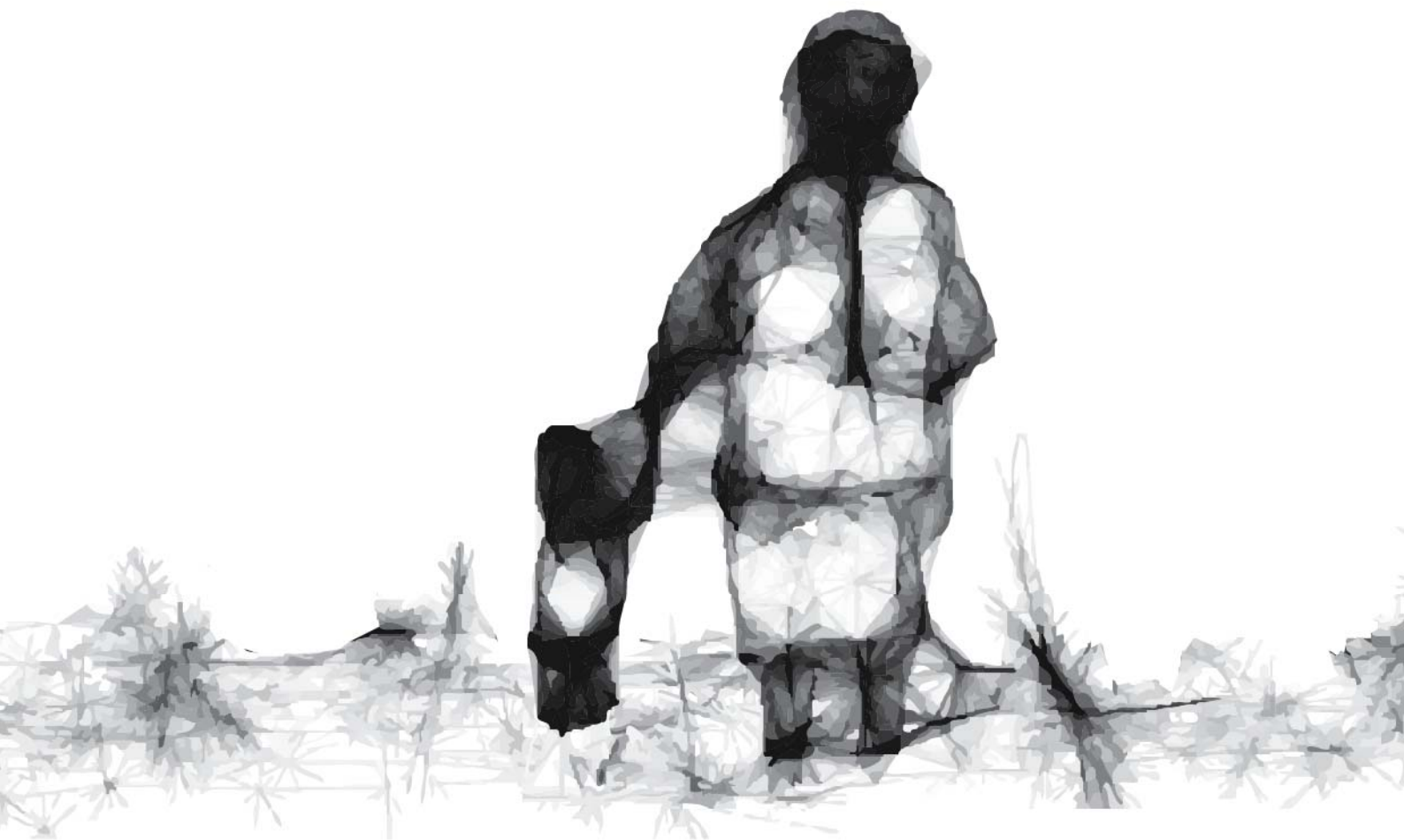


# 10

## RESEARCH REPORT

Assisting Kayole widows in gaining control to family land, Kenya



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

# Assisting Kayole widows in gaining control to family land

A special focus on widows married in Rachuonyo  
and Siaya Districts in Luo Nyanza, Kenya

By the  
Young Widows Advancement Program (YWAP)

**March 2011**

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## Acronyms

DCs	District commissioners
DOs	District officers
DO	District Officer
DSA	Daily Subsistence Allowance
FGDs	Focus Group Discussion
MISR	Makerere Institute of Social Research
ODCs	Other Direct Costs
PI	Principle investigator
RA	Research Assistants
YWAP	Young Widows Advancement Program
DSDO	District Social Development Officer
HBI	Home Based Interviews

## Executive summary

Access and ownership of land is crucial for family well-being in Kenya. Land is crucial for a family's food security, saving and burial rights. Most land in Kenya is acquired through inheritance of family ancestral land, which is mostly passed down the male line. Women can inherit land and other property from their husbands' estate after the death of a husband and this is entrenched in the Kenya Succession Act 1981. This Act stipulates that women may inherit property as dependents of the deceased.

The death of a husband spells doom for the widow as it threatens her psychological and physical wellbeing. Often, she is blamed for the misfortunes in the family and punished by being chased away from her matrimonial home and all properties may be taken from her by in-laws. This denies her ownership and control of family land. These tragedies are worse for young widows. They are new to their matrimonial homes and they cannot mobilise local justice systems in their defence and have no power in claiming traditional forms of wealth, like land or domestic animals, their husbands might have accumulated or inherited. They do not yet have children old enough to look out for their well-being, so they are left improvised, rejected and unprotected. They return to towns to find solace in minor trading, casual odd jobs or prostitution. Interestingly, older widows do not go through these tragedies as they are more established within the family and the community and the older sons are able to defend them accordingly.

It is evident from YWAP's experience that many young widows lose the property left by their deceased husbands - especially land. The most affected are the widows from Luo Nyanza and Western province. While there is information about these women's suffering an eventual loss of the family property, there are no systematic efforts in place to assist them to secure their matrimonial property on the death of their husbands or to regain the lost property. This is compounded by the widow's lack of resources and skills to undertake such a task.

Against this backdrop, YWAP with support from Makerere Institute of Social Research (MISR) carried out an action research as an attempt to assist widows to regain property with special focus on land through follow-up and systemic documentation of their experiences. The study focused on young widows residing in Kayole and married in Luo Nyanza, specifically in Rachuonyo and Siaya districts of Nyanza.

The project research was conducted through a series of interviews, group discussions with YWAP widows, women leaders and local leaders over a period of one year led to greater understanding of the difficulties that young widows and their children undergo due to property grabbing, disinheritance and eventual loss of family land.

# Introduction

According to UNAIDS (Women, Property and Inheritance Rights in Kenya Report: 2006), women who own property or otherwise control economic assets have higher incomes, secure place to live, greater bargaining power within their households, and can better protect themselves against domestic violence. With greater ownership and control over economic assets, women are more empowered to negotiate abstinence, fidelity and safer sex and can avoid exchanging sex for money, food or shelter (Global Coalition on Women and AIDS, 2006).

In another report by the Global Coalition on Women and AIDS (2006), deaths attributed to AIDS are expected to result in more African women becoming widows at a younger age than would otherwise be the case which raises the issue of women's property ownership and inheritance rights to a new level. At the same time, a growing number of children will be orphaned and affected by HIV, facing the risk of disinheritance or property rights violations when their parents die.

Young widows in Kenya experience property grabbing after the death of their husbands. This is in spite of legal provisions under the Succession Act (1981), which stipulates that women may inherit property as dependants of the deceased. The simultaneous existence and application of customary, religious and statutory law serve to create confusion as regards family property, custody and maintenance of children.

This report highlights the urgent need to assist young widows to regain access and control of family land as a means of increasing their access to wealth, household incomes and economic independence. Young widows' access to family land is the basis for family security and ensures family dignity and better protection against domestic violence and forceful widow inheritance and or eviction. This report also highlights the urgent need for stronger advocacy for the rights of widows locally and internationally to generate more focus on property rights of young widows and their children.

This action research study was carried out from November 2008 to October 2009 and targeted widows residing in

Kayole Nairobi that were married in Rachuonyo and Siaya Districts of Nyanza Province. The key informants were the young widows experiencing disinheritance, local women leaders in Rachuonyo and Siaya and local elders in Siaya and Rachuonyo. Literature reviews were also conducted as well as in depth home-based interviews. This report put into consideration that Kenya is undergoing a constitution making process and that women inheritance of land is one of the contentious issues. As key informants in an action research, widows were assisted to participate actively in the process to regain control and access to family property especially land which they lost upon the death of their husbands. The project involved documentation of the processes and interviews with local women leaders and local chiefs in Nyanza.

The project strategy was guided by two objectives:

1. To engage widows in participating in the process of reclaiming rights to the land grabbed from them.
2. To document the process of widows reclaiming their land.

The project attempted to understand the problems young married women face after the death of their husbands which included loss of family land and to document the consequences of the loss of this family property, to generate possible policy interventions and share findings with stakeholders, development partners, widows and leaders in Rachuonyo and Siaya communities.

Project's phases varied from introduction and sharing of the concept with YWAP staff and members, the development of data collection tools, the training of research assistants and staff on how to use these tools, pre-testing and fine tuning of the research tools and the production of final copies of data collection tools which were finally used in field work. The selection process also involved group meetings with YWAP members. The group meetings served to introduce the project to members and to solicit their support and participation.

# 1. The context: Rachuonyo and Siaya districts

Land is a very sensitive issue among the agricultural communities in Kenya and more so in Nyanza Province where Rachuonyo and Siaya districts are located. This area is predominantly occupied by the Luo community with an estimated population of 3,825,752 (1989 census) comprising 32 political constituencies.

Rachuonyo is a district in Nyanza province that occupies an area of 945km square with a population of 344,165 according to 2005 Statistics. In this district, land is a status symbol and is the guarantor of food security for the family. Young widows with no older sons or siblings in this area are viewed as strangers with no ancestral connections, since women tend to come from outside their husbands' clans.

Rachuonyo has 42 administrative locations, which are controlled by a chief. The land is fertile and the majority of the

people are subsistence farmers. The main food crops grown in this region include: sugarcane, maize, millet, tobacco, cotton, coffee and sorghum. The staple food is mainly ugali of corn meal and greens. Fish from the nearby lake Victoria is an important source of protein for the community and is also one of the leading sources of income for many members of this community. The main animals kept in this area include sheeps, goats, chicken and cattle. The latter are very important social status symbols in the community and are used for paying the bride price.

There are several forms of rural housing in this area, the most common of which are made up of mud and wattle walls with a grass-thatched roof. Other types include mud and wattle houses with thin roofs made of corrugated iron sheets and more elaborate permanent houses with brick walls and roofs covered with iron sheets or brick tiles.



Section of Siaya women leaders during the focus group discussion



Siaya district has 15 administrative units each headed by a chief. Land in this district is inherited through male sons, although cases of girls inheriting their fathers land were reported in a few cases. Land is still the main source of survival and there is very strong attachment to it as a burial ground for ancestors. There are very strong cultural practices attached to land in this area especially in relation to inheritance. The main sources of livelihood in this area are basically the same as that of Rachuonyo. An interesting peculiarity on this area is the fact that in one location called Alego, the land is still communally owned by the clan, which makes cultural patrilineal cultural practices relating to inheritance and succession of land very strong.

Generally, it is clear in Luo Nyanza where the study sites are located, that land is at the heart of community life. Land is a status symbol; it is considered a habitation for the ancestors and strong cultural practices are associated with the land, including the above-mentioned widow cleansing, to appease the ancestors whenever there are calamities.

The community in this area is generally polygamous and land in this area is passed on through male heirs in the family. Each man is expected to provide a parcel of land for each wife he acquires, which has led to significant land fragmentation in the area. While women do not inherit or own land, they usually have access to land through male relatives. They are expected to work on this land to ensure the subsistence of the family. On the death of a husband, it is considered a curse for a widow to get into contact with anyone or to till the land of her deceased husband before she is "cleansed" by a male relative of her husband. The cleansing by a male relative actually means having sex with them.

In cases where girls do not get married, they are generally provided a piece of land by their fathers which they loose to their brothers upon marriage.<sup>1</sup>

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<sup>1</sup> This information was largely derived from focus group discussions and interviews by the key informants of the study.

## 2. Methodology

Documented information relating to young widows property and land rights is limited in Kenya. Little research has been undertaken to understand factors that prevent young widows' ownership, access and control to land. Accordingly, this research relied on primary information and data gathered during the action research with very limited reference to secondary sources of information.

### Getting started: Collecting personal data (Bio-data)

The action research commenced with the Principal Investigator (PI) sharing the project concept with YWAP staff and providing training to research assistants (RA) on use of research tools.

With technical support from the Makerere Institute for Social Research (MISR), YWAP project staff developed tools for interviews in form of structured questionnaires, and non-structured questionnaires. The tools were pre-tested among the Luo speaking widows in Kayole - not necessarily those who were married in Rachuonyo and Siaya - to ensure appropriateness and effectiveness in gathering the required information. Young Widows Advancement Project's staff mobilized the widows through purposive group meetings. During the meetings, the action research concept was introduced to members of YWAP. Consequent bi-monthly group meetings discussed the concepts and selection processes of individual widows to be assisted. This process ensured that there was no resentment from those widows who were not included in the sample for the action research.

The interviews provided information concerning marital status of the women, ages of their children, number of the children from within the marriages and outside the marriages, their current residence, types of identifications they had, how they related to their in-laws, what details they have concerning family land and other property they are laying

claim on. Through the use of these structured questionnaire forms, 108 widows residing in Kayole were interviewed. The bio-data in the questionnaires led to the selection of the women to be involved in the project for assistance in access and control of family land. The tools provided an indication of the level of assistance each family would require in the process of reclaiming their land back.

Participant's selection questionnaire provided the baseline information needed to determine eligibility for the women to qualify for support under the action research project. The questionnaires sought information on the marital status of the women, ages of children, number of the children, their residence, types of identifications they had, how they related to their in-laws, what details they have concerning the land and other property they want to claim. These forms were given to 108 widows registered with YWAP and attending the group meetings in Kayole.

The Focus Group Discussion (FDG) Guide tool consisted instead in a form with questions that were designed to generate discussion and experience sharing, as shown by the excerpt below:

#### The FGD guide used

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1. Lets discuss some of the problems young women face when they become widows  
(As you listen and record, underline the major issues being mentioned and construct appropriate questions in line with the objective of the discussion and study and have the discussants discuss them in detail)
2. What are some of the suggestions on how to help these women?
  - a. At community level
  - b. Government level
3. Finally, what questions do you have for us?

Note (Leave room for dissemination or feedback to the community).

---

Focus Group Discussions were conducted with women group leaders and women opinion leaders in Siaya on August 13, 2009 at the Mwalimu Guest house. Fourteen women leaders attended, including women from the Ministry of Lands, volunteer social workers, political aspirants, people with disability, and gender activists. Participants' mobilization and selection of these women leaders was carried out with the assistance of the District Social Development officer (DSDO).

The same FGD guide was used in Focus Group Discussions with women leaders in Rachuonyo district. The Focus Group Discussions with Rachuonyo women took place at Dudi Guest house in Oyugis on August 28, 2009. Mobilization and identification of women group leaders in Rachuonyo was done through the office of the District Social development officer in Kosele. Fourteen women group leaders were in attendance. These Focus Group Discussions were recorded on tapes and later transcribed to ensure no information was lost.

## Review of YWAP counselors and YWAP paralegal records

YWAP paralegal and bereavement counselor's records were reviewed to ascertain the following details:

- Individual's grievances and limitations were in relation to land and other property inheritance.
- The number of children from the marriage and outside the marriage.
- Where the women lived before they lost their husbands (before their husbands' death).
- What past attempts were made to recover their property and land back.
- What documents they hold currently in order to claim these lands, what document they will need.
- Widows level of attachment to these property and land.

## Group meetings

Five group meetings were conducted to introduce the project to members and solicit members support for the project. The meetings effectively facilitated experience sharing. Surprisingly, even after counseling and group meetings some widows were still nervous to talk about their past. The following information was sought during the group meetings:

- What the members knew already about the project and about their rights with regard to access to and control over family land and property.
- What misinformation they had in regard to their rights to property and land.
- How comfortable they feel in discussing and sharing their experience as widows.
- What they want to know.
- What they need to know.
- How they will be informed.
- How they want to be informed.

## Home-based interviews with widows using structured questionnaires

These interviews were conducted using structured questionnaires to find out personal information about the widows, disputes in the family land, how they relate to the clan members, kind of marital union, if there is a co-wife, number of children husband had including theirs, current residential state, occupation, source of family food, where was estate/land located, when property was acquired, what land documents are available.

**Table 1: Profile of women for the home-based interviews**

Variable	Indicator	Frequency	Percent
Kind of marital union	Church/Mosque	9	8.5%
	Customary	71	67%
	Civil	8	7.5%
	Co-habiting	18	17%
	Total	106	100
Is there a co-wife	Yes	38	36%
	No	68	64%
	Total	106	100
No. of children your husband had, including yours	1	6	.6%
	2	13	12%
	3	23	21%
	4	22	20%
	5	14	13%
	6	8	7%
	7	4	4%
	8	7	6.5%
	9	6	5
	10	4	3.7%
	13	1	1%
	Total	108	100

Variable	Indicator	Frequency	Percent
Current residential state	Bought the unit	7	6.7%
	Renting the unit	94	89.5%
	Staying with relatives/friend	3	2.9%
	Staying in orphanage center	1	1%
	Total	105	100
Source of family food	Buy from the market/kiosks/vibanda	105	99%
	Handouts and begging	1	1%
	Total	106	100

## Non-structured home-based interviews

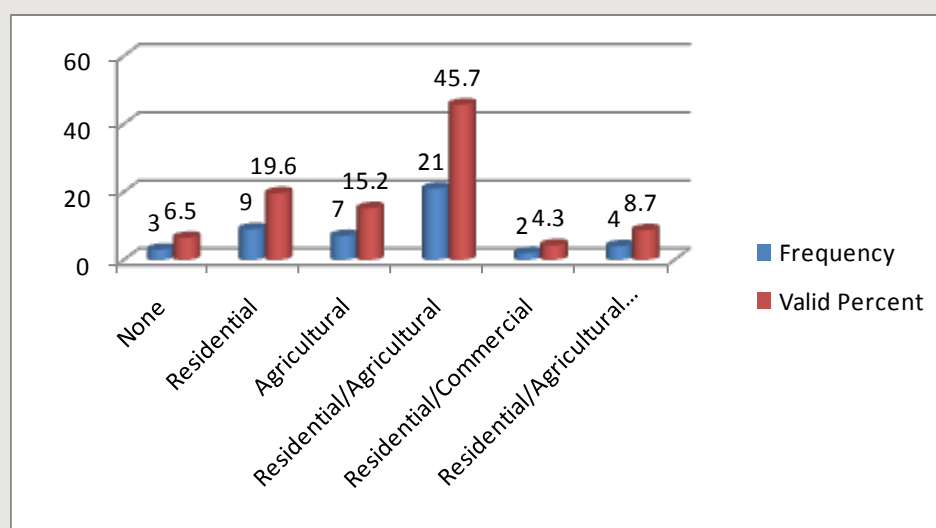
The non structured home based interview approach was such that the investigators spent almost the whole day with the interviewee's family. During these non-structured home-based interviews, no structured questionnaires were used but information was extracted from the women through an interactive process. After the first home based interviews, it was realized that interviewers were better received if they carried a food basket for the family in line with the African culture of hospitality. This enabled the team to freely share in the family meals and to participate in their preparation. Through home based non structured interviews, members were able to open up freely and discuss their stories within the security and comfort of their own homes. The widows agreed to support their stories by sharing photos from the family album.

## 4. Research findings

### Women attachment to land

To establish the level of attachment the women had to land, 108 respondents were sampled. Forty five percent (45%) of these used the land both for agriculture and residential purposes, 19% lived on the land and 6% had not used the land as depicted in the graph below.

**Graph 1: Activities carried out on the land**

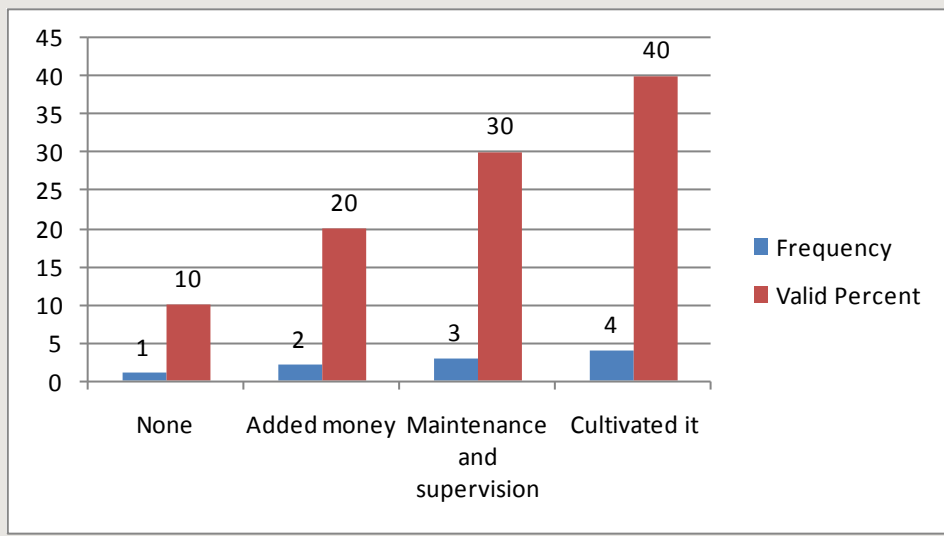


Source: YWAP, 2011

Respondents were also asked about their contribution to the land either by adding money to purchase the land, maintenance and supervision, or by cultivation. The response largely revealed that the largest contribution of 40% related to cultivating the land, 30% offered maintenance and supervision

on the land while 20% added money to purchase land. Only 10% had made no contribution to the land as depicted in the graph below.

**Graph 2: Contribution to the property**



Source: YWAP, 2011

## Women and land disputes

On land disputes, respondents were asked if there were disputes on the land they occupied or owned. Over 60% responded affirmative. Asked on whom the other parties to the conflict were, the majority of responses (84%) indicated their in-laws, while co-wives and neighbors accounted for 7% each as indicated in the table below:

**Table 2: Land dispute**

Variable	Indicator	Frequency	Valid Percent
Whether there is a dispute over land	Yes	28	70%
	No	18	39%
	Total	46	100
Other parties involved in the dispute	My in-laws	22	84.6%
	Neighbors	2	7.7%
	Co-wife	2	7.7%
	Total	26	100

### Story 1

This story is a typical illustration of the nature of conflicts generally experienced by young widows and their in-laws and the challenges they generally face in trying to reclaim their matrimonial land.

*My husband died in 1993. I married in 1984 and had three children. The land dispute is between me and my brother-in-law. My house is not there anymore. When I last went there, I had gone to bury my last born son who died when we moved to Nairobi. I moved to stay in Nairobi because shortly after we buried my husband I had come to Nairobi to buy new stock for my mitumba (Second hand clothes) business. It took 2 days and when I went back, my brother-in-law had removed the iron sheets from my roof and the windows. He said he does not want to see me in that home anymore. I did not know I had HIV. Then my son became sick and when I took her to hospital he was tested for HIV and I was told he is positive. And when I was tested I was also positive. After sometime he died. He was 6 years old. We took him back home for burial. The house was there with the door but the roof and the windows were gone.*

*I went to the Ministry of Land here in Nairobi to ask if they can transfer the title deed to my name here. I fear going home to Siaya in case I bump into my brother-in-law and he discov-*

*ers what I'm doing. At the lands ministry I was still referred to Siaya. They said the records were sent to Siaya.*

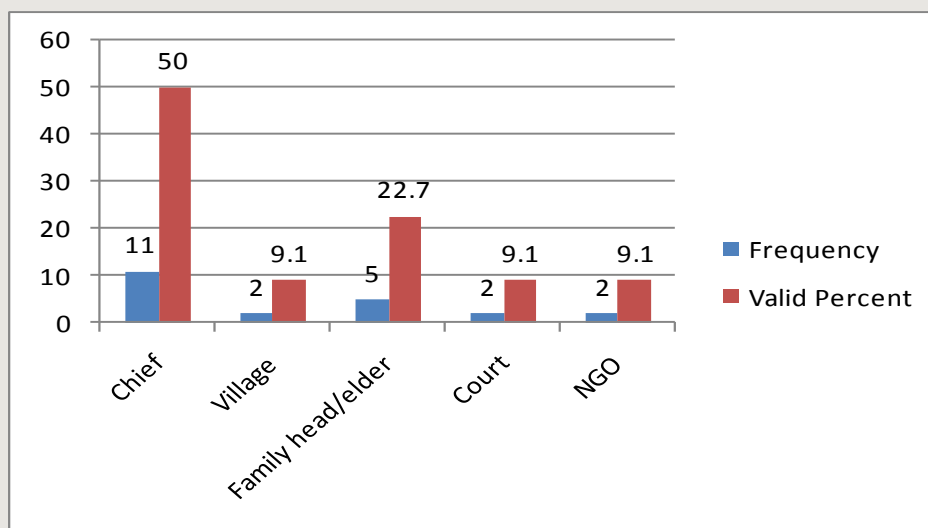
*I was married in Umanje - currently Nyamila - but the title deed says Hono. The districts and locations have been sub-divided, so it is hard to know where you are. (Locations have been sub-divided over time so what used to be Hono now is Nyamila). I have a big land - 3 acres piece of land - and if I stand in my house and call very loud a person at the far end can hear.*

*When I went to Siaya at the lands offices I showed them the title deed and the letters of administration. My husband died on 1993 and was buried in Boro division, north Alego – Hono sub location. I was told to conduct a search. I went and paid and I was told to wait. From the search I was told to go to court. At the court I was told to pay the court fees for preparation and gazettelement. I'm just waiting now.*

Still on disputes on land, respondents were asked where the dispute was reported. 50% of the respondents said they reported their disputes to the chief's office, 22% reported to the family elders, 9% reported to the village headmen, 9% reported to the NGOs, while 9% reported to the courts as indicated in the table below.



**Graph 3: Where was dispute reported?**



Source: YWAP, 2011

Asked about whom control the disputed land, 50% of the widows said that their-in-laws were in control, 30% of the widows had control of the land, while 10% was controlled by the public trustee. Of those with co-wives, 10% reported their co-wives as having control of the land. If the in-laws control 50% of the family estates then the widows have to look for other sources of income, such as minor trading, odd casual jobs, or face destitution.

### The impact of cultural practices

The large percentage of elders controlling the widow's land clearly points to the strong influence of cultural practices and their impact on widows. This was validated by the interviews conducted with the chiefs in Ruchuonyo and Siaya. Five chiefs from each of the two study sites were interviewed and they confirmed that young widows in particular experience problems in inheriting property and land. This was attributed to the fact that young widows were perceived by their in-laws as outsiders who were capable of remarrying and passing on their land to a stranger. There was also a general perception that young widows were more likely to sell the land and squander the money. These perceptions along with the cultural practices that bar women from inheriting land mean that the majority of the young widows often find themselves dispossessed of their land.

The chiefs reported that they sometimes have conflicting loyalty between the community elders whom they revere and the widows whom they are obliged to protect according to the law. One chief reported that they are sometimes accused of having inappropriate relationships with the young widows when they support their right to claim their deceased husbands land and other property. "Sometimes I have to involve the regular police in order to avoid scandal" one chief informed us.

It was observed that some of the widows are confronted with cultures and traditions, which they are still too young to comprehend. In fact many of the young widows are so shocked by what is required of them as part of traditional cultural practices that they often just run away to avoid engaging in them. An illustration of such cultural practices is the requirement that all widows must put on their deceased husbands clothes or a black dress until they are "cleansed". The practice of widow cleansing to remove the husband's spirit means that the widow is forced to have sex with a male relative of her deceased husband. As one interviewed from Rachuonyo narrates:

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*"Let me tell you the truth as a widow who is still young as you can see, you are forced into levirate marriages with*

*people who are outcast in the community. In my case, after my husband died and being the wife of the first born son they insisted that before burial I must be given an out-cast to sleep with to pave way for the other sister-in-law (wife to my younger brother-in-law) who also died shortly before my husband. I said no. They tried to force me, but I left. At the burial I came back and buried my husband. Both of us (widows in the same home) have joined hands and now are 3 years we have lived in the home".*

---

The widows said that they are considered unclean and remain secluded until they have been cleansed. A woman who refuses to undergo widow cleansing is sure to lose her land. In the cases where the deceased husband is suspected of dying of AIDS, the widows will automatically be blamed for his death and the punishment is always more often than not banishment and dispossession of all family property including land. When women who are banished go to the chiefs to seek for assistance, they reported the chiefs often collude with the elders and family members of their deceased husbands to dispossess them of their land.

## **Corruption**

Corruption is also a big issue that affects the ability of the young widows to reclaim their land. Widows reported when they go to the chiefs to seek help with their in laws, the chiefs often ask them for money they cannot afford and they end going back home without receiving any help.

One widow in the group said that she was asked for KSh.400 to open a file at the chief's office.

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*"That money is enough to pay rent in Oyugis for a month" she added.*

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## **The life of a young widow**

It was clear that most of the women become destitute after the death of their husbands because they are dispossessed of their land by their in laws and they often find it very difficult to receive help from the government officials responsible for ensuring that their rights are protected. Many of them often end up in the slums around Nairobi, which explains the popularity of the Kayole Widows project. Many

of them move to the city for the first time after the death of their husbands. This transition from rural to urban life is often traumatic for the young widows, who also have children to look after. The majority of the young widows dispossessed of their land end up engaging in petty trade or engaging in providing house help services or casual labour as indicated in the table below.

## Activities engaged in by widows disposed of their land

**Table 3: Activities engaged in by widows dispossessed of their land**

Occupation	Count	Percentage
Trader	75	69. %
Peer educator	2	2%
House keeping	3	2.8%
Civil servant	4	4%
Causal Worker	9	8%
Unemployed	10	9.3%
Self employed/private sector	5	4.6%
Total	108	100

Source: YWAP, 2011

Once the young widows are driven away from their land, by their in-laws, they often loose touch with their husband's family. Insecurity and what male in laws might do to them, with no older sons to defend them, often keeps widows trapped in a life of fear and poverty. Many widows reported being in constant fear of being attacked and even killed by their in laws.

Widows caught up in the struggle for daily existence in the urban areas, neither have the time nor the resources to pursue their rights against their in laws. Lack of knowledge of the formal legal process for claiming their rights as widows also hinders the widows from pursuing their rights. Many of the widows had no knowledge on how to acquire letters of administration to their late husband's estate. They did not have the resources to hire the services of a good lawyer to support their claims and they did not have personal capacity in terms of knowledge and resources to pursue their rights

individually. The challenges of enforcing their rights are compounded by the fact that almost all the deceased husbands never leave wills. It was reported that it is against the culture among the Luo community to write a will because it was considered a ban omen signaling death. And because of the absence of a will, many male relatives of the deceased husbands often transfer the property in their names and there is almost nothing that the widows can do. Most young widows feel isolated by their circumstances. As one widow noted:

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*"I had to leave so that I get peace of mind. I just want to look after my children. Nothing matters anymore. My people also kept their distance, I was alone with my children and I was seven months pregnant"*

---

## 5. Conclusion

The findings of the study clearly demonstrate that the legislative and policy frameworks have not been effective in protecting widow's inheritance rights in Kenya. This is because the enforcement mechanisms are not efficient and they are riddled with corruption. The gap created by this inefficiency in the enforcement of the legal protection of widow's inheritance rights has led the perpetuation of customary rules and practices which have disenfranchised widows and dispossessed them of their property.

Widows' land problems relate to the capacity to enforce the rights contained within the laws of Kenya. Such difficulties are attributed to ignorance of the laws and associated procedures, prohibitive costs involved and corruption. It is therefore imperative to increase widow's access to justice by creating an enabling environment for the enforcement of their land rights. It is also imperative to empower widows by increasing investment in programmes that increase their access and control of economic assets.

Building capacity and strong networks of organizations that work in support of women's property and inheritance rights is also crucial. It is important that they can continue to engage in strategic interventions, intensify advocacy and form coalitions around specific issues to make real change and secure widows' property rights. A strong network of organizations working on widow's property rights would also raise awareness on the issue of women's property rights through advocacy and media campaigning.

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# Annex 1: Narratives

## Story 2

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We have pieces of land in Rachuonyo. The dispute is, when I went home, my brother in-law, the oldest, had brought matafari (burnt bricks) and cocoto (sand stones) on my land just next to my house. He passed the boundary. The boundary is not there now. One of my friends married in the next home tipped me that he wants his son to build there.

I asked him why these building materials were here in my home. He told me it is just being kept there. Everybody said he wants the son to build there. That's when I came to report it to you [YWAP] but you said you had no funds to assist me.

And the other piece of land (gunda land), which belongs to the last born - who is my husband - they are saying it was for the father (my father-in-law). Because of that, it is now common property and he wants it too. I went to the sub-chief at night. He is just next to us in the village. He said I must agree with what my in-laws say since all that land has one title deed and we don't have our own title deed.

There is another land, just on the ridge, which my husband bought. He didn't process the title deed. So we have to start the process of getting that title deed on our own. It is complicated because you know the last born is entitled to the gunda land. All my in-laws are old men with their own homesteads. Why are they coming back to claim my land? They told me that if I'm stubborn I will die.

I'm outspoken but my co-wife is soft and does not confront them. So she has the favour with them. But they are not giving her any land either. When we go home, we quarrel the whole night out shouting each other with the eldest of my-in-laws. They are now determined to evict me from my own home. That home is mine. I'm the first wife.

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## Story 3

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I was married in 1975 and had six children. My husband died in 2006 at 6:30 at Kenyatta hospital.

### Actions supported by the project

We go home, me, my co-wife and the sons (I have 6 children, 1 son and 5 daughters). We go and invite the clan elders to put pressure on my brother-in-laws to accept our boundaries and to leave the land. Then we plant sisal in the boundaries with the elders supervising. Then we call the land's officer to come to survey and subdivide the entire family land so that boundaries are well marked and everybody recognizes them. From there we apply for the title deed. We already have the death certificate; we can easily apply for the letters of administration.

There is a tussle over family land. My husband was the last born son. The eldest brother-in-law is the trouble maker. My co-wife is outspoken. To punish us for the tough co-wife he won't let us use the land. He blames us for always being in Nairobi and that soon they will take full control of the land. We need our own title deed because I have two sons and my co-wife has one.

The eldest brother wants to build a house for his son in our land. He is cultivating the land and we decided to sub-let a piece and he chased away the tenant. If we plant anything in the land and we leave for Nairobi he puts cows in the field to eat everything.

We need to go home together with my co-wife and the three sons and invite the clan elders for a meeting with the brothers-in-laws. He had said those who are playing tough might die. If we go home we must go to Kosele to talk with the Chief. Our sub-chief is friend with him.

They don't trust me as the second wife. They think I will get another husband but my co-wife is well established. They know she will not go anywhere to marry but she is too tough they may kill her.

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## Story 4

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I was married in 1983. My husband and I lived in Nairobi. We had four children. We went home during funerals and holidays, mostly Christmas and Easter.

### **Actions supported by the project**

We all go home and settle the matter with our in-laws so that we plant euphorbia or sisal as boundaries with the clan elders and the land officer witnessing. The chief also should be there but not the assistant chief, he is related to these people and he takes their side.

We had a meeting with our 3 brothers-in-laws. Me and my co-wife, the three sons were present and five clan elders. We discussed and requested to be shown the demarcations and my brother in-law refused. He insisted that the only day they will show us the demarcations is when we leave Nairobi for good. We must live at home permanently for at least two years and they can show us the boundaries. One of the brothers in-law was on our side. He said that this issue has brought a lot of suffering for the widows of Osoo and we should be shown the demarcations once and for all.

The brother to the real father-in-law together with 5 other men from the Aming clan, which is our clan, also supported us. The clan elders said that the demarcations have to be done soon. So what remains is that we summon the lands officers and the chief for demarcations but we need to go back soon. If the land demarcations can be done, then we can apply for the letters of administration and then transfer the land title deed to both of us widows.

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## Story 5

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We lived with my husband in Nairobi until he died in 2008. We used to go home for Christmas and other important occasions. My husband was buried in their rural home in Rachuonyo. We had four children but recently another son was brought to me whom apparently my husband fathered outside the marriage. His mother died.

The problem is that we used to have a business in Gikomba, selling soda and snacks before my husband died. When he died the goods in the house and in the business were taken home during the funeral. All furniture and other items, like cookers and the fridge, were parked in my mother-in-law house. She took them. There is no electricity in the rural areas, but she can't give me even the electrical equipments. When I came back to Nairobi, I used the money mourners gave me to buy another fridge for the business. I started all over with nothing. Later, Coca-Cola gave me another fridge and I had to sell the one I bought to use the money for other things.

I have been told by my co-sister-in-law (wife to one of my brothers-in-law) that they are going home for the subdivision of the family land. I was not invited and I'm being side-lined yet I have a son. On top of it, another son has been brought to me. Apparently my husband had it from another woman who is also dead now. My mother said that I just take care of this step son. He might be a blessing. Why can't he be given land as well?

My husband was the second born son and the first son is already out of the home. We are supposed to be next in that order and there are two more sons after my husband.

### **Actions supported by the project**

I need to go home and find out what is going on and if I establish I have been cut-out of the land then I will report to the chief and maybe appeal to the lands office or the lands board. I want to follow it up step-by-step. My mother-in-law thought I would have died soon after my husband. They don't even know I've started an ARV therapy. The chief was a friend of my husband and he even came for the burial.

I will go with both the boys but I can leave the girls for it will be too expensive and traveling with all of them in the country buses is tedious.

### **Feedback after going home**

I went home between August 8, 2009 and August 25, 2009 and held meetings with my two brother-in-laws and there was no compromise reached. I reached out to my mother-in-law but she had taken the side of her sons. I had no choice and so I went to the local chief for help. The chief was cooperative. He summoned the brother of my father-in-law whom my brother-in-laws listen to. Finally they agreed to give me the share of my husband's piece of land and it has been demarcated. It is 2.5 acres.

The chief told me to look for money for the survey and registration, and then I can look for letters of administration for the land title deed. I also managed to get the death certificate of my husband.

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### **Story 6**

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I married in 1982 and my husband died in 2000. My husband died in Nairobi and was buried in Serembe, in Yala. All the three brothers of my husband are dead. My husband's uncle brought his third wife and built for her a house on the land. He fenced the whole land and it's now hers. They claimed that we are always in Nairobi and we have no use for land.

There is another land we bought with my husband and I have the title deed. It is the one I want the title changed to my name. The land was sold by S. and the title deed is in S.'s name.

### **Actions supported by the project**

I need to go home to request for the transfer. I have the death certificate and the birth certificate. I know they will ask me for a letter from the chief to verify my marriage.

### **Feedback after going home**

When I went to Siaya I was referred to Yala division to get a letter from the District Officer (DO) and the DO referred me to the chief. I also conducted a search at the lands reg-

istrar and was told that the land is in my husband's name. Now I need to submit the forms for the application to the courts. They cannot transfer the title deed without the letters of administration.

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### **Story 7**

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I got married in 1989 but officially solemnized the marriage in a church wedding on 1997. My husband died in 2008. I was born in 1970 in Siaya Alego but my husband comes from Siaya Ugunja.

I did not finish school. In fact I left in class 6. My husband was educated he was an architect with his own firm in Nairobi. When he died we were at Inner core Umoja and he left a car. My brother-in-law took it. He asked me for the log book as well.

We have a plot in Utawala 50 but it is not built yet. This is the title deed. There are 2 plots in Kamulu those sides of Ruai. These are the allotment letters. We took most of our household goods home during the funeral. My mother-in-law keeps them.

My problem is how to sell the two plots in Kamulu/ Ruia so that we get money to build in Utawala. I work at the Wilma day-care and the money is too little. If I can build the house I will not worry about rent.

I have six children. The oldest is 18 years old. My brother-in-law pays his school fees. The other two are the ones I'm paying the fees for. The insurance called me to collect the payment and I took it to school. I paid for two years for both of them. There is money in banks. I cannot get it because of letters of administration. I need help to get the letters so that I can sell the two plots of land.

### **Actions supported by the project**

The process of submitted the forms is complete. I have to wait for the gazettelement. I have not told anybody for they might think I've become clever.

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## Story 8

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I was born in 1982 in Oyugis and was married in Kanyadhiang in Rachuonyo. My husband worked in SONY Sugar, then we came to Nairobi. He worked with Crown Paints. I got married in 2001 and we had 3 children.

My problem is my mother-in-law told everybody that I'm a passer-by. I got money from Crown and she said she does not want any of it. My husband is the first born but they have not given me land. Now I trade in fish.

The main problem is the plot in Awendo. Three people rent there and sometimes when I go to get rent I find my mother-in-law has already taken the rent money. I want the plot to be in my name so that I can sell it and build another one. I have my husband's allotment letter. The only way to sell is to transfer it to my name.

### **Actions supported by the project**

I will go to the lawyer so that she can help me to get the letters of administration. I need to go home first to get the death certificate. My mother in-law has it. I don't know if she will give it to me. I don't want to take her to court if she refuses to give me. Maybe the chief will assist me to get a copy.

### **Feedback after going home**

I went home having traveled overnight. I arrived in the morning. My mother-in law was there. She was happy to see me but I thought she was pretending. I took tea from her house and I asked if I could lie down in her house to sleep a little. She went away and left me sleeping. I went through her drawer and I got the certificate. I just hid it away and the next day I came back I went to the lawyer and now she told me she is going to file the papers. The lawyer told me to go with 2 people to sign the papers from my husband's side. My sister in-law came with her cousin. They signed.

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# Annex 2: Discussion guide/participant selection criteria form

## Young Widows Advancement Program

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Email: info@youngwidowskenya.org

## Assisting Kayole Widows in Accessing Family land

### 1. Participant's Names:

First Name.

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Maiden Name

---

Marriage Name.

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### 2. How old are you?

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### 3. Do you have a National Identification Card?

(1) Yes .....

(2) No..... [to verify marriage status]

### 4. How long have you stayed in Kayole Estate?

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### 5. What are the arrangements of the place/house you are staying?

1. Bought the unit

2. Renting the Unit

3. Staying with relatives/friends

4. Other (request the respondent to specify)

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### 6. Did you move to Kayole before or after the loss of your husband?

(1) Before

(2) After

### 7. Why did you move to Kayole Estate?

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### 8. Where did you live before coming to Kayole?

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### 9. What is your Home District or home?

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### 10. When did you become a widow? (Try to get the exact dates--month and year)

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### 11. What type/kind of marital union did you have with your husband?

a. We had a church/mosque marriage

b. It was a customary marriage

c. It was a civil marriage

d. We just lived together (co-habiting)

### 12. Did you have a co-wife?

(1) Yes .....

(2) No.....

### 13. How many children did your husband have including your children with him?

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### 14. How many children did you have with your husband?

### 15. Did your husband leave a written will?

(1) Yes .....

(2) No.....

### 16. While married, what major properties did you develop together?

(1) Built a house in his home village

(2) Bought land and built a house elsewhere

(3) Bought animals

(4) Bought a vehicle/Motorcycle/Bicycle

### 17. If, 1 or 2 in xx above, have you ever lived at that property?

(1) Yes .....

(2) No..... skip to XX)

18. How long did you stay there?

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19. Why did you move from there?

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If no Question XX, why not?

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20. How frequently do you and your husband visit the property/home in a year?

- (1) Once a month
- (2) Every holiday season
- (3) Whenever we could

21. Give reason for the number of visits

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22. Do you still access/ control rights to that property/land?

- (1) Yes ..... (skip to )
- (2) No..... .

23. If No, Why?

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24. When did he acquire it?

- (1) Before Marriage
- (2) After Marriage

25. How did your husband acquire the land?

- (1) Inherited
- (2) Bought with his money
- (3) We bought it together

26. How did he acquire the land title deed?

- (1) Purchased it
- (2) Inherited from father
- (3) Other specify

27. Do you have your own personal piece of land?

- (1) Yes .....
- (2) No.....

28. If yes, When did you acquire it?

- (1) Before Marriage
- (2) After Marriage
- (3) After losing husband

29. How did you acquire your personal land?

- (1) Inherited
- (2) Bought with my money
- (3) We bought it together with husband

30. Do you have a title to personal land?

- (1) Yes.....(Skip to )
- (2) No.....

31. Can you decide to sell this land without seeking permission from anybody?

- (1) Yes.....(Skip to )
- (2) No.....

32. If no, why not?

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33. What suggestions do you have about questions I have asked you?

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Thank you for your time.



### **Our Mission**

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

### **Our Vision**

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

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

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

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

