



Compendium of Cases by the Luo Council of Elders

KELIN is a human rights NGO working to protect and promote health related human rights in Kenya. We do this by: providing legal services and support, training professionals on human rights, engaging in advocacy campaigns that promote awareness of human rights issues, conducting research and influencing policy that promotes evidence-based change.

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Preface

It is settled that women's access to and control over land and property is important in the realisation of other rights including right to health, food, water, housing and gender equality. In efforts to prompt the realisation of women's land rights, Kenya has over the past decade undertaken Constitutional and legislative reforms. However, due to customary practices and beliefs governed by norms of male power and priority, women in Kenya still face hurdles in realising their land and property rights. In addition to customary beliefs, women who face land and property rights violations still experience challenges in the access to justice process occasioned by complex court system, costs and physical inaccessibility of courts to seek redress.

In recognising that secure land rights for women are important for their economic development, social inclusion and realisation of other human rights, KELIN has been working to address the gap between law and practice by supporting widows and children who have been disinherited to access justice. Due to the complex legal systems and costs implication, the organisation under the Cultural Structures Project (CSP) which engages council of elders to remedy property rights violations through mediation and also through the Securing Your Family's Future (SYFF) which aims to change social and peer norms on women land tenure.

This compendium covers the process and outcome of the Traditional dispute resolution conducted by the Luo Council of Elders. Importantly, the elders utilized mediation as an alternative dispute resolution mechanism to resolve disputes relating to the applicability of the Luo Customary laws. The process detailed sessions for capacity need assessment, a joint meeting with the elders which involves the bargaining of issues, the reasoning session where the elders interpreted the issues and inform on the extent of legality, a written agreement is then recorded for further negotiations or the final agreement, a reopening date is also set in case a party breaches the terms of the agreement, the final step is the reconciliation stage. The privacy of parties is respected and protected by use the use of initials.

The compendium demonstrates the effectiveness on the use of alternative dispute resolution mechanisms administered by the traditional justice system to meet the needs of justice seekers.

Acknowledgement

This Compendium of Cases would not have been possible without the immense dedication from the Luo Council of Elders of whom, women have realized their land and property rights. KELIN is especially indebted to extensive personal and professional knowledge shared by the facilitators to the larger community that has led to enhanced legal literacy.

Most gratitude to the widows and the orphans who allowed us to publish their cases. Their immense knowledge and plentiful experience is documented to amplify on effectiveness of the alternative justice system in resolving disputes related to inheritance.

Many thanks for the invaluable technical support to Ms Hellen Shiro Mogeni, with support of KELIN staff; Jessica Oluoch, June Bosire and Kenneth Otieno for overseeing production of the publication.

Special thanks for the financial and technical support from the Cultural Structural Project and the Securing Your Family's Future (SYFF) project funded by anonymous donor.



Allan Maleche,
Executive Director, KELIN

Acronyms & Abbreviations

ACHPR	African Charter on Human and People's Rights (Banjul Charter)
AJS	Alternative Justice Systems
CSP	Cultural Structures Project
CEDAW	Convention on Elimination on the Elimination of All Forms of Discrimination against Women.
CUC	Court User's Committee
Maputo Protocol	African Charter on Human and Peoples' Rights on the Rights of Women in Africa
NCAJ	National Council on the Administration of Justice
SYFF	Securing Your Family's Future
KELIN	Kenya Legal and Ethical Issues Network on HIV and AIDS

Table of Contents

Preface.....	4
Acknowledgement	5
Acronyms and Abbreviation	6
List of Cases	8
Executive Summary	9
Message from Partners	10
1.0 Introduction	12
2.0 Analysis of laws on women land tenure in kenya.....	15
3.0 Summary of mediations undertaken by elders	19
4.0 Elders profile	38
5.0 Facilitators profile	45
Reference	49

KEL/WLP/OO1/2020 G.A.O-vs-IN-LAWS
KEL/WLP/OO2/2020 P.O.O –vs- IN-LAWS
KEL/WLP/OO3/2020 P.A.J –vs- IN-LAWS
KEL/WLP/OO4/2020 C.A.A –vs- IN-LAWS
KEL/WLP/OO5/2020 L.O –vs- IN-LAWS
KEL/WLP/OO6/2020 M.A.J –vs- NEIGHBORS
KEL/WLP/OO7/2020 P.L.O.O –vs- IN-LAWS
KEL/WLP/OO8/2020 Estate of L.O.O SISTERS –VS- BROTHERS
KEL/WLP/OO9/2020 H.A.S –vs- IN-LAWS
KEL/WLP/O10/2020 M.A .J–vs-CO-WIFE
KEL/WLP/O11/2020 C.A.N–vs- IN-LAWS
KEL/WLP/O12/2020 S.A.O –vs-IN LAWS
KEL/WLP/O13/2020 F.A.N –vs-NEIGHBORS
KEL/WLP/O14/2020 M.S.O–vs-STEP-SONS
KEL/WLP/O15/2020 A.N.M–vs-IN-LAWS
KEL/WLP/O16/2020 G.A.O–vs SELLER OF LAND
KEL/WLP/O17/2020 P.A.A–vs-IN-LAWS
KEL/WLP/O18/2020 L.A.N–vs-IN-LAWS
KEL/WLP/O19/2020 R.A.O–vs-IN-LAWS
KEL/WLP/O20/2020 A.L.L–vs-IN-LAWS
KEL/WLP/O21/2020 C.A.O–vs-IN-LAWS
KEL/WLP/O22/2020 M.A.O–vs-IN-LAWS
KEL/WLP/O23/2020 H.M–vs-BROTHERS
KEL/WLP/O24/2020 PN–vs-BROTHER IN LAWS
KEL/WLP/O25/2020 R.A.O–vs-STEP BROTHER
KEL/WLP/O26/2020 M.A–vs-MOTHER IN LAW
KEL/WLP/O27/2020 T.A–vs-MOTHER AND BROTHER IN LAWS
KEL/WLP/O28/2020 P.N–vs-FATHER-IN-LAW
KEL/WLP/O29/2020 L.A–vs-BROTHER-IN-LAW
KEL/WLP/O30/2020 J.A–vs-BROTHER-IN-LAW
KEL/WLP/O31/2020 P.O.O–vs-CO WIFE AND BROTHER-IN-LAW
KEL/WLP/O32/2020 M.A.O–vs-CO WIFE
KEL/WLP/O33/2020 H.A vs IN LAWS
KEL/WLP/O34/2020 M.O vs IN LAW

Executive Summary

It is settled that women's access to and control over land and property is important in the realisation of other rights including right to health, food, water, housing and gender equality. In efforts to prompt the realisation of women's land rights, Kenya has over the past decade undertaken Constitutional and legislative reforms. However, due to customary practices and beliefs governed by norms of male power and priority, women in Kenya still face hurdles in realising their land and property rights. In addition to customary beliefs, women who face land and property rights violations still experience challenges in the access to justice process occasioned by complex court system, costs and physical inaccessibility of courts to seek redress.

In recognising that secure land rights for women are important for their economic development, social inclusion and realisation of other human rights, KELIN has been working to address the gap between law and practice by supporting widows and children who have been disinherited to access justice. Due to the complex legal systems and costs implication, the organisation under the Cultural Structures Project (CSP) which engages council of elders to remedy property rights violations through mediation and also through the Securing Your Family's Future (SYFF) which aims to change social and peer norms on women land tenure.

The development of this compendium is KELIN's effort to identify, promote and disseminate good practices that relate with engaging cultural structures in affirming women's land and property rights. This compendium provides a compilation of mediations undertaken by the cultural structures under KELIN's Women's Land and Property Rights Programme. It aims to serve as a reference material for cultural structures, individuals and institutions working in the thematic area, and to increase awareness and knowledge to community members on how women's land and property rights violations can be redressed through the cultural structures that conform to constitutional threshold.

The compendium also provides an overview of the legal mains that women have made with regards to property rights since the promulgation of the current constitution. Other than analysing Constitutional principle on gender equality, it examines the various land laws and their implications on women's property rights in Kenya. In order to project the international foundation of women's land right, the compendium highlights various international law instruments that anchor and protect women's rights.

Message from Partners

Disputes are inevitable in our communities. As we learn how to avoid them, we need to use alternative dispute resolution mechanisms to resolve them. As a Chief, I work closely with elders and apply the laws of Kenya when resolving any dispute reported to me. This method has enabled me to settle disputes and the parties in most instances shake hands and forgive.

Grace Ombima – Chief Kaksingri East location within Suba South Sub- County

Great things happen to those who don't stop believing, trying, learning, being grateful and empathetic. Most community persons are unable to afford court fees and lack the technical know-how to access justice in courts. The alternative justice system is a mechanism we should embrace to ensure amicable resolution of disputes and to ensure rights are respected in our society.

Tom Ondiro – Chief Kakelo Location within Rachuonyo East Sub- County

The traditional justice system has gained immense recognition for its contribution to justice and governance. It further plays key role in national and community cohesion. Gratitude to the Luo council of elders for the proper documentation of cases as compiled by KELIN.

Major Elder Ag Major John Seii Chairperson for the Kenya National Council of Elders (KNCE)

"Before the 2010 Constitution, courts in Kenya were guided by African customary law in civil cases in which one or more of the parties was subject to or affected by it, so far as it was applicable and not repugnant to justice and morality or inconsistent with any written law. With the 2010 Constitution, courts are guided by traditional dispute resolution mechanisms where they don't contravene the Bill of Rights, are not inconsistent with the Constitution or any written law or are not repugnant to justice and morality or results in outcomes that are repugnant to justice or morality.

Lastly, under the Law of Succession Act, where the deceased died before 1981 the applicable to the administration of his estate is his customary law."

Hon Judge Aggrey Muchelule, Presiding Judge - Family Division

The Court Annexed Mediation Secretariat is pleased to contribute to the vision of enhancing access to justice and expeditious disposal of cases, through the implementation of Mediation. The Judiciary has placed focus on development of policy and procedures to anchor Mediation and its correlation to other forms of alternative dispute resolution. The Elders have been key stakeholders on matters ADR and have led from the front on sustainable peace and development through promotion of ADR.

Hon. Caroline Kendagor, Magistrate - Head of the Court Mediation Secretariat, Nairobi

“The inclusion of Council of Elders in respective Court Users Committees is integral to giving full effect to Article 159 of the Constitution. These efforts are geared towards establishing a clear framework of collaboration with the formal justice system.”

Ms Sylvia Yiantet, Assistant Director Court Committees for the National Council on the Administration of Justice (NCAJ)

“AJS forms an integral of the justice system. Indeed, the judiciary is obligated to be guided and promote AJS in all its formations. AJS has proved to be timely, accessible, cheap and effective in resolving civil disputes in the community. Kenya has seen the integration of women leaders in decision making with remarkable results. The 2010 Constitution provides an easy guide and enabling environment to respect AJS mechanisms in the administration of justice.”

Commissioner Emeritus Jedidah Waruhiu, member in the National Steering Committee in the implementation of the AJS Policy (NaSCI-AJS)



1. INTRODUCTION

Research shows that advancing women's land and property rights has the potential to promote other related human rights. When women have no secure land rights, they are not in a position to realise their right to shelter, adequate food; safe water and health including management of the impact of HIV/AIDs.¹ Land is particularly important for women when they become head of household due to abandonment, death or divorce since it enables them achieve economic autonomy and are able to support themselves and their families.²

Women's land rights are human rights³ and are recognized by international and regional human rights instruments such as CEDAW and Maputo Protocol⁴ and states have an obligation to respect, protect and fulfil these rights. These rights are also enshrined in Articles 2 and 3 of the African Charter on Human and Peoples' Rights, articles 7 and 17 of the Universal Declaration of Human Rights and the Beijing Platform for Action. By expressly prohibiting discrimination on the basis of sex and other considerations; Article 26 of the International Covenant on reifies non-discrimination as a principle of women's land rights and empowerment generally. A similar conclusion is drawn from article 3 of the International Covenant on Social, Economic and Cultural Rights.

In addition to general framework, in 2013, the African Commission on Human and People' Rights adopted a Resolution on Women's Right to Land and Productive Resources, which called for state parties to comply with their obligations and commitments to ensure, protection and promotion of women's rights to land and property, repeal discriminatory laws and adopt legislative measures to sanction customary practices that limit or have a negative impact of women's access to, use of and control over land and other productive resources. The Commission in 2020 in General Comment

¹Netherlands Ministry of Foreign Affairs (2011) *"Women's Economic Empowerment to Foster Food Security; Case Studies from Developing Countries"*.

²Giovanelli, R Gender and Land Tenure Reform in ONE BILLION RISING (2009) pg. 196.

³UN Women 2013 Realizing Women's Rights to Land and Other Productive Resources.

⁴See Article 15 (a); 19 (c) and (d); 20 and 21.

No. 6 on Article 7(d) of the Maputo Protocol made provision on, among others, need for the adoption of substantive and formal equality principle to enhance better protection of women's matrimonial rights, and especially the right to an equitable sharing of the joint property deriving from the marriage. In meeting its legal obligation to respect women's land rights, the Kenyan government has undertaken constitutional, legislative and policy reforms over the past decade.

In line with the Constitution, Parliament enacted various legislations on land. These include; the Land Act 2012, the National Land Commission Act, 2012, Land Registration Act, 2012, Matrimonial Property Act 2013, Community Land Act, 2016, the Sectional Property Act, 2020. In addition to constitutional and legislative reforms, there have been several efforts to create awareness on women's land rights in the community; and progressive court decisions by the Judiciary that promote women's land rights.⁵ For instance, in *ZWN v PNN* the court observed that;

*"The principle of equality currently enshrined in Article 45 (3) of the current Kenyan constitution and as derived from the afore assessed human rights instruments that Kenya was party to as a member of the international community and which principle this court is enjoined to apply enjoins this court to rule and order that the plaintiff is entitled to a half share of all matrimonial properties adjudged to be matrimonial properties herein."*⁶

However, despite the progress, women continue to face challenges in enjoyment of land rights due to social and cultural prejudice; insufficient implementation and complex enforcement mechanism of the existing laws. Since the developed KELIN's 1st compendium, there has been legislative and policy reforms that are linked to women land and property rights.

KELIN, under the Women's Land and Property Programme recognizes the importance of securing women's land and property rights and for 12 years since 2009, engaged in projects that address the needs of Kenyan widows and their children who have been disinherited and denied their legally recognised and protect inheritance rights. The organisation takes into account that whereas laws and courts exist to protect women's inheritance rights, cultural barriers reinforced by patriarchy hamper the realisation of these rights. To fill the gap, KELIN has been working with Councils of Elders under the CSP project to address these injustices through mediation and awareness creation. The project has engaged 50 elders who offer mediation services in Homabay and Kisumu Counties. In 2015, the organization developed a compendium that shared details of the disputes handled by the elders and the outcome of the mediations.

In 2007, KELIN in collaboration with Pastoral Women's Council (PWC) in Tanzania, Uganda Community Based Association for Child Welfare (UCOBAC), and Lori Roller Consulting in New York established the Securing Your Family's Future (SYFF) project. The project focused on social norms that restrict women's access to and control over land and engaged in a number of community interventions aimed at influencing social change. The project was premised on the fact that individual behaviours are guided by unwritten societal norms and order for individual change to occur, social norms needed to change. Under the project, KELIN undertook a number of community interventions aimed at influencing social change including training of community gate keepers, men and women. A total of 200 men and 200 women from Kisumu and Homabay Counties were equipped with skills and knowledge on protecting their families' future. The elders and widows engaged under the CSP project were trained and formed part of champions who were engaged in community initiatives under the SYFF project. Successes of the SYFF project include; increased number of community

⁵Odhiambo, Ruth, *Judicial Responses to Women's Rights Violations in Kenya in the Post-2007 Context* (July 14, 2014). Available at SSRN: <https://ssrn.com/abstract=2895960> or <http://dx.doi.org/10.2139/ssrn.2895960>.

⁶[2012] eKLR.

champions providing community members with knowledge on women land rights; increased number of successful mediations on women's land disputes by the elders; increased number of cases reported to KELIN for court action by the champions; and champions challenging harmful cultural practices.

As a result of the success in mediations undertaken by the elders under the SYFF project, KELIN developed this 2nd compendium. This compendium contributes to the knowledge base on the role of AJS in redressing women's land and property rights. It includes analysis of current laws on women land tenure and summaries of mediation cases and outcomes. Since mediation is a confidential process no identifiable markers have been provided to protect the identity of the disputants.



2.0. ANALYSIS OF LAWS ON WOMEN LAND TENURE IN KENYA

The Constitution of Kenya 2010 has a positive impact on women's land rights. The constitutional framework on; equitable access to land; elimination of gender discrimination in law, customs and practices related to land and property in land; and encouragement of communities to settle land disputes through recognised local community initiatives consistent with this Constitution are examples of positive constitutional provisions.⁷ Other progressive provisions include; equality and non-discrimination; equality in marriage, right to own property and protection of deceased person's dependants.⁸ Pointedly, equity and equality have been given significant prominence in the Constitution. In line with Article 60 (g) and 159 of the Constitution, traditional dispute resolution processes have been mainstreamed as avenues for resolving land disputes thus restoring the value of customary law in land administration and management.

The promulgation of the Constitution in 2010 and the enactment of enabling legislation such as the Land Act 2012, Land Registration Act, 2012 and the National Land Commission Act, 2012 regularized land management and guarantee non-discrimination in land management and ownership. The matrimonial property regime is governed by the Marriage Act of 2014 and Matrimonial Property Act, 2013 with the later protecting women's property rights before, during and upon dissolution of marriage. However, the Law of Succession Act CAP 160 a 1981 legislation that deals with protection of deceased person's dependants and estate, is yet to be amended to conform to the new constitutional dispensation.

⁷See Articles 14 (1), (2) (g); 15 (1); (2); and 16.

⁸See Article 15 (a); 19 (c) and (d); 20 and 21.

The Land Act, 2012 provides for 'equal recognition and enforcement of land rights arising under all tenure systems and non-discrimination in ownership of, and access to land under all tenure systems.' By allowing the National Land Commission to allocate land to disadvantaged groups, the Land Act opens room for women as a disadvantaged group to benefit from land allocations. Under Section 105 of the Act, the court may re-open a charge of any amount secured on matrimonial property, 'in the interest of doing justice between the parties.' This provision protects women whose spouses use matrimonial land to secure loans without their knowledge. Spousal right to land and property is guaranteed under the Land Registration Act, 2012. By recognizing spousal rights over land owned as matrimonial property under sections 28 and 93, the Act protects the rights of women in land transactions involving their spouses.

By conferring the National Land Commission power over land management, the Constitution quashes the discriminatory practices that existed under the colonial management system domiciled in the national government. The National Land Commission Act, 2012 obligates the Commission to apply section 60 of the Constitution in land management, essentially mandating it to enforce non-discriminatory practices. Section 5 (1) requires the Commission to 'encourage the application of traditional dispute resolution mechanisms in land conflicts thereby facilitating quick just and efficient resolution of land disputes.

The Land Registration Act, 2012 is a product of the constitutionally mandated consolidation of land laws in Kenya. The Act thus regulates the registration of land. By recognising spousal rights over land owned as matrimonial property under sections 28 and 93, the Act protects the rights of women in land transactions involving their spouses.

In respect to the women property rights, The Matrimonial Property Act, 2013 outlaw's discrimination in the division of matrimonial property thereby protecting women after divorce. It also expands the meanings of matrimonial property and Contribution to include concerns that had dominated women's dispossession during matrimonial causes. For instance, Section 2 defines Contribution as 'monetary and non-monetary contribution and includes— (a) domestic work and management of the matrimonial home; (b) child care; (c) companionship (d) management of family business (e) farm work. The same section defines matrimonial home as 'any property that is owned or leased by one or both spouses and occupied or utilized by the spouses as their family home, and includes any other attached property'. In a society where women's contribution in marriages is often ignored, these provisions ensure that women are not disposed during division of matrimonial property. Ownership of matrimonial property is also conferred on both spouses by section 7. The elaborated protection offered under sections 8 to 16 are in many respects, protective of women's property rights both in and at the dissolution of marriage. The Act also recognizes the property rights of women in polygamous unions. The principle of equality is further enshrined in the Marriage Act, 2014. Section 3 (2) of the Act states that Parties to a marriage have equal rights and obligations at the time of the marriage, during the marriage and at the dissolution of the marriage. The Act essentially entitles women to equal property rights as men during the subsistence of the marriage.

The legal reforms promote inclusion of women in the management of community land. The Community Land Act, 2016, provides a framework that community land would be managed in line with the customary law of the given community. Section 30 protects individuals' rights and provide for non-discrimination in the use of community land. Sub-section 3 specifically states that 'Women, men, youth, minority, persons with disabilities and marginalized groups have the right to equal treatment in all dealings in community land.' Sub section 4 provides that 'registered community shall not directly or indirectly discriminate against any member of the community on any ground including race, gender, marital status, ethnic or social origin, colour, age, disability, religion or culture.' Section 39 provides for the use of traditional dispute resolution mechanisms in resolving community land disputes. It also obligates Courts to use customary law in resolving community land disputes, except when they are inconsistent with morality and justice.



Importantly, the Judiciary launched the Court Annexed Mediation Project which supports speedy resolution of disputed. Further, the Judiciary developed the Alternative Justice Systems Baseline Policy and Policy Framework which recognizes the importance of justice systems outside the court system. The AJS Policy recognises the significance of AJS in facilitating speedy and cost-effective access to justice and identified four AJS models namely; Autonomous AJS Institutions run fully by the community; Autonomous Third-Party AJS Institutions that fall into 2 categories- state-mandated institutions such as chief, police, village elders and non-state mandated institutions such as religious leaders, NGOs and CSOs; Court-Annexed AJS Institutions which are under court's guidance and Regulated AJS Institutions which require statutory regulation. Other efforts include the establishment of the Court Users Committee under the NCAJ that brings together justice actors to promote the administration of justice. CUCs have undertaken community open days and training of its members to create awareness on women's land rights.

The policy recommends application of first three models. The Policy considers AJS as a necessary component of access to justice and its' principal objective is to give effect to Article 159(2) (c), which mandates the Judiciary, as a state organ, to promote AJS. The Policy makes clear recommendations and viable options on how the judicial system and Alternative Justice Systems can interact in a manner that is mutually reinforcing and focused on an effective system of justice. The Policy has also identified useful and immediate steps to be taken in order to animate this important aspect of the administration of justice. These steps include: identification of matters to be brought under AJS, regulation of practitioners of AJS, appropriate procedures and processes in AJS, appropriate interventions, and resource allocation to support the process.

There has been a cumulative reform in land laws to incorporate women's access rights to land. This movement resulted into the robust constitutional and legal framework that guards gender equality and protects women against discrimination. Despite the robust legal regime which read together with Article 2 (that recognizes ratified international laws protecting women's rights as part of Kenyan laws,) the situation of women as regards land rights has not changed much. Only 10% of women have land registered in their names, with most of them being in urban spaces.⁹ In fact, statistics

⁹<https://borgenproject.org/land-rights-for-women-in-kenya/>.

indicate that since the new Constitution was promulgated, only 25 land titles have been registered in the name of women.¹⁰ This clearly denotes that the legal reforms instituted to empower women and enhance their land rights have not resulted into any increased land ownership for women.

This reality calls for the rethinking of the efficiency of positive law in transforming gender relations that inhibit women's land rights. This should not only be done by reconsidering the place and power of customary law in (dis) empowering women in land matters but also the need to develop alternative community responsive strategies in responding to the challenges that privatization, capitalism and neoliberalism have brought upon women's claims for land rights. Development of a framework that will focus on an individual's relationship is within her community and the wider society as ideal for changing cultural practice. Therefore, there has to be sustained and wide-spread social norm change. In addition, consideration of the role of informal justice systems and customary law is a starting point in this conversation. The reinvigoration of alternative dispute resolution systems as a sustainable dispute resolution model provides an opportunity for the development of a bottom-up community responsive dispute resolution system that taps into the strengths of customary law.¹¹

¹⁰<https://www.reuters.com/article/us-kenya-landrights-women/less-than-two-percent-of-land-in-kenya-issued-to-women-despite-legal-gains-idUSKCN1GP22B>.

¹¹<https://www.icj.org/wp-content/uploads/2020/06/Universal-GvaForum-Kenya-Publications-Reports-Seminar-or-conference-reports-2020-ENG.pdf>.



3.0. SUMMARY OF MEDIATIONS UNDERTAKEN BY ELDERS

The 2010 Constitution revived the prominent place of African Customary Law and traditional systems through Article 159(2) (c) which gives the Judiciary the mandate to promote traditional methods of dispute resolution while at the same time subjecting these mechanisms to the human rights framework of the Bill of Rights (Article 153(3)). Thus, the use of “traditional”, “customary” or “alternative” (“Alternative Justice Systems”) has continued to endure.

The decisions of the Luo Council of Elders are guided by Article 10 which sets up the national values and principles of governance which include human dignity and social justice, the two principles that form the backbone of the transformational AJS. Additionally, the use of African customs is guided by Article 11 which recognizes culture as the foundation of the nation and as the cumulative civilization of the Kenyan people and nation. Founded by the Constitutional principles, the Council adjudicated on the matters in fair and timely manner (Article 48). This entails the right, with other members of that community, to enjoy the person’s culture and use the person’s language or to form, join and maintain cultural and linguistic associations and other organs of civil society (Article 44).

The procedures and systems of case management adheres to Article 27(1) which guarantees equality before the law and the right to equal protection and equal benefit of the law.

Case No.	KEL/WLP/OO1/2020 G.A.O-vs-IN-LAWS
County	Kisumu
Constituency	Muhoroni
Mediator	Elder Tom Minda Council of Elders
Basic facts	The disputant GAO was married to her late husband under Luo customary Law and the union was blessed with 5 children. They established their matrimonial home on land allocated to the husband by her father. Due to constant abuse and mistreatment, GAO separated from her husband in 2002. In 2008, the husband died and she returned with her five children and grandchildren. Her in-laws barred her from accessing her matrimonial home citing that she had abandoned her husband prior to his death and therefore she was not entitled to her late husband's property.
Issues identified	<ul style="list-style-type: none"> • Whether a wife who has separated from her husband is entitled to inherit his property. • Whether the children of the deceased are entitled to their late father's estate. • What alternatives are available for the widow and her children if they are not allowed to inherit the deceased's estate.
Outcome	The widow shared how the in-laws failed on several occasions to resolve the disputes between her and the deceased that saw her leave her matrimonial home. The in-laws confirmed that they held a grudge against GAO for leaving their brother and only returning after his death. The mediation was successful as the in-laws confirmed that she was justified to leave then and was entitled to the deceased property together with her children. The elder informed the disputants about the succession process and encouraged them to pursue the same.
Human Rights affirmed	<ul style="list-style-type: none"> • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution • Protection of family and vulnerable groups- Article 18 of Banjul Charter • Right to equitable share in inheritance of husband's property - Article 21 of Maputo Protocol

Case No.	KEL/WLP/OO2/2020 P.O.O -vs- IN-LAWS
County	Kisumu
Constituency	Nyando
Mediator	Elder Kasuku Kalolo
Basic facts	The disputant POO got married to her late husband under Luo customary law. The union was blessed with children. The family resided at their matrimonial home. Immediately after the death of her husband, her in-laws forcefully evicted her from her matrimonial land alleging she didn't have rights over the land.
Issues identified	<ul style="list-style-type: none"> • Whether the Claimant and her children were entitled to inherit the deceased's ancestral land. • What difficulties the widow and the children are faced with by staying away from their home. • What alternatives are available for the widow and her children if they are not allowed to inherit from the deceased's estate.

Outcome	The mediation process was successful. The elder involved the family in the resolution of the case leading to a mutual consent allowing the widow to stay in her matrimonial home. The elder affirmed on the need to comply with Luo customary law which allowed the wife of the deceased to inherit and settle in her matrimonial home.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Right of widow to re-marry or not – Section 15 of the Marriage Act • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter • Right to housing and acceptable standard of living – Article 43 (1) (b), and Article 16 of the Maputo Protocol • Right to equitable share in inheritance of husband's property - Article 21 of Maputo Protocol

Case No.	KEL/WLP/OO3/2020 P.A.J –vs- IN-LAWS
County	Kisumu
Constituency	Nyakach
Mediator	Elder Felix Okal
Basic facts	The disputant PAJ got married to her late husband under Luo customary Law. The union was blessed with children. The family resided at their matrimonial home. Immediately after the death of her husband, her in-laws demanded that she be inherited and when she declined, she was forcefully evicted from her matrimonial home together with her children. She was forced to reside in a shopping centre and had no land to cultivate.
Issues identified	<ul style="list-style-type: none"> • Whether a wife and her children were entitled to inherit the deceased's ancestral land. • Whether the customary practice of widow inheritance was repugnant to justice and morality in the circumstances. • What difficulties the widow and the children are faced with by staying away from their home. • What alternatives are available for the widow and her children if they are not allowed to inherit from the deceased's estate.
Outcome	During the mediation process, the brother-in-law to PAJ passed on. The elder guided the process and the family members allowed the widow to settle back home. The other family members recognized the unconstitutionality of the practice of widow inheritance. The taboo belief associated with the cleansing ritual as believed by the family was disregarded and the widow was allowed to return home.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Protection against inhuman, cruel and degrading treatment – Article 29 (f) • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter • Right to equitable share in inheritance of husband's property - Article 21 of Maputo Protocol

Case No.	KEL/WLP/OO4/2020 C.A.A –vs- IN-LAWS
County	Kisumu
Constituency	Seme
Mediator	Elder Oyugi Anyaa
Basic facts	The disputant CAA got married to her late husband under Luo customary law as a second wife. Their union was blessed with two children. In their second year of marriage, her husband died. Her brother in-law and her co-wife barred her from building a house on the deceased husband's land and she moved to the shopping centre to reside and fend for her children.
Issues identified	<ul style="list-style-type: none"> • Whether CAA was entitled to inherit the deceased's ancestral land as a second wife. • If yes, was she entitled to get a bigger share compared to the deceased's first wife? • What difficulties the widow and the children are faced with by staying away from their home. • What alternatives are available for the widow and her children if they are not allowed to inherit the deceased's estate.
Outcome	The in-law and the co-wife affirmed that CAA was a wife and as such together with her children, they were entitled to the deceased's estate. They also took note that it was not fair for her to reside at the shopping centre in hardship conditions, hence there was consensus that she be allocated land to build a house. The elder informed the disputants about the succession process and encouraged them to pursue the same.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter • Right to equitable share in inheritance of husband's property - Article 21 of Maputo Protocol

Case No.	KEL/WLP/OO5/2020 L.O –vs- IN-LAWS
County	Kisumu
Constituency	Nyando
Mediator	Elder Kasuku Kalolo, Elder Joyce Orowe Elder Henry Okul
Basic facts	The disputant's husband married her under Luo customary law but the husband died before building a house for her. When she was ready, the father-in-law denied her a portion of the land citing that he was the registered owner of the land and not his late son and as such, had all the rights to deny or allow her part of the land.
Issues identified	<ul style="list-style-type: none"> • Whether LO and her children were entitled to the deceased's father's land. • Whether the father-in-law was legally obligated to allocate land to his daughter-in-law. • What difficulties the widow and the children will face if not allocated land by the father-in-law. • What alternatives are available for the widow and her children if they are not allowed to inherit from the deceased's estate.

Outcome	The elders resolved the dispute successfully and the father-in-law allowed the widow and her children to settle on his land. The father-in-law noted that whereas the land was his, he had a customary duty to protect his late son's family. Elder Rhoda Nafula was appointed as the reference point in any emerging issues and to oversee the settlement of LO.
Human Rights affirmed	<ul style="list-style-type: none"> • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter • Right to equitable share in inheritance of husband's property- Article 21 of Maputo Protocol

Case No.	KEL/WLP/OO6/2020 M.A.J –vs- NEIGHBOURS
County	Kisumu
Constituency	Nyakach
Mediator	Elder Felix Okal Luo Council of elder
Basic facts	A widow was allocated land belonging to her brother-in-law. The said brother-in-law has been a missing person for twenty-seven years and has no wife or child. When the widow's son built a house on the said land, a neighbour threatened to evict him with claims of ownership of the said land.
Issues identified	<ul style="list-style-type: none"> • Whether MAJ and her children had the legitimate rights to settle on the land allocated. • Who allocated the said parcel of land to MAJ. • What alternatives are available for the widow and her sons if they are not allowed to settle on the land.
Outcome	The elder successfully mediated on the matter. Both the claimant and the widow held a session with the elders and it was agreed that the land belonged to the lost son of the home and so, the allocation of the land to the widow's son was acceptable under customary law. With consensus between the family members and the neighbours, the widow's son was allowed to settle on the parcel of land. The widow was advised to acquire land title through court.
Human Rights affirmed	<ul style="list-style-type: none"> • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Protection of family and vulnerable groups - Article 18 of Banjul Charter • The right to family benefits - Article 13 of CEDAW

Case No.	KEL/WLP/OO7/2020 P.L.O.O –vs- IN-LAWS
County	Homabay
Constituency	Rangwe
Mediator	Elder Oula Otieni Peter Chief
Basic facts	PLOO lost her husband in August, 2019 and shortly after his burial, her in-laws started disrupting her peace, hankering for inheritance from her late husband's estate. They proceeded to assault her and evicted her and her children from her home. The incident was reported to the Chief but no action was taken. The disputant is currently residing in a different county fending for herself and her children.

Issues identified	<ul style="list-style-type: none"> • Whether PLOO and her children are entitled to the deceased husband's land. • Whether the parcel of land forms part of matrimonial property. • What alternatives are available for the widow and her children if they are not allowed to inherit the deceased's estate.
Outcome	The in-laws affirmed that PLOO was the deceased's wife who bore him children hence was entitled to the deceased's estate. They agreed that the parcel of land formed part of her matrimonial home as it belonged to her deceased husband. They allowed her to return to her home.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter • Right to equitable share in inheritance of husband's property - Article 21 of Maputo Protocol

Case No.	KEL/WLP/OO8/2020 Estate of L.O.O SISTERS –vs-BROTHERS
County	Kisumu
Constituency	Awasi
Mediator	Elder Kasuku Kalolo Luo Council of Elders
Basic facts	Two daughters were denied inheritance from their father's estate by their brothers. The brother's wives joined in to prevent them from inheriting any property since customarily, they had no share.
Issues identified	<ul style="list-style-type: none"> • Whether daughters can inherit from their deceased father's property
Outcome	The elders informed the brothers of the rights of the deceased children to inherit their father's property as enshrined in the Kenyan law. The fact that the claimants were female did not invalidate their right to their father's property. Therefore any property that belonged to him automatically devolved to his children, equally. It was also noted that the claimants had a right to stay in the matrimonial home without interference.
Human Rights affirmed	<ul style="list-style-type: none"> • The Children's Act • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 15 of CEDAW; and Article 2 and 16 of Maputo Protocol, Law of Succession Act • Human dignity – Article 28 • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter

Case No.	KEL/WLP/OO9/2020 H.A.S –vs- IN-LAWS
County	Kisumu
Constituency	Nyakach
Mediator	Elders Julius Anyona and Felix Okal

Basic facts	The disputant widow is the mother in-law to two women who are themselves also widows. Her in-laws were constantly attempting to evict her daughters-in-law from the ancestral land and she found herself unable to stand up on their behalf.
Issues identified	<ul style="list-style-type: none"> • Whether a widow (daughters-in-law) can inherit ancestral land • The role of a widow in speaking for her widowed daughters-in-law
Outcome	The mediation was successful as the parties were in agreement that daughters-in-law are dependants as per customary practices and thus allowed to inherit. The mother-in-law was allowed to speak in the mediation to defend her widowed daughters-in-laws. The matter was successfully mediated and concluded.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 15 of CEDAW; and Article 2 and 16 of Maputo Protocol, Law of Succession Act • Human dignity – Article 28 • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter

Case No.	KEL/WLP/O10/2020 M.A .J-vs-CO-WIFE
County	Homa Bay
Constituency	Homa Bay Town
Mediator	Judith Ouko, Samwel Magai, Benard Kong'oma - Paralegal
Basic facts	The disputant MAJ alleged that her co-wife intended to dispossess her from her late husband's land since she had no child. The co-wife on the other had alleged that the land was bequeathed to her alone, by her late father-in-law.
Issues identified	<ul style="list-style-type: none"> • Whether MAJ was the legitimate owner of the land as per the green card issued by the land registrar. • Whether the father-in-law bequest the land to MAJ. • Whether a widow with no children has the right to inherit her deceased husband's property.
Outcome	The matter was resolved through consultation with the land registrar and the dispute was resolved that the land was given to MAJ by her father-in-law according to Luo customs. The widow was given right to ownership, access and use of the land. The mediation affirmed that accordingly, the widow with or without children has the right to inherit.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 15 of CEDAW; and Article 2 and 16 of Maputo Protocol, Law of Succession Act • Human dignity – Article 28 • Protection of dependants of a deceased person's estate -Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter • The right to family benefits - Article 13 of CEDAW

Case No.	KEL/WLP/O11/2020 C.A.N-vs- IN-LAWS
County	HomaBay
Constituency	Kasipul

Mediator	Elder James Owande Magunga
Basic facts	The disputant a widow, was living on land inherited by her husband from his parents. However, her sister-in-law (husband's sister) wants her to vacate from the home and her brothers-in-law are silent. The family members opted to resolve the matter.
Issues identified	<ul style="list-style-type: none"> • Whether CAN and her children are entitled to inherit the deceased husband's land. • Whether the sisters-in-law have the right to disinherit the widow. • What alternatives are available for the widow and her children if they are not allowed to inherit the deceased's estate.
Outcome	The elder settled the matter amicably. The family members were involved in the mediation where it was agreed that the widow and her children should be allowed to remain on the matrimonial home. The mediation ascertained the right to access and use of the matrimonial home by the wife of the deceased as she forms part of the family.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter • Right to equitable share in inheritance of husband's property - Article 21 of Maputo Protocol

Case No.	KEL/WLP/O12/2020 S.A.O –vs-IN-LAWS
County	Kisumu
Constituency	Nyando
Mediator	Elders Kasuku Kalolo and Joyce Orowe
Basic facts	The disputant widow claims that the in-laws evicted her from the matrimonial home on allegations that she contributed to the health issues that occasioned the death of her husband. She had one child with the deceased.
Issues identified	<ul style="list-style-type: none"> • Whether the widow and her child are entitled to the deceased husband's land. • What alternatives are available for the widow and her children if they are not allowed to inherit the deceased's estate.
Outcome	The matter was resolved amicably. The widow remarried to another family and opted out of the inheritance of the deceased husband's property. Nonetheless, the mediation outcome affirmed that regardless of her remarrying, her child has the right to inherit the home of the deceased father. The widow declared she is no longer interested in her late husband's estate but allowed the child to inherit.
Human Rights affirmed	<ul style="list-style-type: none"> • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Protection of dependents of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter • Right to equitable share in inheritance of husband's property - Article 21 of Maputo Protocol

Case No.	KEL/WLP/O13/2020 F.A.N –vs-NEIGHBOURS
County	Kisumu
Constituency	Muhoroni
Mediator	Elder Tom Minda
Basic facts	The bone of contention in this dispute was the ownership of land previously owned by the deceased, the husband of the widow. The widow had travelled to attend to her ailing daughter and upon her return, realized that her neighbour had converted the ownership of her matrimonial property to his name. The neighbour merged the deceased's registered land and his own into one title with claims of legitimate ownership.
Issues identified	<ul style="list-style-type: none"> • Whether the widow has a right over her deceased husband's land. • Whether the neighbour's action of taking over a widow's land was justified by her absence.
Outcome	The matter was mediated and parties agreed that there was need to undertake survey to determine the boundaries of both parcels of land and if they cannot agree, they should approach court. KELIN will engage a pro bono lawyer for the widow at the appropriate time.
Human Rights affirmed	<ul style="list-style-type: none"> • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Protection of dependents of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter • Right to equitable share in inheritance of husband's property - Article 21 of Maputo Protocol

Case No.	KEL/WLP/O14/2020 M.S.O–vs-STEP-SONS
County	Kisumu
Constituency	Muhoroni
Mediator	Elder Tom Minda
Basic facts	MSO, a widow alleged that the step-sons are harassing and preventing her from accessing her late husband's home. The sons alleged that the land belonged to them.
Issues identified	<ul style="list-style-type: none"> • Whether the widow and her child are entitled to the deceased husband's land. • What alternatives are available for the widow and her children if they are not allowed to inherit the deceased's estate. • Whether the step-sons are the legitimate owners of the entire parcel of land.
Outcome	The matter was subjected to a number of mediation sessions due to the family size and the different hard-line positions. Ultimately, all the parties involved accepted that the deceased's wife and children had the right to inherit and they proceeded to sign the necessary succession documents to petition the court grant of representation. Matter then referred to court for the succession process.
Human Rights affirmed	<ul style="list-style-type: none"> • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Protection of dependents of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter • Right to equitable share in inheritance of husband's property- Article 21 of Maputo Protocol

Case No.	KEL/WLP/O15/2020 A.N.M–vs-IN-LAWS
County	Kisumu
Constituency	Muhoroni
Mediator	Elder Tom Minda
Basic facts	The disputant's in-laws evicted her from her home after the death of her husband because she had declined to be inherited. She was forced to reside outside her home. Despite the local chief intervening, they were not able to resolve the issue. An elder was appointed to assist the parties resolve the matter.
Issues identified	<ul style="list-style-type: none"> • Whether the widow is entitled to the deceased husband's land. • Whether the customary practice of widow inheritance was applicable in the currently constitutional dispensation. • What alternatives are available for the widow if they are not allowed to inherit from the deceased's estate.
Outcome	The matter was resolved and the widow allowed to settle in her father in-law's house as she plans to build her own house. The mediation session enabled the parties to understand that widow inheritance is an unacceptable practice as it not only functions to limit women's property rights but it is also repugnant to justice and morality therefore inconsistent with the provisions of the Constitution of Kenya. After the successful mediation, the widow sought support for construction of her matrimonial house on the referred parcel of land.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter • Right to equitable share in inheritance of husband's property - Article 21 of Maputo Protocol

Case No.	KEL/WLP/O16/2020 G.A.O–vs-SELLER OF LAND
County	Kisumu
Constituency	Seme
Mediator	Elder Oyugi Anyaa Martin Matama
Basic facts	The disputant's husband died before completing payment for the purchase of the land where the matrimonial home is situated and where the family resided. The seller threatened to evict the widow unless she paid the balance.
Issues identified	<ul style="list-style-type: none"> • If the widow is liable for her late husband's debt.
Outcome	The mediation process was successful as the widow was in agreement that the late husband owed the land seller a balance of Kshs. 60,000. The seller agreed to grant the widow sufficient time to finalize on the payment of the purchase price for the land and allowed the widow to continue staying on the land.
Human Rights affirmed	<ul style="list-style-type: none"> • Enforcement of contract - The Law of Contract • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Right to property- Article 40 of the Constitution

Case No.	KEL/WLP/O17/2020 P.A.A-vs-IN-LAWS
County	Kisumu
Constituency	Nyando
Mediator	Elder Tom Minda
Basic facts	The disputant PAA lost her husband in 2002 and was evicted by her brothers-in-law from the matrimonial home. She moved to a shopping centre to fend for herself and her children.
Issues identified	<ul style="list-style-type: none"> • Whether a widow and her children are entitled to inherit from the deceased person's estate. • What alternatives are available for the widow and her children if they are not allowed to inherit from the deceased's estate.
Outcome	The disputants were in agreement that the widow was a wife of their brother and thus entitled to a share of his property. The mediation was successful, and the widow was allowed to return back to her home.
Human Rights affirmed	<ul style="list-style-type: none"> • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution. • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Protection of family and vulnerable groups - Article 18 of Banjul Charter • Right to equitable share in inheritance of husband's property - Article 21 of Maputo Protocol

Case No.	KEL/WLP/O18/2020 L.A.N-vs-IN-LAWS
County	Kisumu
Constituency	Nyando
Mediator	Elder Kasuku Kalolo Henry Okul and Joyce Orowe
Basic facts	The disputant a widow, lost her husband. She was immediately evicted on allegation that she had killed her husband and she moved to the shopping centre with her children. She was sent away from her matrimonial home because of being HIV positive.
Issues identified	<ul style="list-style-type: none"> • Whether the widow and her children were entitled to inherit the deceased's ancestral land. • Whether there was any proof that the widow killed her husband. • What alternatives are available for the widow and her children if they are not allowed to inherit the deceased's estate.
Outcome	Though her in-laws had insisted that the widow had a hand in the death of their brother, after several sessions they accepted that they had accused her falsely based on misconceptions about their culture. They were also made aware of the issues surrounding HIV and AIDS and that they had no right to blame the widow for her late husband's death. The mediation was successful, and the widow was allowed to return to her home. The elders informed the disputants about the succession process and encouraged them to pursue the same.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Protection against inhuman, cruel and degrading treatment – Article 29 (f) of the Constitution • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter • Right to equitable share in inheritance of husband's property - Article 21 of Maputo Protocol

Case No.	KEL/WLP/O19/2020 R.A.O-vs-IN-LAWS
County	Kisumu
Constituency	Nyando
Mediator	Elder Kasuku Kalolo
Basic facts	The disputant a widow blessed with one daughter was evicted from her matrimonial home and disinherited from the estate of her late husband when she declined to be inherited. The fact that she only had one daughter exacerbated the situation. The widow was forced to move out and rent a house at Katipo shopping centre.
Issues identified	<ul style="list-style-type: none"> • Whether a wife and her daughter were entitled to inherit the deceased's ancestral land. • Whether the customary practice of widow inheritance is viable in the current legal and social dispensation. • What alternatives are available for the widow and her child if they are not allowed to inherit from the deceased's estate.
Outcome	The in-laws accepted that regardless of the gender of their deceased brother's child she was still his child and both the mother and daughter required protection and a home to settle and be self-reliant. The mediation was successful and the widow resettled back to her home with her child.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter • Right to equitable share in inheritance of husband's property- Article 21 of Maputo Protocol

Case No.	KEL/WLP/020/2020 A.L.L-vs-IN-LAWS
County	Kisumu
Constituency	Nyando
Mediator	Elder Kasuku Kalolo, Joyce Orowe , Henry Okul
Basic facts	The widow was evicted from her matrimonial home and disinherited by her in-law after she declined to be inherited. The in-laws alleged that she had killed her husband. She subsequently moved to a shopping centre with her children.
Issues identified	<ul style="list-style-type: none"> • Whether a widow and her children are entitled to inherit from the estate of the deceased persons. • Whether there was any proof that the widow killed her husband. • What alternatives are available for the widow and her children if they are not allowed to inherit from the deceased's estate.
Outcome	The in-laws were able to own up to the mistake of evicting the widow and confirmed that she had a right to remain on her late husband's land and could not be forced to be inherited. The elders informed the disputants of the rights of women to property. They also informed them that the widow had a right to choose whether or not to be inherited. The mediation was successful and the widow allowed to return to her home.

Human Rights affirmed	<ul style="list-style-type: none"> • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Right to re-marry or not to remarry- Section 15 of the Marriage Act • Protection of family and vulnerable groups - Article 18 of Banjul Charter • Right to equitable share in inheritance of husband's property- Article 21 of Maputo Protocol
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Case No.	KEL/WLP/O21/2020 C.A.O–vs-IN-LAWS
County	Kisumu
Constituency	Nyando
Mediator	Elder Kasuku Kalolo
Basic facts	The widow was disinherited by her in-laws on grounds that she had declined to be inherited as a widow. She would only be allowed to stay in her matrimonial home on condition that she performs the necessary rituals of widow inheritance.
Issues identified	<ul style="list-style-type: none"> • Whether a wife and her children are entitled to inherit from the estate of the deceased's ancestral land. • Whether the customary practice of widow inheritance is viable in current legal dispensation.
Outcome	The mediation was successful and the widow allowed to return to her home. The widow despite being against being inherited was allowed to stay with her children in the matrimonial home. The elder informed the disputants about the succession process and encouraged them to pursue the same.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Protection against cruel, inhuman and degrading treatment – Article 29 (f) • Protection of family and vulnerable groups - Article 18 of Banjul Charter • Right to equitable share in inheritance of husband's property - Article 21 of Maputo Protocol

Case No.	KEL/WLP/022/2020 M.A.O–vs-IN-LAWS
County	HomaBay
Constituency	Rachuonyo
Mediator	Elder Judith Ouko
Basic facts	The widow's husband was the eldest in his home. When he died, the in-laws insisted that she needed to be inherited but she declined and was evicted by her in-laws. She moved with her children to a shopping centre.
Issues identified	<ul style="list-style-type: none"> • Whether a wife and her children were entitled to inherit the deceased's ancestral land. • Whether the customary practice of widow inheritance is viable in current legal dispensation. • What alternatives are available for the widow and her children if they are not allowed to inherit from the deceased's estate.

Outcome	The mediation was successful as the in-laws allowed her back to her home. In allowing her to return without condition of her inheritance, the in-laws confirmed that the practice of wife inheritance had no place in the current legal and social dispensation. Since she had no money to build a house immediately, the in-laws allowed her to use and occupy their late mother's house.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol • Human dignity – Article 28 • Protection against inhuman, cruel and degrading treatment – Article 29 (f) • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter • Right to equitable share in inheritance of husband's property - Article 21 of Maputo Protocol

Case No.	KEL/WLP/023/2020 H.M-vs-BROTHERS
County	Homabay
Constituency	Kasipul East
Mediator	Elder Apollo Bwana
Basic facts	The disputant is a daughter of the deceased and the sister to the other disputants. The brothers denied her any property belonging to her late father on grounds that she was a woman.
Issues identified	<ul style="list-style-type: none"> • Whether as a child of the deceased, the disputant has a right to inherit her father's property. • Whether the customary practice of daughter's disinheritance is viable in current legal dispensation.
Outcome	The mediation was successful and the brothers gave her 2 acres of the land. The elder informed the disputants about the succession process and encouraged them to pursue the same.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol, Law of Succession Act • Human dignity – Article 28 • Protection of dependants of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter

Case No.	KEL/WLP/024/2020 P.N-vs-BROTHERS-IN-LAW
County	Homabay
Constituency	Kasipul East
Mediator	Elder Apollo Bwana
Basic facts	The disputant widow's late husband died without having made any clear boundaries on the said parcel of land. The land is adjacent to his brothers who claimed ownership of the land and attempted to evict the widow from the entire piece of land.
Issues identified	<ul style="list-style-type: none"> • Whether a wife was entitled to inherit the deceased's land. • To determine the boundary delimitation. • What alternatives are available for the widow if they are not allowed to inherit the deceased's land.

Outcome	The matter was mediated successfully with inclusion of both parties in the determination of the case. A surveyor was involved to help the parties determine the boundary areas and the matter was resolved. Widow was informed on the succession process.
Human Rights affirmed	<ul style="list-style-type: none"> • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol, Law of Succession Act • Human dignity – Article 28 • Protection of dependents of a deceased person’s estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter

Case No.	KEL/WLP/025/2020 R.A.O–vs-STEP-BROTHER
County	Homabay
Constituency	Kasipul East
Mediator	Elder Apollo Bwana
Basic facts	PN a widow was not blessed with any children and when her step-son became of age, she gave him land allocated to her by her late husband. Unfortunately, the step-son died and PN allocated (R.A.O) the current disputant the said land and had it registered in R.A.O’s father in-laws name. However, P.N’s step-brothers started claiming ownership and demanded R.A.O to move from the land after her husband died. This was despite the fact that she had resided on the land for over 10 years.
Issues identified	<ul style="list-style-type: none"> • Whether RAO has the right to occupy the land.
Outcome	The mediation was successful as the stepbrothers noted that the land was not in their father’s name. The elders took note of the fact that under customs, RAO had resided on the land for many years, buried her children’s placenta on the land and thus she cannot be evicted from it and if that was to be done it was a taboo.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol, Law of Succession Act • Human dignity – Article 28 • Protection of dependents of a deceased person’s estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter

Case No.	KEL/WLP/026/2020 M.A–vs-MOTHER-IN-LAW
County	Homabay
Constituency	Karachuonyo
Mediator	Elder Judith Ouko
Basic facts	MA lost her husband. The mother-in-law attempted to subject the widow to wife inheritance against her will.
Issues identified	<ul style="list-style-type: none"> • Whether the widow can exercise her right to inheritance. • Whether the widow inheritance has a place in the current constitutional and societal dispensation.
Outcome	The in-laws affirmed that the widow has the right to accept or reject to be inherited. MA was allowed to settle in her matrimonial home with her children.

Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol, Law of Succession Act • Human dignity – Article 28 • Protection of dependents of a deceased person’s estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter
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Case No.	KEL/WLP/027/2020 T.A-vs- MOTHER-IN-LAW AND IN-LAWS
County	Kisumu
Constituency	Karachuonyo
Mediator	Elder Judith Ouko
Basic facts	TA lost her husband. The mother-in-law in collaboration with the brothers-in-law attempted to subject the widow to wife inheritance against her will.
Issues identified	<ul style="list-style-type: none"> • Whether the widow can exercise her right to inheritance.
Outcome	The mother and brothers-in-law affirmed that the widow has the right to accept or reject to be inherited. TA was allowed to settle in her matrimonial home with her children. The brothers-in-law welcomed the widow back.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol, Law of Succession Act • Human dignity – Article 28 • Protection of dependents of a deceased person’s estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter

Case No.	KEL/WLP/028/2020 P.N-vs-FATHER-IN-LAW
County	Kisumu
Constituency	Nyando
Mediator	Elder Rhoda Nafula
Basic facts	PN lost her husband and was staying at the matrimonial home. Upon the demise of her husband, the father-in-law chased her away and destroyed her matrimonial home citing that she had no right as a woman to inherit it.
Issues identified	<ul style="list-style-type: none"> • Whether a wife was entitled to inherit the deceased’s land. • What alternatives are available for the widow if they are not allowed to inherit the deceased’s land.
Outcome	After several sessions, the father-in-law affirmed that under customary law a widow’s right to occupy her matrimonial home is protected. The father-in-law apologized to the widow and allowed her back. He also allocated land to his other sons to avoid future disputes.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol, Law of Succession Act • Human dignity – Article 28 • Protection of dependents of a deceased person’s estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter

Case No.	KEL/WLP/029/2020 L.A-vs-BROTHER-IN-LAW
County	Kisumu
Constituency	Nyando
Mediator	Elder Rhoda Nafula
Basic facts	The brother-in-law disagreed with the widow on the cause of death of the deceased. The brother-in-law alleged that the widow contributed to the health issues that led to the death of her husband and evicted the widow from her matrimonial home.
Issues identified	<ul style="list-style-type: none"> • Whether a wife was entitled to inherit the deceased's land. • Whether there was any proof that the widow had caused the death of the deceased. • What alternatives are available for the widow if they are not allowed to inherit the deceased's land.
Outcome	The brother-in-law during mediation confirmed that there was no proof that the widow had anything to do with the death of her husband. The brother also confirmed that the widow just like his wife is entitled to her husband's estate. He allowed the widow to settle on the land and constructed her a house.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol, Law of Succession Act • Human dignity – Article 28 • Protection of dependents of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter

Case No.	KEL/WLP/030/2020 J.A-vs-BROTHER-IN-LAW
County	Kisumu
Constituency	Nyando
Mediator	Elder Rhoda Nafula
Basic facts	JA, a widow was also left to parent the children of her co-wives when her co-wives and husband died. Regardless of the fact that she cared for her children and those of her deceased husband and co-wives, her brother-in-law claimed that she had no rights of ownership on her late husband's land because she is a woman.
Issues identified	<ul style="list-style-type: none"> • Whether a wife was entitled to inherit the deceased land. • What alternatives are available for the widow if they are not allowed to inherit the deceased's land.
Outcome	During mediation, the brother-in-law amicably undertook that widows have rights under customary law and allowed her to remain on the land with the children.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol, Law of Succession Act • Human dignity – Article 28 • Protection of dependents of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter

Case No.	KEL/WLP/031/2020 P.O.O-vs-CO WIFE AND BROTHER-IN-LAW
County	Kisumu
Constituency	Seme
Mediator	Elder Oyugi Anyaa
Basic facts	P.O.O was the third wife of the deceased and her co-wives had disputes on her right to ownership of land. Prior to the death of their husband, he had only allocated land to his 1 st and 2 nd wife and not the 3 rd wife. The in-laws and co-wives attempted to evict P.O.O alleging she was not regarded as a wife by the deceased who did not allocate land to her.
Issues identified	<ul style="list-style-type: none"> • Whether a wife was entitled to inherit the deceased land. • What alternatives are available for the widow if they are not allowed to inherit the deceased's land.
Outcome	The matter was amicably concluded. The two co-wives confirmed that they knew P.O.O was a wife of the deceased and allocated her part of his land. P.O.O has since constructed her matrimonial home on the land allocated to her. The elder informed the disputants about succession process.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol, Law of Succession Act • Human dignity – Article 28 • Protection of dependents of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter

Case No.	KEL/WLP/032/2020 M.A.O-vs-CO-WIFE
County	Kisumu
Constituency	Seme
Mediator	Elder Oyugi Anyaa
Basic facts	M.A.O was married and has a co-wife. Their husband died without marking a clear demarcation of each wife's parcel of land. The wives have had persistent disputes over the parcel of land.
Issues identified	<ul style="list-style-type: none"> • Determination of boundaries by the widows.
Outcome	The widows during mediation allowed the elders to demarcate the land. The elders identified trees as an instrument for marking the boundaries and a new boundary was established and agreed upon by both parties.
Human Rights affirmed	<ul style="list-style-type: none"> • Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) • Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol, Law of Succession Act • Human dignity – Article 28 • Protection of dependents of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter

Case No.	KEL/WLP/033/2020 H.A vs IN-LAWS
County	Kisumu
Constituency	Nyakach
Mediator	Elders Julius Anyona and Felix Okal
Basic facts	Widow lost her husband and got inherited a year later to another family. Her new family members did not accept her and at the same time her deceased husband's family disinherited her for being inherited.
Issues identified	<ul style="list-style-type: none"> Whether the widow has the right to resettle back to her matrimonial property after remarriage/inherited by another family.
Outcome	In mediation which was attended by a chief, an assistant chief and the widow, her in-laws confirmed that H.A was still a family member and her relationship with the "inheritor" was not a marriage. The in-laws allowed her to return to her matrimonial home.
Human Rights affirmed	<ul style="list-style-type: none"> Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol, Law of Succession Act Human dignity – Article 28 Protection of dependents of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter

Case No.	KEL/WLP/034/2020 M.O vs BROTHER-IN-LAW
County	Homabay
Constituency	Kabondo
Mediator	Vincent Obura & Apollo Bwana
Basic facts	A brother to the widow's father-in-law is selling off land belonging to his late brother thus interfering with the widow's right to inherit the property. Her co-wife and brother-in-law wanted to sell her late husband's land without her consent.
Issues identified	<ul style="list-style-type: none"> Whether the widow has a right to inherit the deceased's property. Whether the father-in-law has authority to dispose of the property of his brother.
Outcome	After several attempts to mediate the case, the parties agreed to pursue court redress so as to delimitate the land between the father-in-law's family and that of the brother. The matter is currently in court for determination.
Human Rights affirmed	<ul style="list-style-type: none"> Prohibition against application of customary law that is inconsistent with the Constitution – Article 2(4) Equality and non-discrimination – Article 27 of the Constitution, Article 2, 3 and 16 of CEDAW; and Article 2 and 16 of Maputo Protocol, Law of Succession Act Human dignity – Article 28 Protection of dependents of a deceased person's estate - Article 68 (c) (vi) of the Constitution, Article 18 of Banjul Charter

4.0. ELDERS PROFILE

This part presents the profile of the council of elders who have substantially contributed to the effective conclusion of cases, specific to land and environment. The facilitators in various ways have offered support for timely conclusion of cases and creating legal awareness on the role of alternative justice systems.

ELDER	PROFILE
<p>JAMES O. OINDI</p>	<p><i>Location:</i></p> <p>Homabay County, Kojwach East location</p> <p><i>Experience:</i></p> <p>A degree holder and contributed to peace building efforts in the community with a focus on property issues. Through his professional experience and community support, he is currently the chief of Kojwach location and is known for his firmness and attention to detail thus able to pick issues and facilitate resolutions.</p> <p><i>Trainings attended:</i></p> <p>He has been trained on management of women property rights, and the legal and policy framework on the same. Furthermore, he has been trained on Child protection Rights.</p>
<p>IGNATIUS OGOCH OWUOR</p>	<p><i>Location:</i></p> <p>Homabay County, Ramba area</p> <p><i>Experience:</i></p> <p>He is a Board Of Management member in 4 schools based on his dedication to education and empowerment of youth and children. He is also the appointed secretary of the council of elders and has served the community in an effective manner with conclusion of cases expeditiously.</p> <p>In addition, he is also the Assistant Chief offering administrative services to the community. Currently, he serves as the secretary to Awach support group, a member of the National Land board in Rachuonyo East and a community health volunteer. His previous contributions include; chairman for Marogo dispensary and a Land tribunal member in Kabondo division.</p> <p><i>Trainings attended:</i></p> <p>He has attended several trainings in management and curriculum development.</p>
<p>FLORA OREM ODENY</p>	<p><i>Location:</i></p> <p>Kisumu County, West Othany area</p> <p><i>Experience:</i></p> <p>The elder is a Chairperson of Hera women group that has contributed substantially towards women economic empowerment and improving family cohesion. She is a boat race captain at Ndere National Park and offers her services through the women groups. She has handled many mediations expeditiously.</p> <p><i>Trainings attended:</i></p> <p>She has attended several trainings on women empowerment.</p>

GIDEON OYUGI ANYA*Location:*

Kisumu County, West Seme area

Experience:

He is currently the Chairperson of Seme elders. The elder has an express interest in alternative dispute resolution and has served in various government departments, worked in the banking industry with contribution to dispute resolution within the corporate spaces. Previously, he served in land board disputes tribunal as the panel chair.

Trainings attended:

He is well trained in public administration, personnel management, conflict resolution, land and property rights for women, mediation, reconciliation, constitution, land acts, leadership.

HESBON OTIENO OGODO*Location:*

Kisumu County, East Songhor area

Experience:

The elder is a renowned Church pastor at Living waters church. He is a Board Of Management member of Songhor Secondary School, a community health volunteer and a chairperson of Oneno Nam Village community policing committee. His experience in community policing has enhanced his skills in peace building initiatives and resolution of disputes.

Trainings attended:

He has attended training on community health volunteer and peer education.

NICHOLUS OTIENO KISIA*Location:*

Homabay County, Nyabondo area

Experience:

He is a professionally trained teacher now retired after serving for 29 years. Currently, he is involved in church activities and extends his service to the community through promotion of peace and enhancing legal education in diverse areas. Currently, he is the chairman of Christian church communities.

Trainings attended:

In addition to teaching, he has undertaken other professional trainings in First Aid courses; School based teacher development and Braille literacy. He continues to support access to justice initiatives for marginalized groups.

DAN OWINO GAYA*Location:*

Kisumu County, Kondele Manyatta area

Experience:

The elder previously worked with Telkom Kenya and continues to offer highly discounted technician services to the community. He holds recognition as an effective mediator in the community after resolving many issues and disputes.

Trainings attended:

He is trained on community health and attended various trainings targeting council of elders, including human rights and legal matters.

<p>JAEL OTIENO OGOL</p>	<p><i>Location:</i></p> <p>Kisumu County, West Seme area</p> <p><i>Experience:</i></p> <p>She is a renowned small-scale farmer engaged in subsistence and has consulted widely for a number of institutions including Plan International on community work. She has strong networks at the community level and vast knowledge on the needs of the community.</p> <p><i>Trainings attended:</i></p> <p>The elder is a trained ECD teacher and has undertaken several trainings organized by CDC.</p>
<p>JOSIAH ONDORO</p> <p>SYLVANCE</p>	<p><i>Location:</i></p> <p>Homabay County, Koguta- Kakur area</p> <p><i>Experience:</i></p> <p>The elder is a small-scale maize and vegetable farmer. He has been a member of Board Of Management in many schools that has expanded his engagement with community. He worked with the Kenya Prisons Service. The community especially appreciates his contribution to land matters in the area.</p> <p><i>Trainings attended:</i></p> <p>He has attended several trainings on land and property rights, reproductive rights and general human rights aspects supported by KELIN.</p>
<p>JERRY OKOLA LUAMBE</p>	<p><i>Location:</i></p> <p>Homabay County, South Kanyikela area</p> <p><i>Experience:</i></p> <p>The elder is a retired teacher and zonal inspector of schools which enabled him to interact with all schools in the region. Based on the engagement, he has been appointed as Board of Management in various schools. Previously he worked with CARE Kenya and currently is a member of the land dispute committee and of the Luo Council of Elders in Ndhiwa Sub County.</p> <p><i>Trainings attended:</i></p> <p>He is a trained teacher and undertaken other trainings such as Land dispute resolution, development of sugar cane and children rights and protection.</p>
<p>PETRONALA AWINO</p> <p>HONGO</p>	<p><i>Location:</i></p> <p>Kisumu County, Kajulu West area</p> <p><i>Experience:</i></p> <p>She is a dedicated farmer and an elder. She has offered technical support in the resolution of several cases in an objective and precise manner. She is well known in the community for engagement in supportive roles towards legal empowerment.</p> <p><i>Trainings attended:</i></p> <p>The elder is well trained in responsive and preventative approaches to Sexual Reproductive Health and Rights.</p>

PETER OGONYA OONGO	<p><i>Location:</i></p> <p>Kisumu County, Kajulu West</p> <p><i>Experience:</i></p> <p>The elder is a trained counsellor and offers psychosocial and counselling services to the community and also serves in the community health committee.</p> <p><i>Trainings attended:</i></p> <p>He is trained on women and children rights and is passionate about it.</p>
DIXON NDEDA OLOO	<p><i>Location:</i></p> <p>Homabay County, Kasewe area</p> <p><i>Experience:</i></p> <p>The elder is a trained teacher and participated in various educational forums that led to the recognition of his leadership potential. He has excellent skills in case management.</p> <p><i>Trainings attended:</i></p> <p>He attended house supervisory professional training offered at KELIN training of elders.</p>
MICHAEL J. ACHIANDO	<p><i>Location:</i></p> <p>Homabay County, Wang' Chieng' loc Kodada area</p> <p><i>Experience:</i></p> <p>The elder is a university graduate and a dedicated pastor of the Seventh Day Adventist church. Having gained pastoral training and experience, he has facilitated reconciliations for families and the community at large.</p> <p><i>Trainings attended:</i></p> <p>He attended Pastoral training and also has professional training in family counselling and is a wealth creation advocate.</p>
LATE JAMES MATARA OWINO	<p><i>Location:</i></p> <p>Homabay County, Kakelo Dudi area</p> <p><i>Experience:</i></p> <p>The elder is renowned for his commitment to serve the church and undertaking outreach programmes for the community. He served as a Church elder to Nomiya Christian Church and will be remembered for his contribution to peace and restorative justice in the community.</p> <p><i>Trainings attended:</i></p> <p>He attended training on peace and conflict resolution.</p>
ELIZABETH ADHIAMBO LALA	<p><i>Location:</i></p> <p>Kisumu County Central Kolwa area</p> <p><i>Experience:</i></p> <p>The elder is a community health volunteer. She continues to offer exemplary support in the community as an elder.</p> <p><i>Trainings attended:</i></p> <p>She has attended various trainings on resolution of disputes, home based care, community strategy and peace building. She is also a trainer of trainer on parenting skills.</p>

JOEL N. WERE	<p><i>Location:</i></p> <p>Kisumu County, Central Nyakach area</p> <p><i>Experience:</i></p> <p>A committed commercial farmer and a trained paralegal. He is part of the clan elders who play a key role in community cohesion and redress mechanism. He facilitates at community level on policy implementation.</p> <p><i>Trainings attended:</i></p> <p>He is trained in public administration.</p>
DAN OWISO GAYA	<p><i>Location:</i></p> <p>Kisumu County, Kondele Manyatta area</p> <p><i>Experience:</i></p> <p>He is a retired technician and now offers his services to the community. Previously he worked with Telkom Kenya.</p> <p><i>Trainings attended:</i></p> <p>He is trained as a Health Educationist and has attended various training offered by KELIN on land and property, human rights, international human rights framework among others.</p>
MARTIN MATAMA JAMBA	<p><i>Location:</i></p> <p>Kisumu County, East Seme area</p> <p><i>Experience:</i></p> <p>The elder is the Secretary of Seme elders social support group. He offers training on land property rights and offers technical support on writing a will and filling for grants on succession matters to the community.</p> <p><i>Trainings attended:</i></p> <p>He is a trainer on operations of cultural structures, and management of HIV/AIDS. He also has a professional training in teaching.</p>
JANE ADHIAMBO ABUTO	<p><i>Location:</i></p> <p>Kisumu County, Kondele area</p> <p><i>Experience:</i></p> <p>She is a committed elder at Gonda village and serves as community health volunteer.</p> <p>She is the founder of a community action group to address Gender Based Violence and offers child counselling.</p> <p><i>Trainings attended:</i></p> <p>She is well trained on women and children rights by WOFAK and Plan International.</p> <p>The elder is trained in home-based care, Child care support, financial management, malaria management and family planning.</p>

EUNICE JUMA NYAMWAYA	<p><i>Location:</i></p> <p>Kisumu County, Nyangoma Muhoroni area</p> <p><i>Experience:</i></p> <p>The elder offers support to the community in various ways, including facilitating access to justice on women and property rights.</p> <p><i>Trainings attended:</i></p> <p>She has attained training on realization of sexual and reproductive health rights, human rights and international human rights law. She has also gained additional skills on administration of alternative dispute resolution in disputes.</p>
SEPHANIA OJIJO	<p><i>Location:</i></p> <p>Kisumu County, West Kolwa area</p> <p><i>Experience:</i></p> <p>She is a leader and chairs women economic empowerment groups within the community. She continues to offer legal awareness on land and property rights.</p> <p><i>Trainings attended:</i></p> <p>She has attended several trainings on leadership.</p>
JOSEPHINE OLOO ONG'OMBE	<p><i>Location:</i></p> <p>Kisumu County, Onjiko area</p> <p><i>Experience:</i></p> <p>The elder is a trained professional counsellor and has offered a supportive role in family reconciliation in the community. She is known as a business person who has gained skills in resolution of commercial disputes.</p> <p><i>Trainings attended:</i></p> <p>She has attended training on Peace and Reconciliation.</p>
JACOB H. OLIECH	<p><i>Location:</i></p> <p>Kisumu County, North East Kano area</p> <p><i>Experience:</i></p> <p>His contribution as a freedom fighter gained him respect as an elder in the community. He has resolved disputes related to employment and trade as a trade unionist. He is the founder of the Kenya Union of Sugar Plantation workers. He is appointed as a county councillor.</p>
JOSEPHINE OLOO ONG'OMBE	<p><i>Location:</i></p> <p>Kisumu County, Onjiko area</p> <p><i>Experience:</i></p> <p>She is a respected accountant and a member of the council of elders and has served for many years. She was elected by the community of Onditi Ward as their Councillor and successfully executed various community outreach programmes to improve on legal literacy.</p> <p><i>Trainings attended:</i></p> <p>She is a trained accountant and attended several trainings on leadership, leadership and governance.</p>

<p>JOHNSON GIYA NYANG'ALA</p>	<p><i>Location:</i></p> <p>Kisumu County, Asao area</p> <p><i>Experience:</i></p> <p>The elder is an experienced Accountant and worked in Umoja electrical company and the Ministry of Foreign Affairs. He volunteers his services in the community to teach and guide on financial literacy.</p> <p><i>Trainings attended:</i></p> <p>He is professionally trained in Certified Public Accountant.</p>
<p>THOMAS ABWAJO</p>	<p><i>Location:</i></p> <p>Kisumu County, Chemelil area</p> <p><i>Experience:</i></p> <p>The elder is an administrator at Sidho East. His passion for community empowerment is demonstrated by his commitment to transformative change through meaningful participation in the community. His on record in conflict settlement in an amicable manner.</p> <p><i>Trainings attended:</i></p> <p>He has attended training on Peace and Reconciliation.</p>
<p>SAMUEL SEDA ODIDA</p>	<p><i>Location:</i></p> <p>Kisumu County, Chemeli area</p> <p><i>Experience:</i></p> <p>He is a respected leader and is currently serving as a chief since 1989. The community know him as a Just and resourceful leader, always ensuring an amicable solution is found for every issue or situation.</p> <p><i>Trainings attended:</i></p> <p>He has attended several trainings organised by the government on leadership.</p>
<p>JACOB OMONDI ONGADI</p>	<p><i>Location:</i></p> <p>Kisumu County, North East Kano area</p> <p><i>Experience:</i></p> <p>Currently the assistant chief and offers administrative support to the community.</p> <p><i>Trainings attended:</i></p> <p>Attained APTC training.</p>
<p>MIDURI OJOWI</p>	<p><i>Location:</i></p> <p>Kisumu County, Manyatta area</p> <p><i>Experience:</i></p> <p>Serves as a senior chief and renown elder of council. He has successfully resolved matters and gained training in land and property in the constitutional context. Previously, served as a counsellor.</p> <p><i>Trainings attended:</i></p> <p>Trained in management of SGBV, Reproductive Health Rights, children rights act, birth and death documentation.</p>

5.0. FACILITATORS PROFILE

This part presents the profile of the council of elders who have substantially contributed to the effective conclusion of cases, specific to land and environment. The facilitators in various ways have offered support for timely conclusion of cases and creating legal awareness on the role of alternative justice systems.



CAROLINE OYUMBO

Ms Caroline is a resident of Mbita, Homabay County in Kenya.

Capabilities:

She passionately advocates for the advancement of rule of law with an emphasis on equality and inclusion of women. Her motto is "transforming dark past by filling hearts with melodies."

Experiences:

She has gained more knowledge on Women Land and Property Rights through her personal experience and undergoing training on inheritance matters. Significantly, her experience as a widow places her in a position to understand the extreme challenges that women face when addressing inheritance issues.

"I started working on Women Land Rights when I was widowed and was to be disinherited. After realizing that I was able to fight for property as enshrined in the constitution I decided to give hope to vulnerable women in the society. The biggest stumbling block was and continues to be retrogressive culture in which women were and some communities are still looked down upon." she says.

Training:

Ms Caroline is professionally trained on women rights and uses her skills and knowledge to build on legal literacy for the community and elders. Towards realization of Goal 5 of the sustainable development goals, she believes that the implementation of the laws will guarantee better economic growth and harmonized society with equal opportunities to all regardless of gender, status and any vulnerability.



EUNICE ATIENO OWINO

Ms Owino is a resident of Kisumu County.

Capability:

She is a Human Rights activist and advocates for youth empowerment with an inclination to young women and marginalized people.

Experiences:

Currently is a renowned Community Health Worker giving support to persons living with HIV and facilitating the realization

of reproductive health services for adolescents. Since 2015, she continues to promote and advance the rights of women in land and property rights. Ms Owino has sensitized the community and elders resulting in tangible results of women acquiring their properties back in succession cases and empowered on the legal processes. She believes on the existence of legal instruments but there is limited legal knowledge, impeding cultural and normative frameworks that need to be addressed.

Trainings:

Ms Owino is professionally trained as an advocate of Kenya. She has also attended trainings on land and property rights offered by KELIN among other partners.



JESSICA ACHIENG' OLUOCH

Ms Achieng is a resident of Kisumu County.

Capability:

Jessica Achieng Oluoch is a human rights lawyer and a Programme Manager at Kenya Legal and Ethical Issues Network (KELIN). She works under the Women, Land and Property Rights thematic area where she engages in analysis of laws and policies, offering legal support to clients and conceptualizing various projects under the programme.

Experiences:

She has published a Women Land tenure regional curriculum which seeks to interrogate how social norms affect women's rights to land and utilizes a rights based approach to create awareness on the basic rights of women to property. She was a fellow at the Southern Africa Africa Litigation Centre (SALC) in Johannesburg where she attained skills on the dynamics of Public Interest Litigation and also published an article together with Annabel Raw in the Malawi nation on *the rights of persons with albinism*.

Training:

Ms Achieng is part of the female lawyers network who are a group of feminist lawyers who have undergone trainings for three years by ISLA (Initiative of Strategic Litigation in Africa) on litigating on women's rights issues at the regional level to contribute to development of jurisprudence that result in social change..



JULIAN ANYANGO

Ms Anyango is a resident of Kisumu County.

Capability:

She effectively advocates for women rights and promotion of human rights in community interventions and is identified as a Widow Champion. She believes in women empowerment through inclusion in decision making platforms related to land reforms and implementation of relevant laws. A focus on quality education will significantly contribute to legal literacy.

Experiences:

She is a community Health Worker since 2013. She has worked under the Aphia Plus Project in supporting Orphans, Vulnerable Families and people living with HIV and AIDS to access services and promote their livelihood. She has also worked with KELIN as a Widow Champion on matters pertaining Women's Land Rights through advocacy, trainings and linkages.



NANCY ONDITI

Ms Onditi is a resident of Kisumu, Kogony area.

Capability:

She engages directly with the community in her capacity as an administrator and has built strong networks and taken deliberate actions to promote gender equality and support women to own, inherit and transfer land.

Experiences:

Ms Onditi gained interest on women rights through her engagement with CDC, Faaz Kenya which demonstrates the living challenges of women in Health and Land issues and the abuse of their legal rights. She believes that through advocacy and partnership, women will be more empowered, independent, better planners for their future, own their property and build strong family bonds and consequently productive society.

Training:

She has attended several trainings on Women Empowerment, Conflict Management etc.



AKACH KENNETH OTIENO

Akach is a human rights lawyer keen on promoting rights based approach in promoting human rights. He is currently working at KELIN's Women's, Land and Property Rights where he advocates for a gendered access to land, property and inheritance rights. He is also a trainer of trainers on human rights.



JUNE BWARI' BOSIRE

Capability:

June Bwari' Bosire is a graduate of Political science and a consultant at Kenya Legal and Ethical Issues Network (KELIN). She works under the Women, Land and Property Rights thematic area where she engages the community in access to justice for women on their land rights, she also offers support to clients on various projects under the programme.

Experiences:

She has previously worked with Kenya HIV Tribunal where she worked at championing for the rights of women who face stigmatization based on their status, as a trained peer educator. She is keen on working with women and young people on the need to transform peer norms on women land tenure and each day strives to see that the women in the community she works with are safe and secured in their land rights tenure.

Training:

She is currently a Master's of Arts student in children and youth development studies where she is focusing on gaining knowledge that she will use to bring change in the community.

REFERENCE

African Union, Protocol on the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 11 July 2003

Borgen project <https://borgenproject.org/land-rights-for-women-in-kenya/>

Giovanelli R, Gender and Land Tenure Reform in ONE BILLION RISING (2009)

Netherlands Ministry of Foreign Affairs (2011) "Women's Economic Empowerment to Foster Food Security; Case Studies from Developing Countries

Rolleri, L.A., Birungi, F., Kihui, R. & Oluoch, J. (2018). Securing your family's future: Transforming peer norms about women's land rights - A course for men. New York: Wellspring Philanthropic Fund

Reuters <https://www.reuters.com/article/us-kenya-landrights-women/less-than-two-percent-of-land-in-kenya-issued-to-women-despite-legal-gains-idUSKCN1GP22B>

UN Women 2013 Realizing Women's Rights to Land and Other Productive Resources

UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18. Dec. 1979, United Nations, Treaty Series, vol. 1249

