

Community Paralegal Certification Program

White Paper

for

Community Level Legal Empowerment

Presented by the Global Fund for Widows

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The Global Fund for Widows (GFW) is a nonprofit organization dedicated to empowering widows and female heads of households to overcome poverty through skills-based training, job creation, and access to capital. Our goal is to help widows achieve financial stability, self-sufficiency, economic empowerment and importantly, become a role model to her children and to others. We abide by the Golden Rule: She Who Has the Gold, Makes the Rules. Through this principle and our dedication to sustainability, we have empowered over 14,000 widows in 8 countries

In 2008 the United Nations Development Programme’s Commission on Legal Empowerment of the Poor argued that as many as four billion people globally are excluded from the rule of law. They found that for many in the developing world, informal customary laws and religious institutions take precedence over – often completely superseding – established statutory laws. One 2008 study by USAID found that “90 percent of poor people are not aware of Kenya’s formal inheritance laws”, with Kenyan Attorney Anthony Kamaru stating, “when the husband dies, the women don’t know what to do. They just sit around. And by the time they take action, they have waited so long that it has become a problem ... lack of information is a big problem”.¹ The customary practices which occur in place of formalized laws are often leveraged in support of the local elite, and extremely discriminatory towards women, children and marginalized groups, especially widows.² The World Justice Project’s (WJP) 2020 Rule of Law Index shows that the rule of law remains exceptionally weak among less wealthy nations, predominately in the global South. Testimonials from local associates of the Global Fund for Widows (GFW) confirms that the illegal economic and physical exploitation/abuse of widows is most prominent in the nations scored lowest on the WJP Rule of Law Index.³ It is clearly established that when not afforded the protections of an equitable and just legal system, individuals are robbed of the chance to improve their lives or access justice. Development initiatives that do not address this lack of access to justice are often inadequate, as systemic cultural practices overshadow humanitarian efforts, leaving the most vulnerable groups behind.

¹ “Empowering Women With Rights to Inheritance—A Report on Amendments to the Law of Succession Act Necessary to Ensure Women’s Human Rights,” Georgetown Journal of International Law 40 (2009)

² “Report of the Commission on Legal Empowerment of the Poor Vol 1,” United Nations Development Program, 2008.

³ “Rule of Law Index,” World Justice Project, 2020.

Legal Empowerment as a Tool for Development

Legal empowerment is one of the most crucial components to community development and represents the core virtues of international human rights law. Without legal literacy vulnerable individuals are not afforded the most basic protections by their governments, and instead are left victim to harmful traditional practices and predatory economic conditions. All institutions in a functioning society are dependent upon recognition, understanding and obedience of the law. Through the Community Paralegal Certification Program the Global Fund for Widows brings legal empowerment to the local level by focusing on one of the most marginalized and legally illiterate groups in the developing world, widows and female heads of household.

Why widows?

Across the developing world widows remain one of the most heavily stigmatized, abused and impoverished demographics. The life of a widow is often one devoid of justice, one where institutions fail to provide adequate protections and the rule of law has no bearing. Despite decades of progress in the field of women's rights and international development, patriarchal cultural stigmas and discriminatory practices remain especially prominent obstacles faced by widows across the world. These abuses often occur in violation of both local statutory laws and international human rights laws. In cases where women have the knowledge to pursue their claims in the local legal system, complicated bureaucratic processes, distant courts, and legal fees all act as significant barriers.

Human Rights Violations

Widows around the world endure 3 main forms of human rights violations: Disinheritance, Discrimination, and violent Harmful Traditional Practices.

1. Disinheritance

The loss of widow's rights to their marital property is a widespread practice across the world collectively referred to as disinheritance. Through force, deceit, or cultural rituals, property previously belonging to the widow is inherited by in-laws or male members of the community. While the extent of disinheritance varies by region, even previously wealthy widows are often left destitute. In some cases, this includes the widow's children or the widow herself. The practice of disinheritance is prominent in patriarchal societies.

2. Discriminatory Laws and Practices

Widowed women across the globe fall victim to discrimination due to patriarchal power structures and/or antiquated and discriminatory laws. These acts can take place in the form of physical abuse, economic discrimination, and lack of access to basic services. The OECD confirms that at least 102 different



nations have laws or regulations that in some way prevent widows from receiving equitable inheritance and economic opportunity, and 55 countries prevent it altogether. Even in areas where pro-widow laws are enacted cultural norms and a lack of legal knowledge often prevent vulnerable women from accessing justice or protections.

Exile

Widows across the world find themselves cast away from society after the event of widowhood. This is perhaps most evident in India, where entire communities are made up of widows who have been forced to live the remainder of their lives in solitude. Examples of this are apparent across the developing world, as nearly five thousand miles away widows of the conflict in Cameroon forced to live in the brush after being forced out of their homes.

Article 9 of the UDHR expressly prohibits arbitrary exile, and the majority of nations have enacted local statutory laws prohibiting the practice.

Reprisals

Well documented across active conflict zones, widows are frequently targeted for retaliation based off of the areas they have lived in or the perceived loyalties of their deceased husbands. In many cases such as the ISIS and Boko Haram insurgencies these widows are victims of kidnapping and forced marriage who are tied to allegiances of their captors as if the marriage were consensual. These widows are forcibly detained, denied access to government services, forced out of their communities, assaulted, raped and in some cases killed.

3. Harmful Traditional Practices

Traditional cultural practices are a crucial part of everyday life across the world. However, discriminatory and harmful practices in some societies doom widows to inhumane suffering and degradation. As outlined in the Convention on Elimination of all Forms of Discrimination Against Women and Committee on the Rights of the Child, practices that meet the following criteria should be considered harmful:

- a. They constitute a denial of the dignity and/or integrity of the individual and a violation of the human rights and fundamental freedoms enshrined in the two Conventions;
- b. They constitute discrimination against women or children and are harmful insofar as they result in negative consequences for them as individuals or groups, including physical, psychological, economic and social harm and/or violence and limitations on their capacity to participate fully in society or develop and reach their full potential;
- c. They are traditional, re-emerging or emerging practices that are prescribed and/or kept in place by social norms that perpetuate male dominance and inequality of women and children, on the basis of sex, gender, age and other intersecting factors;
- d. They are imposed on women and children by family members, community members or society at large, regardless of whether the victim provides, or is able to provide, full, free and informed consent.

Widows across the world experience a wide variety of harmful traditional practices. The most common variation is that of a “cleansing” ritual. In this ritual widows are viewed as unclean for “causing” the death of their husband and as such must be “cleansed” via unprotected sex. This is often perpetrated by village elders or male relatives of the deceased, is often extremely violent and has been identified as an avenue for the spread of HIV/AIDS. Additional practices include forced shaving of the head, scarification, beating, being forced to clean her husband’s body and drink the water, being forced to lie with her husband’s body, and in some cases honor killings.

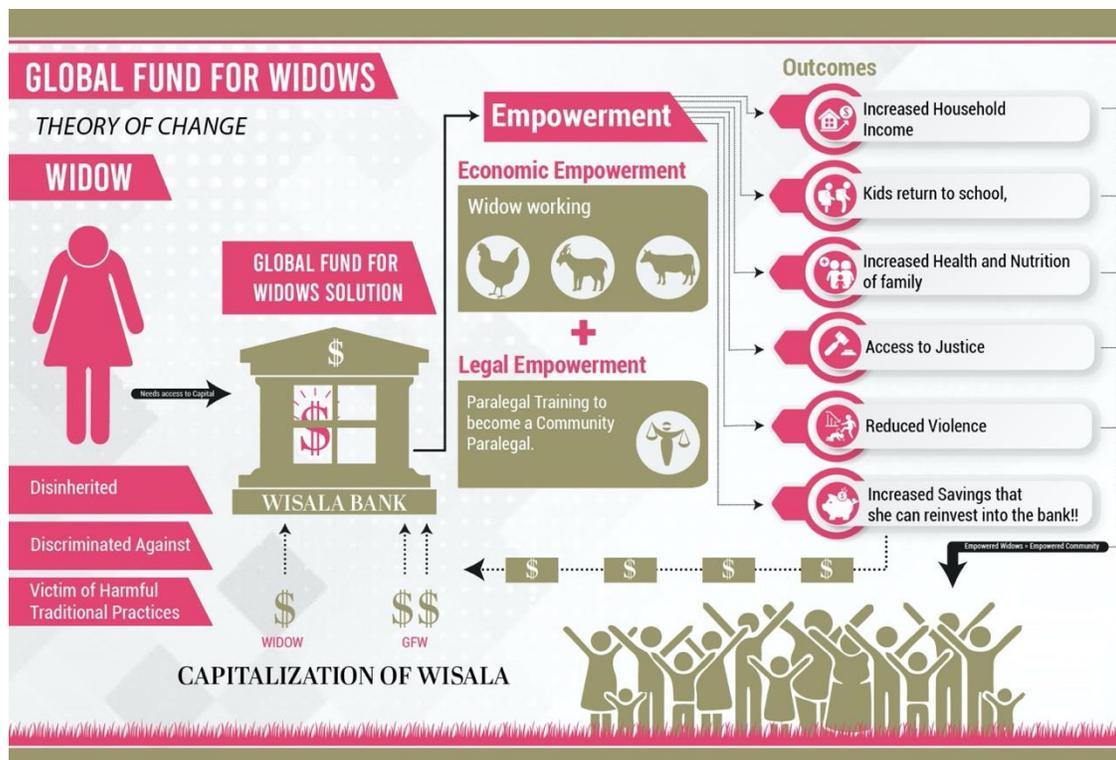
CEDAW Article 5 calls for the elimination of discriminatory stereotypes and practices. These practices are nearly universally outlawed, however persist due to a lack of access to justice and prevailing cultural norms.

Theory of Change – The Power of Economic and Legal Empowerment

The Global Fund for Widows (GFW) primarily works to economically empower widows through a unique financial inclusion model called the [Widows’ Savings and Loan Association or WISALA](#). WISALAs are small community banks, owned and operated by the widows themselves with financing provided by GFW and implementation assistance from local NGO partners. These small banks afford widows with critical access capital, savings tools, insurance products, and ownership status, often for the first time in their life. While WISALAs have broadly resulted in the successful economic empowerment of widows, economic empowerment is only the first step in addressing the systematic discrimination and disenfranchisement faced by these women.

In conjunction with the [WISALA banking initiatives](#), GFW seeks to cultivate deeper impact in the field by intellectually empowering the widows through legal training. The legal education takes advantage of the mandatory bi-monthly WISALA meetings, intertwining the economic empowerment with legal training.

The result, by both economically and legally empowering widows, favorable outcomes such as improved household income, nutrition, and health status can be achieved. Economically empowered widows are able to send their children to school and reinvest profits into their businesses. Legally empowered widows can access justice, avert discriminatory norms and acts of disinheritance, and fight harmful traditional practices both at the grass roots and duty-bearer level.



The Community Paralegal Program

To achieve widows' legal empowerment, GFW, in collaboration with its implementing partners including Come Together Widows and Orphans Organization in Kenya, developed the Community Paralegal Certification program, aimed to arm widows with critical knowledge in their rights and entitlements under the law.

The Community Paralegal Certification program is an active participation approach. Participating widows not only benefit from the free legal training, but are responsible for advancing their knowledge both among their peers and among duty-bearers alike. This grass roots approach is key in achieving sustained systemic change and desired outcomes.

Training

Widows participating in the WISALAs are required to meet bi-monthly. GFW leverages these mandatory meetings to introduce the Community Paralegal program training. This training is offered generously by volunteers of legal NGOs such as International Federation of Women Lawyers (FIDA), through our partnerships and strategic alliances. In collaboration with implementing partners, modules are created to address specific country and community needs.

The Community Paralegal program provides a broad overview of legal principles, the primary focus will be on areas on the law most essential for widows. The primary goal of the program is to directly address structural sources of culture and behavior that propagate discrimination and inequality. The individual modules of the class include but are not limited to:

1. Local Constitutional Law and Basic Legal Principles
2. Laws of Succession
3. Matrimonial Laws and Matrimonial Property Laws
4. National Land Policies
5. Child Acts
6. Customary Laws
7. Harmful Traditional Practices
8. International Conventions such as Maputo Protocol, CEDAW, and the African Protocol on Human and People's Rights

Once versed in their rights and entitlements under the law, widows graduate the program, receiving their Community Paralegal Certificate.

Community Advocacy

Once certified as Community Paralegals, widows in each WISALA group will be charged with disseminating such information to five (5) community members. These community members may include siblings, parents, relatives, or even their own children. This obligation ensures the expedient growth of the project amongst the most vulnerable demographic. When properly executed, a twenty-five widow WISALA will legally empower 125 other members of their community - including village leaders, men and boys.

WISALAs Participating	WISALA Participants	Community Members Legally Empowered
1	25	125
2	50	250
3	75	375
4	100	500

By training paralegals at the community level, this program offers several distinct advantages over traditional legal practices. Community Paralegals are able to focus on the needs of other widows in their community. Community Paralegals are able to participate in directing the implementation of laws, oftentimes in direct opposition to prevailing cultural discriminatory practices. Since these Community Paralegals are local residents, they are often more well versed in the needs of the community and are able to utilize established relationships in their work. These paralegals primarily work in the following capacities:

- *Legal and general advice.* Community Paralegals advise underserved communities on how to handle general legal or administrative problems. They can also make appropriate referrals to organizations that provide social and health services. The education establishes a network of contacts with other paralegals, resources, and organizations that can provide additional assistance to the community. Depending upon the local context, the paralegal may work within both formal and customary legal institutions.
- *Counseling and mediation.* Community Paralegals may assist widows by providing an avenue for equitable mediation. These allow community members to solve problems

through techniques that encourage resolution without going to court or using discriminatory customary methods. Informal legal mechanisms can include personal counseling, or alternative dispute resolution (negotiation, mediation, arbitration).

- *Community education.* By sharing their knowledge with 5 community members, Community Paralegals raise public awareness and build the capacity of individuals and groups, including civil society organizations, civil servants, local leaders, chiefs, government officials, and community councils.
- *Litigation activities.* Community Paralegals are empowered to link community members to the national legal system when required, encouraging other widows to seek justice in courts or seek the intervention of lawyers or ombudsmen. Community Paralegals can help identify, investigate, or bear witness to some cases, and link widows to paths for justice.
- *Community organizing and advocacy.* Paralegals may help resolve widespread or systematic problems in a community or conflict with authorities through negotiation and mediation. When appropriate they may assist in making contact with the press and publicizing events and problems. Some organizations may take up cases that challenge existing laws while others work to draft and advocate for new legislation. Organizations may also provide analysis or opinions on legal instructions being considered.

Duty-Bearer Advocacy

Each WISALA group – consisting of 25 certified Community Paralegals - will be charged with advocating with one local (1) duty-bearer. Such duty bearer could be a local leader, chief, or religious leader. It may also be an elected regional or national representative, even a cabinet secretary or minister.

Engaging duty-bearers creates avenues for engagement and impact through the integration of knowledge, relationships, and understanding. This engagement often assists paralegals in addressing prevailing or systematic problems in a community and has a lasting impact in altering structural barriers to justice.

Preliminary Results

Early results from the Community Paralegal Certification Program’s pilot run are resoundingly encouraging and suggest the program will produce significant and measurable community level improvements. Surveyed widows indicate that they have gained knowledge of their rights and entitlements under the law. They gain understanding that customary practices of disinheritance are illegal. They recognize that structural discriminatory policies can be overcome. They learn that harmful traditional practices are not only illegal, but criminal. Most indicate that they feel confident to pursue their rights.

Their testimony speaks for itself:

- Lucy, WISALA/Brookbank Project participant in Kenya shares, “My business has grown and in January 2020 I will not go to my friends to borrow school fees money. I have saved enough to pay my daughters tuition fees. Brookbank has helped me as a widow regain my dignity in the community. During training, I was

enlightened about access to justice and this knowledge has helped me get a pro bono lawyer from FIDA, and now I have filed my succession case in court. I now know succession is my right.”

Potential Challenges

The Paralegal Training Program is dependent on a strong in-country implementing partner if it is to be successful. The program cannot be successfully implemented in areas where an implementing partner is unavailable or unwilling to enter into partnership with the Global Fund for Widows. In addition, GFW must ensure that implementing partners have adequate staffing and the professional legal experience necessary to provide comprehensive and practical training. Due to limited resources and barriers to NGO participation in developing nations, some locations likely will likely not have sufficient implementing partners. Implementors must be prepared to respond to pushback in areas where the module’s content conflicts with strongly held cultural practices or religious beliefs.

While the program allows women a chance to empower themselves and others, this can only occur if local institutions are capable of providing an avenue to justice. Because of this, the program is dependent on a level of relative regional stability. It will also likely experience significantly less success in areas with widespread judicial corruption, discriminatory statutory laws, or otherwise non-functioning institutions.

Conclusion

Having gained a stable source of income and economic empowerment, widows are repositioned as “women of means”, gaining respect, status, and power within their community. As certified community paralegals, widows gain legal knowledge and be empowered to reject acts of violence, disinheritance and HTPs, and claim their rights and entitlements for themselves and others. They will also be positioned to advocate government and politicians for changes to structural discriminatory laws, and their implementation, as well as request improved social protections. Informed and empowered on their rights and entitlements, widows have been motivated to seek and access justice, and many have been successful in seeking remedies in court.