over the past year?

- a. What do you think contributed to the changes mentioned above?
 - b. How do you feel about these changes?
70. Have you heard about the Landesa Justice Project? Have your wife participated in the project?

Itoningo oikata project ee Landesa eeh Ishomo entumo arashu Haasa esiai to Landesa

71. From what you know about the Justice Project, would you want to be involved in the project? Why or why not?
- a. What types of activities will you find most useful?

Part II. Participatory validation of results

VII. Perceptions results between men and women

VIII. Perceptions results between treatment and control villages

Woman with Dispute Semi-structured Interview Guide

Objectives:

- 1) Learn where women go if they have a dispute.
- 2) Understand the dispute resolution process for women.
- 3) Know the possible barriers and challenges that women with dispute face.

Questions/Discussion Guide:

- 1) What was the dispute about?
- 2) When did the problem start?
- 3) When did you first report the problem/When did you first report the dispute?
- 4) Where did you go first?
- 5) Why did you go there?
- 6) Describe to us the dispute resolution process.
 - a. What did the (authority that she went to first → chief/elders/police/etc) do?
 - b. Who else were involved?
 - c. What actions were taken?
- 7) Were you satisfied with the process?
- 8) Was your case resolved?
 - a. What was the resolution?
 - b. When was it resolved?
- 9) Were you satisfied with the outcome?
 - a. If yes, why?
 - b. If no, why not?
 - i. What did you do next? (***If interviewee went to another institution, ask #5-9 all over again. It is very important that we capture all the processes she had to go through and capture her impressions for each institution.***)

ANNEX 3: SURVEY QUESTIONNAIRE



Justice Project Evaluation
Husband's Questionnaire
July 2012

For Supervisors: Complete this section for every questionnaire.

Field Supervisor Check (field), print surname: _____

Date of 1st questionnaire check: _____

1) Interview Status (Tick only one):

Fully Completed ____ - 1

Partially Completed ____ - 2

Invalid (NOT to be included on the database) ____ - 99

2) Date of Final Approval of Questionnaire: _____

3) Total number of visits: _____

4) Household Substitution Status:

Sampled Household ____ - 1

Replacement Household ____ - 2

Interview starting time: Hour Minute

Name of Interviewer: _____

Code

Name of Supervisor: _____

Code

Date of interview: day month year

--	--	--	--	--	--

HH ID:

--	--	--

Good day. My name is _____. I am working for ROC Associates Consultants/Landesa. We are currently conducting a survey on women's access to justice in relation to land, as part of evaluating the effectiveness of the Landesa Justice project that was just recently concluded in Olposimoru sub-location.

I assure you that everything you tell me in this interview, including your name and personal information, will be kept completely private and confidential. The only other person from this study who may visit you would be my supervisor, and [s/he] would only visit to make sure that I conducted the interview properly.

It is entirely up to you whether you want to take part in this study. Please note that you have the right to refuse to answer any question or to change your mind at any point in the interview, and stop the interview at that point. If you feel uncomfortable with a question, just let me know and we can skip it. However, because your answers are very important to us, I ask that, if you do agree to be interviewed, you be completely honest and sincere with me, and answer all the questions.

Husband's Name: _____

I. Familiarity to the Justice Project

For Landesa Justice Villages only		Code:
1) Do you know about the Landesa Justice project?	1 = Yes 2 = No Go to → Table 2	
2) How did you know about it? (Mark all that apply.)	1 = I personally attended/participated in one of the activities. 2 = I know someone who attended/participated in one of the activities. 3 = I heard about it through village officials (elders and/or chief). 4 = I heard about it through the women in the community. 5 = I heard about it through the youth members of the community. 6 = I heard about it through my children. 7 = I heard about it through school teachers in the community. 8 = Other (Specify) _____	

II. Land rights

Let's first talk about YOUR Household...		Code
1) Will your son(s) inherit land?	0. No, we have no land. 1. No, we have no sons. 2. No 3. Yes	
2) Will your daughter(s) inherit land?	0. No, we have no land. → Go to 4 1. No, we have no daughters. → Go to 4 2. No, only my sons will inherit land from us. 3. Yes, but less than their brother(s). 4. Yes, equally with their brother(s). → Go to 4 5. Yes, I only have daughters. → Go to 4	
3) Why not (or why not equal to their brothers)? (Mark all that apply.)	1. Our daughter(s) will get land from their husbands. 2. Only sons inherit land by tradition. 3. We do not have enough land to give to our daughter(s). 4. Our daughters have other form of inheritance (cash, jewelries, etc.).	
Let's talk about your COMMUNITY...		
4) Do women have a constitutional right to own land?	1. Yes 2. Yes, in some cases. Please explain _____ 3. No	
5) If their husbands pass away, how likely are women in this village/community to lose access to land?	1. Very likely 2. Likely 3. Unlikely 4. Very unlikely	
6) If their husbands divorce/abandon them, how likely are women in this village/community to lose access to land?	1. Very likely 2. Likely 3. Unlikely 4. Very unlikely	
7) If their husbands marry another wife, how likely are women in this village/community to lose access to land?	1. Very likely 2. Likely 3. Unlikely 4. Very unlikely	
8) If the village leaders change, how likely are women in this village/community to lose access to land?	1. Very likely 2. Likely 3. Unlikely 4. Very unlikely	
9) Suppose a woman lose access to land because of any of the reasons we talked about, how likely is she to raise dispute against her husband or family members (brothers, in-laws, etc) to the elders or the chief?	1. Very likely → Go to → 11 2. Likely Go to → 11 3. Unlikely 4. Very unlikely	
10) If unlikely or very unlikely, why? (Mark all that apply.)	1. It is not acceptable in the community to file disputes against family members. 2. She is most likely afraid to file a complaint against her husband, siblings or in-laws. 3. In the end local authorities will favor the men to protect family harmony. 4. Local authorities will not be able to enforce their decision anyway even if they rule in favor of the women. 5. Other _____	
11) How likely is she to regain access to land as a result of going to the elders and/or the chief?	1. Very likely → Go to Section 3 2. Likely → Go to Section 3 3. Unlikely 4. Very unlikely	
12) If unlikely or very unlikely, why?	1. The elders and/or chief tend to favor the men to protect family harmony.	

Mark all that apply.	2. The elders and/or chief do not have the will or the capacity to enforce their decision even if they rule in favor of the women. 3. Other _____	
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III. Perceptions

In the LAST YEAR (2011):	Specify whether you 1 = Strongly disagree; 2 = Disagree; 3 = Neither agree nor disagree; 4 = Agree; 5 = Strongly agree
1. The chief and elders in my village function better	
2. The chief and elders in my village treated:	
a) Men and women equally	
b) Richer and poorer equally	
c) Educated and less educated equally	
3. Grievances were heard appropriately	
4. The dispute resolution mechanism has been very prompt	
5. The elders have improved legal/technical knowledge about the Constitution	
6. The dispute resolution mechanism is impartial	
7. Enforcement of the decision is participatory	
8. The justice system/dispute resolution is financially affordable	
9. Physical access to the justice system is easy (close by)	
10. I am more familiar about my rights as a citizen	
11. I am more familiar with the local justice system	
12. I am more familiar with alternative dispute resolution	
13. I have more confidence in the fairness of the dispute resolution process	
14. I have more confidence in the outcomes if I ever need to access the local justice system	
15. I better understand women's rights	
16. Men in my community better respect women's rights	

END OF HUSBAND's interview. PROCEED to interviewing the wife.



**Justice Project Evaluation
WOMEN'S Questionnaire
July 2012**

HH ID:

Good day. My name is _____. I am working for ROC Associates Consultants/Landesa. We are currently conducting a survey on women's access to justice in relation to land, as part of evaluating the effectiveness of the Landesa Justice project that was just recently concluded in Olposimoru sub-location.

I assure you that everything you tell me in this interview, including your name and personal information, will be kept completely private and confidential. The only other person from this study who may visit you would be my supervisor, and [s/he] would only visit to make sure that I conducted the interview properly.

It is entirely up to you whether you want to take part in this study. Please note that you have the right to refuse to answer any question or to change your mind at any point in the interview, and stop the interview at that point. If you feel uncomfortable with a question, just let me know and we can skip it. However, because your answers are very important to us, I ask that, if you do agree to be interviewed, you be completely honest and sincere with me, and answer all the questions.

FEMALE Respondent's Name _____	
HH Head's Name: _____ (Write 95 = if same as Respondent's name)	
Father/Husband's Name: _____ (Write 95 = if same as HH Head's Name)	
Cluster No.: <input type="checkbox"/> <input type="checkbox"/> 1=Treatment 2=Control	Village _____ code: <input type="checkbox"/> <input type="checkbox"/>
How long have you lived in this village? Years <input type="checkbox"/> <input type="checkbox"/> 95 = Always	
How long have you lived in this household? Years <input type="checkbox"/> <input type="checkbox"/> 95 = Always	
Religion of the respondent: _____	
Ethnicity of the respondent: _____	

Code for religion: 1=Christian 2=Traditional religion 3=Islam 4=others (specify)

Code for ethnicity: 1=Maasai 2=Kalenjin 3=Kisii 4=Kikuyu 5=Ogiek 6=others (specify)

Code for villages: 1=Olposimoru 2=Tegat/Olmariko 3=Esoit 4=Oloirien 5=Oloolong'oi 6=Olepolos 7=Enkusero 8=Kamurar (Specify village)

2. Household Roster (Enumerators: If there are more than 10 household members living in this address, list on a separate sheet of paper and attach it here.)

Who are those household members living in this address?

N o	Name (WRITE RESPONDENT FIRST)	2.1. Age	2.2. Sex 1 = Male 2 = Female	2.3. Relationship to FEMALE RESPONDENT (See code below)	2.4. Highest level of education (See code below)	2.5. Marital status (See code below)	2.6. Occupation (See code below)	2.7. Does s/he earn income? 1 = Yes; 2 = No -> Go to next person	2.8. Type of income: 1 = Regular 2 = Seasonal	2.9. If Yes, About how much does he/she earn per week in KES
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										

Code for 2.3: Relationship to FEMALE Respondent

- 01 = You
- 02 = Husband
- 03 = Son/Daughter
- 04 = Son/daughter in law
- 05 = Parent
- 06 = Parent-in-law
- 07 = Brother/Sister
- 08 = Brother/sister-in-law
- 09 = Other relative
- 10 = Grandchildren
- 11 = Non-relative
- 12 = Other (Specify) _____

Code for 2.4: Education

- 01 = Never been to school
- 02 = Lower Primary
- 03 = Upper Primary
- 04 = Secondary
- 05 = University
- 06 = Other tertiary institutions

Code for 2.5: Marital Status

- 01 = Never married
- 02 = Married (monogamous)
- 03 = Married (polygamous)
- 04 = Separated/deserted
- 05 = Divorced
- 06 = Widow/widower

Code for 2.6: Occupation

- 1 = Farming on own land
- 2 = Farming on other's land
- 3 = Agricultural day labor or contract labor
- 4 = Poultry and livestock rearing;
- 5 = Non-agricultural day labor or contract labor;
- 6 = Regular salaried employment in Government, NGO or other institutions;
- 7 = Regular salaried employment in some fixed business establishment (shop, factory, hotel, etc.) or in transport sector (bus, truck, etc.)
- 8 = Student

3. Land ownership and well-being indicators

Enumerator: Write answer on the box where boxes are provided. Encircle the corresponding number choices where numbers are provided.

3.1 How many parcels or plots of land do your household own?		□ □
3.2 How much land does your household own? (Enumerators: If there are several households living in the same homestead, the respondent should mention the area of homestead that his/her household owns or has claim to. If there is no land, then write 00 and go to 3.4)	Amount of land Homestead Cultivable including land for livestock	Acre □ □ □ . □ □ □ □ □ . □ □
3.3 For the parcel(s) of land you own, is the ownership document under your name or the head of household? (Mark all that apply.)	My name My husband's name My sons' name Other, Specify _____	1 2 3 4
3.4 Does your HH own this house (that you currently live in)?	Yes No	1 2
3.5 What is the main construction material of the walls of the house?	Mud Timber Stone	1 2 3
3.6 Does the household own any cattle?	Yes No → Go to 3.8	1 2
3.7 Number of livestock owned:	3.9.1 Sheep 3.9.2. Cows 3.9.3 Goats 3.9.4 Donkeys 3.9.5 Poultry/chicken 3.9.6 Other, Specify _____	□ □ □ □ □ □ □ □ □ □ □ □
3.8 How many meals does your household take per day?	1 1 Meal 2 2 Meals 3 3 Meals 4 4 Meals	1 2 3 4
3.9 Do you remember missing a meal?	Yes No → Go to 3.11	1 2
3.10 If Yes, how many times have you missed a meal in the last one week?		
3.11 Are you, or any of your HH members, a member of a NGO/Micro Finance Institution?	Yes No	1 2
3.12 Are you a member of a polygamous household?	Yes No	1 2

4. Types of disputes

	4.1. How much of a concern are these abuses/crimes/disputes to you?	4.2. Do you know someone who has experienced this? <i>If respondent answered 3 or 4, go to the next dispute item</i>	4.3. When did the conflict arise?	4.4. What have you done, if any, to address these threats?	4.5. Has it been resolved? 1 = Yes 2 = No → Go to 4.7	4.6. Time taken between seeking help and the settlement (# of days/weeks/months) (Go to next item)	4.7. Why not? (Go to next item)
Problems/Abuses/Crimes/Disputes							
4.A. Land property related problems							
4.A.1 Dispute with neighbors over boundaries							
4.A.2. Land expropriated by Government							
4. A.3 Land taken by powerful individuals							
4. A.4 Dispute related to selling or buying <u>land</u> from a private individual							
4.A.5 Trespassing and/or dispute over right-of-way/right-to pass by a private land							
4.B. Family or intra-household disputes							
4.B.1. Dispute involving property due to a divorce/separation							
4.B.2. Dispute involving inheritance of land and property							
4.B.3. Domestic violence							
Enumerators: Continue on next page...							
Code for 4.1 1 = Very worried 2 = Fairly worried 3 = Not very worried 4 = Not worried at all 5 = Not applicable	Code for 4.2 <u>Someone who experienced</u> 1 = Happened to me personally 2 = Happened to someone living in my household 3 = Personally know someone in this community to whom this happened 4 = Have heard about it happening in this community from news or third-person stories	Code for 4.4 1 = Nothing 2 = Discussed concerns or settled problem with person(s) concerned 3 = Went to a family elder 4 = Went to village elders 5 = Went to the chief/Assistant chief 6 = Went to the police 7 = Discuss matter with a church, CBO or media 8 = Attended public meeting(s) to discuss the issue 9 = Involved other community members to address the issue 10 = Formed/joined a new community group to address the problem 11 = Went to court 12 = Peace committee 13 = Other, Specify			Code for 4.7 1 = I did not take action because it's too costly 2 = I did not take action because I know authorities will not/cannot resolve it. 3 = I did not take action because the system is unfair/biased. 4 = The authorities I consulted did not take action 5= The dispute resolution mechanism (DRM) has been very lengthy 6= The institution consulted has no enforcement capability or will to enforce 7 = We did not reach agreement and so the issue remains		

Section 4 continued: Types of disputes

	4.1. How much of a concern are these abuses/crimes/disputes to you?	4.2. Do you know someone who has experienced this? <i>If respondent answered 3 or 4, go to the next dispute item</i>	4.3. When did the conflict arise?	4.4. What have you done, if any, to address these threats? Mark all that apply	4.5. Has it been resolved? 1 = Yes 2 = No →Go to 4.7	4.6. Time taken between seeking help and the settlement (# of days/weeks/months) (Go to next item)	4.7. Why not? (Go to next item)
Problems/Abuses/Crimes/Disputes							
4.C. Crimes							
4. C.1. Personal property related theft (including crop, poultry, livestock)							
4. C.2. Violence using weapons							
4. C.3. Religious/ethnic violence							
4. C.4. Post-election violence							
4. D. Business matters							
4. D.1. Unable to recover loans							
4. D.2. Difficulties with contract enforcement							
4. D.3. Difficulties in obtaining government permits/licenses							
Code for 4.1 1 = Very worried 2 = Fairly worried 3 = Not very worried 4 = Not worried at all 5 = Not applicable	Code for 4.2 <u>Someone who experienced</u> 1 = Happened to me personally 2 = Happened to someone living in my household 3 = Personally know someone in this community to whom this happened 4 = Have heard about it happening in this community from news or third-person stories	Code for 4.4 1 = Nothing 2 = Discussed concerns or settled problem with person(s) concerned 3 = Went to a family elder 4 = Went to village elders 5 = Went to the chief/Assistant chief 6 = Went to the police 7 = Discuss matter with a church, CBO or media 8 = Attended public meeting(s) to discuss the issue 9 = Involved other community members to address the issue 10 = Formed/joined a new community group to address the problem 11 = Went to court 12 = Peace committee 13 = Other, Specify	Code for 4.7 1 = I did not take action because it's too costly 2 = did not take action because I know authorities will not/cannot resolve it 3 = I did not take action because the system is unfair/biased 4 = The authorities I consulted did not take action 5 = The dispute resolution mechanism (DRM) has been very lengthy 6 = The institution consulted has no enforcement capability or will to enforce 7 = We did not reach agreement and so the issue remains				

5. Responses to the most recent disputes or crimes

Enumerators: This section is ONLY for respondents who had/has a dispute and who used a 3rd party and NOT a family member to solve the dispute/problems/concerns in Section 4 (e.g. if person went to Elders, Chief, Police, Court, etc.). IF the respondent only has one dispute where she used a third party, talk about that dispute here. IF the respondent has several disputes where a third party was involved, only talk about the most recent dispute. Do **not** forget to specify the dispute and write the dispute code from Section 4 in 5.1.

5.1. Specify most recent dispute or crime:	Write the dispute here: _____	Dispute Code:
<p>5.2 What did/do you hope to achieve from this institution? (Mark all that apply.)</p> <p>Enumerator: Circle institution that the respondent accessed:</p> <p>a. Elders b. Chief c. Police d. NGO e. Court f. Peace committee g. Other, Specify: _____</p>	<p>1 = The problem or offensive behavior ends 2 = A fair application of the law to my dispute/grievance 3 = Revenge 4 = Right to property/asset 5 = Apology from the disputant 6 = Monetary compensation 7= Other, specify _____</p>	
5.3 Is the <institution mentioned in 5.2> physically easy to access?	1 = Yes 2 = No	
5.4 Did you find the <institution mentioned in 5.2> approachable?	1 = Yes 2 = No	
5.5 Did you understand the procedure that the <institution mentioned in 5.2> followed?	1 = Yes 2 = No	
5.6 Were the procedures easy/difficult to understand?	1 = Easy 2 = Difficult	
5.7 Did both parties get a chance to tell their side?	1 = Both parties got a chance 2 = Only I got a chance 3 = Only the other party got a chance 4 = None of the parties got a chance. 5 = Not applicable	
5.8 Did you think that the <u>procedure</u> that the institution followed is fair?	1 = Yes 2 = No 3 = Don't know	
5.9 Do you think that the <specify authority above> consider/understand the relevant laws?	1 = Yes 2 = No 3 = Don't know	
5.10 Do you think the <u>outcome</u> was fair?	1 = Yes 2 = No 3 = Don't know	
5.11 Would you go to the same institution if you happen to have a similar problem in the future?	1 = Yes 2 = No	
5.12 Did you comply with the decision?	1 = Yes → Go to 5.14 2 = No	
5.13 Reasons for non-compliance:	<p>Enumerator: Write response here:</p> <p>.....</p> <p>.....</p>	
5.14 Did the other party comply with the decision?	1 = Yes → Go to Section 6 2 = No	
5.15 Reasons for non-compliance:	<p>Enumerator: Write response here:</p> <p>.....</p> <p>.....</p>	

6. Possible responses to disputes

Enumerators: To be answered by ALL your female respondents. Circle the answers that apply.

Types of problems	To where should someone go to solve the following in your area? (Mark all that apply)	How did/do you know where to go? (Mark all that apply)	Suppose you have the following issues, will you go there? (See institutions listed)	Why? (Mark all that apply)	Why not? (Mark all that apply)
Civil disputes	6.1 1 = Elders 2 = Chief 3 = Police 4 = NGO 5 = Court 6 = Peace committee 7 = Other: Specify: _____ _____	6.2 1 = Respondent already knew about it 2 = through close relatives 3 = through distant relative/friends/neighbors 4 = through local land-based or political elites 5 = through local professional elites (i.e teacher) 6 = through sensitization from local officials 7 = through sensitization from NGO 8 = through religious leaders 9 = from the radio 10 = from newspaper 11 = Other (specify) _____	6.3 1 = Yes → Go to 6.4 2 = No → Go to 6.5	6.4 Because this institution(s) is/are... 01 = ... very prompt 02 = ... impartial/fair 03 = ... financially affordable to me 04 = ... physically accessible (close to where I live) 05 = ... familiar to me 06 = Judges/mediators are competent to understand the law 06 = The judges/mediators are competent to understand the community norms Other: Specify: _____ 99 = Don't know	6.5 Because this institution(s) is/are... 01 = ... very slow 02 = ... biased/unfair 03 = ... too expensive for me 04 = ... hard to reach/too far 05 = ... unfamiliar to me 06 = Judges/mediators are incompetent in understanding the law 06 = The judges/mediators do not understand the community norms Other: Specify: _____ 99 = Don't know
Crimes	6.6 1 = Elders 2 = Chief 3 = Police 4 = NGO 5 = Court 6 = Peace committee 7 = Other: Specify: _____	6.7 1 = Respondent already knew about it 2 = through close relatives 3 = through distant relative/friends/neighbors 4 = through local land-based or political elites 5 = through local professional elites (i.e teacher) 6 = through sensitization from local officials 7 = through sensitization from NGO 8 = through religious leaders 9 = from the radio 10 = from newspaper 11 = Other (specify) _____	6.8 1 = Yes → Go to 6.9 2 = No → Go to 6.10	6.9 Because this institution(s) is/are... 01 = ... very prompt 02 = ... impartial/fair 03 = ... financially affordable to me 04 = ... physically accessible (close to where I live) 05 = ... familiar to me 06 = Judges/mediators are competent to understand the law 06 = The judges/mediators are competent to understand the community norms Other: Specify: _____ 99 = Don't know	6.10 Because this institution(s) is/are... 01 = ... very slow 02 = ... biased/unfair 03 = ... too expensive for me 04 = ... hard to reach/too far 05 = ... unfamiliar to me 06 = Judges/mediators are incompetent in understanding the law 06 = The judges/mediators do not understand the community norms Other: Specify: _____ 99 = Don't know

7. Perceptions

	Specify whether you
in the LAST YEAR:	1 = Strongly disagree; 2 = Disagree; 3 = Neither agree nor disagree; 4 = Agree; 5 = Strongly agree
7.1 The chief and elders in my village function better	
7.2 The chief and elders in my village treated:	
d) Men and women equally	
e) Richer and poorer equally	
f) Educated and less educated equally	
7.3 Grievances were heard appropriately	
7.4 The dispute resolution mechanism has been very prompt	
7.5 The elders have improved legal/technical knowledge about the Constitution	
7.6 The dispute resolution mechanism is impartial	
7.7 Enforcement of the decision is participatory	
7.8 The justice system/dispute resolution is financially affordable	
7.9 Physical access to the justice system is easy (close by)	
7.10 I am more familiar about my rights as a citizen	
7.11 I am more familiar with the local justice system	
7.12 I am more familiar with alternative dispute resolution	
7.13 I have more confidence in the <u>fairness</u> of the dispute resolution <u>process</u>	
7.14 I have more confidence in the <u>outcomes</u> if I ever need to access the local justice system	
7.15 Men in my community better understand women's rights	
7.16 Men in my community better respect women's rights	

8. Knowledge and Familiarity to Landesa Justice Project

		Code
1) When was the Constitution last amended?	1 = Never 2 = A long time ago 3 = Recently 4 = Don't know	
2) How important is the Constitution to your daily life?	1 = Not important 2 = Somewhat important 3 = Important 4 = Very important	
3) Why important/not important?	Write answer here (translate in ENGLISH):	
4) Are citizens allowed to own land privately?	1 = Yes 2 = No 3 = Don't know	
5) Can the government take your private property arbitrarily by law?	1 = Yes 2 = No 3 = Don't know	
6) Suppose the government takes your private property, what are you entitled to, if any?	1 = Nothing 2 = Just compensation 3 = Don't know	
7) Can Elders apply customary law in dispute resolution?	1 = Yes, this has always been the case 2 = No, elders should only apply what is written in formal/statutory laws 3 = Yes but only if it accords with the Constitution and all the formal laws	
8) Do elders have authority to resolve criminal disputes and ascribe blame, responsibility and punishment?	1 = Yes 2 = No 3 = Don't know	
9) Do men and women have the right to equal treatment?	1 = Yes 2 = No 3 = Don't know	
10) How many women should compose the elders committee?	1 = None, this is not required 2 = At least one 3 = At least 1/3 of elders 4 = Don't know	

For Landesa Justice Villages only		Code
11) Do you know about the Landesa Justice project?	1 = Yes 2 = No Go to → 18	
12) How did you know about it? (Mark all that apply.)	1 = I personally attended/participated in one of the activities. → Go to 13) (Enumerator: If respondent answered 2-8, Go to → 18) 2 = I know someone who attended/participated in one of the activities. 3 = I heard about it through village officials (elders and/or chief) 4 = I heard about it through other women in the community. 5 = I heard about it through the youth members of the community. 6 = I heard about it through my children. 7 = I heard about it through school teachers in the community. 8 = Other (Specify) _____	
13) Which activity/ies did you attend? (Mark all that apply.)	1 = Training on women's land rights 2 = Training on Alternative Disputes Resolution 3 = Training on the Constitution 4 = Training on the forest conservation 5 = Public speaking training 6 = Justice day	
14) Did you find these activities helpful in	1 = Not helpful	

informing you of your rights?	2 = Somewhat helpful 3 = Fairly helpful 4 = Very helpful	
15) Did you find these activities helpful in informing you about alternative dispute resolution?	1 = Not helpful 2 = Somewhat helpful 3 = Fairly helpful 4 = Very helpful	
16) What did you find most useful to you during the <trainings>?	Enumerator: Write answer here:	
17) Suppose a similar training was conducted but unfortunately the project will not be able to cover for your lunch and transport cost to attend, will you still attend the trainings?	1 = Yes 2 = No → Go to Section 9 after you finish asking this question	
For CONTROL village AND those respondents in the treatment who said they did not hear about the project or did not attend any of the activities personally		
18) Suppose you are invited to a training on women's access to justice that involves informing you of your rights under the Constitution, helping you discuss women's issues with other women, informing you about alternative dispute resolution and training you about public speaking. The trainings are free but the project will not be able to cover for your travel cost, would you be interested to attend?	1 = Yes → Go to 19 2 = No → Go to 20 3 = It depends → Go to 21	
19) If yes, why? <i>(Enumerators: Go to Section 9 after you finish asking this question.)</i>	1 = I want to learn more about my rights in general 2 = I want to learn more about my land rights 3 = I want to learn more about dispute resolution 4 = I want to learn public speaking 5 = I want to participate in community activities 6 = Other (Specify) _____	
20) Why not? <i>(Enumerators: Go to Section 9 after you finish asking this question.)</i>	1 = I don't think this is too important or relevant to me. 2 = I want to go but I don't have time. 3 = I want to go but my husband will not let me. 4 = I will only go if there's compensation. 5 = Other (Specify) _____	
21) If the respondent answered 'it depends' in #17, Ask: What will make you go?	1 = I will go if I have time 2 = I will go if my husband allows me. 3 = I will go if the training venue is not too far away from my house. 4 = Other (Specify) _____	

9. Women and land

		Code
9.1. Do women have a constitutional right to own land?	<ol style="list-style-type: none"> 1. Yes 2. Yes, in some cases. Please explain _____ 3. No 	
9.2 Does the community recognize women's right to own land?	<ol style="list-style-type: none"> 1. Yes 2. Yes, in some cases. Please explain _____ 3. No 	
9.3. Kaja How many women do you know who own land?	<ol style="list-style-type: none"> 1. None 2. I know very few women who own land 3. I know several women who own land 4. I know many women who own land 5. Most of the women I know own land 	
Let's talk about you and YOUR Household...		
9.4. Will (or do) YOU personally own land?	<ol style="list-style-type: none"> 1. Yes 2. No → Go to q. 9.7 	
9.5 How did (will) you own land?	<ol style="list-style-type: none"> 1. Through my parents 2. Through my husband 3. Through purchase 4. Through the government 	
9.6 Is your name on the ownership document	<ol style="list-style-type: none"> 1. Yes Go to → 9.9 2. No → 9.9 3. Yes on some parcels but not all → 9.9 4. This land has no ownership document Go to → 9.9 	
9.7 Why won't YOU own land? <i>(mark all that apply)</i>	<ol style="list-style-type: none"> 0. My family does not own land. 1. I will not inherit land from my parents. 2. I will not inherit land from my husband. 3. My husband does not want me to own land. 4. The government distributes land only to male heads of household. 5. The government titles land only to male heads of household. 6. Other, please explain _____ 	
9.8 Would YOU like to own land?	<ol style="list-style-type: none"> 1. I already own land. 2. Yes, I would like to own land. 3. No, I don't want to own land 	
9.9 When your husband pass away, will you inherit land from him?	<ol style="list-style-type: none"> 0. No, we have no land. 1. No 2. Yes 	
9.10 Will your son(s) inherit land?	<ol style="list-style-type: none"> 0. No, we have no land. 1. No, we have no sons. 2. No 3. Yes 	

9.11 Will your daughter(s) inherit land?	<ul style="list-style-type: none"> 0. No, we have no land. → Go to 9.13 1. Ee No, we have no daughters. → Go to 9.13 2. No, only my sons will inherit land from us. 3. Yes, but less than their brother(s). 4. Yes, equally with their brother(s). → Go to 9.13 5. Yes, I only have daughters → Go to 9.13 	
9.12 Why not (or why not equal to their brothers?) (Mark all that apply.)	<ul style="list-style-type: none"> 1. Our daughter(s) will get land from their husbands. 2. Only sons inherit land by tradition. 3. We do not have enough land to give to our daughter(s). 4. Our daughters have other form of inheritance (cash, jewelries, etc.). 5. Other (Specify): _____ 	
Let's talk about your COMMUNITY...		
9.13 If their husbands divorce/abandon them, how likely are women in this village/community to lose access to land?	<ul style="list-style-type: none"> 1. Very likely 2. Likely 3. Unlikely 4. Very unlikely 	
9.14 If their husbands marry another wife, how likely are women in this village/community to lose access to land?	<ul style="list-style-type: none"> 1. Very likely 2. Likely 3. Unlikely 4. Very unlikely 	
9.15 If their husbands pass away, how likely are women in this village/community to lose access to land?	<ul style="list-style-type: none"> 1. Very likely 2. Likely 3. Unlikely 4. Very unlikely 	
9.16 If the village leaders change, how likely are women in this village/community to lose access to land?	<ul style="list-style-type: none"> 1. Very likely 2. Likely 3. Unlikely 4. Very unlikely 	
9.17 Suppose a woman lose access to land because of any of the reasons we talked about, how likely is she to raise dispute against her husband or family members (brothers, in-laws, etc) to the elders or the chief?	<ul style="list-style-type: none"> 1 Very likely → Go to 9.19 2 Likely → Go to 9.19 3 Unlikely 4 Very unlikely 	
9.18 If unlikely or very unlikely, why? (Mark all that apply.)	<ul style="list-style-type: none"> 1. It is not acceptable in the community to file disputes against family members. 2. She is most likely afraid to file a complaint against her husband, siblings or in-laws. 3. In the end local authorities will favor the men to protect family harmony. 4. Local authorities will not be able to enforce their decision anyway even if they rule in favor of the women. 5. Other (Specify): _____ 	
9.19 How likely is she to regain access to land as a result of going to the elders and/or the chief?	<ul style="list-style-type: none"> 1. Very likely → End of survey 2. Likely → End of survey 3. Unlikely 4. Very unlikely 	
9.20 If unlikely or very unlikely, why? (Mark all that apply.)	<ul style="list-style-type: none"> 1. The elders and/or chief tend to favor the men to protect family harmony. 2. The elders and/or chief does not have the will or the capacity to enforce their decision even if they rule in favor of the women. 3. Other _____ 	

Interview end time:	Hour <input type="text"/> <input type="text"/> Minute <input type="text"/> <input type="text"/>
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THANK YOU FOR YOUR PARTICIPATION!

ANNEX 4: INSTITUTIONS ACCESSED IN DISPUTES

Table 1. Institutions that women in the Justice area intend to access in case of a dispute

Top 3 Institutions* (n=341)	Civil (%)	Criminal (%)
Elders		
SHOULD go to this institution in case of a dispute	57	30
She WILL go to this institution if the dispute happened to her	99	97
Top 3 reasons why she will go to this institution:		
Very prompt	56	53
Impartial	52	26
Financially affordable	15	~
Close to where she lives	~	27
She will not go to this institution if the dispute happened to her	0	1
Top 3 reasons why she will not go the institution:		
Very slow	~	100
Chiefs		
SHOULD go to this institution in case of a dispute	56	35
She WILL go to this institution if the dispute happened to her	99	97
Top 3 reasons why she will go to this institution:		
Very prompt	60	33
Impartial	44	33
Financially affordable	20	~
Close to where she lives	~	29
She will not go to this institution if the dispute happened to her:	1	3
Top 3 reasons why she will not go the institution:		
Unfair	100	33
Very Slow	~	67
Police		
SHOULD go to this institution in case of a dispute	7	47
She WILL go to this institution if the dispute happened to her	96	89
Top 3 reasons why she will go to this institution:		
Very prompt	75	40
Impartial	40	30
Familiar to her	50	~
Mediators are competent to understand/consider the law	~	42

She will not go to this institution if the dispute happened to her:	4	10
Top 3 reasons why she will not go the institution:		
Unfair	~	81
Very slow	~	19
Expensive	100	6

* Multiple response

Table 2. Institutions that women in the control area intend to access in case of a dispute

Institutions: (n = 180)	Civil (in %)	Criminal (in %)
Elders		
SHOULD go to this institution in case of a dispute	83	61
She WILL go to this institution if the dispute happened to her	99	95
Top 3 reasons why she will go to this institution:		
Very prompt	45	42
Impartial	30	~
Financially affordable	30	29
Close to where the respondent lives	~	29
She will not go to this institution if the dispute happened to her:	1	4
Top 3 reasons why she will not go the institution:		
Unfair	~	25
Very slow	100	25
Difficult for the respondent to reach	~	50
Chiefs		
SHOULD go to this institution in case of a dispute	22	45
She WILL go to this institution if the dispute happened to her	100	100
Top 3 reasons why she will go to this institution:		
Very prompt	59	~
Close to where the respondent lives	~	46
Financially affordable	26	47
Familiar to the respondent	24	38
She will not go to this institution if the dispute happened to her	0	0
Top 3 reasons why she will not go the institution:		
Police		
SHOULD go to this institution in case of a dispute	2	26
She WILL go to this institution if the dispute happened to her	100	98
Top 3 reasons why she will go to this institution:		
Impartial	50	54
Financially affordable	50	~
Familiar to respondent	50	48

Mediators are competent to understand the community norms	~	55
She will not go to this institution if the dispute happened to her:	0	2
Top 3 reasons why she will not go the institution:		
Very slow	~	100

ANNEX 5: JUSTICE ELDERS' KATIBA

PREAMBLE

This is the Justice elders Katiba. These are the ambassadors of the people of Ol Pusi Moru 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.
 - ❖ Lets 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:
 - i) 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.
 - ii) FGM which has contributed to girl's early marriage
 - iii) Warrior hood is also a barrier to our children's education.
 - iv) 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.
 - v) 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.
8. 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.

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