

# Then the Women Started Coming to us:

## A Growing Women's Rights Movement in Kenya

### Testimony from Kenya

*Women in Kenya are subject to discrimination and disadvantage in all areas of their lives. Inequality between men and women persists as a result of patriarchal attitudes and stereotypes about women's role in society. Levels of gender-based violence and culturally harmful practices are egregiously high. Women experience inequality of opportunity and outcomes in relation to education and are at greater risk of poverty and landlessness.*

*The Constitution of Kenya was adopted by an overwhelming majority in August 2010. Equality is at the heart of the Constitution, which substantially enhances the legal protection of women from discrimination in areas that frequently impact on their lives. The new Constitution removes exceptions that were in the previous Constitution which allowed for discriminatory legislation regulating areas of personal life and discriminatory decisions to be made under customary legal systems.*

*The Equal Rights Trust, together with the Federation of Women Lawyers Kenya (FIDA), is implementing a project that aims to enhance the significant positive impact that the new Constitution will have on the lives of women across Kenya. Through the Legal Assistance Schemes Partnerships Project (Project), the Equal Rights Trust and FIDA provide support to grassroots organisations to provide legal advice to women experiencing disadvantage and discrimination, particularly gender based violence, denial of access to education and denial of access to land and inheritance. The Project is funded by Comic Relief and is in its third year.*

*In May 2014, the Equal Rights Trust spoke with two of the organisations participating in the Project: Tuone Mbee, an organisation based in Makueni in the Eastern Region of Kenya; and Kibera Justice Centre located in Kibera, a densely populated area of Nairobi that is one of the largest informal settlements in Africa and suffers from extreme poverty. The Equal Rights Trust spoke with Belice Oyanji, a paralegal who has supported many women at Tuone Mbee in accessing justice. Belice spoke about some of the issues faced by her clients and some of the changes she has seen. The Equal Rights Trust also spoke with Jane Mulanda, a client of the Kibera Justice Centre. Jane spoke about her experience of discrimination, the impact of the Project and her hopes for women in Kenya. John Paul Makere and David Mukunda also shared their experiences at Kibera Justice Centre advising women of their rights under the new Constitution.*

**Belice Oyanji**

My name is Belice Oyanji, I come from Tuone Mbee, a community based organisation in Mikuene. We have been working with the support of the Equal Rights Trust and FIDA to provide women with legal services in relation to a range of issues. We receive a particularly high number of queries relating to domestic violence and to enforcement of land rights. Initially, when we were beginning this work, we realised that there was a need to raise awareness amongst women in the community of their rights and the fact that our legal services were available in order to support them. We held numerous meetings with community groups and undertook a range of awareness raising activities. Then the women started coming to us. We listen, support and advise. Sometimes we are able to help directly and other times we are able to support them in accessing other mechanisms, such as relevant administrative authorities. The response of the women we work with has been incredibly positive.

We have had women come to us with a variety of often very distressing issues. For example, one woman came into our office complaining that her in-laws were beating her. After a period of abuse, her in-laws decided to take her back to her parents and tied her with ropes and put her in a vehicle in order to do so. When she came to see us, she was very distressed and was crying. She had been injured by the beatings and mistreatment. In the first instance she had tried to seek justice by going to the community chief. This is often the first place people go to resolve issues and disputes. In this case, no resolution was reached by this method.

We advised the woman to go to the hospital to get treated for her injuries and in order to get a medical record of the fact that beatings had

taken place. We recommended that she stay with her parents in the meantime to avoid further harm. There are very few effective mechanisms available for protecting women from domestic violence. With the medical record from the hospital, we visited the police station with the woman to get the case recorded. It went to court and we continued to support her throughout this process. Initially the in-laws had fled town and it was necessary for the police to investigate and bring them back. Her in-laws accepted that they were guilty of beating her and were jailed for five months. Afterwards they sought forgiveness. We have traditional methods of forgiving through the clan elders. This approach was adopted with the woman's acceptance. Her husband had never beaten her and she felt that, with this process, she was comfortable that the situation had been resolved. We have stayed in touch with the woman in question who is happy with how things have now become. She knows we are always there if she needs us.

We are obviously working within the limitations of the systems here in Kenya to do our best. But I think the situation for women in Kenya is getting better. Now many women have learned their rights – we have seen this happening in the village since we began our work. In my experience it used to be commonplace for poor women in the village to be shouldering most of the burden in the household. They have been staying at home like slaves doing all the work. In my community it has been normal to see women carrying water home on their backs while carrying their children on the front at the same time as seeing men hanging around in the marketplace playing games and being idle. This seems to have changed in many households. In the past you would find a woman carrying the man's bag, carrying her own things and the man just walking idle without carrying



Belice Oyanji.

anything. In many cases now they have taken responsibility of sharing everything, even if it is a lot to carry, they share.

### **Jane Mulanda**

I am a single mother with a daughter living in Kibera. Many single mothers come to live in Kibera because they have nowhere else to go; their own fathers will not allow them to live in the family home as unmarried women with a child and the fathers of their children do not take responsibility for the child and leave. Single mothers in Kenya face a difficult task. They work running small businesses because they cannot get jobs and also have to look after their children at the same time. They are not able to get out of the position where they are in constant financial difficulties because they don't know their rights.

It is difficult for these mothers to access employment because they do not have education. There are schools for adults but a single mother doesn't have time to stay in school and learn. Women working as household help must now be paid, but women without education cannot get house help jobs anymore because they cannot help the children of the house with homework. Women are resorting to prostitution because they can't do anything else, they can't get another job. I know women who see men at their house. I also think that those who are married face many problems and suffering because of a lack of education.

In my view, men in Kenya see women as weak, so they take our property. Women don't know their rights and are afraid to stand up for themselves because they are women and that is not the role of women in Kenya. There needs to be more awareness of women's rights in Kenya. Women need

to know what their rights are and how they can defend themselves and their rights. Society in Kenya also needs to change. Women have the right to inherit land now, so society should also not mind if a woman sells the land that she has inherited – if you give me something, then you cannot mind what I am doing with it. I don't know how the men of Kenya feel. They also have daughters – how do they feel when their daughter is being battered by her husband every day? If a father gives his daughter land, then she can come and live in peace with her parents and raise their grandchildren in peace, rather than staying with a man who is battering her every day or having to run away to an area like Kibera where she knows no one and her prospects are very poor.

I found out about the legal advice services that Kibera Justice Centre provides through a friend. I was looking for help because the father of my daughter did not want to take responsibility for her. She was unable to go to school because of this. I went to the chief's office to get help but this was difficult and did not resolve the problem. I then went to Kibera Justice Centre to seek help. They explained my rights to me and the rights of my daughter. They then spoke to the father of my child and explained his responsibilities. He is now paying school fees for our child. The service has solved my problem and now I am able to sleep at night without thinking of my daughter's school fees.

I now stay involved in the work Kibera Justice Centre is doing and tell all women about their rights and about where to find help. I hope that one day I'll see all women standing on their own with nobody pressing them down. That day is coming, it must. If I was able to bring the father of my child on board, then surely all woman must be able to do that.

## John Paul Makere

My name is John Paul Makere. I coordinate the legal assistance services provided through the project at Kibera Justice Centre. After my education, I began working in community development. I organised community members to work towards finding solutions to the problems we faced in Kibera. Through this work, we came up with the idea of a youth group. Different NGOs provided training to members of the youth group on the issue of community funding. Initially our main role was to inform the community about development and to teach them their rights in relation to accessing funds. We were then trained as paralegals to deal with tenancy and land issues as these issues went hand in hand with our community development work.

Kibera Justice Centre met FIDA through its paralegal work on tenancy and land issues. FIDA came to visit Kibera Justice Centre because they were very much interested in what Kibera Justice Centre was doing as it related to the work on empowering women that FIDA wanted to do in Kibera. Kibera Justice Centre was then offered a role as one of the organisations that would provide advice to women through this Project. I was identified by Kibera Justice Centre through my role in the community to coordinate the Project. I then received training from FIDA and the Equal Rights Trust on discrimination, women's rights and also on how to run the service effectively.

We see clients in legal aid clinics every Tuesday. We keep to this time to ensure that women know that we will be available. On Thursdays we do follow up work. We try to



Photo credit: Equal Rights Trust

From left: DavidMukunda, John Paul Makere, Jane Mulanda.



advise women on all of the issues that they face. Some of these issues include inheritance of land, tenancy problems, child neglect and difficulty obtaining identification cards.

We did not initially realise that women faced so many difficulties in obtaining identification documents. These difficulties became evident when we started to see women in the legal aid clinics. We found that most of the women that sought our assistance didn't have identification cards or birth certificates. We have learnt that women have a particular issue obtaining identification documents and birth certificates for several reasons. Most of these women do not have the knowledge on how to apply for these documents. The procedures are also very lengthy and can lead to individuals without support giving up along the way. This problem affects women in all areas of their life. Without an identification card, a woman cannot open a bank account, she cannot get employment, she cannot do any business.

For those women who have had children out of marriage, the difficulties obtaining documents for their children are exacerbated because they require information from the father of the children and they have difficulty getting that information. This results in women being unable to obtain identity documents and birth certificates for their children. Without a birth certificate, children cannot be admitted to school or sit for examinations. In turn, these children will then have difficulty obtaining identity documents for their own children.

We decided to create a one stop centre to address this problem because it is so widespread and because it affects women in every aspect of their life, including their ability to ensure access to education for their children. We have been able to create this one stop centre to assist women to obtain identity documents and

birth certificates for themselves or for their children through this project. The difficulties that children have in accessing education are further compounded by the lack of support provided by fathers to single mothers. Men are running away from the issues when young women become pregnant. So we also assist with advising mothers in this position.

Women are also affected by the lack of stable and adequate housing in Kibera. Tenancy disputes and problems affect many, many people in Kibera. Landlords take advantage of people's vulnerability. They refuse to follow the law regulating rents and protecting tenants. Rents are being set at exorbitant rates and people just cannot afford them. Landlords also evict people without any notice. Women are particularly affected when they cannot find suitable housing or are evicted. If you have a problem with your landlord and your door is locked, as a man you can survive that – you can sleep somewhere else, but imagine it is a woman and a child, where do they sleep? In addition, many people rent a single room and landlords often do not provide essential facilities, like a toilet or bathroom. Most of the men can bathe and go to the bathroom elsewhere, but women and children are especially vulnerable in situations like this when there is no privacy.

While many of our clients are now able to claim their rights because of the Constitution, some new challenges are emerging because attitudes in society about women are not changing to reflect the Constitution. For example, my aunt was the only daughter in her family. My grandfather shared land only amongst his sons and my aunt did not receive any land. Once the new Constitution came into force, she went to a court of law and won the case so she was given back the land. After getting that land, she sold it and went back to where she was married. The community

view was that the land should have stayed within the family and that my aunt should not have been given the land because she would return to her husband's family. When this happens the community questions why they should give their daughters land.

Examples like this show us that we need to be able to change people's perceptions so that they understand why women's rights, including inheritance, are important. This will allow women to exercise their rights fully with the support of the community. In Kibera, we raise awareness by visiting different groups and giving talks on these issues. While people wait for formal employment, they are often eager to join us and work voluntarily. In this way, more and more people in Kibera are becoming involved in the project and aware of their rights.

In addition to raising awareness, we also need more capacity building in order to be able to overcome these problems. Women have not previously been given the opportunities to learn about their rights and have often been denied an education. We need to give women those opportunities so that they can gain knowledge and the capacity to defend themselves in a court of law or anywhere. Women need basic knowledge of laws on property and succession. In addition, we need many women to be trained as paralegals so that women are better able to work together to assist each other. It is a great success for us when women who have been assisted by Kibera Justice Centre, like Jane, choose to stay involved and use their knowledge and experience to become part of the solution for other women.

### **David Mukunda**

I do mostly community work at Kibera Justice Centre. Like John Paul, I was trained

through the youth group. As a result of that training, I was also recruited to this project.

In Kenya, we have a number of traditions that restrict what women are able to do and that are contradictory to women's rights. Women are traditionally not able to participate in decision making or to manage their own property. In one example we have seen, a husband leased a property belonging to his wife to the railroad. When she asked why he did that, he said it was because he believed that he owned the woman and everything that she had. People see women claiming their rights in a negative light. There is a belief that a woman should be confined to the role of child bearing and taking care of the homestead. This belief causes a lot of strain and conflict when a woman is well educated and well informed. A woman may know what her rights are but tradition cuts away at that and interferes with her ability to claim those rights freely.

The costs and difficulties associated with taking cases to court also impact on women's ability to enforce their rights. We believe that you can collect the best evidence from the ground. In the case of many of our clients, this involves going back to the village where their family or their husband's family is based. But it is difficult for clients to travel outside Nairobi to find that evidence. Women often have children to look after because this is seen as their traditional role, so it is difficult for them to travel away from where they are living – transport is expensive and travel is slow. Women need to arrange for someone to care for their children or raise the money to take the children with them. There are also costs of travel to lawyers and obtaining documents and so on. We often see that women feel that they need to balance the costs of looking after their children with fighting for their rights and, of course, they will choose their children. Women should not

be in the position where they have to choose one or the other.

We assist women with many different issues, including those who are unable to obtain identity documents for themselves or for their children. This causes a lot of other problems that become cyclical. For example, a woman who gave birth when she was not yet 18 years of age, may not get a birth certificate for her child because she gave birth underage and the father of the child does not want to notify the authorities of that. When the child reaches the age of five and should be enrolled in school, the child will not be enrolled without a birth certificate. So we assist women by explaining what they are able to do in this situation.

As John Paul mentioned, we are beginning to see that the implementation of the Constitution is difficult in a society which has strictly defined gender roles. For example, the Constitution requires that no more than two thirds of a decision making body can be of one gender. The government has now started monitoring how many women are in every group, even down to self-help institutions. So women are being appointed to de-

cision making bodies. However, for some of these women, because they have previously been denied education opportunities, previous decision-making roles and because they are not given the requisite support, they may lack the information and skills to do the job. Some women may also not wish to participate. This, together with prejudice, contributes to why men often do not expect good results from women in these roles. We need to constantly create awareness, the community needs to be sensitised and women need to know their rights so that women do have opportunities to participate in decision making on an equal basis and are recognised as being capable and valuable in decision making.

Women in Kenya are often told that they are housewives and their place is in the household. Consequently, women have difficulties accessing information about their rights and some believe that their place is in the home. From where I come from, gender roles are very strictly defined and so there is no way that a woman would come back into the family to claim land or any property. So again, we need to be constantly giving women access to education and to explain to women and the wider community about women's rights.



Photo credit: William Warby

Pregnant Women.