This work was carried out as part of a 3-year collaborative project entitled “Securing Women’s Access to Land: Linking Research and Action”, coordinated by the International Land Coalition (ILC), the Makerere Institute for Social Research (MISR) of Makerere University in Uganda and the Institute for Poverty, Land and Agrarian Studies (PLAAS) of the University of Western Cape in South Africa. Its overarching aim was to learn from women and respond to their needs through action-oriented research. The purpose of the research carried out under this project was not only to provide an evidence-base for advocacy on women’s rights, but also to strengthen the research and advocacy capacity of civil society organizations, and to build a platform to advocate for a transformative agenda that supports rural poor women to improve their access to and control over land and other natural resources, including the building of linkages with the wider advocacy relationships and programmes of the ILC.

This report is part of a wider initiative on Women’s Land Rights. If you would like further information on the initiative and on the collaborating partners, please feel free to contact the International Land Coalition.
The opinions expressed in this report are those of the author and do not necessarily constitute an official position of the International Land Coalition, nor of its members or donors.

ILC would appreciate receiving copies of any publication using this study as a source.

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IDRC CRDI

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Securing women’s access to land: Linking research and action.
An overview of action-research projects in Eastern Africa

By:
Gaynor Paradza

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This work was carried out as part of a three-year collaborative project entitled “Securing Women’s Access to Land: Linking Research and Action” (SWAL), coordinated by the International Land Coalition (ILC - www.landcoalition.org), the Makerere Institute for Social Research (MISR) of Makerere University in Uganda and the Institute for Poverty, Land and Agrarian Studies (PLAAS) of the University of the Western Cape in South Africa. Its overarching aim was to learn from women and respond to their needs through applied research. The purpose of this project was not only to provide evidence, but to build a platform and to construct linkages with wider advocacy relationships and programmes of the ILC, to advocate for a transformative agenda that supports rural poor women to improve their access to and control over land and other natural resources.

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<td>FHRI</td>
<td>Foundation for Human Rights Initiatives</td>
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<td>GROOTS</td>
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<td>NGO</td>
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<td>PLAA</td>
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<td>WDG(s)</td>
<td>watchdog group(s)</td>
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<td>YWAP</td>
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1. Introduction

The issue of women's land access occupies centre stage, once again, as a result of increasing poverty and the 2007 global food crisis. Women need secure land access in order to produce food for their families, improve their welfare and participate in economic activities. Women's secure access to land improves the chances that the countries involved will meet millennium development goals. In spite of various efforts by states and international institutions, women continue to have insecure land tenure. To investigate why, between 2008 and 2010, the IDRC funded an ILC-coordinated research project on women's land tenure security in Eastern and Southern Africa, in collaboration with MISR and PLAAS. This synthesis report focuses on Eastern Africa.

The project aimed to:

• support action-oriented research projects in producing credible evidence in sub-Saharan Africa through a small grants programme jointly coordinated by the sub-regional research institutions;

• influence the formulation and implementation of policies relevant to women's access to and control over land in sub-Saharan Africa, through advocacy based on research results; and

• refine the research and action agendas on women's access to and control over land by strengthening multi-stakeholder dialogue and partnerships at the global level.
2. Research methods

The project used the following research methods to collect information: secondary data, surveys, structured interviews, informal discussions, action research, case studies, narratives, focus groups, participant observation, panel discussions and a Learning Route. The participating institutions were chosen through a rigorous selection process. The innovative research approach encouraged partnerships between researchers, non-governmental organizations (NGOs) and grass-roots organizations. The partnerships enabled the multidisciplinary teams to complement each other and explore synergies in their work. The use of multidisciplinary teams also encouraged the simultaneous production and packaging of research outputs for diverse audiences, including academics, communities and non-governmental organizations (NGOs). The interdisciplinary teams helped the grass-roots organizations to carry out rigorous research to produce credible results about gaps and innovations in women’s land tenure security, which can be used to inform policy.

The communities interacted directly with researchers and used the questions posed to reflect on their own situations and to assess how they could do things differently. All participating grantees appreciated the support they received in terms of capacity-building, data collection, generation of gender-disaggregated data and the production of databases on their activities. The databases enabled communities to update their information and, in some cases, to develop indicators to monitor their progress.

Research institutions were challenged to package their data differently to appeal to the communities involved. The multidisciplinary researchers imparted their knowledge and expertise in areas like agriculture and/or law to inform community action.

The non-governmental organizations at the community level were able to influence policy through the space created by the project. The activists worked with research organizations and communities to explore synergies. If sustained, the partnerships formed can increase women’s land tenure security as they facilitate concurrent research and policy influence. The action research also highlighted the potential to strengthen women’s access to land through work at the community level and various decentralized government offices.

Case studies enabled the researchers and activists to focus on a specific project and its context. This approach produced a richer understanding of issues and dynamics around women’s access to land. The recommendations and outcomes of the case studies respond to the specific local contexts of the women.

The Learning Route is a field-based methodology for peer learning that is the brainchild of Procasur. The method increases local capacities for global learning through field-based training. The Learning Route brought together researchers, practitioners and grass-roots women working on women’s access to land. They were able to learn from each other and to apply the new knowledge gained. The Route improves the use of local knowledge, facilitates two-way information exchanges and empowers local communities to package and disseminate their knowledge and experiences to global audiences. The SWAL Eastern and Southern Africa grantees teamed up with participants from Asia, Europe and Latin America to engage in a Learning Route that aimed to increase local knowledge about community-based initiatives to secure women’s access to land in Eastern Africa.

1 http://www.procasur.org/
Box 1: The Learning Route

During the first stage of the Learning Route, participants were introduced to the programme and encouraged to show their work and interest in women’s land access in an induction workshop. All participants shared their work and activities in a fair.

The second stage involved panel discussions organized by ULA and KLA. The panel provided the national context within which the Learning Route participants could evaluate the projects.

In the third stage, participants visited individual projects. They spent a day at each project, met with participants and had an opportunity to ask questions. At the end of the day, Learning Route participants reflected on the project visited, and made observations and suggestions.

The final stage drew Learning Route participants into an innovation fair. The participants worked in their teams to develop an idea they picked on the Learning Route for implementation in their own country and context.

The eight-day Route took place in March 2010. The ILC provided further funding to enable selected Learning Route participants to strengthen women’s access to land by applying their newly-gained knowledge. Participants from Kibaale and Gatundu received financial support for their innovation plans.

The panel dialogues enabled communities and stakeholders interested in securing women’s access to land to come together and dialogue on a common platform. The communities appreciated the opportunities to communicate their concerns to policymakers and to influence policy. The panels also provided an opportunity to inform policymakers of the local level innovations to secure women’s access to land.
3. Main findings

i. A review of legal frameworks in the three countries indicates that all land access is governed under a plural legal system where state laws coexist with customary and other extralegal regulatory frameworks. However, in all three countries, the constitution guarantees equal rights to men and women. The state law intersects with custom both to undermine, and, in some cases, to provide opportunities for the strengthening of women's access to land.

ii. The research findings show that no single mechanism can secure women's land access on its own. The dynamics of women's land access are complex, which means that there is room for diverse actors to exert influence from a variety of standpoints in the governance structures.

iii. Although land access remains skewed in favour of men, governments in Uganda, Kenya and Rwanda have some policy and legal provisions, which have the potential to increase women's land tenure security. The extent to which these impact on women's land tenure security is a function of the specific context, governance institutions and the resources of women in the area.

iv. Marriage, purchase and inheritance are some of the ways through which women negotiate access to land. The land women gain through marriage is increasingly vulnerable to loss because laws do not recognize all of the marital forms. HIV and AIDS also undermine marriage and increase the incidence of dispossession of women's land rights by relatives of a woman's deceased spouse.

v. Women's land access continues to be undermined by pressure on the land caused by the growing market for land, and increased competition for the resource induced by population increases, livelihood dynamics, rural-urban migration, HIV and AIDS and globalization pressures.

vi. Despite progressive policies and legislation, the lack of community awareness about women's precarious land tenure, limited resources and limited capacity of Government to implement and monitor progressive policies undermines their effectiveness.

vii. Conventional research methods are inadequate for researching and documenting dynamics in women's land access. The use of innovative approaches like action research and a Learning Route enabled innovation production and facilitated capacity-building and synergies that strengthened women's access to land.

viii. Women are not helpless victims, but can proactively secure their land tenure through their own individual and collective actions to challenge practices that limit and undermine their land entitlement.

ix. A multi-stakeholder platform involving both governmental and non-governmental organizations is an important precondition for effecting the implementation and continuous monitoring of policies aimed at ensuring women's land tenure security.

x. Community-based and non-governmental organizations can increase women's land tenure security by enforcing existing legislation and gender-responsive policies from the community level.

xi. Alternative strategies that build on individually-based interventions have potential to increase women's land tenure security.

xii. Although HIV and AIDS have increased women's vulnerability in terms of their access to land, initiatives to increase community awareness of the pandemic have provided an opportunity through which customary practices that undermine women's access to land, like inheritance and succession, can be challenged.

xiii. The ways in which women experience land tenure in the various countries in Eastern Africa are informed by their specific context and circumstances, and the extent to which individual women can influence processes. As a result, it is not possible to generalize on either the outcome or the impact of the various processes. However, the findings of the SWAL project provided insights that can be used to interrogate and inform policymaking related to women's access to land.
4. Research outputs

The SWAL project produced the following outputs:

i. A synthesis report

ii. An academic paper

iii. Five Research Reports from the SWAL grantees:

- FHRI (Foundation for Human Rights Initiatives)/AHURICA (Action for Human Rights and Civic Awareness) - Assessing the implementation of the spousal consent clause of the 1988 Land Act and upscaling advocacy for women’s right to access and control of land in Kayunga District, Uganda;

- URDT (Uganda Rural Development and Training Programme) - Voices of women’s aspirations over land and land matters: the case of Kibaale District, Uganda

- GROOTS Kenya (Grassroots Organizations Operating Together in Sisterhood)/GAMWI (Gatundu Mwurituri Women’s Initiative) - Complementing the state: the contribution of watchdog groups in protecting women’s land rights in Gatundu District, Kenya. A community-based innovation to secure women’s access to land.

- YWAP (Young Widows Advancement Programme) - Assisting widows to gain control of family land in Rachuonyo and Nyanza Kenya

- RWN (Rwanda Women’s Network) - Experiences of women in asserting their land rights: the case of Bugesera District, Rwanda.

iv. Increased research capacity of grantees and grassroots communities

v. Strategic partnerships between researchers, policymakers, non-governmental organizations and grass-roots communities
5. Summary of case study findings

This section focuses on the experiences of the SWAL grantees in Uganda, Kenya and Rwanda. The next section presents the summarized findings of the research partners. The full versions of the research findings are available on http://www.landcoalition.org/global-initiatives/womens-access-land/swal

Uganda

Women’s land rights in Uganda are a function of its colonial history, customary practices and dominance of patriarchal conventions. The 1995 Republic of Uganda constitution empowers all persons to have access to land. In addition, the spouses in a registered marriage are entitled to the marital property on dissolution of the marriage. The Ugandan Government encourages activities of non-governmental organizations that deal with women. The positive attitude of the Government enables local-level institutions to mobilize and train communities in gender-responsive activities. It also makes it easier for NGOs to mobilize cooperation from the bureaucracy, which facilitates their work to assist communities.

Collaborative Action on Land Issues (CALI) Panel, Uganda

CALI is a multistakeholder collaboration that works with private sector, non-governmental and governmental institutions to engage policymakers in dialogue. CALI uses studies and debates to get feedback from and enhance participation of various stakeholders in land policy drafts. CALI is researching and documenting key land issues that are central to mediating rural poverty in order to establish the basis for their inclusion in the new policy, its regulations and related legal and operational frameworks. The research includes an assessment of community-based and institutional approaches and innovations that have the potential for scaling up and replication. CALI is supporting the formulation of a new land policy through bottom-up processes. A partners’ forum comprising various government agencies, civil society organizations, research institutes, community groups and international partners has been established. It exists not only to share emerging knowledge, but to foster improved and ongoing stakeholder collaboration and to monitor the implementation of land policies at national, district and local levels. The panel meets regularly to share knowledge, engage policymakers and provide support to decision-making institutions. Since its formation, CALI has managed to close the gap between policymakers and other stakeholders by facilitating continuous interaction of the various stakeholders to ensure a coordinated approach and effective deployment of resources to secure women’s land access. The Learning Route gave SWAL partners an opportunity to witness the CALI panel mechanisms. The specific panel focused on women’s access to land. Through the panel, CALI illustrated how women’s land rights can be strengthened through strategic interventions by civil society in government policymaking and revision. The panel also highlighted some of the practical obstacles policymakers face in enhancing women’s access to land. Ugandan SWAL participants used the panel to highlight the plight of women’s land access. The CALI panel’s challenges in securing women’s access to land include:

- creation of effective methodologies to ensure the participation of women in the CALI panel;
- reluctance by men to participate in dialogues that focus on women’s access to land;
- maintenance of continuous participation of all stakeholders in the panels; and
- obstructions and lack of clarity as to how best to incorporate the findings collected from the community into the policymaking process, which frustrates both the community and non-governmental members of the panel.
Assessing the implementation of the spousal consent clause of the 1988 Land Act and up-scaling advocacy for women’s right to access and control of land in Kayunga District, Uganda

Kayunga district relies on an agricultural community. The land is rich and communities produce pineapples, sweet potatoes and matooke\(^2\) for sale. The area has good roads and access to markets. The demand for the community’s produce extends beyond the Ugandan border to Sudan where, as a result of the war, communities have a diminished capacity to produce food. This problem has increased the market for produce and land in Kayunga district. Polygamous marriages are the dominant type of marital union in the area. Women have secondary rights to land although they can purchase independent rights to land on the market. The increased pressure on land resulted in increased market activity and disposal of land, predominantly by males who customarily hold primary land rights. HIV and AIDS exacerbated the situation as HIV-positive men disposed of land without the knowledge of their spouse. Community elders also took advantage of women whose husbands had died of AIDS by dispossessing them of their land. The processes weakened women’s land tenure status in Kayunga district.

The SWAL initiative in Kayunga focused on how the discord between formal law and customary practices undermined women’s access to land. The constitution of Uganda was amended in 1996. Under the Land Amendment Act, section 38A, the consent of one spouse must be obtained before the other can enter into transactions with family land. This amendment rendered any transaction in breach of this contract null and void. However, women continued to lose their land rights as husbands often disposed of land without obtaining the consent of their wife. This violation of law undermined women’s land tenure security. The SWAL initiative focused on increasing the community’s awareness of the spousal consent clause and documenting women’s and men’s experiences with it. The initiative engaged men and women in reflective enquiry on local practices and beliefs with regard to women’s land ownership, and increased the community’s awareness of the spousal consent clause and consequences for those spouses who ignored it. In the process, the research project addressed the gap between custom and statutory law, long identified as one of the key constraints to women’s access to land in developing countries.

At the time of writing, 15 women had received training about the spousal consent clause. The process included teaching the women the importance of having a legally recognized marriage, which was a precondition for the enforcement of the spousal consent clause. The group, which was still in its infancy, used community debates and gatherings, house-to-house campaigns and community-based organizations to

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\(^2\) A type of banana, which is used as a staple food in Uganda.
increase awareness about the spousal consent clause among community members. The initiative helped to bring women closer to the institutions of law, which were responsible for securing their land rights. These included offices of the Government and paralegal offices of the non-governmental organization, Action for Human Rights and Civic Awareness (AHURICA).

In the two years since its formation, the Kayunga project increased community awareness of women's land rights. Women whose spouses have registered their marriage and are aware of the spousal consent clause can engage in farming without fear of the spouse disposing of their land. Some women who are in polygamous marriages and/or whose marriages are unregistered have been made aware of the spousal consent clause and their vulnerability. These women are securing land access by purchasing their own land and registering it in their names. Women can protect themselves and secure land that is not vulnerable to marital status and the actions of their spouse, who may sell the land without obtaining their consent. There were plans to extend the project to the rest of the community.

Although the spousal consent clause is a progressive legal provision, it only applies to women who are in registered marriages. As a result, women who are co-habiting and those in polygamous and unregistered customary unions are excluded from the protection offered by the clause.

The programme faces the challenges of women’s limited literacy and community leaders’ limited legal literacy. Another challenge is the lack of a parish land committee, which has a legal mandate to govern land transactions at the local level. The absence of this strategic institution at the local level makes the state more inaccessible, and compounds women’s difficulty to enforce land rights provided for them under state law.
Kibaale is a community in rural Uganda that practises subsistence agriculture. The remote location of the area and poor road network limit access to markets for its inhabitants. Communities live on land that is held under customary tenure and controlled by chiefs. This tenure system coexists with mailo land tenure. Mailo land tenure is a variant of the landlord-tenant tenure, which is under the authority of the Buganda Kingdom’s parliament. The Mailo system was created under the colonial system. Although no longer officially recognized, the tenure system remains dominant and has significant influence on land tenure dynamics in Uganda (Bikaako and Ssenkumba, 2003). The Government of Uganda and the Buganda Kingdom also exercise control over the land resource. Patrilineal practices dominate resource access. Women acquire secondary rights to land through marriage. Land inheritance is through the male lineage. Polygamy, one of the main drivers of AIDS, is the dominant form of conjugal union in the district. The state law is silent on polygamy. This practice, the limited access both to institutions of law and technical expertise, and the many different controls on land render women’s access vulnerable following the death of a husband. The existence of multiple-land governance institutions results in a complex land-holding system. The coexistence of state and customary laws to govern land access and marriage makes it possible for the patriarchal society to vacillate between these two legal systems and, thereby, resist women’s claims for increased land rights. In Kibaale, customary laws were used unsystematically in dispute resolution and local-level leaders were not conversant with the law. Religion increased complexity as some imposed their own regulations on customary and state

The URDT (Uganda Rural Development and Training Programme) is a community–based non-profit educational organization that endeavours to enable the people of Uganda and, in particular, Kibaale district, to create for themselves prosperity, peace, health, freedom and happiness through a series of interconnected programmes. URDT believes that women are key to sustainable development. In this regard, URDT has established a girls’ primary and secondary school and an African rural women’s university. The URDT has a campus based in Kibaale. The centre promotes sustainable agriculture, commercial farming practices, rural infrastructure provision, water conservation, sanitation and local entrepreneurship, among others. URDT complements the efforts of the Ugandan Government through:

• quality education and training of people, especially women in leadership;
• community resource centers;
• advocacy;
• promotion of collaborative and peaceful ways of resolving differences;
• assisting the community to change negative attitudes towards HIV/AIDS, and associated stigma and consequences for women;
• assisting the community to establish a land fund to mobilize funding to buy mailo land and increase land access;
• increasing women’s capacity to secure their land tenure by imparting record keeping, loan acquisition and financial management, crop husbandry, harvest processing and storage, energy saving techniques, garbage recycling, water and soil conservation, adult literacy classes and farm planning skills to enable women to gain financial independence and realize their vision on land;
• working to empower men as their participation is crucial for women’s advancement; and
• extending the focus from women to include capacity-building of community land governance structures to create awareness and responsive action to secure women’s land rights in the community. The URDT hopes to engender a long-term vision where the community will move beyond focusing on the weak and marginalized to have inclusive action for sustainable livelihoods.


4 Ibid.
laws governing land. People do not engage in succession planning, but if they do, wills are commonly disregarded. As a result, people with derived rights, like women, have limited and insecure access to land.

The SWAL intervention in Kibaale aimed to address disadvantages that women face as a result of their failure to make claims and enforce their entitlements to land. This failure occurs because of distance from the state institutions, existence of plural legal systems and women’s internalization of their weak status in terms of land tenure. The SWAL intervention in Kibaale aimed to document women’s aspirations on land in Kibaale. The Kibaale initiative attempted to raise women’s awareness of their land status and its consequences for the well-being of both women and the community. The idea was to harness this awareness and encourage women to take action to secure their land and to increase their autonomy and decision-making status. URDT, a community-based educational institution, led an initiative which helped women shape and formulate strategies to achieve their aspirations on land in Kibaale district. The initiative shifted the women from their position as victims and recipients of policy to proactive agents who could actively participate in and influence land tenure status at the household and community levels.

The SWAL project partners identified a core group of women who received support from a local NGO (URDT) to support their visioning. The visioning approach was the main strategy used to motivate women to take action to secure their land access in Kibaale. The women in Kibaale worked together with the assistance of a URDT-based facilitator. The visioning assisted women to articulate and establish their land tenure aspirations. The Kibaale women’s visions centered on acquiring secure access to land irrespective of their marital status. The secure land access would then allow women to engage in income-generating activities, to construct shelters, to secure their children’s education and, in the long term, to acquire more land for commercial farming. The women shared visions in which they articulated their aspirations for title to the land they were using. On the basis of the visions, women devised individual short, medium and long-term plans. The facilitator assisted them to think through and map how they would achieve these goals.

The SWAL project with URDT illustrated how community awareness of and responsiveness to women’s land tenure insecurity can be achieved with sustained support and resources. The SWAL intervention showed the importance of community mobilization and awareness to change the customary practices that undermine women’s land tenure security. Through the SWAL project, the community learned of and was able to contact the person who held the mailo interests on the land they inhabited. At the time of writing, the community was mobilizing resources to negotiate the transfer of the land from the mailo rights holder. The SWAL/URDT-facilitated initiative helped women to work collectively to use their voice to influence their land status. The initiative also:

- encouraged women to be proactive in securing land rights by teaching them the process of land title acquisition, increasing their access to relevant information, bringing them into contact with strategic institutions and providing them with skills to mobilize resources necessary to secure their land access;
- encouraged women to cooperate to further their common land interest and to use this to exert pressure on community and governance institutions to be responsive to women’s land rights vulnerability;
- taught women the process of land title acquisition; and
- taught women to form organized societies to enforce land entitlement.

The empowered women in Kibaale were taking steps to negotiate for more secure land tenure. Some of their initiatives included persuading their husbands to register marriage, attaining joint registration of land, securing and registering land in their own name and securing title to land. Women became proactive agents of change in charge of their destiny and able to influence policy through their own actions. At the time of writing, one woman had successfully registered her land claim in her name and was pursuing the goal of securing more land to venture into commercial agricultural production.
The lack of a parish council to administer land issues in Kibaale limited access to government institutions and perpetuated the dominance of customary institutions. This lack undermined women’s capacity to benefit from legal and policy reforms aimed at strengthening their land access. The URDT is not formally recognized by the Government as a land governance institution. This fact limits the extent to which the institution can influence the higher echelons of land governance in Government and improve women’s access to land. The other consequence is that people routinely ignore efforts by the URDT to mediate in family land disputes. The low participation of women in governance structures, low literacy levels among the community, legal illiteracy of the land administrators, corruption of local leaders and prevalence of diverse conjugal unions, all of which are unrecognized by the law, undermine women’s efforts to secure access to land.

The Learning Route participants visited the homestead of a woman who is a member of the Kibaale initiative. The woman is a second wife in a polygamous marriage. The husband is employed, but the two wives are subsistence farmers in the village. The two wives live on separate pieces of land purchased by the husband in the village. After the URDT-facilitated visioning course, the woman has made modest achievements in realizing her aspirations on securing her land tenure. The woman encouraged her husband to buy two pieces of land for her. She successfully negotiated with him to register one of the pieces of land in her name. In addition to having a piece of land on which she makes autonomous decisions, the woman was consulting with the other wife and husband to gain formal recognition of their marriage through registration. Thereafter, the woman’s vision was to discuss the land succession plan with her husband and his other wife. The woman hoped to secure her land access against the death of her husband or dispossession by his children and/or other wife. The challenges that remained were to secure financial resources to secure title for the land registered in her name.
Kenya

Kenyan statutory laws prohibit discrimination and uphold gender equality; however, modernization and trade have resulted in interrelationships between different tribes and people mixing in their settlement. As population increased and competition over land intensified, ethnic identification has emerged as criteria used to secure or dispossess other people of land. The politicians also use ethnic identity to campaign for office, which heightens tensions between people and results in a five-year cycle of displacement. Previously, displacement was temporary and non-violent, and people would return to their homes on the conclusion of elections. Increasingly, however, the displacement has become more violent and sustained. As displaced communities lost their land and assets, gender-based violence increased among displaced people, and women suffered the most. In addition, HIV and AIDS, increased population, industrialization and political instability also exert pressure on marginalized communities. In these conditions, it is difficult for marginalized groups and those with limited land rights to realize their rights. People in the informal sector, hunter-gatherers, fisher folk, the disabled, people internally displaced (IDP) by the political violence and pastoralists are among the vulnerable. Women in these communities are among the most vulnerable as they form the majority of the population and experience marginalization on various levels. The Kenyan Land Alliance mediates to reduce vulnerability. The Learning Route participants held a panel discussion with KLA affiliates.

The KLA (Kenya Land Alliance) is a network organization with more than 100 affiliates. The Alliance works to facilitate the production of a well-coordinated and functioning land policy to enable the people of Kenya to realize and secure their land rights.

- The KLA provides specific support to pastoral communities whose livelihoods are threatened through their marginalization by more sedentary land claimants. KLA facilitated a campaign to get pastoralists recognized as IDPs, so their issues can be addressed under the IDP Policy framework.
- The KLA supported internally displaced people following election-related violence and displacement. KLA mediated by offering support to victims in their holding camps, by facilitating victim’s access to medical assistance and by mobilizing humanitarian support for victims such as assisting children to reunite with their families.
- IDPs receive land, money and basic tools to help them resume their lives. Women continue to be marginalized as most of the money is given to men. Women who have been separated from their spouses are disadvantaged in the repatriation process. The KLA and its member organizations mobilized the IDPs in their holding camps and formed a powerful network. The network produced an IDP policy document, which captured IDP issues and was used to influence the national land policy and guiding interventions to uphold rights of internally displaced people and ensure sustainable outcomes. The network believed that policy recognition of their plight would guarantee women’s land access and livelihood sustainability in IDP policymaking.
- The KLA mobilized affected women into groups.
- The KLA lobbies strategic targets like government and traditional leaders to make responsive policies to secure rights of marginalized groups.
- In 2009, the KLA successfully negotiated the passing of a land management policy in Kenya.
- In 2010, the KLA was lobbying for constitutional amendments to accommodate the provisions of the land management policy.

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5 The Government of Kenya 2001. Article 70 of the constitution provides that all Kenyans are entitled to fundamental rights and freedoms, whatever their sex.
i. The KLA member Catholic Diocese in Nakuru district mediated in land disputes in Nakuru municipality where people faced delays of up to ten years with their cases. As a result of lobbying and pressure, Government responded by appointing a committee of elders to adjudicate land disputes. The elders conclude land disputes within three months. The Diocese also provides humanitarian support to displaced people.

ii. A member of KLA established resource training for girls, which evolved into a University Institute for Women, Gender and Land Studies. The initiative aims to raise gender awareness through sensitizing policymakers to increase their sensitivity and responsiveness to the plight of women’s access to resources. The Institute also uses the following strategies to draw attention to women’s insecure land tenure in Kenya: it champions proactive initiatives to secure women’s access to land by recruiting more males into gender-training institutions; it organizes training for women leaders before elections to sensitize them on the plight of IDPs; it works with marginalized communities who have diverse tenures and face different threats to their land access; and it engages in paralegal work to support the demands of vulnerable women, children and pastoralists whose land rights are violated.

Learning Route members visited IDPs in Kenya to witness firsthand the gendered impacts of displacement. During the election period, ethnic tensions increased and violence flared among rural populations in Kenya. The displaced people fled to urban areas. The Government provided tents where IDPs could access shelter, food and medicine. In 2009, under “Operation Returned Home”, the Kenyan Government closed the IDP camps and urged all residents to return to their homes. The IDPs received startup capital, but the Government stopped support. The money was given in two installments. As heads of households, men accepted the startup capital and abandoned their women in the tents. Some people returned to their places of origin, some did not return because they did not feel safe, some preferred to relocate and some lacked the means to resume their lives in their original homesteads.

The remaining IDPs grouped together as a community to form a registered self-help group. There are 826 people, 632 of whom are women. A former headmaster (male) leads the community. They have a committee of 11 leaders, 6 of whom are women (as per the condition of donor). The Kenyan Land Alliance assisted the community to negotiate access to 19 acres of land. The community pooled their compensation money and purchased land, which was then divided into individual family portions. A donor provided the community with cement and roofing materials and an infrastructure for piped water to construct 50 brick-under-asbestos houses surrounded by fields of maize crop. Everybody has such a structure and some land for subsistence farming. The community constructed a crèche for their children. Members earn income from employment on the surrounding commercial farms. The community negotiated the use of more land where they grow crops for sale, and the Government provided seed. In March 2010, the community was in the process of securing a group title for the land. The community contributed money to secure the title. All women in the group had their land registered in their name regardless of whether they were widowed or abandoned. Even when men returned to the community, the women remained as the beneficiary on the community list. The community funds the leader’s trips to the various governments and the preparation of proposals to present to donor agencies to seek assistance.

The experiences in the IDP camps visited by the SWAL Learning Route participants identified innovations that could be scaled up to secure the land tenure status of displaced women in the country:

i. Communities, government and non-governmental organizations have resources and potential to provide both immediate and long-lasting solutions to address women’s land tenure insecurity.

ii. People have the little-acknowledged capacity to use available resources to engage in self-help to change difficult circumstances.

iii. The catalytic effect of traumatic events like displacement provides entry points for changing gender relations to increase women’s access to land. The difficult
circumstances changed traditional gender relations in the first camp, as women were in the majority. As a result, they accessed leadership positions. Women were also recognized as heads of domestic units and were able to secure land and register it in their names. Here, in two years, women moved from displaced and landless people in rural patriarchal communities to holders of land title on private land registered in their own name.

iv. The case also brings to the fore the little explored potential for privately-held land to be made available for settling displaced people.

Although they have made significant progress in highlighting the plight of the IDPs, the initiative continues to face challenges in securing women’s access to land. These include the reluctance by people to champion women’s causes among the IDPs in holding camps and women’s reluctance to assume leadership positions in structures in the camps. The KLA work with IDPs to encourage women by appointing them to leadership positions, exposing them to forums, by mentoring them and by providing them with role models.

The Kenyan Land Alliance faces several challenges in carrying out their work, including:

• limited legal awareness among the grass-roots organization which increases demand for outreach resources;

• changing governance laws and institutions;

• dynamic custom;

• limits to KLA resources, expertise and mandate which cannot match the demand for services;

• tribal tensions that negate KLA efforts to unify and mobilize a critical mass to lobby for land interests in a coherent manner;

• resistance by Government to change and to proposals from KLA; and

• inconsistency of the Land Policy with the Kenyan constitution, which weakens land rights and capacity to enforce claims and rights provided by the policy.
GROOTS Kenya/GAMWI
Complementing the state: the contribution of watchdog groups in protecting women’s land rights in Gatundu District, Kenya. A community-based innovation to secure women’s access to land

One of the reasons women have insecure tenure status in Kenya is the limited government capacity to enforce and monitor entitlements. Over time, if not checked, women’s land rights are gradually eroded. Historically, marriage has been one of the main ways women gain access to land. However, the land rights that women secure through marriage can be lost through divorce or the death of the male spouse. Kenya has a high AIDS mortality rate, and the pandemic increases women’s vulnerability. Research by GROOTS Kenya has shown that women victims and survivors of AIDS are particularly vulnerable to the loss of the matrimonial home and to land grabbing. This reality is related to the AIDS stigma and the abuse of power by traditional authorities.

The Kenyan grassroots coalition formed community land and property watchdogs (WDGs) to secure women’s land rights in customary areas and reduce women’s vulnerability to dispossession. The Gatundu WDG was formed in 2005 after an increase in cases of property stripping from widows and orphans. The WDG is a community response to violations of property rights by the in-laws of women and orphans. The WDGs were formed by volunteers to provide affordable access to justice for vulnerable members of society. The watchdog groups, comprised of key stakeholders and community members, combine home-based care, and work and rights protection to resist eviction of affected women from their homesteads and to secure women’s land rights following the death of their male spouse.

- The WDGs report cases in which women and children are dispossessed of immovable property rights to local traditional leaders.
- At the community level, the WDG supported community empowerment about the rights of women, informed them of their legal rights and assisted them to enforce their land claims as provided for in the laws of the country.
- The watchdogs successfully lobbied for land administrators to demand a letter of consent by spouses of people engaging in land transactions on family land.
- WDGs have a dispute-resolution role through marital counseling, community education, youth clubs, churches and local dialogues.
- WDGs mediate and follow-up land inheritance cases to support women’s claims, and women are defended and sustained on land and immovable property.
- WDGs monitored and reported corrupt local leaders and practices, which resulted in the persecution of the guilty as well as more justice for vulnerable groups.
The WDGs are represented at all institutions and decision-making forums, which adjudicate land disputes and transactions in the community.

Although the WDGs have made significant and sustainable progress with minimal resources in mediating women’s land vulnerability, they face many challenges. These include: lack of funding for administration and transport expenses, limited research and documentation capacity and the lack of recognition by formal land-dispute adjudication institutions. Formal recognition of the WDGs would enable them to participate and give evidence in land tribunals and to assist people with information and support. The recognition would also give WDG members access to support like paralegal training, which could increase their capacity to perform their watchdog role. The WDGs relied on an individual traditional leader’s cooperation to work in their area. This condition limited the impact of this progressive innovation. The WDG’s reliance on volunteers also raises questions about the sustainability of the model. GROOTS and SWAL interventions strengthened the initiative by providing professional support in research and by enhancing women’s access to legal and economic literacy. The case study illustrated how land issues provided an entry point to transform governance by providing opportunities for women to negotiate access to other political spaces.
YWAP
Assisting widows to gain control of family land in Rachuonyo and Nyanza Kenya

Although the law considers men and women as equals, in practice, women are not given the same rights by society. As a result, women have weaker land rights than men. Differences also exist among women themselves, which influence the ways in which they experience widowhood. The Young Widows Advancement Programme (YWAP) was formed after some women realized that younger women were more vulnerable to the loss of their land on dissolution of marriage than were older widows, and that these young women lacked a systematic way to address their problems. YWAP focuses on young widows and orphans who have been evicted from their houses following the death of a male household head. The programme addresses the concerns of widows under 40 years of age, as they believe that these women are more vulnerable to eviction and dispossession than older widows. They identify that:

- younger women are at the formative stage of family and may lack savings and/or social capital to survive the shock of loss of a male spouse;
- they are more likely to be in an unregistered marriage;
- they do not have adult sons who can assist them to claim their entitlement;
- they are less likely to have purchased land;
- traditional institutions do not take them seriously as they are expected to remarry and relocate;
- young women are more likely to be victims of AIDS;
- they are more vulnerable to corruption as they are younger;
- they lack money to use the formal land adjudication processes; and
- they are more likely to be in an informal marriage, which makes it more difficult to make statutory claims on marital property.

YWAP was formed to address the concerns of young widows and has 500 registered members. It works to:

- document experiences of young widows;
- provide displaced widows with immediate relief including shelter, psychosocial support and financial capital to help them to rebuild their lives following displacement from the marital home;
- provide young widows with practical knowledge and skills to reconstruct their livelihoods and secure access to land in the short, medium and long term;
- establish a mentoring system with each other and use their group to access legal advice for those who may be in a position to fight for land rights. Such women may be required to go to court, engage in conflicts with in-laws, or both;
- engage in advocacy to raise community awareness of the plight of young widows and to discourage practices that disadvantage them;
- provide paralegal support to make legal representation of the widows. The programme relies on lawyers who provide pro bono services;
- lobby for government support and recognition;
- mediate between young widows and the families to re-establish support and access to land; and
- assist young widows with succession planning to protect their and their children’s land and property rights.

Since its formation, YWAP has assisted several young widows to secure access to land and/or initiate processes to secure their land entitlements. The programme faces several challenges, which include the reliance on volunteers and the use of lawyers who work pro bono. The programme has provided young widows with a place to meet and support each other. The initiative has highlighted the plight of a
distinct group of women whose rights are violated because of their age, inadequate law enforcement mechanisms and weak institutional structures at the decentralized levels. The increasing poverty and ethnic violence exacerbate demands on programmes like the YWAP. The YWAP also lacked a systematic database to monitor the activities of the organization and to lobby policymakers. The SWAL intervention increased the YWAP’s capacity to conduct research on its members through the construction of a database which can be used to engage policymakers in dialogues and increase society’s awareness of the plight of these young women and their children.
Experiences of women in asserting their land rights: the case of Bugesera District, Rwanda

Women in Rwanda seek to secure land rights in a situation characterized by high population density. More than 80 percent of the population is dependent on agriculture. The 1994 genocide caused large-scale displacement and an increase in the number of women-headed domestic units. HIV and AIDS exacerbate the problems. Rwanda has a patrilineal customary law system under which males are favoured in the allocation and inheritance of land. In 1999, the Rwanda Government adopted a progressive statutory regime that recognizes and protects women’s right to own and inherit land. The 1999 Inheritance and Succession Law grants equal inheritance rights to male and female children and allows a wife to inherit her deceased husband’s property. Other laws and policies that are relevant to women’s land and inheritance rights include the constitution of 2003, the National Policy on Gender, updated regularly since 2001, and the National Policy on Environment of 2005. In spite of progressive legal reforms, women’s land claims remain insecure in Rwanda. The Rwanda Women’s Network (RWN) carried out a study to assess the gender gaps in the implementation of laws that protect women’s rights in Bugesera District. The objectives of this study were to:

- identify women experiencing challenges in securing access and control over land;
- document their experiences in fighting for these rights;
- identify impediments to fair settlements of land disputes involving women; and
- devise strategies, together with women, to enforce and protect women’s rights to land ownership as provided under the statutory law.

The institutional framework for land administration in Rwanda comprises informal and formal institutions. As a first step, land disputes are required to go through informal institutions, like the family court, village court and mediation committee (Abunzi). The family court handles family disputes. The composition of this court varies by region. Umudugudu is a village executive committee to which parties unsatisfied with the decision of the family court can appeal. The committee also handles interfamily disputes. The cell executive committee is a multi-purpose local governmental body. Abunzi mediation committee is an organ of Abunzi (mediators) established in each cell for a period of two years. It is meant to provide a framework of obligatory mediation prior to submission of a civil case to a formal court. The Abunzi use law handbooks to guide them in their work, documents from the village leadership and are required by law to compile minutes of the outcomes of the cases they adjudicate. The minutes are used to monitor the impact of the institutions and to hold them accountable.

This is an appeal institution for those parties who have gone through the local land dispute mechanisms. The Abunzi exercises jurisdiction over land and immovable properties whose value does not exceed three million Rwandan francs. The SWAL research established that women in Rwanda face different problems and obstacles in asserting their rights to access and control of land within the existing framework. Although the law protects them, women have limited access to legal representatives. The slow process of land arbitration in the formal courts increases costs for women who may be forced to abandon their land claims. Women who take their cases to court also have to face threats of violence and hostility from people opposed to their land claims. The women interviewed have limited knowledge of the law and legal processes, and lack confidence to appear in the formal courts of law because of this. The legal framework in Rwanda recognizes some, but not all, forms of marriage. This marginalizes women not formally married from making claims under the statutory laws of the country. The weak local law enforcement offices fail to uphold women’s rights as they are staffed by people with limited knowledge of the law, and, in some cases, corrupt officials.
The study established that the most common land-related disputes involving women were inheritance, ownership and trespassing land disputes. This trend shows that although progressive laws have been passed, men are resistant to the laws which give women equal rights to inherit land. The disputants included a woman’s relatives and/or in-laws of the woman. Consequently, women’s confidence in the use of family-based institutions to mediate land disputes was undermined. The Abunzi provided a viable alternative through which women could seek mediation to defend their land entitlements outside the family.

The RWN research established that women preferred to use the structures outside the family. These were the cell leaders committee (Umudugudu) and the cell executive committee (Abunzi). The women preferred to work with these structures because they trusted the institutions more than family-based mediation institutions. Umudugudu and Abunzi were also located closer to the women. The women avoided family courts because their mediation was dominated by patriarchal interpretations biased in favour of men. Abunzi play a key role in the protection of women’s land rights in Rwanda. The research established that more women have taken land disputes to Abunzi than to other institutions and there were indications that awareness of land rights among women was increasing.

The research showed the effectiveness of Abunzi and their role to bring women closer to justice by providing a decentralized and accessible land-dispute mechanism. The research also showed that Abunzi face challenges in the process of solving disputes. These included limited time to carry out the work and reliance on volunteers, which often results in the committee failing to constitute a forum to mediate disputes. This factor undermines women’s access to land by causing delays. Abunzi lack financial support to perform their work efficiently. Abunzi committees are expected to document their proceedings and the cases received, but they sometimes lack basic office supplies such as tables, chairs, ream of papers, book shelves, files etc. for documenting and storing their work for reference purposes, which affects their service delivery. Abunzi also have limited knowledge of existing laws and policies. In addition, the Abunzi face interference from local leaders who try to influence their decisions. The SWAL research findings made several suggestions to improve the working of Abunzi and increase women’s land tenure security:

- improve community awareness of existing laws and the rights that have been accorded to women to increase the number of women who use this institution;
- educate people on the need to register their marriage through legally recognized channels in order to protect women’s matrimonial property rights;
- increase the gender responsiveness of traditional authorities through awareness campaigns and capacity-building;
- encourage rule of law instead of impunity in the society;
- develop capacity-building training in legal awareness and paralegal work to increase the effectiveness of Abunzi in protecting women’s access to land in Rwanda given that it is the preferred institution for women; and
- advocate for Abunzi committees to be facilitated in what they do.

The SWAL interventions provided an opportunity for the policymakers and community-based organizations to engage in dialogue. The next section summarizes the policy implications of the SWAL project findings.
6. Policy implications of the SWAL research project

The SWAL intervention provided an opportunity for researchers and other stakeholders to highlight key developments in women's land access in east Africa. The developments included achievements, innovations, gaps and lessons for policy. The findings had implications for policy:

i. The research findings illustrated the importance of good governance as a framework for enhancing and securing women's land rights in Africa. The need for strong functional governance institutions, stakeholder relationships built on trust and institutions that are accountable to citizens cannot be overemphasized.

ii. Effective policy should be made in an inclusive manner with the participation of the diverse stakeholders on women's land issues. These ranged from the communities, individual men and women in the communities, funding partners, research institutions and non-governmental organizations. The new paradigm for effective policymaking should be more inclusive and also provide opportunities for inputs by various partners. Public forums and panels, such as those spearheaded by ULA, URDT and GROOTS Kenya, provided dialogue and mediation. Top-down policymaking should also be diversified to allow opportunities for bottom-up policymaking that takes into account innovations at the grass roots to secure women's access to land. The state policymaking mechanisms have to embrace the initiatives from below and incorporate them into policy to enable these marginalized communities to influence policies in ways that make a difference to land access in these communities.

iii. The research also highlighted the need for policies to be continually revised and updated in response to the diverse emerging pressures on women's access to land. There needs to be continuous dialogue on issues that impact women's access to land to draw attention to unintended consequences and to force remedial action where possible.

iv. The research highlighted the need for governments to provide more resources to ensure the establishment of decentralized offices for monitoring of the activities. The resources include capacity-building, legal-awareness campaigns, dissemination of information and monitoring. In the absence of these, it was revealed that decentralization of government land administration had limited gains for women as the structures were vulnerable to elite capture and had a tendency to perpetuate dominant cultural practices that undermine women's access to land.

v. The generation of gender-disaggregated data collection to monitor impact in transfers, court judgments and government-led programs on women's access to land are needed. The SWAL project highlighted the negative impact of the limited research capacity of all institutions involved in policymaking for women's access to land. The research intervention illustrated how credible data could be used by all institutions to measure the impact of their work, devise innovations and monitor progress on women's access to land. The example of IDPs and KLA Rwanda illustrated how robust research could be used to generate credible data, which could be used to highlight the situation of women's land tenure in Eastern Africa and to lobby policymakers. The research capacity of land governance institutions at the community level was increased through action research and SWAL motivated initiatives. These partnerships have to be sustained to build the capacity of organizations working on women's land. United, they can exert pressure on research and academic institutions to produce and
package research outputs that address the needs of those working to secure women's land tenure.

vi. Government’s devolving dispute mediation to community-based and non-governmental organizations could increase women’s land access, as the experiences of women in Rwanda and Kenya demonstrate. The non-governmental land dispute-resolution mechanisms strengthened women’s land tenure security by increasing women’s access to institutions of justice and expedited the dispute-resolution processes. Policymakers should encourage such developments through political support and recognition of these mechanisms. The existence of a multiplicity of land dispute-resolution institutions increased women’s land access by increasing choice and giving women an opportunity to negotiate for their land rights outside of the constraints of bureaucratic government procedures and traditional practices that favour men.

vii. The experiences of SWAL grantees highlighted that although marriage was an important forum through which women negotiated access to land, the institution provided inadequate mechanisms for women to secure and maintain their land access in the face of land markets and HIV/AIDS. In recognition of this fact, governments in the region had passed laws to protect matrimonial property and women’s land interests. The research revealed that existing marital legislation marginalized women who were not in formally registered marriages, and that even with formally recognized marriages, women’s land rights remained vulnerable to the actions of the male spouse. In some cases, men disposed of land without consulting the woman and/or married other women. In so doing, they undermined the matrimonial property. In consultation with various stakeholders, policymakers should revise laws on marriage and matrimonial property to level the playing field for all adult women and to reduce their vulnerability to patriarchal attitudes of males in society and land governance institutions.

viii. The SWAL project showed how non-governmental organizations are working to secure women’s access to land with limited government support. This trend should be encouraged as the issue of women’s land access is really too complex for Government to tackle alone. The governments should embrace the role of NGOs and view them as complementing rather than competing with the state. Government should provide support for initiatives to secure women’s access to land by grass roots and non-governmental organizations through laws and policy announcements. Consequently, laws that constrain the work of NGOs should be repealed to enable them to perform their complementary role more effectively. The SWAL research revealed how NGOs can complement the Government to ensure policy implementation takes place. The governments in Eastern Africa should adhere to the suggestions of these complementary institutions so that bottlenecks to policy effectiveness can be identified.

ix. The SWAL project highlighted several points for policy engagement aimed at increasing women’s land access. These included the involvement of traditional institutions, individuals, communities, Government and legislative bodies. The variety of the mechanisms and successes registered should be encouraged and their capacity to perform increased through backup with resources and expertise from other organizations. The work done by URDT, KLA, GROOTS Kenya/GAMWI, RWN, FHRI/AHURICA and SWAL initiative demonstrate some of the effective support strategies.

x. At all levels, stakeholders need to acknowledge that men are an important stakeholder in securing women’s access to land. They are the gatekeepers and opinion leaders. The most successful interventions have involved men. With male involvement, resistance to progressive innovations aimed at securing women’s access to land is minimized.

xi. All case studies highlighted the importance of community awareness and civic education in securing women’s access to land. Communities that are sensitized to the plight of landless women emerged as more responsive and, in some cases, pre-empted negative processes that undermined women’s access to land. This reality underlines the importance of investment in education, legal literacy and procedures on securing women’s
access to land. To that end, governments should mobilize other stakeholders to invest in mobilization of communities and dissemination of policies and pronouncements aimed at securing women's access to land. The capacity of various actors at all levels should be increased through increasing resource support, access to information and accountability and monitoring of their activities.

xii. The research findings underscored the need for continuous vertical and horizontal learning by all stakeholders in women’s land issues, in order to facilitate the formation of strategic alliances and create more effective responses to women’s land tenure insecurity.
Our Mission
A global alliance of civil society and intergovernmental organisations working together to promote secure and equitable access to and control over land for poor women and men through advocacy, dialogue, knowledge sharing and capacity building.

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

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

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

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