

IV. WOMEN'S PROPERTY RIGHTS VIOLATIONS AND THEIR CONSEQUENCES

Human Rights Watch documented women's property rights violations in Kenya across a range of ethnic groups, social classes, religions, and geographic regions. These violations can occur at any point in a woman's life, but are most frequent and extreme when it comes to inheritance and division or control of matrimonial property. The personal accounts below illustrate property rights abuses suffered by widows from rural and urban areas, women whose parents have died, divorced or separated women, and married women who lack control over their matrimonial property.

Widows from Rural Areas

My in-laws took everything—mattresses, blankets, utensils. They chased me away like a dog. I was voiceless.

—Theresa Murunga, widow, Nairobi, October 20, 2002

Rural widows told Human Rights Watch that their in-laws took their property, including their land, homes, vehicles, livestock, furniture, and household items, when their husbands died. Many were subsistence farmers who lost their basis of survival when they lost their land. Rural widows, even more than urban widows, are expected to undergo wife inheritance or cleansing rituals. Most of those who did the rituals said they could keep their property. Those who refused not only lost their property but were also ostracized. They often returned to their parents' homes or moved to urban centers, including Nairobi's notorious slums.⁶⁶

Emily Owino, a fifty-four-year-old widow from the Luo ethnic group, lived and farmed on her husband's land from the time she married at age fifteen until her husband died several years ago. With four children, she depended on that land, her simple home, and her meager possessions to subsist. When her husband died, her in-laws took everything. "Things started disappearing from the time of the burial ceremony," she said. "They took farm equipment, livestock, cooking pans, bank records, pension documents, house utensils, blankets, and clothes.... This happened in the three months after my husband died. I was desperate."

Owino's in-laws also pressured her to be cleansed by a jater. They hired a herdsman to cleanse Owino, paying him KSh500 (U.S.\$6). She had sex with this man—against her will and without a condom. "They said I had to be cleansed in order to stay in my home," she recalled. "I tried to refuse, but my in-laws said I must be cleansed or they'd beat me and chase me out of my home. They said they had bought me [with the dowry], and therefore I had no voice in that home." Succumbing to the cleansing ritual did not, however, save Owino from losing her home and land. The situation became unbearable:

I was suffering so much that I went home to my parents for assistance. I had young children who were sick, and no one would assist us. I couldn't buy clothes, we couldn't eat, and I had no cooking pots. When I came back from my mother's home, I saw that my land and last few possessions were taken. I was destitute.⁶⁷

While she was gone, Owino's in-laws rented out her land, which the renter was cultivating, and took the title deed. "The land was supposed to be mine. My husband had verbally willed it to me," Owino said. "There were witnesses. My in-laws knew it was my land, but they didn't care." When Owino complained, her in-laws threatened to assault her. Owino reported the incursion on her land to a village elder. "I told the elder 'I've come from my parents' home and found that someone planted cassava on my land.' The elder asked for a bribe before he would take action. He said, 'If a lady wants assistance, she must pay.' I didn't have the money." She then

⁶⁶ Approximately 60 percent of Nairobi's population lives in slums and informal settlements confined to less than 5 percent of the total municipal residential area. Nairobi's slums are some of the most dense, unsanitary, and insecure slums in the world. United Nations Centre for Human Settlement, "Slum Upgrading: Lessons Learned in Nairobi," *Habitat Debate*, September 2001 [online], <http://www.unhbitat.org/hd/hdv7n3/12.htm> (retrieved January 22, 2003).

⁶⁷ Human Rights Watch interview with Emily Owino, Siaya, November 2, 2002.

took her case to the local chief. According to Owino, the chief considered this an inconsequential “family case” and referred Owino back to the elder, who again refused to handle her case. She did not go to the police: “I had no money to go to the police. I was told that unless I have money, I couldn’t go to the police.” She could not afford a lawyer for a court claim.

Since the local authorities were unhelpful, Owino again asked her mother-in-law if she could cultivate part of the land. “My mother-in-law refused, and told me to go back to my parents,” Owino said. “I had to leave my home. I couldn’t stay because I had nothing to eat, no land to till.” Owino moved with her children from place to place until someone offered her a small, leaky hut made of poor-quality grass. None of her children are educated beyond pre-school. Though still young, they work as herders and maids. “If I could have stayed on my property, my children could have gone to school,” Owino said.⁶⁸

Monica Wamuyo, a forty-year-old widow from the Kikuyu ethnic group, said her in-laws evicted her when her husband died in 1996. She and her husband had lived in a spacious house in Nyeri on land where she grew vegetables. Soon after Wamuyo’s husband died, her in-laws pressured her to leave. “My father-in-law would kick my door at night and tell me I should leave because it was his land. He said if I wanted land, I should go to my mother and ask for land.” When Wamuyo protested, her father-in-law demanded that she be his second wife. “I told him I had never heard of such a thing in our tradition,” she said. “I went to the elders because I wanted to continue living there.... The elders said I had to move out.” Wamuyo moved to Nairobi’s Kangemi slum, where she earns money washing clothes. She said she was crushed by losing her land and now struggles to make ends meet: “Sometimes I’m unable to buy food for my children. They haven’t been in school since 1997.... I told my daughters to look for housework.”⁶⁹

Having no sons is a serious liability for rural widows: women with no children or only daughters are often considered worthless and undeserving of property. “I was thrown out of my home when my husband died because I had only given birth to girls,” said Theresa Murunga, a widow from rural Bungoma. Until her husband’s death in 1994, Murunga lived in a hut on her husband’s homestead, where she grew potatoes and maize. She recalled:

When my husband died, his relatives came and took everything. They told me to take my clothes in a paper bag and leave. I left, because if I had resisted they would have beat me up. The relatives identified someone to inherit me. It was a cousin of my husband. They told me, ‘Now you are of less value, so we’ll give you to anyone available to inherit you.’ I didn’t say anything. I just left and went to my parents’ home.... This is customary. If I had married the cousin, I could have lived where I was. I decided not to because he was polygamous—he had five other wives.... I know if a woman is inherited, she is normally mistreated by the one who inherits her.

If I had sons instead of daughters, they would have apportioned land to me.... When they told me to leave, they said there was no way they could recognize my daughters since they’ll marry and leave the homestead. They said I shouldn’t have given birth at all.... My in-laws took everything—mattresses, blankets, utensils. They chased me away like a dog. I was voiceless.⁷⁰

Murunga’s in-laws expected her to undergo a traditional ritual involving sexual intercourse with her dead husband’s body, but she avoided this because her brothers were there with machetes to protect her. Her in-laws were angry, and they and other villagers harassed her. One night, a group of five men came to her hut shouting threats. She believes that the village elder sent them to punish her for rejecting tribal traditions.

Frightened, Murunga left her home and went to her parents, where she stayed for four years without getting land to cultivate. “I felt like a foreigner in that homestead,” she remarked. In 2001, Murunga was having

⁶⁸ Ibid.

⁶⁹ Human Rights Watch interview with Monica Wamuyo, Nairobi, October 28, 2002.

⁷⁰ Human Rights Watch interview with Theresa Murunga, Nairobi, October 20, 2002.

so much trouble paying her children's school fees that she went back to her in-laws to ask permission to cultivate her late husband's land. "My brother-in-law sent me away. He said I am no longer his relative and he doesn't know who I am." Murunga now lives in Nairobi in a dilapidated one-room shack without electricity. "Even feeding my children is hard now," she said. She did not seek help from authorities. "Whom could I tell?" she asked. "I felt that if I went to the elders, they wouldn't attend to me because I only have daughters."⁷¹

Alice Akelo also lost her rural land and household goods because she had no sons. Akelo, a thirty-five-year-old Luo widow, lived on and cultivated her husband's land until he died. Akelo recalled:

My father-in-law told me that he was taking the property because I only gave birth to girls.... He gave my husband's land to a stepbrother.... I was sent away by my brother-in-law. They said I don't have boys, so they could not give me a piece of land to settle on. I went to stay in my parents' home.... All I could take were clothes.⁷²

Before Akelo left the homestead, her brother-in-law tried to inherit her. "I didn't want to be inherited because he had other wives and I thought he was not in a position to inherit me," she said. Akelo did, however, undergo the cleansing ritual with a jater. "The ritual involved having sex," she said. "I didn't want to have sex, but I had to because of custom." Her father-in-law paid the jater KSh1,000 (U.S.\$12.50).

Akelo said that, as a woman, she could not protest her eviction from her home and land. "I said nothing because I was feeling helpless. I thought if I had a boy child, he could have resisted." Her family discouraged her from asserting her rights. "My mother advised me against making a formal complaint to the police because that would mean going against my father-in-law." After living with her parents for several years, Akelo moved to a shanty in the Quarry slum in Nairobi, where she hawks groundnuts.⁷³

Relatively wealthy rural widows also said that having only daughters contributed to their disinheritance. Wairimu Asha, a forty-five-year-old Luhya widow with three daughters, lived in a modern house on land she and husband purchased before he died. "Since I had only girls and the Bukusu [her husband's ethnic group] do not value baby girls, they said I should marry someone else and have a baby boy," Asha said. "I said I wanted the land, but they said I had to go. Immediately after my husband died, they told me to leave."

Asha's in-laws took her husband's death certificate and some of his property. Her brother-in-law told her he wanted to inherit her: "My brother-in-law said he could take the land because he was my husband's brother... He wanted me to be his wife, but I refused." When Asha rejected him, she said a "war" started:

Early one morning my brother-in-law came with cows and tractors to plow the land. I woke up and heard dogs barking. I found him plowing and asked him what was wrong. He said, 'Don't worry, I'm plowing for you.' The next day at midnight I found him planting. I called the chief to try to stop my brother-in-law.... The chief came along with the elders, but they couldn't stop him.⁷⁴

In an unusual turn of events, the chief reported the brother-in-law's trespass to the police, leading to a criminal case and seven-month jail sentence. After he was released from jail, Asha's brother-in-law came back to Asha's house and threatened to kill her. She recalled:

He came with [machetes]. When he knocked on the door, my daughter opened it. He said if I didn't let him live there, we'd all have to get out. My daughter didn't answer. I asked him what the problem was. He said, "How could you send me to jail? My brother's land belongs to

⁷¹ Ibid.

⁷² Human Rights Watch interview with Alice Akelo, Nairobi, October 21, 2002.

⁷³ Ibid.

⁷⁴ Human Rights Watch interview with Wairimu Asha, Nairobi, October 19, 2002.

me, not you.” He pushed me and wanted to slap me. My daughters came and he ran away. The next day I moved to Nairobi. Before I went, I called the police. The police said my security was not good, and I should not stay in that house.⁷⁵

The police arrested Asha’s brother-in-law, but he was quickly released and never prosecuted. Since then, her brother-in-law has lived in and rented out the house, farmed the land, and sold the contents of the house, all without compensating Asha. “The house is empty,” Asha said. Asha was able to retain a lawyer, and managed to get a judgment confirming that she owns the land and home. She worries that the judgment will not be enforced and about her safety there.⁷⁶

Having sons does not always help women keep their property, at least not all of it. Rimas Kintalel, a Maasai widow with four sons and three daughters, lost all of her cattle and sheep to her brother-in-law. One month after her husband died, her brother-in-law “took twelve cattle and twenty sheep. He said, ‘I want you to go from here because I want my brother’s property.’” Kintalel managed to stay on her land because she and her husband, who worked for her father, lived on her father’s land. Kintalel told her village elders that her brother-in-law had taken her livestock, but they did nothing. Her troubles did not stop there. In 2001, her brother-in-law abducted six of her children. She said he felt entitled to them because she married into his family even though some were fathered by a man other than her late husband. “For Maasais, this doesn’t matter,” she said. “Once you’re married, they consider any children part of the husband’s family.” Kintalel reported the abduction and the earlier property-grabbing to the police. “The police asked if it was possible for me to go live with my brother-in-law, and I said no.” She got her children back, and the brother-in-law was fined two sheep and one cow. She did not get the other livestock.⁷⁷

Lucia Kamene, a thirty-three-year-old widow from the Kamba ethnic group, lived and farmed on land in eastern Kenya with her husband until he died in 1997. After he died, Kamene’s brother-in-law told her and her children to leave, claiming that she was never married and he now owned the land. “He claimed that I wasn’t married to my husband because not all of the customary steps were completed.” Kamene considered herself married, as did her other in-laws, even though a few customary rituals were not done. “Even the clan knew we were married,” she said. “The first time anyone said we were not married was a week after the burial.”

Kamene’s brother-in-law demanded the land title deed and her late husband’s identification card. “He threatened me,” she said. “He told me, ‘I’ll burn you with fire if you don’t put the title and I.D. card on the table right now.’ He told me if I dared talk back to him he’d beat me.” Terrified, she gave him the documents. “I feared that my brother-in-law might attack me. I was afraid for the children.” Soon after that, Kamene moved to Nairobi, taking only clothing for herself and her children and leaving behind livestock and other property. “My brother-in-law took everything,” she said. “He did all this to evict me.... This man was jealous of me because he didn’t have boys. He thought my son would claim the land.” Kamene’s brother-in-law and his wife now live in Kamene’s house.

Although Kamene informed the local chief of these threats, he did nothing. She did not report this to the police, who were far away. To this day, she wishes she could live on her land but fears going back. She now lives with her children and those of her sister (who died of AIDS) in Nairobi’s Mukuru slum. They live in a metal shack with no running water or electricity.⁷⁸

Muslim widows from rural areas also complain that their property rights under Islamic law are infringed as custom supplants their religion.⁷⁹ Amina Juma, a Muslim woman from the Kikuyu ethnic group, said that

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Human Rights Watch interview with Rimas Kintalel, Ngong, October 24, 2002.

⁷⁸ Human Rights Watch interview with Lucia Kamene, Nairobi, October 20, 2002.

⁷⁹ The Koran’s basic intestacy rules provide that a son generally inherits double the share of a daughter. When a husband dies leaving a wife and children, the widow receives one-eighth of the net estate. If there are no children, the widow gets

when her husband died, her in-laws grabbed her property. The property included a pension fund, canoes, fishnets, a house on the island of Rusinga, cows, and household items. Juma explained:

After my husband died, my mother-in-law ...came to the Rusinga house and took things. I never said anything because asking would cause problems because of the culture of that community.... I took my children and came to stay with my father in Kisumu. I didn't take any property. Just clothes for myself and my children.... I was afraid for my life if I pursued my property. I think they would have killed me—definitely. In my ethnic group, women don't hassle over property.

According to Islamic law, Muslim women are entitled to inherit property. This didn't happen in my case because my in-laws are ruthless.⁸⁰

Prior to his death, Juma and her husband lived in a large house with water, electricity, trash pickup, and schools nearby. After her in-laws took her property, she could no longer afford to live there. She now lives in a structure made of iron sheets and mud walls. There is no running water, electricity, or sanitation. Juma can barely pay for basic needs, and one child dropped out of school. "If I had gotten my husband's property, it would have been easier to pay school fees," she said.⁸¹

Some in-laws physically attack widows to get their property or compel them to be cleansed or inherited. Awino Adipo, a former teacher from Siaya district, said that when her husband died, her in-laws took property (some of which she had purchased) and tried to force her to do a cleansing ritual. "I refused the ritual," she said, "and then they physically attacked me. As a result of the attack, I became blind in one eye." She moved to a Nairobi slum, and now lives in a hovel that "has a gaping hole in the roof and is collapsing. It's made of mud, and has no electricity or running water."⁸²

Jiwa Felister, a fifty-five-year-old Luhya woman, said that six months after her husband died in 1991, her brother-in-law brought a jater to her hut to cleanse her. She objected, saying: "I don't know this man's HIV status, and if I die my children will suffer." Her brother-in-law and four cousins pushed the jater into Felister's hut and he raped her. Felister screamed, but the jater covered her mouth. The brother-in-law paid the jater with a cow, some chickens, and Felister's husband's clothing. The jater later built Felister a makeshift hut, and the house she shared with her husband was destroyed. Felister's brother-in-law took over her land and removed furniture from her hut. She reported this to the village elder, who said he would look into the matter but did nothing. Felister, who now has a persistent cough and has lost much weight, fears she contracted HIV from the jater but has not been tested and cannot afford medical treatment.⁸³

Susan Jeptoo, a forty-one-year-old widow from the Nandi ethnic group, said her brother-in-law tried to rape her after her husband died. "In March 2002," she recalled, "my brother-in-law came to my house. He said, 'There is no way you can stay here without sex.... I must stay with you because you were married to my brother.'" He grabbed her arm and tried to drag her to her bedroom. Jeptoo pulled away from him, but fell and injured herself as she ran outside. Jeptoo is now concerned about her land. "What is going to happen if my in-laws take that property?" she asked.⁸⁴

Several women said they agreed to be inherited by male in-laws in order to keep their property and stay in their community. Anna Adhiambo, a Luo widow, was inherited by her brother-in-law several weeks after her husband died. "I consented to being inherited in that I wanted to be taken care of," she said. "I feared that if I

one-fourth of the estate. Wives in polygynous unions share the one-eighth (if there are children) or one-fourth (if there are no children).

⁸⁰ Human Rights Watch interview with Amina Juma, Kisumu, November 1, 2002.

⁸¹ Ibid.

⁸² Human Rights Watch interview with Awino Adipo, Nairobi, October 28, 2002.

⁸³ Human Rights Watch interview with Jiwa Felister, Siaya district, November 3, 2002.

⁸⁴ Human Rights Watch interview with Susan Jeptoo, Kisumu, November 1, 2002.

refused to be inherited, people would be brought in by force to inherit me. There was no choice to live alone. They would force it on me.”⁸⁵ Being inherited does not, however, ensure that a widow can keep her property permanently. Pamela Achieng, a thirty-eight-year-old widow, said her brother-in-law inherited her ten months after her husband died. She could stay in her home because her brother-in-law moved in. When she and the brother-in-law later divorced, she moved back to her parents’ home without any property. Her brother-in-law kept the home, land, and livestock she had shared with her husband. “Inheritors aren’t supposed to give, they’re only supposed to take,” she said. “According to our culture, if you’re inherited, you don’t get things upon divorce.”⁸⁶

Community sympathy sometimes helps minimize women’s property rights violations. Human Rights Watch encountered one case where sympathy for a disabled widow—not respect for her rights—led to reinstatement in her home after an in-law evicted her. Margaret Atieno, a mentally and physically disabled Luo widow, was chased from her home and land when her husband died in 1996. She explained:

When my husband died I was chased from my home by my husband’s cousin.... He came with a club and chased me, running. He said, “A woman that has been bought by cattle can’t stay in his homestead.” He said I should go away so that he could till the land. If I had had a son, he wouldn’t have chased me out of the homestead.⁸⁷

The village elder convened a meeting with Atieno’s in-laws. They decided she could stay because her husband was the first-born son, she could care for other family members’ children, she was disabled, and she had nowhere else to go. Although Atieno’s in-laws initially wanted someone to inherit her, this did not happen because a doctor said sexual intercourse would be fatal due to injuries from a botched operation.⁸⁸

Other women got no such sympathy for their health problems. Imelda Orimba, a twenty-five-year-old widow with AIDS, lost her home, land, and other property in the Bondo district when her husband died in 2002. She told her in-laws that she had AIDS and wanted to stay in the house. They snatched her property anyway and wanted her to be inherited. She recalled:

I told my in-laws I’m sick... but they took everything. I had to start over.... They took sofa sets, household materials, cows, a goat, and land. I said, “Why are you taking these things when you know my condition?” They said, “You’ll go look for another husband.” My in-laws do not believe in AIDS. They said that witchcraft killed my husband.⁸⁹

Widows from Urban Areas

My mother-in-law said that since my husband had died I could not stay there. There was no one there to support me. She told me to leave and took away all I had, including my clothes.

—Caroline Wanjiru, widow, Nairobi, October 21, 2002

Widows living in urban centers when their husbands died described to Human Rights Watch how their in-laws invaded their homes to take household goods and furniture, whether or not the woman had bought them, and transported them along with the deceased husband’s body to his ancestral home (generally in a rural area). In-laws also interfered with urban widows’ access to pensions, death benefits, and bank accounts. Property located in rural areas, such as land, livestock, homes, and household items, was often taken without compensating the widow. Some urban widows were pressured into remaining in their deceased husband’s home village and becoming a junior wife of an in-law. Women told Human Rights Watch that when they protested being inherited

⁸⁵ Human Rights Watch interview with Anna Adhiambo, Kisumu, November 1, 2002.

⁸⁶ Human Rights Watch interview with Pamela Achieng, Kisumu, November 4, 2002.

⁸⁷ Human Rights Watch interview with Margaret Atieno, Siaya, November 2, 2002.

⁸⁸ Ibid.

⁸⁹ Human Rights Watch interview with Imelda Orimba, Kisumu, November 4, 2002.

they were attacked and forced to leave. Others acquiesced, citing cultural expectations that prevent women from challenging in-laws.

While many widows Human Rights Watch interviewed were not forced to leave their urban homes, they were impoverished after losing their property. They toiled to feed, clothe, and educate their children after losing virtually everything they owned. Monica Olola, a fifty-year-old Luo widow, said that she and her husband lived on and cultivated land in rural Siaya for fifteen years. They had moved to Nairobi, but kept their land and a small house in Siaya. When Olola's husband died, her in-laws took the rural land, home, and household goods. "My brothers-in-law immediately took everything," she said. "They took land in Siaya, household goods, a radio, bicycle, and cupboards.... One brother moved into the house and started to till the land." Olola told him she wanted the property back. "My brother-in-law told me to go back to Nairobi.... He felt that whatever property my husband had was his." Olola returned to Nairobi and now lives in a slum. She hawks fish in a market to earn a meager living. Her daughters dropped out of school because Olola could not afford school fees.⁹⁰

Adhiambo Nyakumabor, whose husband died of AIDS in 1998 and left her HIV-positive with five children, went from being relatively affluent to destitute after her husband's family took her property. Her in-laws grabbed household items from her Nairobi home and took over her house and land on the island of Rusinga even though Nyakumabor helped pay to construct the house. Soon after her husband's death, Nyakumabor's father-in-law called a family meeting, told her to choose an inheritor, and ordered her to be cleansed by having sex with a fisherman. Nyakumabor refused, causing an uproar. She felt ostracized and quickly returned to Nairobi. A brother-in-law took over her land and livestock on Rusinga without compensating Nyakumabor. She now struggles to meet her family's needs, and her landlord in Nairobi's Kibera slum has threatened to evict her because she cannot always pay rent on time.⁹¹

Dowry can exacerbate property rights violations: if it is paid, some people consider the woman herself as property, and she has less bargaining power to defend her rights or resist wife inheritance. Patricia Wairium, a thirty-six-year-old widow from the Maragoli ethnic group, lived in Nairobi when her husband died in 1995. Shortly after he died, Wairium's in-laws raided her Nairobi home and stripped it bare. They wanted her to be inherited because they had paid dowry. She recalled:

My in-laws took everything, even wedding presents.... They took the television, furniture, beds, clocks off the walls, a table, stools, a radio, glasses, bed sheets, mattresses, and pans. They carried all this away. All they left in the house were the few things I had locked up.

My brother-in-law said he wanted to inherit me and take all the property [including rural land]. I said in that case I didn't want the land, and I refused the brother. They wanted to kill me.... My brother-in-law said that this is the custom and, out of respect for him, I should accept being inherited. He said he was an old man and I should give him the property and serve as his [second] wife.... My mother-in-law was threatening, too. She said I should take care of her because I married her son and they paid for me. They wanted to make use of the 20,000 shillings [U.S.\$252] they had paid as dowry.⁹²

With her Nairobi home empty and her in-laws pressuring her to be inherited, Wairium decided to move back to her parents' home, where she stayed for two years. "I went back to my parents with just the few things that I had locked up," she said. "I had to start over to buy things. My in-laws refused to give me my things."⁹³

Stipulating in a will that a widow should inherit property ought to help, but even wills are sometimes disregarded. Caroline Wanjiru, a twenty-seven-year-old Kikuyu mother of four, said that her husband, a bicycle

⁹⁰ Human Rights Watch interview with Monica Olola, Nairobi, October 18, 2002.

⁹¹ Human Rights Watch interview with Adhiambo Nyakumabor, Nairobi, October 19, 2002.

⁹² Human Rights Watch interview with Patricia Wairium, Nairobi, October 22, 2002.

⁹³ Ibid.

repairman, had orally willed her his tools. He did not write a will because he held the common belief that it would cause him to die young. When he died in 1999, Wanjiru's in-laws took the tools and everything else in her Nairobi home, some of which she had bought. For a time, Wanjiru tried to live with her in-laws in Yatta. Eventually, she said, they called her a prostitute and told her to leave. "My mother-in-law said that since my husband had died I could not stay there. There was no one there to support me. She told me to leave and took away all I had, including my clothes." Wanjiru returned to Nairobi, and now lives in the Quarry slum, where she hawks groundnuts. Her wood and mud shack has no running water or electricity. She sometimes begs for money to buy water.⁹⁴

Many women, particularly in urban areas, cohabit with men but do not complete all steps for a customary, civil, or religious marriage to be definitively recognized. Many of these women consider themselves married and in fact may have enforceable rights under the common-law doctrine of presumption of marriage. Women in this status are prime candidates for disinheritance. In-laws use this hazy marital status along with other excuses, such as having no sons, to disinherit these women. Omwena Omung'ina, a thirty-two-year-old woman from the Kisii ethnic group, lived with her partner for nine years and had two daughters with him but did not marry him. Nonetheless, their families and friends considered them husband and wife while he was alive. That changed when he died. "My husband's family didn't recognize me as his wife because I had just given birth to girls. That was a problem. They said I was a prostitute." She said his family "took everything" the day after he died. She objected, but the family summoned a commander from the army, where her husband worked. The commander said the property must go with the body to the rural home because that is the tradition. Her in-laws took the property and her husband's rural land. She did not attempt to claim the land, saying this would be "suicidal." She explained, "My in-laws have already bewitched me. If I go back they would physically hurt or kill me." Omung'ina never reported this to the police. "I know if I go to the police, they will tell me it's a private matter," she said.⁹⁵

Although urban widows are somewhat less connected to traditions than rural widows, this does not stop their in-laws from threatening violence if the widows refuse to be inherited. It also does not stop women from abandoning their property to flee the danger, nor from silencing themselves so as not to transgress cultural norms. Pamela Adhiambo, a thirty-two-year-old Luo woman, said that after her husband's burial in 2001, she heard rumors that her in-laws wanted her to be inherited. She quickly left her husband's homestead without the livestock and household goods she and her husband kept there. "I heard that if I refused to be inherited, they'd come in a group and rape me.... The elders would look for people to do it. I had heard of this in the vicinity where I was married." Adhiambo was not aware that she might have some right to that property: "I really had no right. As much as they were my husband's belongings, I had no right."⁹⁶

Patrice Nayoke, a forty-three-year-old nurse, lost urban and rural property after her husband died of AIDS in 1999. She and her husband lived in Kisumu but maintained land and a cottage in rural Busia. After Nayoke's husband died, her in-laws took furniture and other items from the Busia cottage. "I asked my brother-in-law where the things were, and he said, 'Don't ask a lot of questions.'" Even though she paid for the household goods, she was afraid to ask for them because her in-laws might have assaulted her. In April 2002, Nayoke's father-in-law demolished her cottage and sold the construction materials she stored there. He did not ask her consent and did not compensate her. "If this happened to a man," she said, "they wouldn't take the property." Several months later, when Nayoke was having trouble raising school fees for her children, she asked her in-laws if she could sell some of the livestock. They refused, and she did not protest. "They are parents," she said. "I couldn't do anything. So I took loans from work and friends to pay the school fees."⁹⁷

⁹⁴ Human Rights Watch interview with Caroline Wanjiru, Nairobi, October 21, 2002.

⁹⁵ Human Rights Watch interview with Omwena Omung'ina, Nairobi, October 20, 2002.

⁹⁶ Human Rights Watch interview with Pamela Adhiambo, Kisumu, November 4, 2002.

⁹⁷ Human Rights Watch interview with Patrice Nayoke, Kisumu, November 1, 2002.

Women Whose Parents Have Died

My two brothers inherited sheep, cattle, and all my parents' property. A lady cannot inherit property.

—Kisarunka Norkishon, Maasai woman, Ngong, October 24, 2002

Although statutory law provides that daughters and sons should inherit equally from parents when there is no will, it is uncommon for women in Kenya to inherit property from their parents on an equal basis with brothers. Daughters typically inherit less, and in some cases nothing, since they are expected to get married and be supported by their husbands.

Married women are even less likely than unmarried women to inherit from their parents because they are deemed to belong to the husband's clan. It is so uncommon for married women to inherit that none of the women Human Rights Watch interviewed tried to get a portion, much less an equal share, of their parents' estate. Susan Wagitangu, a fifty-three-year-old Kikuyu woman, said that when her parents died, her three brothers inherited the family land. "My sister and I didn't inherit," she said. "Traditionally, in my culture, once a woman gets married, she does not inherit from her father. The assumption is that once a woman gets married she will be given land where she got married." This was not the case for Wagitangu: when her husband died, her brothers-in-law forced her off that homestead and took her cows. She said she "never dared to ask" about inheriting her parents' property. "I would like to claim a part of the land left by my father, but I feel so overwhelmed," she said. Wagitangu now lives in a Nairobi slum. "Nairobi has advantages," she said. "If I don't have food, I can scavenge in the garbage dump."⁹⁸

Ndati Muita, a Maasai woman with seven children, inherited nothing when her parents died in 1998. Her brothers inherited sheep and cattle. "I didn't inherit because I got married," she said. "A lady doesn't inherit. If you're a woman and not married, you inherit something small." She said she did not ask for a share of her parents' estate because she "is not supposed to inherit."⁹⁹

Custom not only interferes with women's statutory inheritance rights, but also with Muslim women's already unequal inheritance rights under Islamic law. The chief Kadhi, Kenya's top authority on Islamic law, said, "Disinheritance of daughters is one of the biggest problems I have. I try to show this is not correct. You must allow women to have a share. It becomes acrimonious, and there is violence."¹⁰⁰ Farida Mohammed, a thirty-four-year-old Muslim woman whose father died in 2000, said, "I didn't inherit. There was land that my big brother inherited.... None of the sisters inherited. My brother inherited because he's a man." Two of her sisters are unmarried and live on her late father's land, but still did not inherit.¹⁰¹ Mona Hassan, a thirty-seven-year-old Muslim woman of Asian descent, said that she and her sisters did not inherit anything when her father died. "My father had land, money, and houses. My brothers got it all. The sisters got nothing." She attributes this to custom:

My problem was custom. In my custom, the estate goes from the father to the son with the understanding that the son should take care of his sisters. My brothers do not take this responsibility seriously. We're a Muslim family but still the tribal customs are so strong. Our negative traditions drag us back. We tend to abide by those systems more than religion.¹⁰²

⁹⁸ Human Rights Watch interview with Susan Wagitangu, Nairobi, October 29, 2002.

⁹⁹ Human Rights Watch interview with Ndati Muita, Ngong, October 24, 2002.

¹⁰⁰ Human Rights Watch interview with Sheikh Hammad Mohamed Kassim, chief Kadhi, Nairobi, November 7, 2002.

¹⁰¹ Human Rights Watch interview with Farida Mohammed, Nairobi, November 8, 2002.

¹⁰² Human Rights Watch telephone interview with Mona Hassan, Nairobi, November 16, 2002.

Divorced or Separated Women

There is no one to go to if you want part of the family property. It's hard, because you won't get it back. Elders exist, but they would never give property to a woman. If I dare go back I would be tortured. My husband would beat me. As a wife, you don't own any property.

—Tipira Kamuye, divorced woman, Ngong, October 24, 2002

Divorced and separated women told Human Rights Watch of leaving their homes with nothing but clothing and never getting a share of the family property. Despite case law establishing that women can be awarded half of the family property, men typically keep the house and almost everything in it, and women leave with practically nothing. Women are expected to go “home” and live with their parents, which is not always an option. Domestic violence victims are hardest hit, often staying in abusive relationships for years because they think it is hopeless to have their husbands leave, and the women have nowhere else to go. “In most cases it’s the women who leave the matrimonial home upon separation.... Lots of abused women are held back by that,” said a lawyer who handles domestic violence and property cases.¹⁰³

Human Rights Watch interviewed women whose husbands had significant property during the marriage, but the women got none of it upon separation or divorce. Many said they had no idea they could claim a share of the family property. Tipira Kamuye, a thirty-five-year-old Maasai woman, was abused by her husband for years before they divorced in 1999. “My husband cut me on the head,” she said. “He was going to kill me.... He told me, ‘I’ll cut your neck,’ and tortured me.” Kamuye and her three children fled to her parents’ home, and her father returned the dowry to her husband. At the time, her husband owned at least two hundred sheep and cattle, but she got none of them. She explained:

When I left my husband’s home, I didn’t try to take property.... In Maasai custom, women are not supposed to go back for property. A woman has to look for new livestock.... If a woman buys property during the marriage or brings it to the marriage, she would leave that with the husband upon divorce.... When I married, my parents-in-law gave me twenty sheep and twenty cattle. These were not really mine, even though they were given to me. I had to leave them.¹⁰⁴

Kamuye did not try to get a share of the matrimonial property: she believed elders would never allow a woman to keep family property and her husband would attack her if she tried to claim it. When asked whether she considered hiring a lawyer, she laughed. “There’s nothing like that here,” she said. “Maasais don’t have that.”¹⁰⁵

Some women who suffered domestic violence knew they were entitled to family property, but were so frightened of further attacks, they did not attempt to claim a share. Mary Atieno, a Luhya woman living in Nairobi, separated from her husband in 1998 after his beatings and rapes became life threatening. She had briefly left her husband and reported the violence to police in 1996, but they took no action. Having nowhere else to stay, Atieno went back to her husband:

The police said this was a domestic issue. I went to my parents, but my father said that as an African woman, I should stay with my husband. I received no help from anyone, so I went back to my husband.... It made it worse that my husband knew no one would help me. I was at his mercy.... I had no money to look for a place of my own. If I had money, I would have moved out.¹⁰⁶

¹⁰³ Human Rights Watch interview with Ann Gathumbi, coordinator, Coalition on Violence Against Women, Nairobi October 17, 2002.

¹⁰⁴ Human Rights Watch interview with Tipira Kamuye, Ngong, October 24, 2002.

¹⁰⁵ Ibid.

¹⁰⁶ Human Rights Watch interview with Mary Atieno, Nairobi, October 28, 2002.

When Atieno left the marriage for good, she did not take property. “I didn’t try to get the property because I was trying to save my life. I don’t even want to dream about getting the property. I want nothing to do with my husband. I won’t bother.” The family property at the time consisted of a commercial plot, money in a bank, a pension fund, household goods, and furniture. Atieno purchased most of the household goods and furniture. The house she shared with her husband had a tile roof, brick walls, cement floor, electricity, and running water. She and her children now live in Nairobi’s Kibera slum in a one-room mud and iron shelter, where they initially slept on cardboard boxes. Her slum shelter has no electricity, water, or sanitation, and there are no public schools nearby. Atieno’s parents would not let her live with them: “To them it was not good that I left my husband and was spoiling tradition. Leaving a husband is like being a prostitute.”¹⁰⁷

Ellen Achieng, a Luo woman, left her violent husband and the matrimonial home in 2002. Achieng had separated from him for short periods in the past, once reporting his abuse to the local chief. “In spite of all that was happening, I still wanted the house.... The chief said I should go back to my husband if he wanted me to.... So I went back to live with him.” The violence escalated when she returned, but she said she had no alternatives. “I would have left years earlier if I could have,” she said, “but the costs of setting up another home were beyond my reach.” When Achieng left her husband permanently, the matrimonial property included a house, furniture, cash, a pension fund, and rural land. Achieng has none of that property. “When I left home I didn’t take anything—just the clothes I was wearing.... My husband had locked me out with nothing.” Achieng filed for divorce with the assistance of a women’s organization, but did not seek division of the matrimonial property. “I just wanted to leave my husband.... He had said, ‘I’ll kill you,’ even in front of our children.... My major concern is the children. I just want maintenance [child support] for them. I’m not interested in the other property.” Achieng did not realize that under Kenyan case law she could claim property on the basis of a non-monetary contribution. “All the property belongs to my husband. I don’t own anything,” she said. The house Achieng shared with her husband was of solid block construction with electricity, running water, sanitation, schools nearby, and convenient public transportation. Now she and her three children live in a one-room metal shanty with no bathroom, electricity, running water, or sanitation and no school nearby.¹⁰⁸

Maisy Wanjiku, a forty-six-year-old woman with a graduate-level education, lost her home and virtually all her property when she and her husband separated. After Wanjiku discovered her husband’s infidelity in 1999, he became brutally violent and started threatening to kill her. One night, after Wanjiku’s husband told her, “This is the final threat—it’s the last time I’ll tell you I’m going to kill you,” she fled with her three children, their school clothes, and nothing for herself. She briefly stayed with her brother, who insisted that she return to her husband. She went back to her husband until the day he said, “I hate you. I mean what I’ve told you—I’m going to kill you,” and punched her in the mouth so hard she lost all of her front teeth. She left again with no property. She stayed with her sister until she was pressured by her sister to return to her husband, at which point Wanjiku moved to a small hotel room with her children.

Wanjiku and her husband were well off, but she has none of the matrimonial property. When they separated in 2000, their property included rural land, a modern house on that land, a house in Nairobi, several cars, a beach plot, a commercial plot, shares in companies, money in a bank, a pension fund, furniture, and household goods. Wanjiku was formally employed throughout her marriage and bought most of the household goods and appliances. Her husband paid the mortgages and she paid school fees for the children.

Wanjiku sought help from traditional, governmental, and religious authorities to resolve her marital problems, get some protection from the violence, and obtain maintenance for her children. These attempts ended so disastrously, and her husband is so threatening, that Wanjiku has not dared to pursue this further. When Wanjiku told the police about her husband’s death threats, an officer said, “You women—I always tell you when your husband comes home you should smile and cook good food.” When she talked to a priest, he told her, “God

¹⁰⁷ Ibid.

¹⁰⁸ Human Rights Watch interview with Ellen Achieng, Nairobi, October 28, 2002. The term “maintenance” under Kenyan law is equivalent to “child support” under U.S. law, when used with reference to children.

is punishing you for giving birth to only three children when you could have had more.” She went to a lawyer, who asked for a deposit of KSh30,000 (U.S.\$377). Wanjiku paid the deposit, but could not afford to pay the lawyer to handle a legal separation. She also sought help from clan leaders in her husband’s rural hometown. A clan meeting was organized, and the elders seemed sympathetic. Yet when Wanjiku asked if she could live in the rural home, her father-in-law left the decision to her husband, who refused. Wanjiku not only lacks the money to pursue a property claim, but also fears for her life if she tried. “I can’t go to the police, a lawyer, the church, or my family. There is no help. All doors are closed,” she said.¹⁰⁹

Even women who pay for property and have title solely in their name are not immune from property rights violations. Ndunge Ritah, a thirty-four-year-old Kamba woman, was separated from her husband on and off for several years. During one period of separation, she borrowed money, purchased land, and constructed a house, all in her name alone. When she reconciled with her husband in 2001, they moved into the house together. He became violent again, and accused her of sleeping with everyone who helped her construct the house. He threatened to kill her, slashed her face with a knife, and beat her so severely she could not get out of bed for three days. Ritah fled to her mother’s house. She obtained legal services from a women’s organization and filed for legal separation. Ritah’s lawyer sent her husband a letter demanding that he move out of the house, which he ignored. At a preliminary hearing, a judge refused to order Ritah’s husband to vacate the house even though the judge knew that Ritah paid for it herself and had title to the house. Ritah still pays the mortgage while she stays with friends and family, and her husband pays nothing. The experience of losing her home has been demoralizing. “Sometimes I cry until there are no more tears to cry,” she said.¹¹⁰

Dowry also impedes women from getting a share of family property upon divorce. For the Maasai, payment of dowry even means that the woman and any children she has or property she acquires for the rest of her life belong to her husband. Unless the dowry is returned to the husband, he can even take children the woman has with other men. Divorced women in such communities do not get family property because the dowry is supposed to suffice, even if the woman does not benefit from the dowry. Naiyeso Samperu, a forty-five-year-old Maasai woman who was forced to marry at age ten, separated from her husband because of his savage beatings. “I was tortured all over my body,” she said, and pointed out scars on her head, legs, and arms. Samperu’s husband had more than one hundred cattle and sheep, but when she ran away from him, she took only the clothes she was wearing. Her husband asked her father to return the dowry, but her father refused. Later, her husband took a child Samperu had had with another man. She reported this to the chief and elders in her village. The elders told her to “let the child stay with him to represent the dowry that was not repaid.... I just cried and left.” The child was two years old at the time, and Samperu has not seen him for the last seventeen years.¹¹¹

Of the sixteen divorced and separated women Human Rights Watch interviewed, only two were able to stay in their home from the time of separation. In one case, the woman was wealthy and thus had resources to afford an expensive court battle to keep her there. In the other, the woman was able to stay because her husband moved out of their dilapidated Nairobi shelter and into a modern Mombasa house. Gacoka Nyaga, a Kikuyu woman with three children, managed to stay in her home when she and her husband separated. “We had lots of property,” she said. “My concern was not to end up without a home. More than anything, I wanted shelter.” Nyaga filed in court for division of family property and later divorce. Although she initially sought half of the family property, she settled for about one-fourth but was able to stay in her home. All told, Nyaga spent approximately KSh8 million (U.S.\$100,645) in legal fees.¹¹²

Sophie Yusuf, a Muslim woman from the Luhya ethnic group, said her husband abandoned her in 1998. They lived in Nairobi in a two-room, semi-permanent house on her husband’s employer’s land. After they had children, they built a modern, six-room house in Mombasa with running water and electricity. They continued living in Nairobi but visited the Mombasa house on weekends. When Yusuf’s husband left her and their six

¹⁰⁹ Human Rights Watch interview with Maisy Wanjiku, Nairobi, November 10, 2002.

¹¹⁰ Human Rights Watch interview with Ndunge Ritah, Nairobi, November 10, 2002.

¹¹¹ Human Rights Watch interview with Naiyeso Samperu, Ngong, October 24, 2002.

¹¹² Human Rights Watch interview with Gacoka Nyaga, Central Province, November 9, 2002.

children, she stayed in the Nairobi dwelling (thanks to the largess of her husband's employer) and he moved into the luxurious Mombasa house with a new wife, whom he married without Yusuf's consent. Yusuf asked for a divorce and hoped for some amount of maintenance. He refused the divorce and did not give her maintenance or any other property. Yusuf went to an imam¹¹³ for help. The imam summoned Yusuf's husband, but he did not appear. The imam said there was nothing more he could do, and Yusuf did not pursue this further. "I was tired of the whole thing.... But if I die today, I don't know what will happen to my children."¹¹⁴

Some Kenyans say that divorced women should not get property because they can go back to their parents. With the transformation that community and family structures have undergone since pre-colonial days, this is not always an option or the desire of the woman. Women who do turn to their families are often ordered to go back to their husbands, even when they are abusive. Women who have lost their property have a hard time contributing to costs in their families' homes and are considered an unwelcome economic burden. Mary Abudo, a fifty-four-year-old Luo woman with eight children, said that when she and her husband separated, he kept all of the property, including vehicles, the land she cultivated, household goods, furniture, and bicycles, and she received nothing. Her violent husband forced her out of their home, and she went to her parents. They wanted her to return to her husband, but he would not take her back. Abudo stayed in her mother's hut, but was forced out when her mother died:

A daughter is not supposed to stay in her parents' homestead [after the mother dies], so I became homeless.... I wanted to stay there, but there was so much pressure from the clan that I should move out. My relatives set upon me and beat me viciously. I was afraid I'd die.... I fled after the attack. I went to Nairobi, but even there I didn't have a place to stay.... Now I'm thrown out by my husband and I'm landless.... My major desire is to get a house of my own to live in.¹¹⁵

Abudo did not try to claim any matrimonial property: "I didn't dare to go back. My husband had issued threats." He told Abudo's sister that if he saw Abudo he would "kill her, and he was certain the government wouldn't do anything to him." Abudo, who now has HIV, lives in a Nairobi slum and cannot afford medical treatment.¹¹⁶

Divorced and separated women from all social classes and ethnic groups experience property rights violations. In several cases, educated, formally-employed women who married men with high salaries and ample property told Human Rights Watch that they were evicted and left empty-handed just like poorer women. These women had enough knowledge of their rights to pursue legal claims, but had only limited success. Ruth Odish, a forty-eight-year-old Luo woman, endured years of beatings and death threats from her husband. She often reported this to police and her local chief, but they did nothing. In 1997, she went to the only shelter in Nairobi for battered women. Odish's husband owned eight modern houses in Nairobi and had a high salary as a company manager. Odish obtained legal counsel from a women's organization, and her lawyer sent a letter to her husband demanding maintenance and a share of the property. Her husband did not respond, and no case was ever filed in court. Odish now lives in a dangerous part of Nairobi's Kayole slum.¹¹⁷

Priscilla Echaria, a university-educated woman who worked as a teacher, lived in a modern house on a tea plantation that she and her diplomat husband purchased and operated together. Echaria said her husband was so physically and psychologically abusive that in 1987 she and her children moved to her father's house and she filed for divorce. Echaria then rented a bare, simple house, and her husband continued to live in their modern home. Echaria hired lawyers to seek division of the property and a divorce. She wrangled in and out of court for years before regaining possession of her house and half the property. Even then, several years elapsed before the

¹¹³ An imam is a Muslim spiritual leader.

¹¹⁴ Human Rights Watch interview with Sophie Yusuf, Nairobi, October 20, 2002.

¹¹⁵ Human Rights Watch interview with Mary Abudo, Nairobi, October 29, 2002.

¹¹⁶ Ibid.

¹¹⁷ Human Rights Watch interview with Ruth Odish, Nairobi, October 28, 2002.

judgment was enforced. As of February 2003, fifteen years after filing the lawsuits, an appeal is still pending. Often on appointed hearing dates, her case would be missing from the court calendar and a new date would be set for a year later. The ordeal took a toll on Echaria:

This was a very expensive case. I don't have running water because of paying lawyers. It cost five million shillings [U.S.\$62,893].... By the time the case is done, it may be three or four million more. I also wasted lots of time. It's like an obsession.... I'd be abandoning myself if I abandoned this.... It's not in my nature to take nonsense.... Most women would give up. It's so difficult to live this way.

They talk about African traditions, but there is no tradition you can speak of—just double standards.¹¹⁸

Married Women's Lack of Control over Property

My husband hits me if I say the property was mine and shouldn't be sold.

—Ndati Muita, Maasai woman, Ngong, October 24, 2002

Married women in Kenya often have little control over family property. According to the customary laws of some ethnic groups, all property a woman acquires before or during the marriage belongs to her husband, who can sell it without her consent. Kenyan law recognizes women's right to own separate property during marriage, but there is no legal presumption of co-ownership of matrimonial property. To stop a husband from disposing of family property, wives must rely on legal maneuvers (such as arguing that the property is held in an implied trust), which only help in limited circumstances.

Ndati Muita, a Maasai woman with seven children, said that her alcoholic husband sold cow after cow until they were gone and the family was destitute. Muita's husband did not ask her consent before selling the livestock, and beat her when she complained:

My husband sold the livestock. I didn't consent. He sold them when I wasn't there.... I didn't go to the elders or police. I fear my husband. If I report, maybe my husband will abuse me.... My husband hits me if I say the property was mine and shouldn't be sold. He beats me—specifically when I talk about the sheep and the cattle.... As a woman, you have nothing to do with property.¹¹⁹

Naiyeso Samperu, a Maasai woman with six children, explained how limited married women's rights are to livestock, an important asset in the Maasai community. "Women don't have rights to cows or sheep during marriage—only the milk," she said. "We just take care of the sheep and cows."¹²⁰

Gacoka Nyaga said that before she and her husband divorced, he sold family land and invested the proceeds in company shares in his name. "I didn't have access to the property," she said. "I told him I wanted my name on the investment, but he refused." When Nyaga initiated a division of property case, her husband threatened to sell everything. Nyaga says she was only able to prevent him from doing so because she had an attorney.¹²¹

¹¹⁸ Human Rights Watch interview with Priscilla Echaria, Central Province, November 9, 2002. Echaria authorized Human Rights Watch to use her real name in this report and noted that her case has been covered in the press.

¹¹⁹ Human Rights Watch interview with Ndati Muita, Ngong, October 24, 2002.

¹²⁰ Human Rights Watch interview with Naiyeso Samperu, Ngong, October 24, 2002.

¹²¹ Human Rights Watch interview with Gacoka Nyaga, Central Province, November 9, 2002.

Consequences of Women's Property Rights Violations

As the accounts above illustrate, when a woman's property rights are violated, the consequence is not just that she loses assets. The repercussions reverberate throughout women's lives, often resulting in poverty, inhuman living conditions, and vulnerability to violence and disease for women and their dependents. Each of these consequences is amplified by Kenya's high HIV/AIDS rates: with increasing AIDS deaths, there are more widows who face potential property grabbing and its consequences. HIV infected and affected women and their dependents experience the hardships of losing property all the more intensely.

Living in squalor is one common consequence of women's property rights violations. The housing women resort to when evicted by their relatives is often decayed, cramped, and unsafe. In the case of women with HIV/AIDS, these conditions can lead to earlier death. As reflected in many of the testimonies above, women whom Human Rights Watch interviewed consistently described being forced to live in substandard housing: the physical structures are dilapidated; services (including running water, energy, and sanitation) are unavailable; and the locations (in terms of schools, health-care facilities, and safety) are bad. For example, Mary Adhiambo was forced to leave her rural home and land in 1998 after her husband beat her and demolished her home. "Where I live now is a bad place in the Kibera slums," she said. "It's a very small room. When it rains, water comes through the roof. I have no money for a better house. I have no electricity. I buy water from a stand pipe, but when I have no money, I have no water."¹²² Josephine Omuga, a widow from Siaya district, said that after her husband died in 1997, her in-laws took her land and other property, forced her to have sex with a jater, and evicted her from the homestead. Before her husband died, she lived in a solid three-room hut. Now she lives in a small barn that she shares with cows and goats.¹²³

Women who lose their property lose their economic base and often descend into abject poverty. Many of the women Human Rights Watch interviewed said the property rights violations left them poor and struggling to pay school fees, buy food and water, obtain medical treatment, and meet other subsistence needs. Some were poor before the property rights violations but became infinitely poorer when their possessions, and especially their land, were taken from them. The traditional solutions to this dilemma—being inherited by a male in-law, remaining with an abusive husband, or returning to a father's homestead—keep women economically dependent on men and preserve their inequality. The poverty resulting from women's property rights abuses affects children, too. A teacher said: "It's very common for children to drop out of school when their mothers are disinherited.... Some drop out because of general poverty, but when it comes to widows, it's even more serious.... I know a lady whose husband had built a house, but her mother-in-law came after the husband died and grabbed it. The child dropped out of school last week because the mother couldn't pay the school fees."¹²⁴

Violence is another by-product. Some women said they stayed in violent relationships for years because they believed no court or other authority would give them a share of the family property or remove the abusive partner from the home. Some women were beaten, threatened, and harassed by husbands or relatives when they protested property rights violations. Women are also abused for trying to learn about their property rights. A paralegal who offers trainings on property rights said, "Husbands have threatened, 'don't ever go [to a training] again or I'll kick you out....' One woman was beaten senseless for coming to our meeting."¹²⁵

Property rights violations also threaten women's health. Women who succumb to customary practices like wife inheritance and cleansing are vulnerable to all types of sexually transmitted diseases. An expert on HIV/AIDS and the law said women's property rights violations increase their vulnerability to HIV/AIDS:

¹²² Human Rights Watch interview with Mary Adhiambo, Nairobi, October 28, 2002.

¹²³ Human Rights Watch interview with Josephine Omuga, Siaya, November 3, 2002.

¹²⁴ Human Rights Watch interview with Doris Adem, teacher, Siaya, November 3, 2002. President Kibaki declared in January 2003 that his government would comply with the legal requirement under the Children's Act of 2001 that primary schools not charge fees. If consistently enforced, this will help many dispossessed women. Andrew Teyie and Ben Agina, Primary Education is Free from Monday, Says Kibaki," *East African Standard*, January 4, 2003 [online], <http://www.eastandard.net/headlines/news0401200304.htm> (retrieved January 4, 2003).

¹²⁵ Human Rights Watch interview with Samson Michura, paralegal, Education Centre for Women in Democracy, Nairobi, October 25, 2002.

“Because women do not own property as such, men have more say over them. They can’t negotiate safer sex, and this increases infection.”¹²⁶ Many women with HIV/AIDS are likely to die sooner because of their unequal property rights, depriving them of the resources and shelter they need to survive. Women who have lost their property often cannot afford medical treatment.

¹²⁶ Human Rights Watch interview with A.D.O. Rachier, advocate, Nairobi, November 11, 2002.