# **Securing women's land rights** Scaling for impact in Kenya

ActionAid Kenya, GROOTS Kenya and LANDac



### About the programme

Despite their key role in agriculture, in many regions in Africa, women do not have equal access and rights over land and natural resources. To support the women's land rights agenda and to build on a growing momentum following the Women2Kilimanjaro initiative, LANDac in cooperation with grassroots and development organisations, including ENDA Pronat in Senegal, GROOTS Kenya and ActionAid Kenya in Kenya, ADECRU and Fórum Mulher in Mozambique, and Oxfam in Malawi have implemented a yearlong action research programme: Securing Women's Land Rights in Africa: Scaling Impact in Senegal, Kenya, Malawi and Mozambique. The programme, funded by the Dutch Ministry of Foreign Affairs, aims to identify, build upon and scale successful practices and experiences of grassroots organisations and movements that work to strengthen women's access and control over land and natural resources in Africa. The empirical findings and concrete outcomes of the programme are presented in this LANDac research paper series Securing Women's Land Rights in Africa.

### Introduction

Kenya is a leading country supporting the African movement for women's rights to land. Legal frameworks and the constitution claim equal access over land and natural resources for women and men. Yet there is a lack of accurate data on the status of women's land rights. Studies indicate that many Kenyan women do not have access and control over land (Doss et al. 2015; Musangi 2017). Women provide 89 per cent of labour in subsistence farming and 70 per cent of cash crop labour (Kenya Land Alliance 2014). About 32 per cent of households are headed by women (ibid). Yet most women do not own land or movable property<sup>1</sup>. At best, women enjoy rights through their relationship to men either as their husbands, fathers, brothers or sons who own and control land. In cases where private land is registered in Kenya, only 1 per cent of the titles are in women's names, while 5-6 per cent are held in joint names (Kenya Land Alliance 2014).

<sup>1</sup> The Ministry of Lands and Physical Planning in Kenya lacks official statistics on the number of women who hold land title deeds in the country. As such, there is no official baseline data to track possible progress on the realisation of women's land rights. Currently, the government is creating a National Land Information Management System (NLIMS) which among other things should disaggregate land data by gender.



# Box 1. WRLA programme partners and activities in Kenya

ActionAid Kenya is a development organisation that works on the women's land agenda in Kenya. The organisation has worked directly with poor communities in Kenya for over 40 years. For this programme, ActionAid focused on the need for more structured actions to ensure the implementation of the Rural Women's Land Rights Charter in Kenya. ActionAid has spearheaded the development of a comprehensive framework for the implementation of women's right to land. A multistakeholder platform with grassroots women was organised in collaboration with government institutions and CSOs to develop a campaign framework and design tools to monitor progress of the demands in the charter.

**GROOTS Kenya** is a national movement of grassroots women advancing women's land rights in Kenya through different community approaches, including community-led mapping, grassroots movement building and community-driven, evidence-based advocacy. For the WRLA programme, GROOTS Kenya scaled up the application of the community-led land mapping tool, developed in 2014. This tool maps women's land access, ownership and control and was applied in two locations in two different counties of Kenya, Kakamega and Laikipia, where community-generated data was used to strengthen the advocacy capacities of existing local grassroots movements. Local champions and their local movements use this data to engage policymakers with the aim to accelerate policy implementation.

LANDac, the Netherlands Land Academy, is a partnership between Dutch organisations and their Southern partners working on land governance for equitable and sustainable development. LANDac has coordinated activities in Kenya for the WRLA programme and conducted six weeks of participatory action research in Kenya together with ActionAid Kenya and GROOTS Kenya. The Securing Women's Land Rights in Africa programme (WLRA) (see Box 1) combines action research with concrete grassroots activities by GROOTS Kenya and ActionAid International Kenya. It aims to move the women land rights agenda forward and to empower women in claiming access and control over land and other natural resources. LANDac researchers, in collaboration with GROOTS Kenya and ActionAid Kenya, have identified three best practices for scaling up and accelerating the women's land rights agenda in Kenya:

- Locally generated and owned data
- Collective action at the national and the grassroots level, and
- Developing local champions as role models and brokers between the community and the authorities.

In this working paper, we take these practices as a starting point for our analysis. First, we provide a brief background on women and land rights in Kenya. Next, we elaborate on the role of data to track progress of women realising their rights; the role of collective action (at both grassroots and national levels); and the role of local champions, demonstrating why they are important. We discuss how GROOTS Kenya and Action Aid Kenya are implementing these practices in Kenya, with the aim to empower women in obtaining equal access and control

### Box 2. Land governance in Kenya: legal frameworks

Kenyan law claims gender equality in land access and ownership in different ways. First, Article 27 in the Constitution of Kenya promotes gender equality and describes the equal rights for men and women to equal treatment and opportunities in political, economic, cultural and social spheres. Article 61 classifies land in three categories: public land (e.g. government forests), community land (held by communities identified on the basis of ethnicity, culture or similar communities of interest such as land registered in the name of group ranches, ancestral lands or community forests) and private land (held by individuals under freehold tenure).

Approximately 60 per cent of land in Kenya is held under community tenure (Landmark undated). The Community Land Act (2016) provides for gender equality in the following articles:

- Article 14: Any organised group or individual can make claim to customary rights of occupancy. The group, or community should have 'regard to [...] equal treatment of application for women and men [...] and non-discrimination of any person on the basis of gender, disability, minority, culture or marital status.'
- Article 30: 'Every member of the community has the right to equal benefit from community land. A registered community shall not directly or indirectly discriminate against any member of the community on any ground including race, gender, marital status [...]'

over land within complex social, cultural, institutional and legal frameworks.

### Women's land rights in Kenya

Kenya has made positive steps in developing a constitution that reflects international standards of gender equality, and laws to give effect to the constitutional provisions (Government of Kenya 2010, articles 27 and 61: see also Box 2). However, a substantial gap exists between formal land laws and the reality on the ground, where implementation of the reforms has been slow and where cultural practices and patriarchal systems still have a severe impact on women's access to land and natural resources. Musangi (2017:2) argues that these 'customary practices in Kenya generally grant women secondary rights to land, namely through their relationships to a male relative'.

The Community Land Act 2016 sets a new framework in which customary holdings are to be identified and registered<sup>2</sup>. According to this new law, each community may secure a single collective title over its lands and govern this property according to standardised gender equity rules. National laws request equal membership and decision-making power for women and men. But in practice, collectively held land is often governed through male-dominated decision-making systems and structures. The community-led mapping data in Laikipia show that women are highly under-represented and their voices suppressed in the two most important governance structures over community land: only 20 per cent of women are executive management committee members, while only 8.97 per cent of women are represented in the official register of members.

### Data

Data is a powerful resource for more informed decision-making and advancing the women's land rights agenda. First, solid data is the basis for evidence-based advocacy, at the local, national and international levels. Second, through the involvement of the local community in data collection, capacity is built and awareness is raised within the community. Locally generated and owned information is vital in supporting collective action for change as it enables women to track progress in realising their rights, to partake in the monitoring process and to contest data that they believe is inaccurate. Finally, data collection that involves women's narratives about their experiences serves as a platform to share, talk about and address the issues they face.

Gender disaggregated data on land ownership are scarce. For example, the United Nation's Food and Agriculture Organisation's (FAO) gender and land rights database has data

### Box 3. 'How participation in the research on women and natural resources improved my ability to articulate issues'

Rhoda Barkenya is one of 22 rural women trained as part of the community-based research team for ActionAid's social action study. 'The training empowered me. No one can challenge me on what relates to my rights,' says Rhoda. Using skills gained from this training, she has been able to claim her land back by pursuing a court process - and now possesses the title deed. Rhoda lists some of the key skills gained from her participation in the research process as 'my ability to approach people, frame my questions right, ability to communicate both convincingly and with diplomacy, speaking with confidence'. In addition, the training made her realise that local communities have abundant resources. She has been able to relate the resources and the forces threatening community access to them through mapping work. 'Water, salt licks, sand for construction and pasture lands are under threat from the Kamnarok Conservancy [wildlife reserve],' she says. 'We are going to [put the] pressure on to ensure our resource rights are not limited through [the] creation of the conservancy and other corporate investments.' (Interview Rhoda Barkenya, 30 May 2018)



available on the share of agricultural land owned by women in only six out of 48 countries in sub-Saharan Africa: Ethiopia, Malawi, Niger, Nigeria and Tanzania (FAO undated). Besides estimations made by the Kenya Land Alliance<sup>3</sup> and the media<sup>4</sup>, at the time of writing, there are no national-level data available for Kenya that indicate the percentage of women with land rights or other indicators related to women's access to land.

<sup>2</sup> Although the Community Land Act is generally described as positive and even cutting edge, research has already uncovered some legal loopholes that potentially put communities at risk of their lands not being as secure as promised ahead of formalisation (Alden Wily 2018).

<sup>3</sup> Stating that 1 per cent of registered land is issued to women (Kenya Land Alliance 2014).

<sup>4</sup> Stating that 1–2 per cent of land is issued to women in Kenya (Mwanza 2018).

To address the knowledge gap on female land ownership and gender disaggregated data, both ActionAid Kenya and GROOTS Kenya have collected evidence on women's rights to land and natural resources in general by empowering grassroots women in the process of data generation. ActionAid Kenya has conducted a social action study in ten Kenyan counties on the perceptions and realities of women relating to access and governance of land and natural resources. They composed a community-based research team in which 22 rural women were trained to conduct action research in Kilifi, Mombasa, Taita Taveta, Kajiado, Embu, Isiolo, Baringo, Homabay, Kakamega and Kitui.

Together, the research team developed methods to conduct interviews, focus group discussions (FGDs) and surveys. In Kenya, the study sampled 164 women and 129 men. An important finding was that most women find it difficult to distinguish their land rights from their natural resources entitlement. Building on the results of the study, ActionAid Kenya organised a multistakeholder workshop to draft an implementation framework to overcome the gap between law and practice and to create awareness among grassroots women about their bundle of rights on natural resources across the tenure systems.

The implementation framework provides guidelines to coordinate efforts across sectors and to implement the national land laws. The multistakeholder platform includes the Ministry of Land and Physical Planning, FAO, a range of NGOs (including GROOTS Kenya) and rural grassroots women from different counties in Kenya. This platform has further enhanced women's understanding of the laws and policies supporting their work and enabled them to prioritise what is to be tracked and how to track it. In addition, it made women aware of their rights to other natural resources for the purposes of claiming them (see Box 3).

GROOTS Kenya designed the community-led mapping tool in 2014 through a participatory process in grassroots communities to reflect on the issues they would like to track and to map land ownership and control at the community level. The tool includes a survey to collect data on household characteristics, land ownership and subdivision, land use, control and decision-making processes related to land. It is adapted to the existing land tenure system (public, private or community land). Through the WLRA programme, this community-led mapping tool has also been used in Laikipia and Kakamega counties, covering land held under private and collective regimes (see Box 4). In-depth interviews and FGDs provided a way of triangulating the quantitative data collected by the community members with women's narratives on their experiences, aspirations and strategies related to access over land and natural resources. Guided by the local enumerators, the FGDs created awareness and proved to be an important platform to start an open dialogue - for the first time - about land governance between men and women.

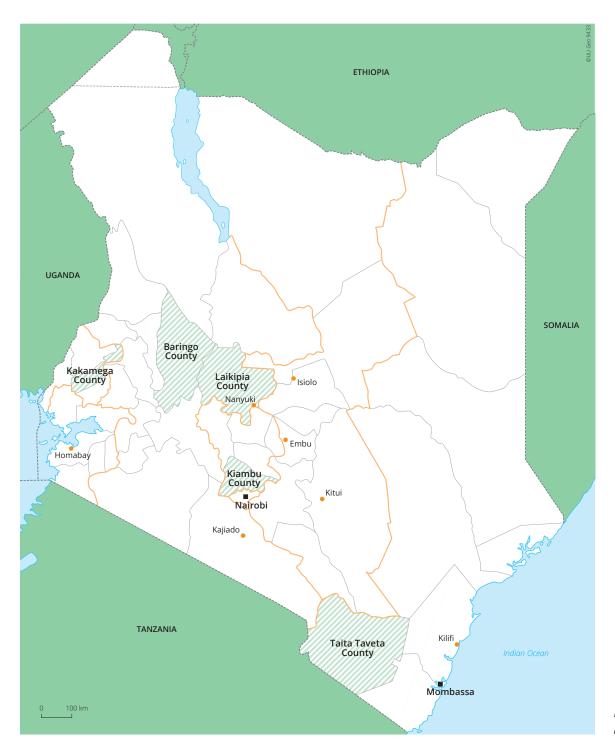
# Box 4. Community-led mapping and action research in Kakamega and Laikipia County

In **Kakamega county**, where land is held under private tenure systems, GROOTS Kenya used the community-led mapping tool in collaboration with a LANDac researcher. The team trained a total of 18 grassroots women from different communities as survey enumerators. Within nine days, the women surveyed 2,500 households. Analysis of this data shows that less than 5 per cent of land parcels is registered exclusively in women's names. In addition, 7 per cent is owned by both women and men and the remaining 88 per cent is owned by men.

In-depth interviews with grassroots women and men showed that customary practices and patriarchal systems still play an important role in this unequal division of land. These practices often marginalise women, particularly those without husbands, including young girls, widows and divorced women, as female access to land is defined by their relationships to male relatives. For instance, Beatrice is a 37-year-old woman who recently divorced her husband. She takes care of her children alone. After her divorce, she could not claim land from her husband's community. Beatrice was forced to move back to her parents' land. But, because she did not own any land herself and could not claim access to land belonging to her father or brothers, Beatrice was forced to abandon agriculture and start a new livelihood instead. (Interview Beatrice, Kakamega, 9 december 2017)

In Laikipia county, group ranches are the dominant landtenure system. A survey was combined with FGDs in nine group ranches. Initially, and start worth women-only FGDs provided the women with a safe space to discuss their challenges in accessing land through group ranches. The discussion was followed by another discussion between both women and men to share experiences and identify ways forward. The focus groups showed the importance of creating awareness among local women and men about their rights concerning land: past awareness-raising efforts had not always reached all community members due the vast and arid nature of these community lands. In addition, the open dialogue between men and women offered a useful platform for unpacking the levels of gender inequalities from both perspective and for inspiring joint advocacy actions, where men engage effectively in supporting women's land rights.

With the community-led data mapping, GROOTS Kenya has contributed to closing the gender data gap by generating data that are not in the official registries and by demonstrating the discrepancies between what is known about women's access and control over land at the local and national level.



Locations of WLRA's activities in Kenya

The community-generated data was mirrored against official registry data to demonstrate the limitations posed by the state 'official' baseline on land ownership. As such, community-led mapping has contributed to the recognition and value of local knowledge. It has paved the way for more informed decision-making and holding local as well as national authorities accountable to their promises. In the group ranches in Laikipia, for instance, grassroots women lobbied the Ministry of Lands and Physical Planning to deploy a land registration office at a central location within group ranches instead of in the government administrative centre. Women often have limited mobility, and this approach brings land registration services closer to them.

With local communities taking a central role throughout the mapping process, it is no longer government agencies, research institutions or large NGOs monopolising data. Instead, grassroots communities themselves, supported by professionals, play a central role in the collection, analysis and use of land data. The data are locally owned by the communities and accessible to them for advocacy purposes and for tracking progress.

### **Collective action**

Another important practice to move the women's land rights agenda forward and track progress is by means of movement building or collective action, both at the grassroots and



national levels. In Kenya, many different initiatives of grassroots mobilisation and women's movement building were employed during this programme, often linked to the Women2Kilimanjaro (W2K) movement<sup>5</sup>, which resulted in the Rural Women's Land Rights Charter (Women to Kilimanjaro 2016).<sup>6</sup> Facilitated by a variety of institutions working with and directly investing in the promotion of women's land right, this charter was published in October 2016. It describes the demands of rural women in Africa, represented by members of women's associations and farmers' groups in 21 African countries. In the charter, the women demand (among others) equal access and control over land in addition to the increased collection of genderdisaggregated data and equal decision-making power for women and communities related to land-based investments by the government or private sector (ActionAid 2017).

The W2K movement and the charter are important initiatives that have contributed to putting women's land rights on the international agenda and to join forces for collective action at the national level. Under the WLRA programme, ActionAid Kenya has mobilized a multistakeholder platform – including government, local authorities, development partners, grass-

# Box 5. Collective action: women's user rights in community land, Laikipia county

The Twala cultural centre is a women's centre on the border of Ilpolei and Munichoi ranches in Laikipia county. The centre was initiated by an American owner of a private ranch for tourism purposes. Initially, 60 women, most of whom did not own land, came together at the centre to sing and sell their beads. The centre continued to expand as a women-only membership group. The group receives tourists, sells beads and is involved in various additional income-generating activities such as beekeeping and gardening.

Led by the female manager of the centre, the group demanded some land from both of the two ranches so that they could run their activities. Both ranch chairmen agreed, giving the group two hectares from each ranch. One ranch provided the women with the legal papers and the title to their hectare of land. However, the other ranch refused. The women's group currently only has user rights over the land.

The Twala centre does not focus specifically on the access of women to natural resources and land. However, by organising them, the centre has united the women and strengthened their position and participation in the group ranches.

<sup>5</sup> See www.actionaid.org/australia/african-women-farmers-climbkilimanjaro

<sup>6</sup> In addition to ActionAid, organisations that supported the initiative included the International Land Coalition (ILC), the Kenya Land Alliance (KLA), Oxfam and many others.



### Box 6. Community land watchdog groups

Rosemary is a grassroots woman from Laikipia North and a resilient farmer. But, only months following her husband's death, she was disinherited by her in-laws. She moved to Likii slums in Nanyuki where she met the GROOTS Kenya watchdog group. Through their support and sustained dialogue with her in-laws, Rosemary was able to take back her land and had the land title registered in her name. Seven years after the intervention, Rosemary keeps poultry, goat and cattle and grows kale, bananas and pawpaw. She even has a small kiosk. Her son speaks of his intention to register his land jointly with his wife once he is married to ensure that she will never have to go through what he and his mother went through.

Photo: GROOTS Kenya

roots women and others – to rapidly scale up and better coordinate women's land right initiatives in one holistic and coherent programme across the country.

At the same time, ActionAid and GROOTS Kenya have supported and facilitated local initiatives of collective action, for example by helping a group of women to pursue a joint title to land (see Box 5). For GROOTS Kenya, this strategy proved to be very effective in giving women a stronger voice in demanding social change on the local level, because as individuals in a group ranch, women often feel hindered in standing up for their rights. During the FGDs in Laikipia county, women indicated that despite attending group ranch meetings, their voices were not heard: 'In our culture, when a man speaks, a woman cannot stand up and talk' (FGD Laikipia, November 2017). By facilitating a safe space to speak, where women can express their opinions, the FGDs provided a platform for women to voice their concerns and challenges and open the discussion together with male community members.

Other initiatives of collective action at the grassroots level supported by ActionAid and GROOTS Kenya include women's associations, self-help groups and saving groups that address financial needs through informal saving and credit systems. These groups do not necessarily concentrate on access or ownership of land, but often indirectly address aspects of the mix of cultural, legal and social factors and obstacles that stand in the way of women realising equal property rights in Kenya.

GROOTS Kenya's community land watchdog groups also demonstrate the power of collective action at the local level. These watchdog groups consist of volunteers within the community who are trained as paralegals to map land rights and mediate threats for vulnerable people such as widows and orphans. They mobilise, sensitise and convince communities, families and local administrators to mediate, resolve, restore and protect the rights of widows or orphans on a case-by-case basis. Through this collective action, a significant number of widows and orphans have been restored to their matrimonial land and family relations restored (see Box 6).

### **Local champions**

Through initiatives of collective action, women can stand stronger in claiming their rights, but to secure them, structural social change is required. The term 'local champions' is often used by CSOs as an umbrella term for individuals who are role models, good examples, leaders or bridge builders between communities and authorities. In the context of women's land rights, local champions are often defined as women with successful experiences of securing their rights and who subsequently strongly advocate for the rights of women. However, this does not exclude others. Men, politicians, local and/or religious leaders can also champion women's land rights.

In both target regions (Laikipia and Kakamega) GROOTS Kenya has built a strong champions' movement over the years. This network of local champions provides a platform to showcase the role of grassroots women in generating land data, learning together and driving the process of change (both at the household and community levels (by, for example Box 7). These champions are supported to become experts on women's land rights and to share their knowledge within their communities. This greatly increases both community knowledge and capacity.

Local champions are not appointed or chosen. They emerge over time out of the intense process of movement building. They are born of and are accountable to their grassroots movement. Local champions cannot exist outside of and/or be delinked from their grassroots movement: they are part and parcel of it. The more local champions, the stronger the movement and the better the distribution of responsibilities

#### **Box 7. Local champions**

For Pacifica Ongecha, her encounter with GROOTS Kenya was a turning point in her life. Pacifica became a GROOTS Kenya member, a community leader and a human rights activist. She gained land titles, built her own matatu or minibus business and purchased land. Pacifica then decided to spread women's power: based in grassroots communities in Limuru town, Kiambu county, Pacifica has a close relationship with local people and works with the local government. This network brings her into contact with various marginalised, vulnerable groups. The active participation in the meetings of local women's groups further allows her to approach or identify women whose land rights have been denied. Similar to many other champions of GROOTS, as well as providing women with legal assistance (for instance, sending them to paralegals), Pacifica is also constantly advocating and recruiting people to become members of the GROOTS grassroots movement. With her help, many women – especially marginalised women such as widows, single mothers and those who are HIV positive - have regained their piece of land and even started their own businesses.

Photo and text: Mengjie Sun

among the women. A high representation of local champions also reduces the risk of concentrating power among a few women champions.

The WLRA programme recognises the importance of role models within the communities. It sees traditional leaders as the guardians of customary laws and practices, and therefore strategic partners for scaling up women land rights (Bionyi 2018). They are key actors in the implementation of the legislative frameworks at the grassroots level. To strengthen linkages between communities and national-level actors, it is crucial that traditional leaders act as role models and become part of the movement.

One example is Chief Kombo from Kakamega. During a recent WRLA learning event in April 2018 in Nairobi, he described how, as a chief, he tries to educate his community by showing that his land is family land and that his sons and daughters will get an equal share (Zijlstra 2018). By considering women as equal partners, he acts as a role model.

#### Conclusion

Legal frameworks in Kenya demand equal rights for women and men in access to land. But many women are still not benefitting equally from land as men. This is due to cultural practices, social norms and the lack of implementation of legal frameworks. In private tenure regimes in Kenya, women still have very little ownership of land – either individually or jointly owned with spouses and others. The law falls short of asserting and protecting women's rights or in ensuring their participation in decision-making on land use. In community tenure regimes, women are still underrepresented in land



governance structures and excluded from taking part in the decision-making processes. Given how slowly regulations are being implemented, women's enjoyment of their rights as set out in the Community Land Act 2016 is still far from a reality.

The WLRA has contributed to filling a major knowledge gap on women's land rights in Kenya (and natural resource rights in the broader sense). At the same time, it has shown that women living in rural areas can effectively lead in assessing progress towards realising their land rights. It has combined grassroots initiatives with the promotion of a multistakeholder approach at the national level to take women's land rights to the next level in Kenya. Now, to further advance the agenda, development partners need to invest in building grassroots women's movements, where women's voices in land use and resource management can be enhanced. In this way, women will be able to advocate for their own priorities and preferences during land-use planning – and demand accountability in resource sharing.

The Kenyan activities within this programme are important steps towards building a stronger movement that fights for equal land rights for women and men in the country. An implementation framework on the charter has been developed within the framework of the WLRA programme, providing clearly delineated key actions and investment areas and demonstrates the need for concerted multistakeholder action (ActionAid 2018). Without it, there will not be much progress to monitor. Therefore, the next steps involve initiating and strengthening these platforms where most of the transformative actions are taking place and to further support grassroots movements to take the lead in this role.

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