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# DECISION-MAKING AND JOINT CONTROL RIGHTS OVER LAND IN RWANDA

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## Abbreviations

<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination against Women
<b>CSO</b>	Civil society organisation
<b>FFRP</b>	Rwanda Women Parliamentary Forum
<b>FGD</b>	Focus group discussion
<b>GBV</b>	Gender-based violence
<b>KAP</b>	Knowledge, attitudes and practices
<b>KII</b>	Key informant interview
<b>LTR</b>	Land tenure regularisation
<b>PPRT</b>	Partnership for Peaceful Rural Transformation
<b>RLRC</b>	Rwanda Law Reform Commission
<b>RWAMREC</b>	Rwanda Men's Resource Centre

## Executive summary

This report explores and analyses community perceptions of the obstacles to women's participation in decision-making concerning jointly held land. It also examines the factors that prevent women from participating in community-level decision-making structures, specifically those related to land. The study was conducted in the four districts of Rwanda where International Alert's Partnership for Peaceful Rural Transformation (PPRT) operates: Ngororero and Rutsiro in the Western Province, Huye in the Southern Province and Ngoma in the Eastern Province. A mixed methods approach was employed. Methodological triangulation was achieved through administration of three data collection instruments: a structured household survey administered to 116 women and 94 men, 10 focus group discussions (FGDs) with members of the local communities, and several key informant interviews (KIIs) conducted at both local and national level.

The study found that whereas the majority of participants believe in principle that all household-land related decisions should be taken jointly by wife and husband, there is a distinct trend in both the dynamics and dimensions of such decision-making. Decisions about daily agricultural management – such as use of land, choice of crops, selection of agricultural inputs and methods – are described as being either joint decisions or taken by the female spouse. Decisions that involve a financial aspect – such as sale of crops, use of proceeds from sale of crops, and use of proceeds from sale or lease of land – are predominantly taken by the male spouse. Several factors account for women's diminished capacity to assert joint-ownership rights. These factors include: the social construction of femininity, which is rooted in ideas of silence and submissiveness; a policy focus on gender equality when rural lives are experienced in the context of gender complementarity; the relationship between the cultural belief that a “wife comes empty-handed” to her husband's household and her consequent lack of household bargaining power; and women's lack of confidence in their capability to participate in significant land-related decisions. Furthermore, the law itself reinforces the notion of heightened male authority in Article 206 of the Rwandan Civil Code.

Other perceptions and practices that account for women's inability to fully assert their equal land rights include: informal marital status, which excludes them from legal protection and is partly determined by their lack of bargaining power; the threat and perpetration of gender-based violence (GBV) when women do attempt to claim their rights; a persisting belief in sons' entitlement to family land, which prevents women from contributing land to their husband's household; an indirect gender bias in the dispute mediation process based on wealth; weak enforcement mechanisms and lack of knowledge about how to petition for enforcement. The findings also suggest the existence of a hierarchy among rural women, specifically between women who are members of community-level decision-making structures and those who are not. The former group is confident and assertive of its rights, while the latter feels uncertain about its knowledge and ability to navigate the system.

With respect to participation in community-level decision-making structures, lack of self-esteem is a major obstacle to women's participation. Several explanations account for their lack of self-confidence. Firstly, there is the social understanding of appropriate feminine behaviour, which encourages women to keep quiet. Secondly, women's opinions tend to be overlooked both in the household and in the community, thus dissuading women from participating in community-level decision-making bodies. Thirdly, several female participants indicated that their lack of self-confidence is associated with their level of literacy. Fourthly, survey data indicate that a majority of women and men do not believe that women make as good leaders as men; thus, women themselves may not have the confidence to pursue such positions due to an ingrained belief that

is reproduced by individuals and communities that women are not as capable. The other major obstacle reported by women is the heavy burden of domestic work and consequent time poverty.

With respect to strengthening women's decision-making over jointly-owned land, the report's recommendations include the following:

- Revising Article 206 of the Civil Code, which places men at the head of the household and thus codifies customary gender roles;
- Constructively engaging women and men to transform the gender norms, attitudes and practices that perpetuate inequality;
- Promoting advocacy by civil society to raise awareness of the ability of both spouses in 'community of property' regimes to be joint administrators of the patrimony; and
- Raising awareness among couples and communities about the value of a wife's unpaid productive work.

Recommendations for increasing women's participation in community-level decision-making structures include the following:

- Civil society advocacy for the creation and addition of community-level childcare facilities;
- Civil society advocacy for programmes that engage men as allies in women's empowerment – for instance, interventions that encourage household division of care work; and
- Promotion of female mentorship programmes through *Akagoroba k'ababyeyi* to encourage dialogue and interaction between rural female leaders and other women.

Recommendations for securing the land rights of women living in informal unions include the following:

- Revising the law to enable a rebuttable presumption of marriage after two years of cohabitation where the couple has acquired the reputation of husband and wife; and
- Reviewing Article 39 of the GBV Law to allow for its application to women living in informal monogamous and polygamous unions, regardless of whether the informal partner intends to legally get married to another person.

# 1. Introduction

Owning land, controlling and using it are critical dimensions of rural livelihoods as well as an important determinant of rural wealth or poverty. Consequently, in an era defined by concerns over food security, environmental stability, persistent cycles of poverty and a global rush for arable land, it is critical to secure land rights for these smallholder farmers. Secure land rights refer to rights that are clearly defined, long-term, enforceable, appropriately transferable, and socially and legally legitimate.<sup>1</sup> Both women and men smallholder farmers in the developing world experience insecure land rights – that is, they are missing one or more elements of strong land rights. For a “significant portion of the poor ... their poverty and productivity are intimately tied to the nature of their property rights”.<sup>2</sup> While secure land rights are not a “panacea to poverty”, scholars argue that they are “the foundation required for other development tools – education, public health, microfinance, sanitation, nutrition, among others – to take root”.<sup>3</sup> Although both women and men smallholder farmers experience insecure land rights, there is overwhelming evidence of gender inequalities in access to, ownership and control of land, as well as control over the income produced from it.<sup>4</sup>

One of the root causes of discrimination against women in access to land and other productive resources is “a pervasive patriarchy, expressed in stereotypes, attitudes, perceptions and norms, which creates legal, political and economic limitations to the advancement of women. Patriarchy and deep-rooted gender stereotypes are widespread and operate at all levels, from family to local community, from administration to broader governance, from public institutions to civil society and rural organisations”.<sup>5</sup> Even when laws enshrine women’s equal rights to land, gaps or discrepancies in the legislation, inconsistent implementation, weak enforcement mechanisms, and entrenched gender-discriminatory cultural norms and practices may undermine these formal guarantees.

A 2013 International Land Coalition report summarising the opinions of global stakeholders involved with land rights highlights that women with no or insecure land rights have less household bargaining power, as well as less ability to access other resources.<sup>6</sup> Often, they have lower social status. The authors note that “a lack of land rights not only reduces women’s autonomy and voice, but also affects their self-esteem and their wellbeing. Women with no or insecure land rights are less equipped to participate in public life and land governance, which prevents them from enjoying full civil and political rights”.<sup>7</sup> In addition, these women are more vulnerable to poverty, ill-health and food shortages, and they are more likely to suffer from acts of gender-based violence (GBV).

Securing women’s land rights is a particularly critical issue in Rwanda, where land scarcity, high population growth and cycles of poverty are real challenges. Over 80% of the population rely on agricultural livelihoods, the majority being rural women.<sup>8</sup> In line with the country’s goal of

1 Landesa, Land rights and agricultural productivity, Issue brief, 2012, <https://www.landesa.org/wp-content/uploads/Landesa-issue-brief-on-land-rights-and-agricultural-productivity.pdf>. See also: R. Prosterman, R. Mitchell and T. Hansted, *One billion rising: Law, land and the alleviation of global poverty*, Leiden University Press, 2009, pp.34–35

2 *Ibid.*

3 *Ibid.*, p.34

4 Food and Agriculture Organization (FAO), *The state of food and agriculture 2010–11: Women in agriculture – Closing the gender gap for development*, 2011, <http://www.fao.org/docrep/013/i2050e/i2050e.pdf>

5 International Land Coalition, *Women’s land rights and gender justice in land governance: Pillars in the promotion and protection of women’s human rights in rural areas*, 2013, p.9

6 *Ibid.*, p.10

7 *Ibid.*, p.11

8 National Institute of Statistics of Rwanda (NISR), *The fourth population and housing census*, Kigali: NISR, 2012

creating a gender equitable society, the government of Rwanda has made significant strides since 1999 in establishing progressive statutory land rights legislation that recognises, promotes and protects women's rights to own and inherit land.

Nonetheless, significant gaps remain in both law and practice. Specifically, recent research indicates that women remain limited in their ability to participate in decisions relating to shared marital land.<sup>9</sup> In addition, research shows that women who live in informal unions (and their children if not legally recognised) risk being left landless in the event of separation or death of the informal spouse, as the law does not grant marital property rights to women whose marriages have not been performed under civil law.<sup>10</sup> While women living in informal unions may gain land tenure security if they are able to register themselves as joint owners, for many women who lack this bargaining power this is simply not a reality. Furthermore, research indicates low representation of women in local-level land management and dispute mediation structures.<sup>11</sup> Without female participation in such structures, genuine representation of the spectrum of challenges experienced by women cannot truly be accounted or advocated for.

Against this background, this study sought to capture community perceptions from the four districts in which International Alert's Partnership for Peaceful Rural Transformation (PPRT) operates. Specifically, it aimed to establish the factors that hold women back from gaining equal access to, control and use of land, as guaranteed by a constellation of Rwandan laws and policies. Importantly, it also sought to gather perceptions of the factors that hinder women from participating as members and leaders of community-level decision-making bodies.

## Research questions

The study sought to address the following research questions:

- How do women as wives or partners (formal/informal marriage) claim their rights of access to, control, use and ownership of household land? In what sorts of decisions (such as choice of crops, sale and use of yields, land transactions) do women take part?
- Do women have the confidence to assert their land rights? What barriers prevent women from asserting these rights?
- To what extent do women participate as decision-makers in community-level decision-making structures, including in land management and dispute mediation structures? What barriers hinder their effective participation?
- What are current interventions that promote female empowerment and leadership at the district and sector level? What are barriers to women's participation in these initiatives?
- What harmful practices hinder women's ability to fully participate in land-related decision-making at the household level? How do women and men perceive these practices?

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9 K. Jones-Casey, L. Dick and A. Bizoza, *The gendered nature of land and property rights in post-reform Rwanda*, Kigali: USAID | LAND Project, 2014. See also: F. Santos, D. Fletschner and V. Savath, *An intra-household analysis of access to and control over land in the Northern Province, Rwanda*, Landesa, 2014.

10 A. Kaiser Hughes, M. Ndagiza and M. Ikirezi, *The rights of women in de facto unions to land and property*, Kigali: USAID | LAND Project, 2016. See also: K. Vanhees, *Property rights for women living in Rwanda: Access to land for women living in de facto unions*, 2014; and A. Polavarapu, *Procuring meaningful land rights for women in Rwanda*, *Yale Human Rights and Development Journal*, 14(1), 2011

11 International Alert (2014–2015), *Unpublished findings*

## 2. Overview of literature

### Women's historic rights to land

According to Rwandan custom, land ownership was a male privilege, with land rights being passed from father to son.<sup>12</sup> Women were excluded from inheriting family land and only gained rights to land use through male relatives. When a woman married, she automatically gained access to her husband's fields. If and when he died, she was unable to inherit his property and at most was allowed usufruct rights, until their male children were mature enough to manage the family property.<sup>13</sup> If there were no children, a widow was compelled to return to her parents. If the widow was in her reproductive years, levirate marriage (marriage to a brother of the deceased spouse) was often practised; however, the children arising from this relationship were considered children of the deceased brother.<sup>14</sup> Thus, a widow's "usufruct rights were conditional on [her] good conduct, that is to say, they lasted as long as she remained faithful to her husband's lineage either through sexual abstinence or levirate marriage".<sup>15</sup> Besides marriage, there were other means by which a woman could gain access to land, specifically through family gifting practices or through temporary user rights over land held by their father's patrilineage.<sup>16</sup> Indeed, according to Rwandan custom, "women's land rights are guaranteed by men because they are dependent upon the men in their families; they are 'managed' but also protected by their fathers, then their husbands and finally by their male children".<sup>17</sup>

### Legislative framework governing women's land rights in Rwanda

Rwanda's shift from a mainly customary tenure system, which upheld men as the primary owners and decision-makers over land, to a statutory tenure system that seeks to shift greater ownership and control to women signifies an impressive paradigm shift. A number of instruments enshrine, support and implement women's equal land rights. These include the Constitution of 2003, the 1999 Law on Matrimonial Regimes, Liberties and Successions (Successions Law), the 2004 National Land Policy, the 2008 Law on the Prevention and Punishment of Gender-based Violence (GBV Law), and the Law of 2013 Governing Land in Rwanda (Land Law).

Gender equality is enshrined in the Constitution, in which Rwanda affirms its adherence to the principles of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), expressing its "[commitment] to ensuring equal rights between Rwandans and between women and men without prejudice to the principles of gender equality and complementarity in national development".<sup>18</sup> The constitutional principle of equality in the context of land rights is expressed in the Land Law, whereby: "All forms of discrimination, such as that based on sex or origin, in relation to access to land and the enjoyment of real rights shall be prohibited."<sup>19</sup> In addition, it is expressed in the guiding principles of the 2004 National Land Policy, which requires that "all Rwandans enjoy the same rights of access to land without any discrimination whatsoever".<sup>20</sup> The policy also states that "women, married or not, should not be excluded from

<sup>12</sup> National Land Policy, Land issues, Chapter 3, Section 3.5, 2004

<sup>13</sup> *Ibid.*

<sup>14</sup> J. Burnet and Rwanda Initiative for Sustainable Development, Culture, practice and law: Women's access to land in Rwanda, Anthropology Faculty Publications, 2003

<sup>15</sup> *Ibid.*, p.188

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*, p.187

<sup>18</sup> The Constitution of the Republic of Rwanda, Preamble, 2003

<sup>19</sup> Law No. 43/2013 of 16/06/2013 Governing Land in Rwanda, Article 4

<sup>20</sup> National Land Policy (2004), Chapter 4: General Principles, section 4.2

the process of land access, land acquisition and land control, and [that] female descendants should not be excluded from the process of family land inheritance”.<sup>21</sup>

The Land Law further states that “[t]he right to land for a lawfully married man and woman shall depend on the matrimonial regime opted for”.<sup>22</sup> The Successions Law is the instrument through which women can exercise their rights over marital property. It allows legally married spouses to choose among three matrimonial property regimes at the time of marriage: ‘community of property’, ‘limited community of property’ and ‘separation of property’.<sup>23</sup> If no regime is explicitly chosen, the law presumes the couple to be married under the community of property regime. One study has found that this is the most common regime. The authors note that “it is by far the most popular choice for couples entering their first marital union”.<sup>24</sup> This marital regime grants spouses equal rights and responsibilities to movable and immovable property acquired prior to and during marriage. The law also states that, under this regime, “the spouses shall choose who, among themselves, shall be responsible of the management of the common estate”.<sup>25</sup> However, it also states that spouses are equally entitled to monitor and represent the estate.

Any person in a community property regime who is applying to register household land must include the name of his or her spouse. As joint owners, the Land Law provides that any transaction on land rights (including sale, rent, mortgage, succession and gift) requires the consent of all registered right holders.<sup>26</sup> In addition, the Successions Law states that if the community of property is dissolved by divorce, legal separation or modification of the marital regime, the spouses shall share all common assets and liabilities.<sup>27</sup>

Furthermore, the Successions Law provides for women – as wives and daughters – to inherit land from their husbands and fathers. Widows married under the community of property regime have the right to inherit the common assets and liabilities of the marriage.<sup>28</sup> The law requires daughters and sisters to inherit land in equal parts to brothers and sons.<sup>29</sup> It also provides that female and male children have a right to the partition made by their parents while they are still living (*umunani*).<sup>30</sup>

Despite the advances in protecting women’s rights, limitations remain. Firstly, the law grants rights to women in registered civil unions, but not to women in informal unions. Thus, women living in informal monogamous unions, polygamous marriages and customary marriages have no legal property rights under the current statutory regime, nor do children borne from these unions who have not been officially registered. This has been partially reversed by Article 39 of the GBV Law, which provides that if an individual’s informal spouse decides to formally marry another person, the individual has the right to an equal share of the couple’s commonly-owned belongings.<sup>31</sup> However, this provision requires that the informal spouse intends to formally marry someone else. Secondly, while spouses under the community property regime must provide consent for transfer of marital property, no provision requires that spouses (or other joint title holders) share the profits or benefits associated with those transactions. Thirdly, while male and female children

21 Ibid.

22 Law No. 43/2013 of 16/06/2013 Governing Land in Rwanda, Article 4

23 Law No. 22/99 of 12/11/1999 to Supplement Book I of the Civil Code and to Institute Part Five regarding Matrimonial Regimes, Liberalities and Successions, Article 2

24 E. Daley, R. Dore-weeks and C. Umuhzo, Ahead of the game: Land tenure reform in Rwanda and the process of securing women’s land rights, *Journal of Eastern African Studies*, 4(1), 134, 2010

25 Law No. 22/99 of 12/11/1999 to Supplement Book I of the Civil Code and to Institute Part Five regarding Matrimonial Regimes, Liberalities and Successions, Article 17

26 Law No. 43/2013 of 16/06/2013 Governing Land in Rwanda, Article 21

27 Law No. 22/99 of 12/11/1999 to Supplement Book I of the Civil Code and to Institute Part Five regarding Matrimonial Regimes, Liberalities and Successions, Article 24

28 Ibid., Article 70

29 Ibid., Article 50

30 Ibid., Article 43

31 Law No. 59/2008 of 2008 on Prevention and Punishment of Gender-Based Violence, Article 39

have a right to *umunani*, the Successions Law does not specify that such gifts be divided equally among female and male descendants.

## Impact of current land policies and land formalisation on women's lives

A growing body of research examines both the ways in which the current legislative framework has strengthened women's rights to land and the challenges that women continue to face when asserting their land rights.

A mixed methods field study conducted by Uwayezu and Mugiraneza (2011) reports that “current laws clearly protect and enforce the rights of widows and female orphans, but that is not the case for [informally married] women, especially in the case of death of their husband”.<sup>32</sup> Polavarapu (2011) writes of the gendered power structures that motivate women to enter into informal unions and motivate men to avoid formal marriage. Drawing from a 2003 study by Haguruka on the causes of informal marriage, she writes that women enter into informal arrangements out of need and pressure, including pregnancy and economic survival. Men do not face similar forces and may even resist formal marriage to avoid the ensuing rights and obligations.<sup>33</sup> Abbott and Malunda (2015) in examining the impact of the land tenure reform programme on women's economic empowerment found that: “Rwanda's laws only provide limited protection for legally married women and full protection for legitimate children, leaving many women and children without legal rights to inherit or access.”<sup>34</sup>

Santos et al (2014) conducted an intra-household analysis of access to and control over land in the Northern Province.<sup>35</sup> Their findings indicate that women's involvement in household decision-making varies considerably depending on their marital status, their age, their husbands' knowledge of women's rights to land, and village-level perceptions about the degree to which a woman's rights are mediated by her husband and his kin.

A 2014 USAID/LAND Project study reports that women who are not formally married have no legal right to land in case of separation or widowhood. Moreover, while the number of informally married couples is decreasing, informal marriage is quite common.<sup>36</sup> In addition, women still face difficulties claiming their inheritance, and they typically receive smaller and less fertile land. The study found that while formally married women must provide written consent to any sale or transfer of jointly held land, they lack bargaining power regarding other issues within the household – including the management, use and control of land. Often, women's role in household decision-making is also restricted to veto power.

A 2015 qualitative study carried out in the Northern Province by Bayisenge et al suggests that according to implementers of the land registration programme, the land certificate does not necessarily guarantee women the ability to participate in decision-making about household land.<sup>37</sup> In addition, the study reports that polygamy is a major cause of land disputes in Musanze district, with about 85% of all land conflicts being related to polygamous marriage and inheritance.

A 2015 USAID/LAND Project nationwide study on the impact of implementing the current land laws on intra-household disputes found a strong trend towards husband-wife co-ownership over land. However, the authors warn that co-ownership on paper may not reflect actual equal control

32 E. Uwayezu and T. Mugiraneza, *Land policy reform in Rwanda and land tenure security for all citizens*, 2011

33 A. Polavarapu, *Procuring meaningful land rights for women in Rwanda*, *Yale Human Rights and Development Journal*, 14(1), 2011

34 P. Abbott and D. Malunda, *The promise and the reality: Women's rights in Rwanda*, University of Oxford, 2015

35 F. Santos, D. Fletschner and V. Savath, *An intra-household analysis of access to and control over land in the Northern Province*, Rwanda, Landesa, 2014

36 K. Jones-Casey et al, 2014, *Op. cit.*

37 J. Bayisenge, S. Hojer and M. Espling, *Women's land rights in the context of land tenure reform in Rwanda – The experiences of policy implementers*, *Journal of Eastern African Studies*, 9(1), pp.74–90, 2015

over land or its yields.<sup>38</sup> The study found that while a considerable proportion of women enjoy rights to land acquired through *umunani* and succession, some women are hesitant to claim their rights of *umunani* and inheritance due to lack of knowledge about their rights and their desire to avoid family disputes. The study also found that a significant proportion of surveyed land disputes resulted in GBV, most commonly verbal abuse but also physical violence and death threats.

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38 H. Aimable, S. Wiehler, W. Charoty and N. Daniel, The impact of gendered legal rights to land on the prevalence and nature of intra-and inter-household disputes, Kigali: USAID | LAND Project, 2015

### 3. Research methodology

For the research, a mixed methods design was applied using qualitative and quantitative research methods. The study was conducted in the four districts of Rwanda where PPRT activities are implemented: Ngororero and Rutsiro in the Western Province, Huye in the Southern Province and Ngoma in the Eastern Province.

Methodological triangulation was pursued through administration of three data collection instruments: a structured household survey questionnaire, focus group discussions (FGDs) with members of the local communities, and key informant interviews (KIIs) conducted at both the local and national level. The research questions listed in section 1 of this report informed the design of the data collection tools.

#### Data collection tools

##### Household survey questionnaire

A structured household questionnaire was developed, containing closed and open-ended quantitative and qualitative questions, as well as Knowledge, Attitudes and Practices (KAP) statements. The questionnaire was translated from English to Kinyarwanda and reviewed for accuracy. A workshop was conducted with data enumerators to ensure understanding of the aim of the study, to develop familiarity with the tool and to correct for any ambiguities. PPRT field officers from all four districts attended and provided meaningful commentary on the quality of the tool and the logistics of its administration. In addition, the tool was pilot tested and further refined.

A total of 210 survey questionnaires were administered to 116 women and 94 men in the following sectors: Rurenge and Remera in Ngoma district; Murunda and Musasa in Rutsiro district; Simbi and Karama in Huye district; and Gatumba and Nyange in Ngororero district. These sectors were selected together with International Alert staff, but also on the basis of convenience and proximity. The survey was administered using convenience sampling to community members who were both beneficiaries and non-beneficiaries of the PPRT interventions. However, data was not collected on beneficiary status, as the purpose of the study was to gather community perceptions. Due to time constraints, convenience sampling was selected in order to achieve the desired sample size in a relatively fast manner. Informed consent was obtained and the principles of privacy and confidentiality were adhered to.

In order to assess the dynamics of household land decision-making, a key inclusion criterion was that respondents had access to use of a plot of land. Respondent selection was determined by who was available in the household. In order to ensure gender balance, data enumerators were advised to switch the sex of the respondent for each household.

##### Focus group discussions (FGDs)

A total of 10 sex-segregated FGDs (five female and five male FGDs) consisting of between six and 10 members of the local community were conducted by skilled moderators and note-takers. These were conducted in the aforementioned sectors in Huye and Ngororeo districts. Individuals were selected in consultation with local leaders. A total of 81 women and men participated. The participants were aged between 25 and 50, and in both formal and informal marriages. Their educational backgrounds ranged from none to senior secondary school level. Most of the participants were farmers and some held community leadership positions.

### **Key informant interviews (KIIs)**

One-to-one semi-structured interviews were conducted with key informants at the local and national level. At the local level, two land committee members, three land managers and an agronomist were interviewed. National-level stakeholders comprised representatives from Pro-Femmes Twese Hamwe, the Rwanda Women's Network, Action Aid Rwanda, Haguruka, RCN Justice et Démocracie and the Rwanda Men's Resource Centre (RWAMREC).

### **Data analysis**

Quantitative data were entered into Microsoft Excel. Members of the research team independently verified and cleaned the data, with an emphasis on properly coding responses that could not be analysed and verifying logical consistency between questionnaires and data entered. Descriptive analyses were performed.

Qualitative interviews and FGD transcripts were entered into an analysis chart structured around categories pertinent to the research questions. Patterns and relationships were recognised, and similarities as well as differences among groups of respondents were highlighted.

### **Study limitations**

Convenience sampling was used for administration of the household survey. While this technique has its advantages, such as rapid results reporting, the inherent bias of this method reduces the ability to generalise the findings to the larger population. In addition, a convenience sample may lead to the under-representation or over-representation of particular groups within the sample. However, for sex-based under- or over-representation, this was remedied by adapting the selection of respondents in accordance with the natural progression of rural life existences. For example, if mostly female respondents were interviewed in the morning, a similar number of male respondents were interviewed in the afternoon.

The research team relied heavily on local authorities to select FGD participants. While the team provided those authorities with selection criteria to ensure diversity, it is not possible to be fully certain whether or not participants were actually selected on the basis of these criteria.

FGDs and note-taking of these sessions occurred in Kinyarwanda. Despite strong translation skills, it is possible that when translated into English, the transcripts may fail to capture certain ideas and nuances expressed in Kinyarwanda.

Time constraints dictated the number of survey questionnaires administered, as well as the number of FGDs and KIIs conducted. In addition, the research team was unable to enter the field on two of the days scheduled for fieldwork due to district-level elections and campaigning.

## 4. Findings

### Socio-demographic characteristics of respondents and access to land

In order to get a better understanding of the sample population, the following section provides information about the age distribution, educational level and marital status of survey respondents.

#### Age distribution of respondents

While the aim was to encompass a broad age spectrum, 76% of respondents were aged between 25 and 54. Therefore, the survey predominately reflects the views and experiences of this group. Individuals aged between 18 and 24 were the least represented, constituting only 4% of the respondents. This was due to the fact that younger people were not found in households during the hours when that data was being collected. Individuals over the age of 55 made up 20% of respondents.

#### Educational level of respondents

Respondents had varying levels of education. A total of 28% of respondents had completed their primary education, while 32% had completed three years of primary education and 22% had not attended primary school. The proportions are similar for both sexes. A minority of respondents had completed ordinary level (7%), advanced level (7%), technical and vocational education and training (2%) and university education (2%).

Across all FGDs, women and men believed that one of the main obstacles to fully asserting their land rights was their limited knowledge of the law. Thus, the individual's level of education may be a factor that influences both their understanding of the land legislative framework and their ability to access the formal justice system in the event of an unfavourable land-related decision at community level.

#### Marital status of respondents

As the law only recognises the property rights of women in civil unions, marital status is a crucial factor in determining whether or not a woman has a right to formal ownership over household land, and thus the ability to assert the rights of joint ownership. In two FGDs, men distinguished between a legally married wife and an informal wife:

*“The right of women on land is relative, because if women are legally married, in this situation the rights of women on land are the same as men’s. But if a man and woman cohabit without being legally married, a woman in this situation has no right to the land owned by a man because she is considered a prostitute who cannot claim any right to land [as] she is not recognised by the law.”<sup>39</sup>*

Of the survey respondents, 68% were legally married, while 16% were living in informal monogamous or polygamous unions. Of the female respondents, women in informal unions came from all districts, but primarily from Huye, Ngoma and Rutsiro (29% each). While women in informal unions have the ability to formalise their right to household land by being included on the land title document, this necessitates consent of the male partner. One female FGD participant described a personal experience that illustrates the implications of being a woman in a legally recognised marriage in contrast to being an informal wife:

<sup>39</sup> Male FGD participant, Huye district, Simbi sector

*“Rights to land between men and women are not the same. I had children with my husband, but after he died, his family took the land from me, saying that I was not legally married to him. The land title holds [only] my husband’s names. The family of my husband brought conflicts because I am not married, even though I had children with him.”<sup>40</sup>*

Polygamous practices are another major obstacle to women’s equal land rights. Indeed, the land rights of all wives in a polygamous relationship are violated, including those of the legal wife (if there is one) and those of the informal wife/wives. As described by one male FGD participant:

*“The effect of polygamy on women’s land rights is that legally married women lose their power of control [over] their land because they share with ones who are not married.”<sup>41</sup>*

Of the survey respondents, 4% of women indicated that their spouse/partner had more than one wife. Half of these women were legally married (the registered wife), while the other half were in informal unions. Furthermore, 11% of women surveyed chose not to respond. There are two possible reasons that may explain their non-response. Firstly, a respondent might not know but would rather not respond than give the impression that she is unaware. Secondly, a respondent may be wary of disclosing such information, especially if she knows that polygamy is illegal. In addition, 7% of men indicated that they were practising polygamists, and all districts were represented. Of these men, 86% were legally married, while 14% were in an informal union. Some 14% of men surveyed chose not to respond, presumably due to the illegality of the practice. If non-response is considered a possible indicator of polygamy, the frequency of polygamy in this sample increases to 16% among women and 21% among men, demonstrating the widespread occurrence of these practices.

Moreover, 2% of both male and female respondents were either separated or divorced. Widows and widowers, of both civil and customary unions, made up 8% of respondents, with women constituting the majority of this group. Single people made up 5% of the survey sample. While each of these groups has distinct challenges related to their ability to access, control and own land that is defined by their marital status and age, this study focuses on women in civil and informal marriages.

## Perceptions of women’s land rights

This section will address community perceptions of women’s equal land rights as well as the distinction between knowing and claiming one’s rights. Lastly, it will elaborate on the role of cultural norms and expectations in the social construction of Rwandan femininity.

Survey respondents’ knowledge of the equality provision of the Land Law is reflected by the fact that 79% of women and men surveyed expressed their belief that women and men have equal rights to use, manage and control land. However, only participants in one male FGD and two female FGDs agreed that women and men in reality have equal rights to land. These individuals showed evidence of this belief by describing the community of property regime:

*“I think women’s rights to land are the same as men’s. It is clear that on land titles, men are given 50% of the land, and the other 50% is for women. [...] Men no longer sell land anyhow. The decision to sell or not is taken by both husband and his wife, as a family.”<sup>42</sup>*

40 Female FGD participant, Ngororero district, Nyange sector

41 Male FGD participant, Ngororero district, Gatumba sector

42 Female FGD participant, Huye district, Karama sector

*“A man has same rights to land as a woman because they live together as partners, so they have to share all. For example, I married a man who had his land before we met, after marriage, we worked and we got another piece of land added to the first one. By now, we have same rights to our land; none of us can sell it or do anything without telling the other.”<sup>43</sup>*

While formal equality is acknowledged by most women and men, it is jeopardised by certain factors – namely, marital status, lack of knowledge about one’s rights, ability to exert these rights and custom.

All local and national-level key informants share the belief that current legislation is sufficient to formally secure women’s land rights, as daughters and as legal wives. However, they also acknowledge that there is a discrepancy between the law and its implementation – in other words, equality in theory is not equality in practice. Local-level key informants suggest that more should be done in rural areas to help raise legal awareness among these communities. One national-level stakeholder<sup>44</sup> suggested that new forms of mobilisation and sensitisation informed by the ‘Men Engage’ approach should be tried out by government and civil society as a means to alleviate this divergence.<sup>45</sup> The stakeholders’ perception of a gap between law in theory and law in practice mirrors community perceptions and will be elaborated on throughout this report.

### Knowing versus claiming one’s rights

Women and men in the FGDs expressed the view that women are generally less knowledgeable about their land rights compared with men and are thus less able to claim them. However, this finding differs from survey data, where 52% of female respondents compared with 48% of male respondents felt confident or mostly confident in their knowledge of the Land Law. Many female FGD participants expressed their desire to participate in additional training on the land-related laws. They pointed to the difference between the ability of ‘ordinary’ rural women to assert their rights compared with women who are members of community committees (such as land committee members or *Abunzi*<sup>46</sup> committee members) or who hold a position of political power (such as village leaders or National Women’s Council members). The former are less aware of their rights, less self-confident and often illiterate, while the latter are usually literate and more equipped to access local structures to claim their rights.

When analysing the discussions that took place in most female FGDs, and indeed considering the survey finding that 52% of women feel confident in their knowledge of the Land Law, the issue seems to be less related to knowledge of rights and more related to the capacity to actually claim these rights. Women are aware of their basic rights, specifically those pertaining to inheritance and co-ownership of land, and they are aware of the need to have their name included on the land title. According to one participant: “a land which is not registered on you is not yours.”<sup>47</sup> The issue seems to be that women do not feel confident in asserting their rights. This is substantiated by the fact that female FGD participants, as well as local and national-level key informants, state that to maintain a peaceful household, women may allow their spouses to make land-related decisions on their own, especially those involving land transaction, even if they disagree.

### Cultural norms and expectations – the social construction of gender

As suggested above, while women are aware of their basic land rights, the real issue is their ability to claim them. A factor that hinders women from genuinely asserting their rights of joint ownership over land is the cultural framework within which she navigates. Indeed, many female

<sup>43</sup> Female FGD participant, Huye district, Simbi sector

<sup>44</sup> RWAMREC representative

<sup>45</sup> This approach seeks to constructively engage men as allies in achieving gender equality and in advancing the rights, health and wellbeing of women and girls.

<sup>46</sup> *Abunzi* is a community-level structure that is responsible for providing mediation services as a prerequisite for parties to bring an action before a competent court. Mediators serve on a voluntary basis, elected for a renewable term of five years, and there is a formal guarantee of a minimum of 30% in female committee members.

<sup>47</sup> Female FGD participant, Ngororero district, Gatumba sector

FGD participants agreed that women do not have equal rights to jointly held land. Rather, men have a superior claim to the land as they are the ones who “brought land into the household”. This perception was also confirmed by a male participant:

*“We share equally there is no problem, but we still have the idea that a wife comes empty handed [to] your house and then you mix all your properties and heritage. The culture did not change because a man cannot run away from his house.”<sup>48</sup>*

Some male participants expressed the view that the laws favour women, as women can now achieve land ownership despite not being culturally expected to bring anything to the household. For this reason, one local-level stakeholder mentioned that a possible solution would be to ensure that all women get their share of land from their parents upon marriage in order to make husbands feel that their wives are tangibly contributing to the family patrimony.<sup>49</sup> While this is a valid proposal for some families, one must take into consideration the reality of land scarcity and government policies seeking to prevent fragmentation of land under one hectare of land.

Another belief that prevents some women, as daughters, from fully benefiting from their right to inheritance is the perception that sons are more entitled than daughters. Some participants defended their belief by asserting that a woman “will go elsewhere”, she “will enter another family” after marriage, while a son will always belong to his family. This belief, rooted in the patrilineal structure of Rwandan society, is shared by both women and men and applies to both inheritance and the ascending partition (*umunani*):

*“On my behalf, there must not be equal shares of umunani. Boys must be given a bigger portion because they are the ones who remain in the family while their sisters get married in other families. For example, if my mother gets sick and I am married, I will not take care of her as my brother will do because I no longer belong to my parents’ family, while he will use the land to help her.”<sup>50</sup>*

An important element that arose across all the female FGDs relates to the social construction of femininity in Rwanda. Women are expected to ‘be patient’, ‘be humble’, ‘keep quiet’ and ‘respect their husbands and themselves’. In practice, what is considered appropriate feminine behaviour translates into a deferent attitude towards the husband, especially in public. This notion of a ‘good wife’ was also described by one of the local-level key informants:

*“Our culture says that a good wife [has] to respect her husband’s decision; even if you have dispute, you have to beg for pardon because a man is a chief in the house, so this promote[s] inequality between couples and in the household.”<sup>51</sup>*

Women’s adoption of this role further reinforces the position whereby she is unable to fully assert her land control rights. Nonetheless, female FGD participants also discussed how they use this ‘submissive’ role in both the household and the community to realise their rights, as men and local leaders are more likely to favour and assist ‘good women’. These articulations from community-level participants, as well as local-level stakeholders, indicate the entrenchment of this notion of a ‘good wife’. Emphasis on such cultural understandings of feminine behaviour appears double-edged: on the one hand, it may prevent household conflict and reduce the risk of GBV; on the other hand, it may diminish a woman’s capacity to assert her land rights as well as dissuade her from reporting abuse.

48 Male FGD participant, Huye district, Karama sector

49 Local-level key informant, Rutsiro district, Musasa sector

50 Female FGD participant, Ngororero district, Gatumba sector

51 Male local-level key informant, Ngoma district, Rurenge sector

## The gendered nature of shared decision-making

This section will explore women's ability to assert their control rights over the land to which they have access. It will describe the dynamics and dimensions of household land-related decision-making as well as articulate the meaning that respondents give to the notion of 'shared decision-making'.

### Respondent's access to and ownership over land

In order to understand the dynamics and dimensions of household land-related decision-making among respondents, it is essential to describe survey respondents' access to and/or ownership over land. Some 77% of female respondents and 83% of male respondents stated that they own the land to which they have access – in other words, the land is registered in their name. Of these individuals, 94% of women and 98% of men report that the land is jointly registered with their spouse, while the remaining report that they are joint owners with a family member. Of female survey respondents living in informal unions, 40% reported that the land to which they have access is registered in their partner's name. Of these women, 30% reported that the land is jointly registered with their partner and 30% reported that they own the land independently (acquired primarily as *umunani*).

### Dynamics and dimensions of household land-related decision-making

The majority of both survey respondents (96%) and FGD participants believed in principle that all household land-related decisions should be jointly taken to ensure development of the family and to maintain peace and stability:

*“The man cannot take a decision alone on land, because there is no [family] development with that. The best solution is that we have to agree with each other.”<sup>52</sup>*

The majority of men asserted that land-related joint decision-making is an outcome that has arisen following the implementation of the current land laws:

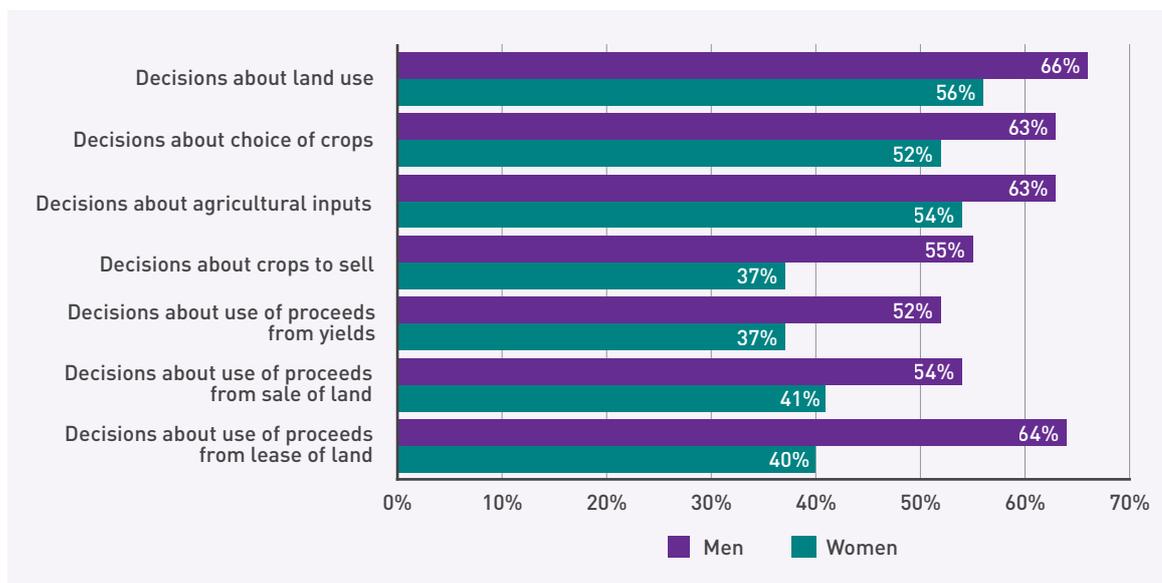
*“All decisions regarding land are taken together with the wife. There are no decisions taken by a husband alone and no decisions taken by the wife alone. This was the case before the land law, [as] men used to take all decisions on land without taking into consideration their wives.”<sup>53</sup>*

Both male and female survey respondents report joint decision-making with respect to decisions impacting household land. However, the frequency of reporting differs in accordance with the type of decision.

52 Male FGD participant, Huye district, Karama sector

53 Male FGD participant, Huye district, Simbi sector

**Figure 1: Frequency of joint decision-making over household land among female and male survey respondents**



Indeed, there is a distinct trend in both the dynamics and dimensions of household land-related decision-making. Decisions about daily agricultural management (use of land, choice of crops, selection of agricultural inputs) are predominantly described by both female and male survey respondents as being joint decisions. The majority of female FGD participants gave a nuanced response by disclosing that because they carry out most of the agricultural work, they feel able to make certain decisions by themselves, specifically regarding what to cultivate and what agricultural inputs to use. However, for decisions that involve a financial dimension (sale of crops, use of proceeds from sale of crops, and use of proceeds from sale or lease of land), the frequency of women reporting joint decision-making declines. Instead, they report that such decisions are taken predominately by the male spouse:

*“The decision I can make alone is what to cultivate only because I am the one working for my family. But the man can sell productions of the household without informing me.”<sup>54</sup>*

Furthermore, there seems to be a gendered division in the management of crops: the more profitable crops are managed by men, with bananas and coffee in particular being mentioned; women manage less profitable crops such as legumes and potatoes:

*“We are managing together how to use land. For example, the harvest of different products is managed by my wife but yield of bananas is managed by me.”<sup>55</sup>*

In addition, local leaders confirm that women deal primarily with decisions regarding land use and management, while men are mostly interested in decisions related to assets that flow from the land:

*“These days, women manage and use 80% of the land. Men say they don’t have time to manage land, while women are the ones who know what to cultivate and everything about that. Men are mostly interested [in] issues related to money; they like to intervene when the money from yield is there and here is where all disputes begin. Women are not happy on how a man took a decision alone and most men don’t even decide in the interest of the family. They are busy counting how many bottles of beer they can get from that money.”<sup>56</sup>*

54 Female FGD participant, Ngororero district, Nyange sector

55 Male FGD participant, Ngororero district, Gatumba sector

56 Male local-level key informant, Rutsiro district, Musasa sector

Indeed, all of the local key informants suggested that women's lack of participation in financial decisions is predominantly due to cultural understandings of female and male roles:

*“Here women are the ones who manage lands, because women are the ones who use lands more than men; but when it comes to issues like selling, men tend to have a stronger voice than women, but this is because of our culture.”<sup>57</sup>*

*“The first barrier is culture – our culture prevents women from doing and participating in different activities, even in taking some decisions.”<sup>58</sup>*

There is another way of exploring this division in decision-making. The Rwandan National Gender Policy of 2004 clarifies that traditional concepts of gender relations in Rwanda were based on the principle of ‘complementarity’ rather than ‘equality’ – in other words, women's roles were considered to be complementary and indispensable, and were bestowed proportionate value to men's roles.<sup>59</sup> Women and men fulfilled different but complementary roles that were equally important to the functioning of the family and the community. In fact, the current finding of women and men occupying different spheres of power and decision-making appears to be a reproduction of traditional gender roles.

This view is reflected in the finding that 3% of female survey respondents identified both themselves and their spouse as joint heads of the household. Given this household description, one would assume that the majority of land-related decisions are shared. However, for women in this group, the data mirrors the aforementioned trends. The fact that these women do not report joint decision-making for all land-related decisions, yet describe themselves as living in a joint spouse-headed household, possibly reflects the idea of gender complementarity – whereby the spouses occupy opposite but complementary roles in the household. This explains the respondents' identification of a joint spouse-headed household, with the male spouse holding responsibility for one aspect of the household (financial management) and the woman responsible for another (agricultural management).

### Defining the meaning of shared decision-making

Male survey respondents more frequently reported joint decision-making across all categories of land-related decision-making – at between 9 and 24 percentage points higher than female survey respondents, depending on the land-related decision (see Figure 1). A possible reason for this finding is that men may feel obliged to describe decision-making as shared because this is what the law requires. Indeed, several male FGD participants indicated that they felt compelled to comply with joint decision-making to avoid ‘punishment’:

*“Nowadays you can't buy or sell a plot without consulting your partner; you can't do anything without consulting your partner because if you do it, you will be punished.”<sup>60</sup>*

However, there seems to be a disconnect when it comes to what men perceive as shared decision-making and women's description of their role in decision-making. Specifically, female FGD participants indicated that they often choose to stay quiet in relation to land transaction decisions, even if they disagree, in order to keep the peace in the household. As stated by a national-level key informant, maintaining peace and harmony in the household is mostly the wife's responsibility.

Some female FGD participants disclosed that they do not engage in jointly-owned land transaction decisions due to a belief that the husband has a superior claim to the land despite the law. This

<sup>57</sup> Male local-level key informant, Rutsiro district, Murunda sector

<sup>58</sup> Female local-level key informant, Rutsiro district, Musasa Sector

<sup>59</sup> Rwanda National Gender Policy of 2004

<sup>60</sup> Male FGD participant, Ngororero district, Nyange sector

perception was confirmed by some male participants, illustrating that the role of wives in land-related decision-making for some men is to be informed once the decision has been made:

*“All the decisions regarding land, such as selling or renting, use of land, choice of crops, use of agricultural inputs, sale of yields, use of revenues from yield, choices about land management strategies, are taken only by men without any intervention by women. Women accept the men’s decisions.”<sup>61</sup>*

One male participant expressed the view that women are also responsible for reinforcing such patriarchal beliefs:

*“The mindset of women is that they think that the ownership of the land is a men’s issue, which is not true because the ownership of the land is for both the husband and the wife.”<sup>62</sup>*

Local-level key informants also indicate that patriarchal beliefs and the social construction of femininity are critical reasons as to why some women do not fully assert their right to shared decision-making over jointly held land, instead completely accepting their husband’s decision:

*“Women take their husband as chiefs ... Women come with nothing when they get married, so they keep on believing that lands are for their husband ... The issue is not laws or policies, but the mentality of women down here; you cannot wait for someone who calls her husband Umutware (chief) to take a decision when a chief is there.”<sup>63</sup>*

One of the land manager informants<sup>64</sup> reported that authorities in his sector usually interview the husband and wife separately to verify that the woman actually agrees with the sale or if she has been coerced by her husband. The use of such a strategy clearly shows the sector officers’ awareness of the gender inequalities in household land decision-making.

When asked what could be done to improve women’s joint control over shared land, survey respondents most frequently indicated that women should be encouraged to change their own attitudes and beliefs about traditional gender roles and expectations (see Figure 2). Respondents also stated that women should be encouraged to challenge unequal power relations or to take an ‘interest’ in their rights. However, as indicated previously, women are aware of their equal rights and in fact would welcome additional training on land-related laws. There is little indication therefore that women are disinterested in their rights. Thus, the community perception that women should be encouraged to ‘take an interest in their rights’ could perhaps be rephrased as ‘women should be encouraged to assert their rights’. This shows that individuals and communities are aware of the strong influence of the patriarchal social structure on the lives of rural women. Nonetheless, the suggestion that unequal power relations should be challenged must be interpreted cautiously, as women are at an increased risk of GBV when they do challenge the gender framework within which they navigate.

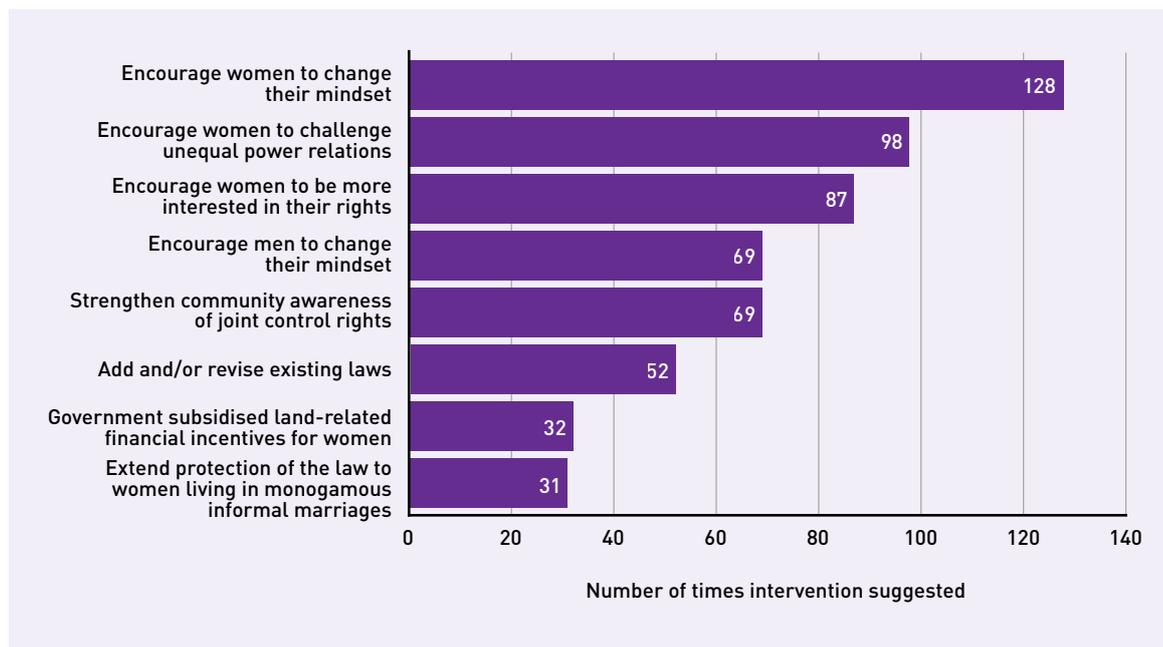
61 Male FGD participant, Ngororero district, Gatumba sector

62 Male FGD participant, Ngororero district, Musasa sector

63 Male local-level key informant, Rutsiro district, Murunda sector

64 Female FGD participant, Huye district, Simbi sector

Figure 2: Community suggestions on how to strengthen women's joint control over land

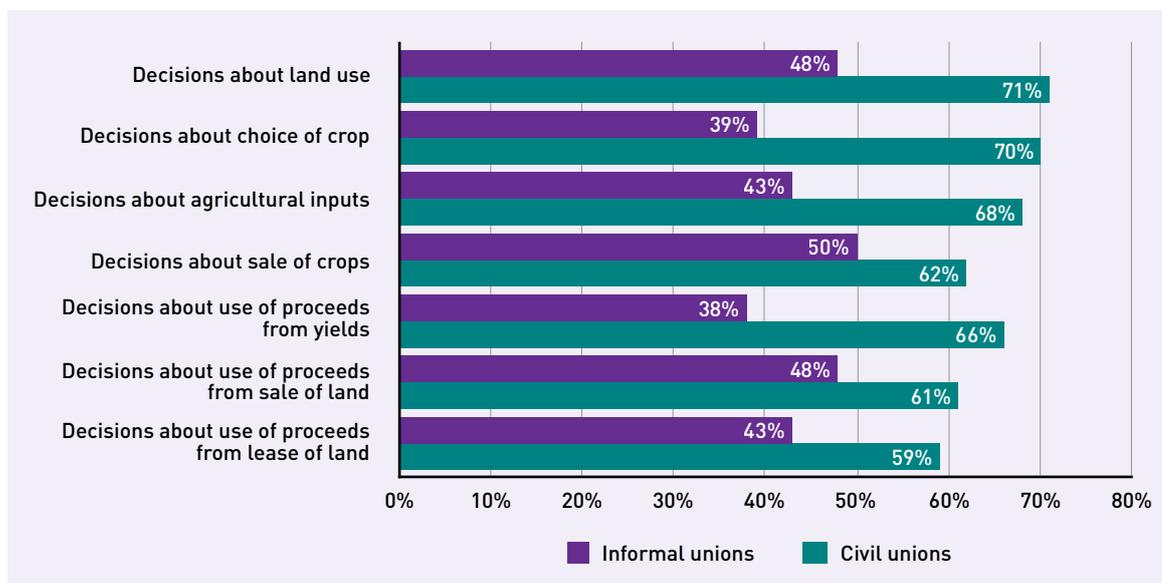


### The precarious situation of women living in informal unions

One of the key factors preventing some women from accessing their land rights is the different legal status between legally married women and women in informal unions. Although the bargaining power of legally married women is still hampered by cultural beliefs and social expectations, it is reinforced by a legal framework that clearly supports the equal rights of both husband and wife. The experience of women in informal unions is different.

Looking at the dynamics of household land-related decision-making among female survey respondents in civil and informal unions, there is a distinct difference between the groups (see Figure 3). Women in civil unions report higher rates of joint decision-making across all categories of land-related decisions.

**Figure 3: Frequency of joint household land-related decision-making among women in civil and informal unions**



All research participants at the community level acknowledged that most women in informal unions do not have formal rights to their partner's land, unless he registers her on his land. This reality is evidenced by the fact that 40% of female survey respondents in informal unions were not registered on their partner's land. Female and male FGD participants perceive these women as being in a vulnerable and unpredictable situation, hostage to the will of their husbands. Participants indicated that these women 'can be chased away at any time'. They have no claim to the land on which they may have been working for years, or even a right to reside in their partner's house. Furthermore, the plot can be sold at any time by the man or registered in the name of another woman.<sup>65</sup> In the event of separation or widowhood, participants stated that women in informal unions are often considered 'prostitutes' (*indaya*), despite having children with their husbands, and are thus at risk of being left completely destitute by their in-law relatives:

*"Yes, there is a great difference [between women who are legally married and the ones who are in informal unions]. For example, when a woman knows that she has not been united in front of the Etat civil, she feels like she is a prostitute because [her] husband does not give her value as a wife in the household, [as] he does not give her rights to land."<sup>66</sup>*

If the children are legally acknowledged by the father, they can benefit from their share of his property, and often children are registered under the names of both parents. However, some male and female FGD participants seemed unaware of this possibility and believed that children arising from such unions automatically do not have any rights to their parents' property.<sup>67</sup>

The case of polygamous unions (*ubuharike*) is even more complex due to the conflicts that might arise among co-wives, often in relation to property (primarily land). Moreover, these women are less likely than men to formally own property that would sustain them in the event of separation or death of the partner. All male and female FGD participants agreed that polygamy is practised in their communities ("polygamy is men's vision here," joked one participant<sup>68</sup>), and they are all

<sup>65</sup> In some cases, however, women in informal unions have been registered among the people having an interest in their partner's land. However, this good practice has not been applied everywhere and it depended much on the goodwill of the land officers during the process of land tenure regularisation (LTR).

<sup>66</sup> Female FGD participant, Huye district, Simbi sector

<sup>67</sup> FGD participants, Ngororero district, Nyange sector

<sup>68</sup> Female FGD participant, Ngororero district, Nyange sector

aware that it is an illegal practice. FGD participants mentioned several risks that they believe are associated with *ubuharike*: namely, poverty, land scarcity and unproductive land, spread of HIV/AIDS, unplanned children, conflicts among children, lack of trust in the family, and dissatisfaction and conflict among co-wives. Participants acknowledged that the land rights of all women involved in polygamous relationships are violated, as well as the emotional toll and disempowerment that these women experience:

*“Ubushoreke destroys households; it brings a lot of land conflicts when a man brings the land yield to the inshoreke [co-wife]. In fact, it makes a woman feel unhappy and disowned.”*<sup>69</sup>

*“When a man has two wives, an illegally married woman and a legally married woman, they do not feel good between themselves; they always bring conflicts due to land use and portions.”*<sup>70</sup>

*“Those women [co-wives] are not recognised before the law; they are at risk of being sent back to home without any property. If there is a conflict between families, they are hopeless since they know that they may lose their property while they have made an effort with their husbands.”*<sup>71</sup>

Several local-level key informants suggested that the government should find a way to extend legal protection to women who live in informal monogamous unions.<sup>72</sup> One solution put forward was to legalise the union, but the respondents also realised that this was not always feasible as the husband may refuse. A couple of alternatives were suggested: encouraging male partners to register their informal spouse on the land title and legal acknowledgment of the relationship after a specified period of cohabitation. Three national-level key informants<sup>73</sup> also made this suggestion – that is, that the years a couple have spent together should be recognised in such a way that partners in informal monogamous unions have a safety-net in the event of separation or death of the partner.

Two national-level key informants<sup>74</sup> discussed the application of Article 39 of the GBV Law to protect women in informal unions. They stated that use of this provision is not consistent at the level of the *Tribunaux de Base* (local courts), despite the existence of jurisprudence at the Supreme Court level. They suggested that Article 39 should apply to both informal monogamous and polygamous unions, regardless of whether the informal spouse intended to formally marry another individual. Furthermore, they proposed that a Ministerial Order be produced, as declared at the end of the Article, in order to clarify the modalities of property distribution among the wives.

One key informant<sup>75</sup> suggested that, while advocating revision of the current legal framework, local mediators and local communities need to be better informed about the possibility of using Article 39 to protect the land rights of women living in informal unions (monogamous and polygamous). The key informant highlighted that the belief that such people are ‘against the law’ prevents them from fully exploiting existing provisions. In addition, he proposed that women should be encouraged to maintain evidence of the property acquired together with their husbands and to ask for their name to be included on the land title.

69 Female FGD participant, Huye district, Simbi sector

70 Female FGD participant, Huye district, Simbi sector

71 Local-level key informant, Ngororero district, Nyange sector

72 Local-level key informant, Rutsiro district, Murunda sector; local-level key informant, Ngoma district, Remera sector; local-level key informant, Rutsiro district, Musasa sector

73 National-level key informants from Pro Femmes Twese Hamwe, the Rwanda Women’s Network and RCN Justice et Démocracie

74 National-level key informants from Haguruka and RCN Justice et Démocracie

75 National-level key informant from RCN Justice et Démocracie

## Community perceptions of land-related gender-based violence (GBV)

Rwanda's social norms have positioned land-related decisions within the male domain. Therefore, attempts to transgress these norms are likely to be interpreted as 'inappropriate feminine behaviour' and as a threat to male authority. This section will explore the link between women's land ownership or lack of ownership and her risk of GBV.

Findings from FGD participants, as well as from national-level stakeholders, suggest that land-related GBV is widespread and related to two juxtaposing notions – both owning land and being landless. Some women experience GBV related to land transaction disagreements – that is, they are joint land owners with their abuser. Other women experience violence due to vulnerability caused by joining the husband's household 'empty-handed'. Participants described a variety of forms of GBV: physical violence, sexual violence, psychological violence and economic violence. According to female participants:

*“There is GBV – for example, you [...] may disagree with him about some decisions on land, and he beats you. Beating is the most common GBV known to women in this area.”<sup>76</sup>*

*“There is GBV here because, for example, you can disagree with your husband on land-selling decisions, then he beats you.”<sup>77</sup>*

*“In this area, most of the women are known to grow crops and other related land activities. When you are back at home very tired, then your husband asks you for sex, but you refuse because you are tired, then he beats you or does it by force saying you disobey him.”<sup>78</sup>*

Some male participants acknowledged the reality of GBV in their communities and highlighted other forms of GBV: husbands coercing wives to sign land transaction documents, husbands intimidating wives to claim their inheritance and husbands depriving wives of the economic means needed for family survival:

*“A man may want to sell any property then force his wife to sign.”<sup>79</sup>*

*“[A] husband can see a neighbour's wife is bringing [her] part of land to [the] family and then after attack his wife also by talking, ‘go to your daddy and ask your part’.”<sup>80</sup>*

In one FGD, men also agreed that women living in informal unions are most likely to experience GBV, since their rights are not protected.<sup>81</sup> Both female and male participants agreed that GBV can occur when the wife decides to sell portions of crop yields without informing her husband:

*“A woman can be beaten by her husband when she sells beans to buy salt, without telling [her] husband. This is commonly experienced by women. It occurs in general because of misunderstandings between household partners due to the sale of land yields without taking decisions together.”<sup>82</sup>*

*“We find some women who use the crops from the land shared with her husband without permission from him. If she does it without his permission, he violates her.”<sup>83</sup>*

76 Female FGD participant, Ngororero district, Gatumba sector

77 Female FGD participant, Ngororero district, Nyange sector

78 Female FGD participant, Ngororero district, Nyange sector

79 Male FGD participant, Huye district, Karama sector

80 Male FGD participant, Ngororero district, Gatumba sector

81 Male FGD, Ngororero district, Nyange sector

82 Female FGD participant, Huye district, Simbi sector

83 Male FGD participant, Ngororero district, Gatumba sector

In contrast, male participants in one FGD denied that GBV exists in their community, especially GBV related to land disputes. They assert that this is due to the Land Law and the fact that land disputes are now being handled by community-level authorities:

*“There is no longer gender-based violence in our region as a result of land conflict since the law on land management has been adopted.”<sup>84</sup>*

*“Land-related disagreement is not the cause of gender-based violence in our region because if there is any problem on land, it is handled down at the cell level.”<sup>85</sup>*

When discussing how women cope with GBV, only one woman mentioned that she would consult local leaders in the event of domestic violence. According to some women, their coping strategy is to ‘keep quiet’ and ‘be humble’:

*“I must agree what he orders me, keep quiet and let it be done as he wants.”<sup>86</sup>*

*“I can keep quiet and let it be because I cannot put my husband in the court.”<sup>87</sup>*

These accounts illustrate that a significant number of women suffer in silence, whether out of acceptance of what are deemed appropriate female responses or due to their unwillingness to report the abuse for fear of being ‘chased away’ by their husband and consequently losing access to shared children and the land. Both male and female participants agreed that GBV would be alleviated if husbands and wives were encouraged to discuss land-related decisions. Furthermore, some female participants were interested in finding alternative ways of managing their households and relationships with partners.

*“We need trainings, we need to be taught by our leaders concerning how we can live with each other without conflicts, how to discuss, how to share ideas and take decisions together as household partners.”<sup>88</sup>*

While the majority community perception is that land-related GBV is a current and widespread problem, the perception among local-level key informants is that land-related GBV has drastically diminished. They claim that while land disagreements among spouses persist, in their opinion, these disputes do not lead to GBV anymore. Rather, other factors account for GBV, including alcoholism, adultery, marital status, mismanagement of household finances and women claiming more leverage in the household. However, while these factors may not specifically reflect land-related issues, in some relationships they may be indicators of a land-related dispute. Local-level leaders also assert that women living in informal unions may face an increased risk of GBV due to the vulnerable nature of their marital status:

*“This is an old story. Here the government has put in place policies and laws that prevent this violence. Only issues of lands and polygamy are common here, but beating or other kinds of violence it’s an old story. Maybe there are some who might be violated and choose to not say anything, because they fear their husband to leave them, but in general there is no violence related to land.”<sup>89</sup>*

84 Male FGD participant, Huye district, Simbi sector

85 Male FGD participant, Huye district, Simbi sector

86 Female FGD participant, Huye district, Simbi sector

87 Female FGD participant, Ngororero district, Gatumba sector

88 Female FGD participant, Huye district, Simbi sector

89 Local-level key informant, Rutsiro district, Murunda sector

*“These days, people know their rights in general. When it comes to women’s rights, everyone knows that he doesn’t have to violate a woman; there [is] serious punishment for those who do so. Disputes are there, but not only related to land issues or to gender; and only in couples who are not legally married can women be violated and choose to say nothing, because they fear their spouse will leave them.”<sup>90</sup>*

*“There are families that are always in conflict, but the main issue is not land. It’s drunkenness, mismanagement or gender issues. Because land is registered and it shows who owns the land, it is not a big issue here.”<sup>91</sup>*

Among national-level key informants, the perception is that GBV related to property rights is widespread: *“Most of the violence in Rwanda originates from property (management of resources), including land. Men do not want to be asked why they are spending resources.”* As articulated by one female FGD participant: *“everything goes well, until a husband decides to sell the land we survive on.”<sup>92</sup>* When such disagreements occur, the man is likely to perpetrate GBV.

## Land disputes and land dispute mediation: Experiences and perceptions

The following section discusses land dispute experiences, the challenges facing individuals and their perceptions about the conflict mediation bodies that handled their case. It also presents community perceptions of the causes and nature of community land-related disputes, as well as perceived challenges faced by women and men when they seek to resolve land disputes.

### Perceptions of the cause, nature and personal challenges of land conflicts

When asked to specify what they perceive to be the main causes of land conflicts in their community (see Figure 4), respondents mentioned: family disputes (71%), increasing land scarcity and competition over land (59%), large family size (47%), polygamous practices (23%), and limited knowledge about land laws and policies (20%).

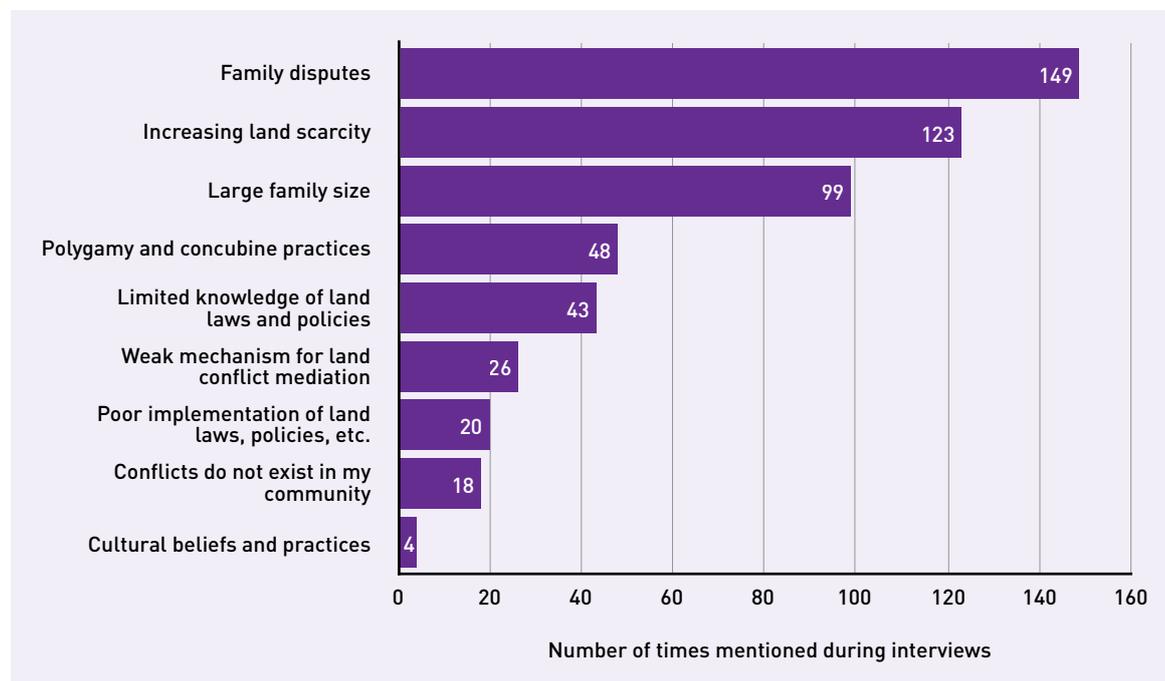
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90 Local-level key informant, Ngoma district, Rurenge sector

91 Local-level key informant, Rutsiro district, Musasa sector

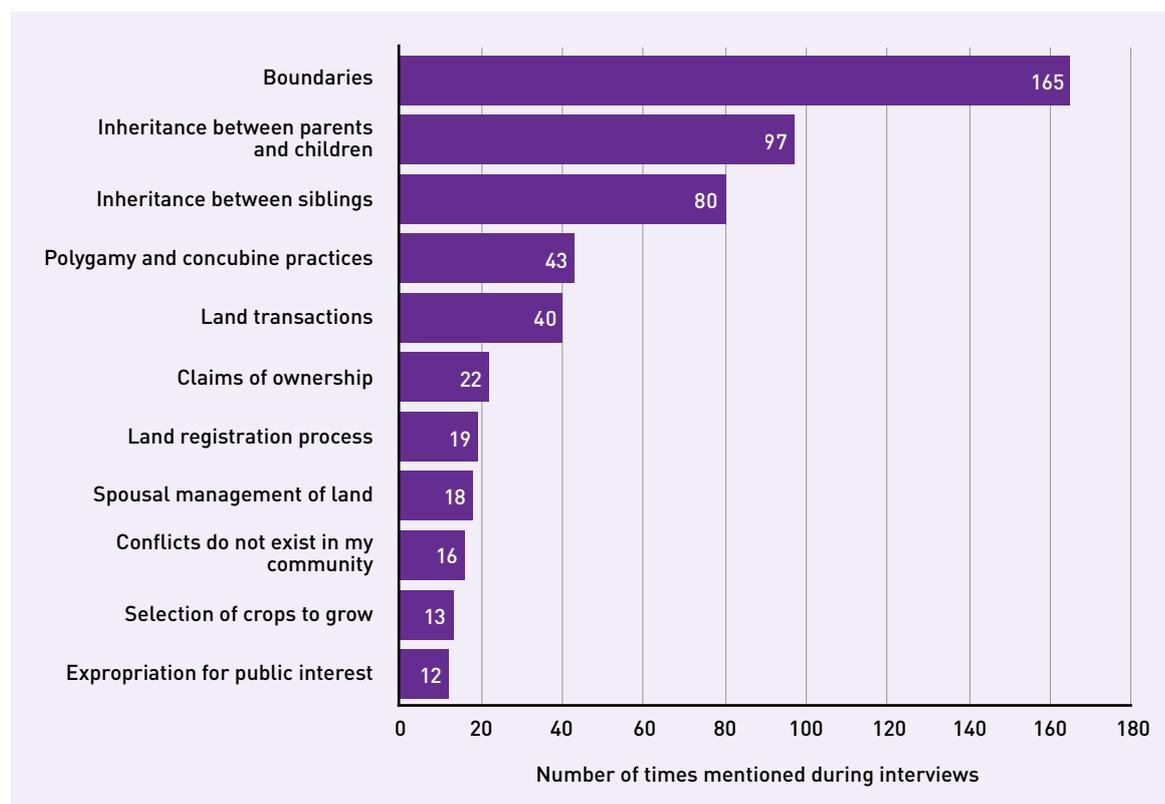
92 Female FGD participant, Ngororero district, Nyange sector

**Figure 4: Community perceptions of the main causes of land disputes in their communities**



Regarding the types of land disputes that arise in their community (see Figure 5), respondents specified conflicts related to: boundaries (79%), succession (46%), sharing of inheritance (38%), polygamous practices (20%) and illegal land transactions (19%).

**Figure 5: Community perceptions of the main types of land disputes in their communities**

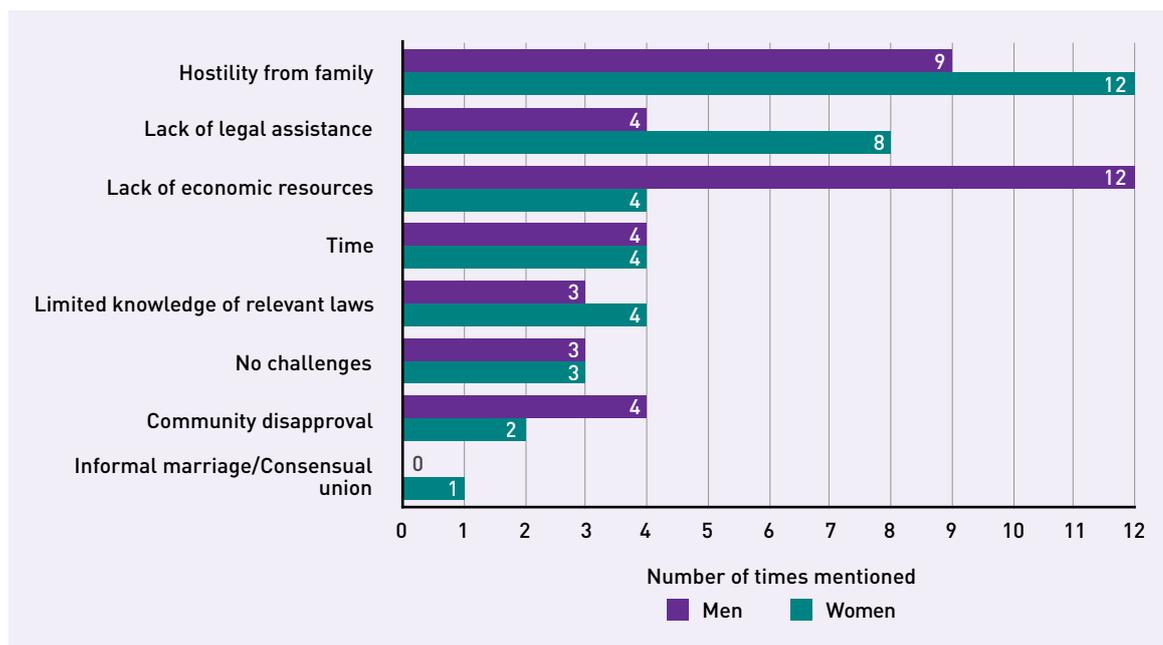


Of the survey respondents, 26% were either currently involved in a land dispute or had been in the last five years; this group was divided almost evenly between male and female disputants. Overall, 48% of land disputes were intra-familial, 44% were between neighbours, and the remaining disputes were with the local government, tenants or the seller. Disputes were predominately related to *umunani* and conflicting claims of ownership.

When FGD participants were asked to describe what they perceive to be the main types of land conflicts in their community, men highlighted boundary conflicts with neighbours (and related to land size), while women discussed conflicts related to marital status. Both women and men mentioned conflicts related to the sharing of land for inheritance. In addition, findings from the discussions suggest that there are gendered motivations for being involved in a land conflict: specifically, women's involvement tends to be due to an infringement of their rights, while men's involvement seems to be connected to personal gain.

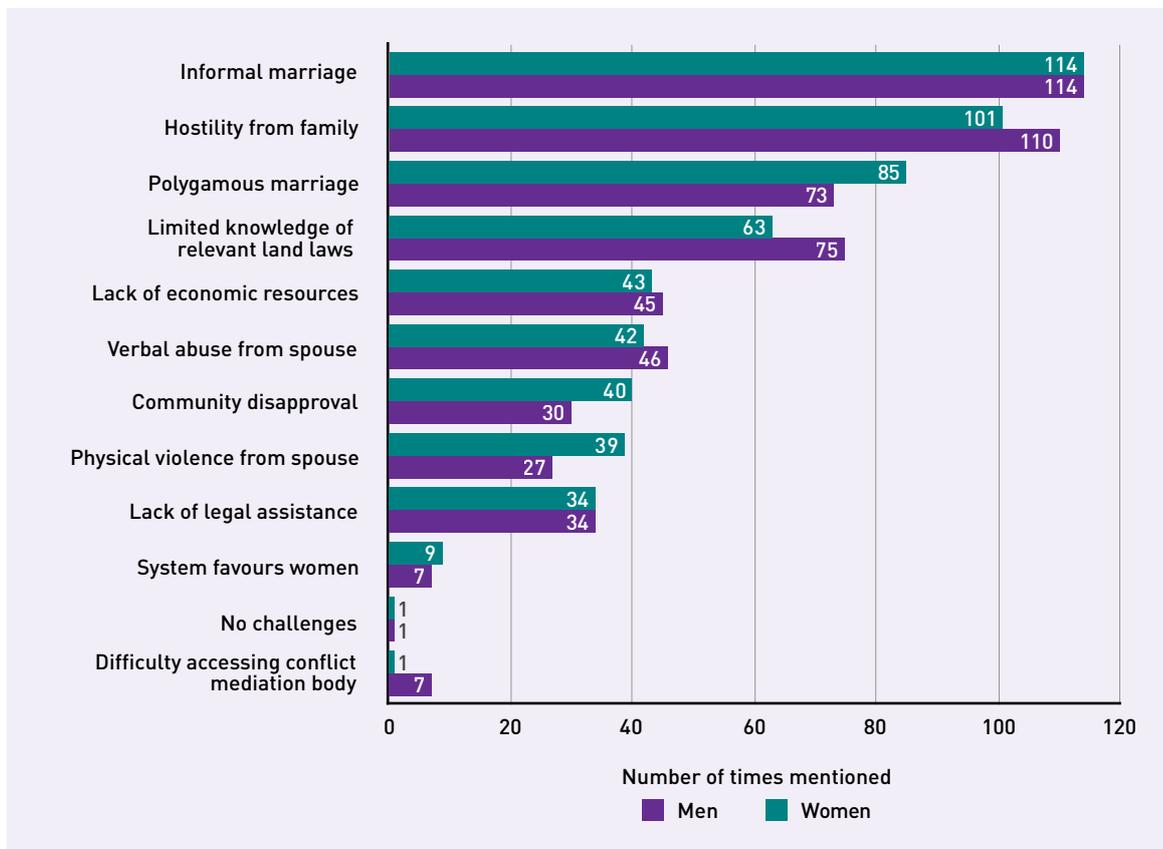
When asked to specify what sort of challenges they experienced when seeking to resolve a land-related dispute, female survey respondents who have been involved or are currently involved in a land dispute highlight hostility from family or a lack of legal assistance (see Figure 6). Male survey respondents refer to a lack of economic resources and hostility from family as the main challenges facing them. No respondent mentioned experiencing physical or verbal abuse from a spouse or that the system was gender biased.

**Figure 6: Challenges experienced by survey respondents when involved in a land-related dispute**



The most frequently mentioned challenges facing men and women during land disputes, as cited by survey respondents, include: informal marriage, hostility from family, polygamous practices, and limited knowledge of land laws and policies (see Figure 7). Approximately 20% of respondents believe that a woman may face both physical violence and verbal abuse from her spouse. In addition, 22% of respondents believe that a man may be subjected to verbal abuse by his spouse and 13% believe that he may face physical violence at the hands of his spouse. Female and male FGD participants perceive the biggest challenges to be lack of knowledge about the law, poverty (specifically the inability to afford justice-related expenses) and poor enforcement of decisions.

**Figure 7: Community perceptions on challenges facing men and women during land disputes**



### Community and stakeholder perceptions on the land dispute mediation mechanism

Of the survey respondents, 50% of women and 36% of men described the dispute mediation structure that handled their case as fair and legitimate, while 30% of women and 40% of men described it as biased, and 7% of women and 10% of men described it as corrupt (the remaining respondents were involved in an ongoing case). Neither female nor male FGD participants described such structures as being gender biased. Men expressed more trust than women did in the community-level dispute mediation structures – that is, the *Abunzi* committee, the community land committee and the *Umudugugu* committee (village committee). They stated that local mediators were well informed because they live in the same community as disputants and are familiar with its members, thus making it hard for disputants to be dishonest:

*“Community-level land dispute mediation bodies are fair in [deciding] cases relating to land issues because they are people living in the community, they are neighbours and they know the origins of the disputes they are solving.”<sup>93</sup>*

*“The community land committee is the most effective because members of the committee are living together with ones who have problems of land. People who have problems can’t lie to them. They are honest during the dialogue when they are solving problems.”<sup>94</sup>*

93 Male FGD participant, Huye district, Simbi sector

94 Male FGD participant, Huye district, Simbi sector

*“The most effective is the Umudugudu committee, because in Umudugudu everybody knows each other. It is simple to handle the problem if people are closer.”<sup>95</sup>*

Only one male FGD participant expressed distrust towards community-level dispute mediation bodies:

*“They are not fair and the process involves the corruption [of] those people who come to provide testimony; they provide it depending on who they want to support. They took my land. I was born there, my children were born there, but due to injustice and corruption they took my land.”<sup>96</sup>*

Several female FGD participants expressed wariness towards community-level mediation structures. Indeed, findings from both female and male FGDs reveal an indirect gender bias in the way these bodies resolve conflict. Both male and female participants stated that some local mediators tend to be biased in favour of the wealthier party. As men tend to have more financial resources than women, the process as it is applied by some local-level mediators becomes biased therefore in favour of men. In addition, there is understanding among both female and male FGD participants that this form of bias occurs because local-level mediators work on a voluntary basis:

*“Committees in charge of resolving conflicts, they don’t work with transparency. If you are a rich man, they [Abunzi] may decide in your favour because they are waiting something from you. So, women are victimised because they do not have the same money as men.”<sup>97</sup>*

*“If you do not have money, you cannot win your land nor have any other land service in land committee.”<sup>98</sup>*

*“I prefer to fail in the court, I prefer to let you win my land than to be asked a big sum of money by land committee leaders and then lose just because I cannot find the money. In fact, land committee leaders in this area do not work well at all levels; they only want money from people before giving them services they need.”<sup>99</sup>*

In addition, some female participants indicated that even when decisions prove to be in their favour, these decisions are not diligently enforced. Some women also expressed the view that they were unsure about how to pursue enforcement of the decision. Furthermore, several women attributed their inability to fully access the justice system to their incapacity to pay for transportation to the courthouse or to Kigali in order to seek the Ombudsman.

At the national level, two key informants stressed the importance of community-level mediation bodies to accelerate the process of justice at the local level, but also to promote a culture of reconciliation rather than opposition between parties. However, there was also recognition that community mediators may be influenced more by cultural beliefs than by the legal framework, and that this can affect the way in which conflicts are resolved: “Mediation must be inspired by the law and this will help make such bodies more gender sensitive.”<sup>100</sup>

95 Male FGD participant, Ngororero district, Gatumba sector

96 Male FGD participant, Ngororero district, Nyange sector

97 Female FGD participant, Ngororero district, Nyange sector

98 Female FGD participant, Ngororero district, Nyange sector

99 Female FGD participant, Ngororero district, Nyange sector

100 National-level keyinformant, Haguruka

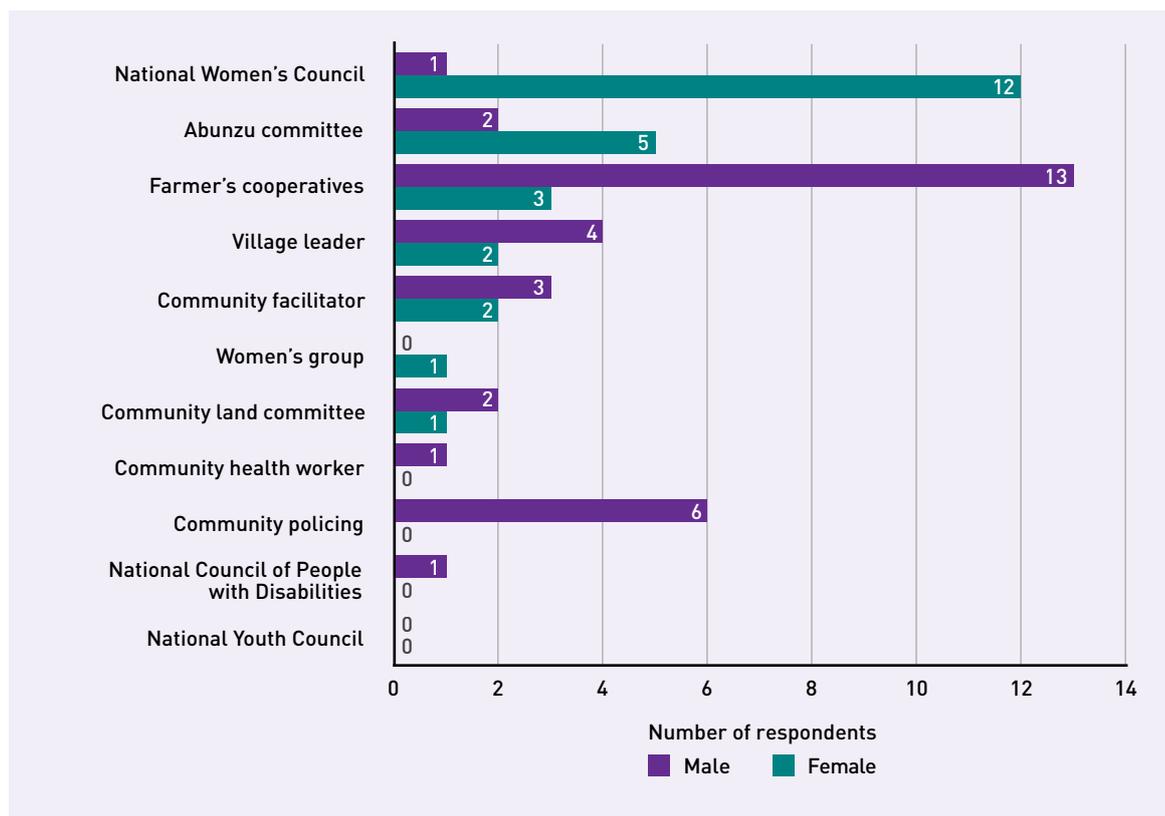
## Women's participation in community-level land management and dispute mediation structures

Securing a woman's ability to control land and its proceeds is critical to her empowerment. A woman's household bargaining power increases with her increased income, as does her community status and consequently her self-confidence to participate in community decision-making. This section will explore factors that hinder women's ability to participate in community-level decision-making bodies. In addition, it will present community and stakeholder suggestions on how to increase women's participation in these structures.

### Extent and nature of women's participation

Of the female survey respondents, 22% were involved in a community-level group, and 28% of these women had community leadership roles in *Abunzi* or *Umudugugu* committees. In terms of the socio-demographic profile of this group of women, they were predominately aged between 25 and 44, and most had either finished lower primary or primary school education, while the vast majority were legally married. Qualitative findings explain that leaders are encouraged to be legally married as they are supposed to be community role models, and are indeed the agents that promote legal marriage among the community.

Figure 8: Survey respondents' participation in community-level groups and bodies



Survey respondents and FGD participants were asked about their opinion on the extent of women's involvement in community-level decision-making groups, and whether they believe that women are adequately represented in these structures. An astounding 90% of survey respondents stated that women are sufficiently represented in these structures. The majority of male FGD participants agreed with this perception, believing that women meaningfully contribute to land dispute mediation at the community level, even more so than men. Furthermore, they expressed

the view that female leaders are less likely to be externally influenced and more reliable than their male counterparts:

*“Women do participate enough in community-based strategies to prevent and mediate land conflicts, even more than men in our community. They have no longer fear and they are for sure competent.”<sup>101</sup>*

*“Women who participate in such strategies have actual power – they are very powerful because before they take decisions on land issues, they take their time to consult different people, and women are [more] effective than men because men are easy to corrupt but not women.”<sup>102</sup>*

*“Women who participate in such [bodies] have actual power and are effective because many of them are literate. Instead of voting men for land dispute resolution, I prefer to vote women, because the solution for men is taken in bar with beer [i.e. male leaders can be influenced].”<sup>103</sup>*

However, a minority of male participants disagreed with this view, neither believing that there is adequate female participation nor that those who are in these positions have actual power to influence decision-making. They expressed the view that while women are capable, they lack confidence to assert their opinions:

*“Women who participate are not strong because if the case is complicated, they call men for help.”<sup>104</sup>*

*“They are capable but because of the culture, they are not confident to give their opinions; they always wait what their husband says.”<sup>105</sup>*

The majority of female FGD participants believed that women who are involved in community-level decision-making structures have actual power. They agreed that these women are knowledgeable about women’s land rights and the conflict mediation process, and that the women are well connected, confident, and have public speaking skills:

*“They have power, they are trained and eloquent.”<sup>106</sup>*

According to one female member of a land committee:

*“I have skills on land laws and policies; I know where to go to ask for help. For example, I may go and see the Notaire at the sector level.”<sup>107</sup>*

Some women also pointed to a difference between the ability of female leaders and women who are not involved in community-level decision-making to both know and assert their rights. They highlighted that the knowledge and experience of these female leaders is not being shared with ‘ordinary women’:

*“They have power, but they only stay at the committee level; they never come back to train us and to give us advice.”<sup>108</sup>*

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101 Male FGD participant, Huye district, Simbi sector

102 Male FGD participant, Huye district, Simbi sector

103 Male FGD participant, Ngororero district, Gatumba sector

104 Male FGD participant, Ngororero district, Gatumba sector

105 Male FGD participant, Huye district, Karama sector

106 Female FGD participant, Huye district, Karama sector

107 Female FGD participant, Ngororero district, Gatumba sector

108 Female FGD participant, Ngororero district, Nyange sector

The majority of local-level key informants strongly believe that there is a difference in the way in which women and men participate in community-level decision-making structures, which limits the extent to which women can genuinely participate in these bodies. While women may be able to share their ideas, their opinions are often overlooked, with the final decision often being taken by men:

*“Even if women participate, they do not have a same voice as men; mostly men are the ones who make most decisions. [...] When it comes to questions or challenges, [male] leaders are the ones who ask and challenge; women can give their opinions, but mostly decisions are taken by men. [...] Women’s opinions are not valued as men’s opinions, so this is another big challenge. Women are good at taking decisions, they are not corrupt as men, but the community doesn’t value them. Because of the culture, they say ‘Nayabagore –women just like talking’; this bad culture prevents women from participating, but for those who are strong enough, they are as good as men.”<sup>109</sup>*

*“The voice of one man has the power of the voices of ten women. When it comes to tough issues, men are the ones who take a first step to solve them; even in local leadership, women contribute and give ideas, but for decision making that’s where a man’s role comes.”<sup>110</sup>*

### **Empowering women’s community-level leadership**

When female FGD participants were questioned about the existence of interventions in their communities that promote female empowerment and leadership, they primarily mentioned community-level bodies that women could participate in – that is, the community land committee, the *Abunzi* committee and volunteer community health work. In addition, one female FGD participant mentioned community-facilitated women’s evening meetings (*akagoroba k’ ababyeyi*) as a forum where women can share ideas, knowledge and experiences.<sup>111</sup> However, women from two FGDs stated that there were no interventions in their communities that promoted female leadership.<sup>112</sup> This latter finding suggests that while women are aware that there are community structures in which they can participate, and forums where they can share ideas, they feel that they lack interventions that specifically provide leadership skills.

When questioned about obstacles preventing women from increased involvement in community-level structures, the most frequently mentioned factors by female and male survey respondents were the heavy burden of household duties and women’s lack of self-confidence (see Figure 9). Similarly, according to women and men FGD participants, the main obstacles to women’s participation were illiteracy and a heavy household workload. Furthermore, women FGD participants linked illiteracy to a lack of self-confidence.

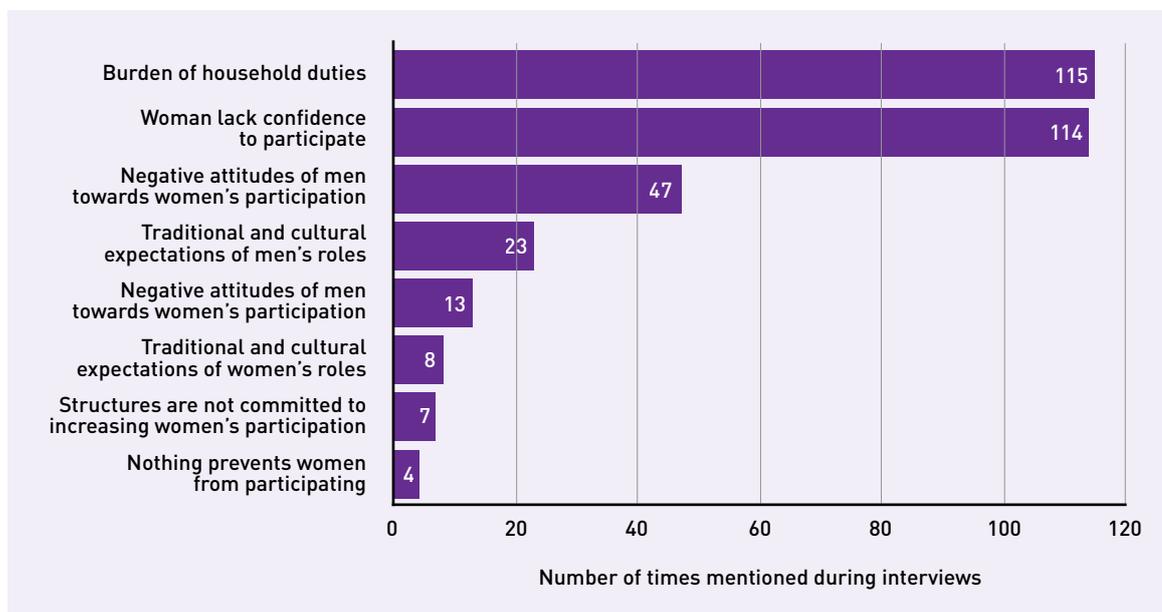
109 Local-level key informant, Ngoma district, Remera sector

110 Local-level key informant, Ngoma district, Rurenge sector

111 Female FGD participant, Ngororero district, Gatumba sector

112 Female FGD participants, Huye district, Karama sector; female FGD participants, Ngororero district, Nyange sector

**Figure 9: Community perceptions on factors that prevent women's participation in community-level groups**



Women FGD participants specified that their household chores meant they sometimes did not have the time to attend meetings and training. At times, they are simply unable to leave the house with young children unattended. This finding was corroborated by several local-level key informants.<sup>113</sup> In addition, some women indicated that assuming a voluntary community role would displease their spouse:

*“They tell us to go in meetings every day, but they do not give us daily work replacement known as insimburamubyizi, and when we come back home our husbands ask if we were given something that can replace the fact we have not been doing household activities.”<sup>114</sup>*

Some women indicated that women simply ‘don’t want’ to attend meetings because they do not feel confident participating in such activities. In fact, they expressed the need for strategies to empower women to be more ‘self-confident’:

*“I am not confident by myself; I cannot take the first step to go where others are.”<sup>115</sup>*

*“There must be sensitisation of creating a habit of self-confidence in women.”<sup>116</sup>*

Furthermore, other female FGD participants mentioned resistance from their husband or partner as a barrier to their participation in community-level groups:

*“For example, one day I went to play traditional songs in land meetings and when I came back it was late, then my husband forbade me to enter the house and told me to stay out the whole night. There should be time management.”<sup>117</sup>*

When asked about what sorts of interventions they believe could increase women’s participation in community-level decision-making structures, survey respondents most frequently mentioned providing women with leadership skills training to help build their self-confidence (see Figure

113 Male local-level key informant, Ngoma district, Rurenge sector; female local-level key informant, Rutsiro district, Murunda sector

114 Female FGD participant, Ngororero district, Ngoma sector

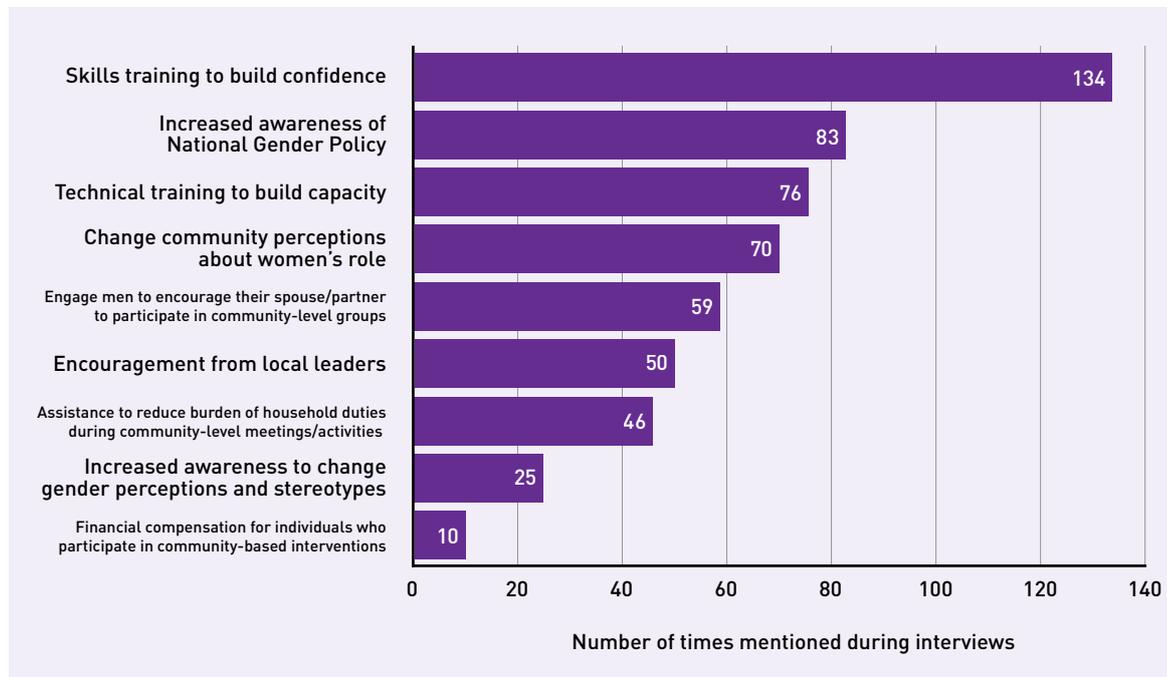
115 Female FGD participant, Ngororero district, Gatumba sector

116 Female FGD participant, Ngororero district, Nyange sector

117 Female FGD participant, Ngororero district, Nyange sector

10). Also mentioned was technical training to help build their capacity to serve as leaders in community-level groups.

**Figure 10: Community suggestions to encourage women to participate in community-level groups**



In addition, female FGD participants remarked that they were acutely aware of the link between their economic empowerment and their ability to pursue leadership roles. The women expressed the need for strategies that enhanced their economic security:

*“Making it easier [to get] funds and capital for small businesses.”<sup>118</sup>*

*“Make some institutional framework where women can learn higher skills against poverty.”<sup>119</sup>*

One local-level key informant agreed with the need to empower women economically in order to encourage participation in community-level decision-making structures both as members and as leaders:

*“We need to help them in getting income-generating activities, because if you have money, people respect your ideas. Here in the village, a man who cannot buy a beer for another man has nothing to say in public. So, imagine for a woman who does not even have money to buy clothes. Women need to be economically empowered.”<sup>120</sup>*

118 Female FGD participant, Huye district, Karama sector

119 Female FGD participant, Huye district, Karama sector

120 Local-level key informant, Rutsiro district, Musasa sector

Moreover, local-level key informants highlighted the crucial need to empower the next generation of women and men. This indicates a belief that certain gendered roles created by a patriarchal social system cannot be unlearned and that an essential strategy is to promote the construction of a social identity rooted in principles of equality and equity:

*“For this generation, [efforts] may not have a big impact, but for the coming generation it is possible, so we need to educate girls so that they may be confident.”<sup>121</sup>*

*“Teach young people on gender equality, because they are the future husbands and wives.”<sup>122</sup>*

At the national level, one key informant acknowledged that while women may hold local-level leadership positions (encouraged by the 30% female leadership quota instituted by the Rwandan government), they are not in positions where they can influence policy and decision-making. He described the gendered dimensions of leadership, referring to the fact that women tend to be channelled towards positions that they are culturally expected to be better at. For example, women tend to occupy positions related to ‘social and family affairs’, rather than positions related to economic affairs and community policing. The key informant also described a gendered power hierarchy in local governance structures, where women are primarily allocated deputy roles.

Other national key informants highlighted the need to strengthen women’s participation in community-level committees and also addressed the challenge of women’s household responsibilities:

*“Gender should be mainstreamed at this level; women should be sensitised and trained in leadership, but also empowered economically so that they are able to focus on other activities rather than house chores or agricultural work.”*

## Respondents’ gendered knowledge, attitudes and practices regarding land rights in Rwanda

### Respondent knowledge and attitudes regarding land legislative framework and other relevant laws

While 56% of respondents (52% of women and 48% of men) feel confident or mostly confident in their knowledge of the Land Law, respondents’ knowledge of the law’s equality provision is reflected by the fact that 79% of women and men surveyed either agreed or strongly agreed that women and men have equal rights to use, manage and control land. In addition to knowing that the law provides equally for women and men, 67% of respondents also accept the law. This is evidenced by the fact that 67% of respondents either disagreed or strongly disagreed with the statement: “I feel it is unfair that a wife owns land in the same way as her husband.” Despite this positive finding, a significant proportion of 30% of respondents either agreed or strongly agreed with the suggestion that a wife should not own land as an equal to her husband. This is a reflection of the finding that a husband has a superior claim to jointly-owned land, especially if the wife came ‘empty-handed’ to the union.

The Land Law requires that spouses provide consent for transfer of jointly-owned land. However, there is no provision requiring spouses to share the profits or benefits associated with those transactions, equally or otherwise. To gain an understanding of respondents’ attitudes towards the division of proceeds from the sale of land, they were asked their view on the statement: “if a couple’s jointly-owned land was to be sold, both spouses should be equally entitled to share the money.” Overall, 73% of respondents either disagreed or strongly disagreed with this proposition.

<sup>121</sup> Local-level key informant, Ngoma district, Remera sector

<sup>122</sup> Local-level key informant, Rutsiro district, Musasa sector

This indicates that couples need awareness-raising about the rights that pertain to jointly-owned land.

Regarding the Successions Law, 61% of women and men feel confident or mostly confident in their knowledge of this law. Several provisions of the Successions Law were highlighted: namely, equal rights to *umunani* and inheritance; division of property between spouses on divorce; division of proceeds from the sale of land between spouses; exclusion of women living in informal marriages; land rights of children born outside of civil marriage; and the rights of widows to household land on the death of a spouse.

The Successions Law provides for women as daughters and sisters to inherit equal portions of family land, as well as equal rights (but not equal shares) of *umunani*. Some 86% of women and men acknowledge that the law provides equal rights to both *umunani* and inheritance to legally recognised male and female children. In addition to knowing the law, 70% of respondents also agree with this law, as they either disagreed or strongly disagreed with the statement: “I feel that it is unfair that a daughter inherits the same as her brother, as she will get land through her husband.” With respect to the size of inherited land and *umunani*, 63% of respondents disagreed or strongly disagreed with the notion that a son should receive more land than his sister on the basis that he will remain a family provider while she will marry into another family. Similarly, 66% of respondents either disagreed or strongly disagreed with the notion that daughters should receive a smaller portion of *umunani* compared with her brothers. These findings suggest a shift in traditional views that women are the responsibility of the husband on marriage, while also acknowledging the rights that girl children have to family land.

Furthermore, the law states that if the community of property is dissolved by divorce, legal separation or modification of the marital regime, the spouses shall share all common assets and liabilities. Knowledge of this law is reflected by the fact that 63% of respondents either disagreed or strongly disagreed with the statement: “upon divorce, a woman has no right to claim the land jointly owned with spouse when married.”

While current land and property laws do not provide protection to women living in informal marriages, 83% of respondents either agreed or strongly agreed that women in informal unions should be allowed to claim rights over household land in the case of separation. However, when it comes to the nature of these rights, 90% of respondents did not feel that these women should have the same legal rights as women who live in civil unions. The Successions Law only assures the inheritance rights of children born outside of a civil marriage when the children have been officially recognised by the parent. Regarding the issue of whether children born out of formal wedlock should have the same inheritance rights as children born to formally married couples, responses were divided: 51% of respondents agreed or strongly agreed with this proposition, while 47% of respondents either disagreed or strongly disagreed. Furthermore, the law provides for surviving spouses to inherit shared assets and liabilities; this understanding of the law is reflected by the finding that 68% of respondents either agreed or strongly agreed that a widow has the right to claim a land-related dispute against her deceased spouse’s relatives.

Finally, in response to the statement “women have achieved all the rights they need”, an overwhelming 81% of respondents either agreed or strongly agreed with this statement. This suggests that respondents generally believe that the law is complete and universal. While Rwanda has made, and continues to make, substantial progress on gender equality, significant gaps remain in policy and practice. The law does not benefit all categories of women equally. More inclusive laws can only better be advocated for if citizens themselves buy into the idea, but this also necessitates that citizens find injustice in the gaps.

### Attitudes and practices regarding shared decision-making over household land

While the land title certificate provides equal ownership over household land on paper, it is important to know whether the legal issuance of this right is an administrative practice or rather an instrument that truly bestows joint ownership. Some 72% of participants either disagreed or strongly disagreed with the statement that although their name is on the land title certificate, they felt that the land belonged to their spouse. This contradicts other findings in this study, specifically women's reported inability to assert their land rights over jointly-owned land due to a belief in their spouse's superior claim to the land.

When asked whether respondents believe that women are as capable as men in making land-related decisions, 66% of respondents (60% of women and 68% of men) either agreed or strongly agreed. In addition, 96% of women and men surveyed believed that a husband should involve his spouse/partner in decisions about how to use jointly-owned land, including what crops to grow, what yields to sell and how to spend the revenue from sales. In contrast, 51% of respondents believe that regarding decisions about land transactions (lending, selling, transferring or buying land), the male spouse/partner should have the final say. This indicates a belief that while women should be involved in the more day-to-day decision-making about household land, the male opinion carries more weight when it comes to more significant decision-making.

A wealth of research indicates that when women have direct control over land and the income from that asset, their ability to influence household decisions is enhanced. Reflecting this global finding, 69% of women surveyed either agreed or strongly agreed with the assessment that since receiving joint land title, they feel more involved in household decision-making. In addition, research indicates that household welfare increases in terms of improved nutritional status, health and education when women gain increased household bargaining power as a result of being able to exert direct control over land and its proceeds. Nonetheless, when asked whether a woman's family is better off when she participates in decisions involving jointly-owned land, almost 40% of respondents either disagreed or strongly disagreed with this proposition.

### Attitudes and practices that hinder women from asserting their rights of joint control over land

Acts of exclusion and the denial of economic and social benefits and opportunities are a form of socio-economic violence, and if these acts are perpetrated on the basis of gender, these become a form of GBV<sup>123</sup>. Thus, depriving a woman from her right to use, manage or control shared land is a form of GBV. Indeed, 75% of respondents either agreed or strongly agreed with this statement.

In order to ascertain the extent of land-related GBV, respondents were asked whether a woman could face domestic violence if she disagrees with her spouse or partner about decisions affecting jointly-owned land. Overall, 66% of respondents either agreed or strongly agreed that a woman could face such violence.

Polygamy is a traditional practice in Rwanda that has a range of adverse effects on women and children living in such relationships, including land insecurity. In order to ascertain the extent of such practices, respondents were asked whether they had heard of *ubuharike* or *ubushoreke* being practised in their district. Some 62% of respondents either agreed or strongly agreed with the statement: "I have heard of *ubuharike* or *ubushorke* being practised in my district." The fact that such a large proportion of the sample population has heard of polygamy being practised in their district suggests that polygamous practices exist at a perceivable level.

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123 Definitions of sexual and gender-based violence, IRIN, 1 September 2004, <http://www.irinnews.org/feature/2004/09/01/definitions-sexual-and-gender-based-violence>

Traditional cultural understandings about gender norms and roles also serve to hinder women in asserting their rights of control over household land. In order to assess whether the traditional idea of a submissive wife still persists, respondents were asked their opinion about the statement: “a good wife is patient with her husband’s decisions and obeys even if she disagrees.” Some 53% of respondents either agreed or strongly agreed with this description. This corroborates the qualitative data that suggests this notion is still culturally entrenched.

### **Attitudes about women as leaders in their communities**

There is a theory that when a woman’s ability to control land is increased, both her household and community status is enhanced, and she is more likely to participate in community-level decision-making. In addition to confidence and a supportive family structure, women are also empowered to pursue positions of leadership if there is a supportive community structure. International Alert Rwanda’s internal findings suggest that female representation is low at the leadership level of community groups, including land management structures and land dispute mediation/resolution bodies. A starting place for exploring the reasons for this low representation is to assess community attitudes about women as leaders. When asked whether women make as good leaders as men, opinions were divided: 43% of respondents (52% of women and 77% of men) either agreed or strongly agreed with this statement, while 48% of respondents either disagreed or strongly disagreed with the statement. While it is encouraging that men are positive towards women as leaders, it is significant that women have much less belief in themselves as well as in other women as leaders.

A further inquiry is determining whether respondents feel that women are as capable as men in making decisions about land – this will verify whether respondents would actively support increased female participation in land management and land dispute structures on the basis of their belief in women’s ability in this capacity. When asked whether respondents believe that women are as capable as men in making land-related decisions, 66% of respondents (60% of women and 68% of men) either agreed or strongly agreed with this statement, indicating that there is significant support for female participation in this respect.

## 5. Conclusion

### Shared decision-making and joint control over land

A key theme within this study is the difficulty of establishing gender equality by legal means alone. While the Constitution acknowledges equal rights and responsibilities among spouses during marriage, and the Land Law and Successions Law create provisions for wives to exercise their equal ownership rights, this is not always guaranteed in practice. The majority of community-level research participants agreed in principle that all decisions about household land should be shared; however, the data indicate that the dynamics of decision-making shifts according to the type of decision.

Traditional gender roles are based on the notion of *ubwuzuzanye* (complementarity), and study findings indicate that women and men replicate these customary roles by occupying different spheres of power and decision-making. This practice is at odd with gender policies rooted in the language of equality. This context helps to explain and understand the way that gendered division of land-related decision-making influences rural life in practice.

An important cultural perception regarding women's social role that impacts her ability to assert her control rights can be summed up as such: "A good wife is patient with her husband's decisions and obeys, even if she disagrees." The social construction of femininity plays out as silence and submissiveness, as described by most female FGD participants, who often choose to remain quiet regarding land transaction decisions to keep the peace.

Furthermore, there seems to be a link between the belief that a 'wife comes empty-handed (with no land) to her husband's household' and the lack of bargaining power a woman has over jointly-owned land. She is perceived as not having contributed to the patrimony, and is therefore considered to have an inferior claim to the land. This perception is created and reinforced by husbands, wives and their communities. One approach is to improve awareness among both women and men about the value of the unpaid household and agricultural work that women contribute to the household.

Another belief that undermines gender equality is related to inheritance. While the law provides for equal inheritance rights for women, a persisting belief held by both women and men is that sons are more entitled to family land, as daughters 'will go elsewhere'. Some female FGD participants reported letting their brothers benefit from their share of the inheritance in order to reduce familial conflicts. However, coming empty-handed to her husband's household diminishes a woman's bargaining power and increases her risk of GBV.

Community perceptions of how to strengthen women's ability to participate meaningfully in household land-related decisions indicate that rural communities are aware of the need to change current notions of femininity. However, in order to transform gender norms and expectations, it is also critical to transform prevalent masculine behaviour. Men must be constructively engaged and actively committed to redistribute power in both their personal lives and the public domain.

While traditional gender constructs are a major obstacle to women realising the full rights of joint ownership, the law itself reinforces the notion of male superiority. Article 206 of Book One of the Rwandan Civil Code stipulates that the husband is the head of the household,<sup>124</sup> thus codifying

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124 Law No. 42/1988 of 12/10/1988 establishing the Preliminary Title and Book One of the Civil Code, Article 206

traditional gender roles, which portray men as the primary decision-maker of the household in charge of managing the family property. Therefore, while women are granted equal ownership rights, these rights can be legally displaced by the spouse through this provision. In addition, while not *prima facie* discriminatory, Article 17 of the Successions Law provides that “spouses shall choose who, among themselves, shall be responsible of the management of the common patrimony”. This provision presents a mechanism that can be used to argue for a male spouse’s heightened authority over household land. The article provides that spouses in a community property regime shall choose among themselves the administrator of the common patrimony. It also stipulates that spouses are equally entitled to monitor and represent the patrimony. If the wife relinquishes this right to her husband (either under pressure or due to social expectation), she will lose equal decision-making power.

Furthermore, while the Land Law requires that spouses provide prior consent for the transfer of marital property, no provision requires that spouses share the benefits of those transactions. Indeed, 73% of survey respondents do not believe that spouses should be equally entitled to proceeds that derive from the sale of jointly held household land. While the constitutional principle of equality does assert that spouses are entitled to an equal share of proceeds, a specific provision would clarify this right and perhaps encourage male spouses to share decision-making more genuinely.

## Perceptions and practices that hinder women from asserting their land rights

While the bargaining power of legally married women is still hindered by cultural beliefs and social expectations, these women nonetheless benefit from a legal framework that clearly supports the equality of both spouses with regard to land ownership, use and control. Unless they formally own land, women outside this framework – specifically, women living in informal unions, whether monogamous or polygamous – live in a vulnerable situation that is defined by the extent of acknowledgment bestowed by the male partner. Although survey respondents are empathetic of these women’s plight and believe that they should have the right to claim rights over household land, they nonetheless perceive them as ‘prostitutes’ and do not believe that women in informal unions should have the same legal property rights as legally married women.

While the incidence of informal unions is declining, a 2015 Demographic and Health Survey reports that 17% of women live in such unions.<sup>125</sup> This is a significant proportion of the female population who potentially live in precarious situations defined by the whims of their partners, who in turn may be resisting formal marriage to escape the rights and responsibilities that follow. One strategy that has been used to reduce the incidence of such unions is sensitising couples on the benefits of legalising their unions. However, the problem with this approach is that women may not have the bargaining power to demand formal marriage, and it may in fact deter more men from formalising their unions. In the case of women living in informal monogamous unions, a different approach would be to legally acknowledge these unions after a certain period of cohabitation – an approach adopted in Tanzania.<sup>126</sup>

Despite criminalisation of polygamy through the GBV Law of 2009, findings from this study and the larger body of relevant Rwandan literature indicate that polygamy continues to exist. Thus, a strategy based on discouraging couples from entering such marriages seems unlikely to prevent their occurrence. Affording legal protection to polygamous wives is not feasible as this would suggest acceptance of polygamy and indeed would run counter to various human rights

<sup>125</sup> National Institute of Statistics of Rwanda (NISR), Demographic and health survey, Kigali: NISR, 2015

<sup>126</sup> Tanzania Law of Marriage Act of 1971, §160: “Where it is proved that a man and woman have lived together for two years or more, in such circumstances as to have acquired the reputation of being husband and wife, there shall be a rebuttable presumption that they were duly married.”

instruments signed and ratified by Rwanda. However, leaving these women unprotected also runs counter to Rwanda's obligations to promote and support gender equality. Thus, in order to protect these vulnerable women and their children, a policy would need to acknowledge their right to common property without legally acknowledging the union. One way in which this could be achieved is through reviewing Article 39 of the GBV Law to allow its application regardless of whether or not the informal spouse intends to formally marry someone else. In addition, while advocating for revision of the law, action must be taken to ensure that mediators and local leaders are aware of Article 39 when mediating cases of separation of informal couples.

A different issue identified through this study was that women distinguished between knowing one's land rights and having the self-confidence to assert these rights. While women are aware of their basic land rights, including joint ownership of land with their spouse, they do not feel confident to assert their rights. Furthermore, they distinguish between two categories of rural women: those who are members of community-level decision-making structures and those who are not. The former tend to be confident about both their knowledge and ability to assert their land rights, while the latter do not. Women in the latter group perceive women in the former group to be the primary beneficiaries of trainings and believe that these 'informed' women 'keep what they know to themselves'. This reveals the existence of a power hierarchy between rural women based on knowledge and self-confidence. In order to dissuade this stratification and encourage 'informed' women to support other women who lack the confidence to assert their rights, there is a need to strengthen dialogue and interaction between rural women leaders and 'ordinary' women.

Another barrier preventing some women from asserting their land rights is related to the community-level dispute mediation system. Several women shared their experience of not being able to benefit from a fair and just mediation process. They indicate that there is local knowledge that some *Abunzi* committee members are biased in favour of the wealthier party, and both women and men acknowledge that this form of 'bias' is mainly due to the fact that *Abunzi* committee members are community volunteers. Thus, while the system itself is perceived by both women and men as being gender blind, there appears to be an indirect form of gender bias owing to the fact that the wealthier party tends to be male.

### Factors that hinder female leadership and participation in community decision-making

The issue of lack of self-confidence to participate in community governance was a recurring element in the women's FGDs. Several explanations account for women's lack of self-confidence. Firstly, the understanding of appropriate feminine behaviour encourages women to 'keep quiet'. Secondly, women's opinions tend to be overlooked both in the household and the community. Thirdly, several women indicated that their lack of self-confidence is associated with their level of literacy. Fourthly, survey data indicate that a majority of women and men do not believe that women are as capable leaders as men. Thus, there is need to implement interventions aimed at strengthening women's self-confidence.

## 6. Recommendations

These recommendations are based on analysis of findings from survey respondents, FGD participants as well as local-level and national-level key informants.

### Recommendations for strengthening women's decision-making over shared land

#### National level: Ministry of Justice, Rwanda Women Parliamentary Forum (FFRP), Rwanda Law Reform Commission (RLRC)

- Revise Article 206 of Book One of the Civil Code, which defines men as the head of the household and thus codifies traditional gender roles, while providing a legal argument that husbands have a right to make transactional decisions affecting household property on behalf of the family.

#### Civil society movement

- Advocate for revision of Article 206 of Book One of the Civil Code.
- Advocate for the adoption of a 'men's constructive engagement' and 'positive masculinities' approach to help inform national and local gender equality policies.
- Engage with civil society organisations (CSOs) that promote positive masculinities to facilitate training for rural men and boys to address negative masculinity issues and encourage behaviour transformation.
- Promote awareness of the ability of both spouses in community of property regime to be joint administrators of the patrimony.
- Encourage the creation of a specific provision that requires proceeds from land transactions to be shared between spouses.

#### Local level: Local government, community leaders, communities

- Sensitise men and women about the value that a wife brings to the household – that is, through unpaid household work and agricultural productive work. This could be implemented through community meetings such as *Umuganda* and *Inteko y'abaturange*.
- Institute couples' training focused on negotiation and decision-making between women and men, as well as disseminating information about GBV and the wider laws that promote gender equality. This could be implemented through *Umugoroba w'ababyeyi* (parents' evenings).
- Raise awareness among men and women about the importance of daughters receiving their inheritance and the repercussions (i.e. GBV) women may face in her husband's household without it.
- Encourage land managers to speak to male and female spouses separately during application for a land transaction to ensure that the female spouse is not being coerced.

## Recommendations for increasing women's participation in community-level decision-making

### Civil society movement

- Advocate for the creation and addition of community-level childcare facilities as a public good, perhaps using Early Childhood Development Centres, which exist in some communities.
- Advocate for programmes that engage rural men as allies in women's empowerment, specifically with respect to the division of care work in order to alleviate the burden of gendered domestic work and time poverty. Also, advocate for the provision of daily work replacement (*insimburamubyizi*).
- Strengthen female literacy programmes and leadership training (such as public speaking, negotiation and mediation, a positive role model approach) at the community level for women and girls, in order to enhance women's self-confidence and to encourage the next generation of female leaders.

### Local level: Local government, sector-level national women's council representatives, communities

- Promote dialogue and interaction between rural women leaders and non-leaders – for instance, through a female mentorship initiative that could be implemented through *Akagoroba k'ababyeyi* (women's evening meetings).
- Encourage women in informal unions to pursue more leadership roles in order to discourage a knowledge and power hierarchy among rural women based on marital status, and to prevent further stigmatisation of women who do not conform to legal or social expectations.

## Recommendations for women who experience flaws and obstacles accessing the justice system

### Civil society movement

- Advocate for an evaluation - informed by citizens - of *Abunzi* committees and for community land committees to be presented to local-level authorities during annual 'good governance' week.
- Continue advocacy for gender sensitivity training of *Abunzi* and community land committee members, and for these volunteers to be incentivised to avoid any indirect gender bias based on wealth.
- Advocate for women's meaningful participation in *Abunzi* and community land committees, including advocacy for the provision of childcare facilities and daily work replacement to ensure that women are able to attend meetings.
- Continue advocacy for increased training of *Abunzi* mediators to ensure clear and comprehensive decisions, which would enable more effective enforcement by administrative authorities.

### Local level

- Continue to train women and men on the various processes involved in accessing the local justice system, including mechanisms for appeal and enforcement of judgement.

## Recommendations for ensuring secure land rights for women living in informal unions

### National level: Ministry of Justice, FFRP, RLRC

- Revise the law so that the status of individuals in informal monogamous unions who have acquired the reputation of being husband and wife and lived together for a period of time (such as the two years stipulated in similar legislation in Tanzania) would be legally equivalent to that of legally married couples.
- Review Article 39 of the GBV Law to allow its application to women living in informal monogamous and polygamous unions, irrespective of whether the informal partner intends to legally get married to another person.
- Produce the Ministerial Order mentioned in Article 39 to clarify property distribution among the wives.

### Civil society movement

- Advocate for the above legal recommendations.
- Evaluate the efficacy of current awareness-raising campaigns about the risks associated with polygamy.

### Local level: Sector-level national women's council representatives, district-level paralegals, *Abunzi* committees, sector-level land registration authorities, communities

- Raise awareness among women in informal marriages about alternative strategies to secure both land rights for women and their children – specifically, regarding registration of children, inclusion in registration of land and GBV Law Article 39.
- Encourage women to keep records of jointly acquired property in the event of separation or death of an informal spouse.
- Continue training *Abunzi* mediation committee members, land committee members and other local leaders on the GBV Law in order to increase community awareness about the legal protection available. This would protect informal wives as well as discouraging male partners from avoiding formal marriage.
- Discourage individuals and communities from describing informal monogamous unions as illegal, as this prevents local authorities from assisting individuals in such unions and dissuades couples from claiming their rights.
- Discourage individuals and communities from referring to women in informal unions as 'prostitutes' (*indaya*) to prevent stigmatisation.
- Train land registration officers to ensure that land is also registered in the name of the 'informal wife'.





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