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# THE IMPACT OF GENDERED LEGAL RIGHTS TO LAND ON THE PREVALENCE AND NATURE OF INTRA- AND INTER-HOUSEHOLD DISPUTES

Final Research Report

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# The Impact of Gendered Legal Rights to Land on the Prevalence and Nature of Intra- and Inter-Household Disputes

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## **LIST OF ACRONYMS**

FGD:	Focus Group Discussion
GBV:	Gender Based Violence
GMO:	Gender Monitoring Office
IDLO:	International Development Law Organization
IIED:	International Institute for Environment and Development
ILPD:	Institute of Legal Practice and Development
LTR:	Land Tenure Registration
RISD:	Rwanda Initiative for Sustainable Development
UN:	United Nations
USAID:	United States Agency for International Development

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## EXECUTIVE SUMMARY

This research, entitled “**The Impact of Gendered Legal Rights to Land on the Prevalence and Nature of Intra- and Inter-Household Disputes**” set out to interrogate the changing landscape of gendered land rights in Rwanda, and to examine the impact of the statutory changes introduced by laws governing land, inheritance, succession and matrimonial property passed between 1999 and 2013. In addition to assessing the extent to which gendered, land-related legal provisions are put into practice and rights secured, this research also sought to understand whether changes introduced to the legal framework gave rise to land disputes, and if so, the types of land disputes provoked and whether they involved gender-based violence.

The research team used a mixed methods approach, collecting and triangulating data acquired via household survey, court cases, focus group discussions, and key informant interviews.

The findings demonstrate that land rights in a dynamically changing social and statutory environment can result in inconsistencies, uncertainties and some confusion. This is nowhere more evident than in inter-generational *inter vivos* land-transfers called “*umunani*”, which were traditionally gifts of land given to male children, but which are now also accessible to women. Other arenas of contestation relate to the rights of women in legal versus informal marriage, the land rights of widows, and legal co-ownership of land.

One third of the respondents reported that they were not aware of gendered land rights changes introduced in the Law No 22/99 of 12/11/1999 Supplementing Book One of the Civil Code and Instituting Part Five regarding Matrimonial Regimes, Liberalities and Successions (hereinafter referred to as the 1999 Succession Law), with the rate of male awareness being slightly higher than that of women. Land ownership patterns derived from the household survey carried out reveal that 57% of land is owned jointly by a formally married husband and wife, while 27% of informally married couples co-own land.

While the vast majority of respondents reported favoring giving land *umunani* to both sons and daughters, one third of respondents reported their belief that daughters



should receive a smaller portion than sons. The desire to avoid disputes with their family and ignorance of the law are the two main reasons some women do not claim their rights to *umunani*.

Of 174 disputes involving women, forty-three (25.3%) indicated that their dispute resulted in some kind of gender-based violence (GBV). Disputes that end in GBV are almost twice as common in disputes that occur within households, as compared with those that are between households.

A nation-wide education and awareness-building campaign is needed to help change attitudes regarding women's land-related rights, particularly among men who wield greater power over local rules and norms regarding land, and who also tend to exercise greater power within households. Unless men can be persuaded of the justness of gender equality in these matters, so that they embrace gendered land rights as “good for the community as a whole” rather than as a threat, women will likely continue to struggle to realize their rights. This nation-wide sensitization campaign must also address the overall insufficient knowledge of Rwanda's laws regarding these rights. The same information campaign should address the continuing traditional beliefs that men and boys have stronger claims to land *umunani* and inheritance than women and girls, as well as the consequences faced by women claiming land *umunani* from their natal families, e.g. rejection by the family, violence and disputes.

The rights and legal circumstances of informally married women, who are currently unprotected by the law, must be addressed. This is particularly important for the large numbers of women who are married traditionally and are recognized by the community as married, but whose legal status has not been formalized. While some are registered as joint land owners with their husbands, there is a significant gap in co-registration, and an even larger gap in community perceptions regarding their rights. This may require legal reforms that enable couples in informal marriages to have the same property rights as those in legal marriages, or where possible, it might focus more on regularizing informal marriages. Similarly, the right of a widow to the land of her husband (whether she was married legally or informally) should be clarified and harmonized to reduce social consequences such as being chased from her home

after the death of her husband, violence and dispute that can sometimes attend widowhood.

Local authorities, Abunzi Committees, and the lower tiers of the court system should be sensitized to the urgent need to bring sustainable and just resolution to intra-household land disputes, as there is a tendency for these to result in violence against women disputants. Dispute resolution bodies may be more successful if they adopt mediation approaches and work with men to understand why gender equal land rights can serve their interests as well.

# 1. BACKGROUND AND RESEARCH OBJECTIVES

## 1.1 Background

Before the 1994 Genocide, customary law generally governed land rights. Men were privileged in ownership, use and control of land, especially in terms of inheritance and through inter vivos gifts from father to son (called *umunani*). Women, on the other hand, were excluded from land inheritance and *umunani*, but could benefit from other land-related gifting traditions, such as *Urwibutso* (a gift from a father to his daughter), *Inkuri* (a gift from a father to his daughter when she gives birth), *Igiseke* (a gift from a father to his daughter on getting married) and *Ingaligali* (a parcel of land given to a woman by her father when abandoned by her husband). As competition for land in Rwanda has intensified, the traditional practice of gifting land to women has decreased to the point where it has virtually disappeared from common practice.<sup>1</sup>

After 1994, the Government of Rwanda engaged in legal reforms aimed at improving gender equality, particularly in land matters. The 1999 Succession Law is the cornerstone of statutory gendered land rights in Rwanda. It grants equal land rights to children of both sexes and provides for legally married spouses to administer property rights jointly, enabling widows and divorced spouses to claim their share of the land upon death or dissolution of the marriage, respectively.

Gender equality is also reflected in the Constitution of 2003 (as amended to date), the 2004 National Land Policy, and Law N° 08/2005 of 14/07/2005 Determining the Use and Management of Land in Rwanda repealed by Organic Law N° 03/2013/OL of 16/06/2013 and replaced by Law N° 43/2013 of 16/06/2013 governing land in Rwanda. With those legal reforms, there is significant progress in the improvement of gendered land rights.

Sixteen years have elapsed since the adoption of the 1999 Succession Law that heralded the statutory recognition of gender-equal land rights. An assessment of the impact of these legal reforms is therefore timely and warranted.

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<sup>1</sup>Musahara and Huggins, *Land reform, land scarcity and post-conflict reconstruction: A case study of Rwanda*, p.324.

Initiated in June 2012, the USAID LAND Project seeks to strengthen the resilience of Rwandan citizens, communities and institutions and their ability to adapt to land-related economic, environmental and social change. Building the capacity of Rwandan institutions to produce high quality, evidence-based research on land is a critical part of reaching this goal. Solid, empirical research is fundamental to the identification of needed policy changes in the land sector and also to validate policies and laws that are already contributing to stronger citizen resilience and improved livelihoods.

In line with the above-mentioned goal, USAID LAND Project has subcontracted the Institute of Legal Practice (ILPD) to conduct a study on “***The Impact of Gendered Legal Rights to Land on the Prevalence and Nature of Intra- and Inter-Household Disputes.***”

ILPD is an institution of higher learning recognized by the Rwanda Higher Education Council with the mission to offer professional legal training and to conduct applied and policy-relevant legal research.

After reviewing the existing literature on gendered land rights, the research team used a mixed methods approach to analyze and triangulate data collected using data collected from a household survey, court cases, focus group discussions (FGDs) and key informant interviews (KIIs). This report consolidates previously submitted deliverables, including the inception report, a literature review, the report on structured survey findings, and a report on qualitative research findings.

## **1.2 Research objectives and questions**

The two main research objectives of the study are:

- (1) to assess outcomes emanating from reforms to the legal framework that strengthen women’s land rights, including in terms of disputes over land, and
- (2) to investigate the channels women and men use to resolve such disputes and their effectiveness.

Quantitative and qualitative data collection and analysis were used to address the following research questions:

1. What is the impact of gendered land rights on inter- and intra-household dynamics, including decision-making, cooperation and land-related disputes (especially intra-family land disputes)? How is the right to land *umunani* (gifts from parents to children during the parents' lifetime) and to land inheritance for male versus female children perceived?
2. Have intra-family land disputes decreased or increased since the enactment of gendered legal land rights, starting with the 1999 inheritance law? If there has been any significant change, what are the factors contributing to the change? How much of an effect has the legal framework had on these changes?
3. To what extent do intra-family land disputes result in gender-based violence? If there is evidence of a relation, what are the motivations behind such violence?
4. What measures do women, men, boys and girls take to assert their legal rights? How effective are these measures? To what extent do these measures result in women or girls securing land rights on paper (e.g. land certificates, court judgments) and in practice as compared to men and boys? If differences are found, what are the reasons for them?
5. What channels and supportive mechanisms do women, men, boys and girls use to resolve land-related, intra-family disputes? How effective are these in terms of achieving a durable resolution of disputes? To what extent do these measures result in favorable outcomes for women or girls in terms of securing land rights in practice, as compared to men and boys? If differences are found, what are the reasons for them?
6. Does it indeed happen in practice that women claim an *umunani* for themselves? If so, what can be said about how often this happens? Also, in such cases, if indeed they exist, is what is being claimed actually an *umunani* (or rather *igiseke* or *intekeshwa*)? And how does the land that is laid claim to in this way compare to what male siblings can expect?

7. Are women's rights acquired through *umunani*, *igiseke*, or *intekeshwa* certified and, if so, to what extent? What strategies (measures and channels in the terminology of the RFP) do women use to claim or re-claim these rights? To what extent does certification matter for their ability to exercise these rights?

## 2. LITERATURE REVIEW

In this section, we present a brief literature review of past studies that lay the groundwork for a study on the impact of gendered legal rights to land on the prevalence and nature of intra- and inter-household disputes.

### 2.1 Gendered land rights in international perspective

Women's and men's rights and access to land differ throughout the world, given that they have evolved through different cultures, institutions and mechanisms. Women's rights might even differ within a country, for example, between rural and urban areas or among different ethnic groups or religions. Nonetheless, one common denominator often found is the unequal land rights of women vis-à-vis men. Women in many societies enjoy only access rights through a male relative, husband, or in-law. Women also often suffer from lack of security in accessing and controlling the land they work and live on. In Sub-Saharan Africa, many women who previously held some land rights – such as use-rights – have seen the exercise of these rights diminish under legal frameworks enacted by national parliaments that were predominantly male, or when land increased in value due to population growth, urbanization, economic shifts or reduced land availability.<sup>2</sup> Moreover, women often lack adequate financial and social capabilities to acquire their own land.<sup>3</sup>

Through titling and land registration programs that title land and property overwhelmingly to male household heads, women across Sub-Saharan Africa have been denied their customary access to land, because the legal system usually trumps the informal system whereby women were able to access land through

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<sup>2</sup>Leslie Gray and Michael Kevane, *Diminished Access, Diverted Exclusion: Women and Land Tenure in Sub-Saharan Africa*, *African Studies Review*, Vol. 42, No. 2 (Sep., 1999), p.6.

<sup>3</sup>Gray and Kevane, 1999, p12; see also Susana Lastarria-Cornhiel Susana, Paper Prepared for the Advisory Working Group Meeting, 'Women's Access and Rights to Land: Gender Relations in Tenure Issues', June 2006, p. 6.

husband or father.<sup>4</sup> Titling programs undertaken in the early decades of post-colonialism in Kenya and Uganda, for example, titled very few women and did not allow for the joint titling of land to both spouses.

Additionally, in some cases men have gained new kinds of rights, as they have easier access to relevant male-dominated land-related institutions than women.<sup>5</sup> In Cameroon, for example, a development project to increase women's income from non-traditional forest products in community forests has benefitted local elites, mostly men, who have gained the most from the creation and management of these community forests.<sup>6</sup>

In addition, women in Sub-Saharan Africa do not always have equal access to courts or even to local legal mechanisms, and even when they do, these institutions and courts can frequently be biased against women's control and ownership of land because the entire economic and legal ecosystem is patriarchal.<sup>7</sup> Zimbabwe's Supreme Court in the late 1990s, for example, struck down the legal right that women had achieved to inherit land from their fathers and husbands.<sup>8</sup>

In the last decade of the 20<sup>th</sup> century, new development theories began suggesting that land tenure policies should embrace and extend customary systems, rather than imposing a westernized legal structure that bypassed or usurped them. The World Bank, for example, recommended a flexible system of access, guaranteeing smallholders security and incentives to invest. Oxfam and the International Institute for Environment and Development (IIED) argued for the development of legally backed customary land tenure practices and local-level management systems in societies where national government institutions do not reach most rural areas.<sup>9</sup>

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<sup>4</sup>Gray and Kevane, 1999, p12; See also Annika Claassens and Sindiso Mnisi, Rural Women Redefining Land Rights in the Context of Living Customary Law, *African Journal on Human Rights*, 25, 2009, p. 492.

<sup>5</sup>Gray and Kevane, 1999, p.12.

<sup>6</sup> Marguerite Belobo Bilibi, Judith Van Eijnatten, and Nicholas Barber, "Cameroon's Community Forests Program and Women's Income Generation from Non-timber Forest Products", in Caroline S. Archambault and Annelies Zoomers (eds), *Global Trends in Land Tenure Reform: Gender Impacts*. New York: Routledge Books, 2015.

<sup>7</sup>Ann Whitehead and Nzodzi Tsikata, "Policy Discourses on Women's Land Rights in sub-saharan Africa: The implications of the Re-turn to the Customary", *Journal of Agrarian Change*, Vol 3:1 &2, 2003, pp.79-99.

<sup>8</sup> Susie Jacobs, *Gender and Agrarian Reforms*. New York: Routledge, 2010.

<sup>9</sup>*Ibid*

International scholars such as Dr. Susana Lastarria-Cornhiel suggested that formal legislation is limited in its effectiveness and envisaged a possible reversion to customary systems.

However, these developments failed to anticipate the effects on women's land rights, particularly in terms of gender equitable outcomes.<sup>10</sup> This led analysts and African feminists to contend that since customary systems enshrine male domination, the solution is gender-equal legislation and improved enforcement.<sup>11</sup>

Another challenge to this approach focuses on the question of whose interpretation of the customary law is to be recognized by the state.<sup>12</sup> Claasens and Mnisi (2001) argue that in South Africa, national legislation actually reinforces the power of local male leaders to unilaterally define "custom," thereby legally enshrining patriarchy.<sup>13</sup>

The governments of Uganda and Tanzania have enacted legal frameworks that recognize the rights of women, though there are some noticeable loopholes. Uganda's 1998 Land Act, for example, provides for spousal consent to protect and secure women's rights. While falling short of giving women co-ownership of land held with their husbands, section 27 provides explicit protection against discriminatory practices. However, the law does not provide any mechanisms to prevent these practices from occurring at the community-level. In addition, the law does not tackle the land rights of widows, divorcees, and women in co-habitation, who are among the most vulnerable.<sup>14</sup> In Tanzania, legislation guarantees equal rights to acquire, hold, use and deal with land for women and men. However, customary norms in rural areas are still biased against women, limiting their ownership of and control over land<sup>15</sup>.

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<sup>10</sup>Whitehead and Tsikata, p94

<sup>11</sup>Whitehead and Tsikata, citing Butegwa 1991, pp54-55, see also TR Nhalpo, *African Customary Law in the Interim. Constitution* in S Liebenberg (ed.) *The Constitution of South Africa from a Gender Perspective* (1995), p162.

<sup>12</sup>Lastarria-Cornhiel, 2006, p. 7.

<sup>13</sup>Annika Claassens and Sindiso Mnisi, *Rural Women Redefining Land Rights in the Context of Living Customary Law*, *African Journal on Human Rights*, 25, 2009, p. 492.

<sup>14</sup>Judy Adoko, Which way forward for tenure security for women and children: CCO and freeholder titles on "privatized customary land" or family land titles? 15 February 2014.

<sup>15</sup>The International Fund for Agricultural Development (IFAD), *Strengthening Women's Access to Land: the Tanzanian experience of the Sustainable Rangeland Management Project*, p.9, available on [www.ifad.org](http://www.ifad.org), accessed on 20 July 2015.



## 2.2 Gendered Legal Land Rights in Rwanda

Prior to the 1994 Genocide, patriarchal customary law, as in the rest of Sub-Saharan Africa, governed land and property rights in Rwanda, particularly in rural areas.<sup>16</sup>

### 2.2.1 Context, Objectives and Scope of the 1999 Inheritance Law

The post-Genocide government in Rwanda sought to reform the legal framework governing land, and passed Law No 22/99 of 12/11/1999 Supplementing Book One of the Civil Code and Instituting Part Five regarding Matrimonial Regimes, Liberalities and Successions (hereafter the 1999 Succession Law). This law is the cornerstone of gendered land rights in Rwanda and is the first law that sought to overcome gender inequality heretofore privileged by custom in regards to matrimonial regimes, inheritance and *umunani*.

The 1999 Succession Law was debated and enacted when the country was in a state of overwhelming post-conflict social turbulence, disruption and uncertainty. The Genocide left many widows and orphans unable to inherit their husbands' and fathers' land rights according to customary norms. It was likewise difficult to know who would inherit what and from whom.<sup>17</sup> From the law's explanatory note, among the objectives of this law, there was to resolve the problem of inheritance among Genocide survivors, particularly widows and female orphans. However, the realization of this objective was problematic since the law itself was not retro-active.

For purposes of this study, the most relevant provisions of the 1999 Succession Law are those providing for: equal shares of inheritance for legitimate daughters and sons of the deceased,<sup>18</sup> all children to have rights to –"ascending partition" transfers from their parents (i.e. *umunani* without regard to gender (article 43<sup>19</sup>), and equal rights for both spouses with regard to marital property. However, matrimonial property rights

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<sup>16</sup>See Jones-Casey, Kelsey, Laura Dick and Alfred Bizozo, *The Gendered Nature of Land and Property Rights in Post-Reform Rwanda*. Kigali, Rwanda: USAID | LAND Project, May 2014, pp.14-16.

<sup>17</sup>See Explanatory note (*exposé des motifs*) of Law No 22/99 of 12/11/1999 Supplementing Book One of the Civil code and Instituting Part Five regarding Matrimonial Regimes, Liberalities and Inheritances commonly referred to as succession law of 1999.

<sup>18</sup>See art. 50 of succession law of 1999.

<sup>19</sup> Article 43 of the Succession Law states, "All children, without distinction between girls and boys, alive or where deceased before parents their descendants, excluding those banished due to misconduct or ingratitude, have a right to the partition made by their ascendants."

under the 1999 Inheritance Law were limited to legal marriages, leaving women in customary or informal marriage unprotected.<sup>20</sup> Additionally, the law does not specify if female and male heirs have equality of access to *umunani*, or have the right to equal portions of *umunani*.<sup>21</sup>

Because the law was not made retroactive to enable women whose fathers or spouses died before the law's passage to inherit their land, the full realization of these objectives was not possible.<sup>22</sup> The analysis of case law shows that some judges were sympathetic to ensuring women were entitled to equal land rights for cases of inheritance that preceded 1999. While some judges excluded females from succession, others granted women rights of inheritance by applying the principle of equality enshrined in the constitution and other international instruments to women whose spouses or fathers died in the Genocide, despite the 1999 law's non-retroactivity provisions.<sup>23</sup>

Despite the implementation of laws that recognize and protect gendered land rights, land acquisitions from parents continue to be contentious. Firstly, the 1999 law only requires land be divided into equal shares among children in the case of inheritance, and not in the case of *umunani*. Yet, the bulk of family land is typically distributed through ascending partition (*umunani*) leaving little land left to be inherited.<sup>24</sup> Secondly, the law does not restrict testamentary freedoms, leaving open the possibility that land that might otherwise be inherited equally by all children is bequeathed to specified individuals.<sup>25</sup>

## 2.2.2 Gendered Legal Land Rights in Practice

There is a solid legal framework protecting gendered land rights in Rwanda. However, the adoption and the implementation of laws are two very different things.

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<sup>20</sup>Lankhorst, Marco and Muriel Veldman (2011). "Engaging with Customary Law to Create Scope for Realizing Women's Formally Protected Land Rights in Rwanda", in: "Working with Customary Justice Systems, Post-Conflict and Fragile States", IDLO (2011).

<sup>21</sup>Ndangiza, Madina *et al*, p.14.

<sup>22</sup>See art. 95 of succession law of 1999.

<sup>23</sup>KAROMBA Félicité, *Régimes matrimoniaux, libéralités et successions*, Note de cours, Butare, Université Nationale du Rwanda, Faculté de Droit, 2008, p.153. (Original version in French)

<sup>24</sup>International Development Law Organization (IDLO), *Working with Customary Justice Systems: Post-Conflict and Fragile States*, edited by Erica Harper, p.97, available at [www.idlo.int/.../Customary%20Justice%20-%20Post-Conflict%20 and accessed on 12/01/2014](http://www.idlo.int/.../Customary%20Justice%20-%20Post-Conflict%20 and accessed on 12/01/2014).

<sup>25</sup>Ndangiza, Madina *et al*, p.14.

There are obstacles that prevent women in Rwanda from claiming or fully enjoying their rights over land. These obstacles are sometimes related to the lack of awareness of laws providing those rights, but they are also rooted in cultural norms, expectations and practices, and to economic status that prevent women from claiming those rights despite being aware of them.<sup>26</sup>

Women who are informally married remain unprotected by the 1999 Succession Law and the 2013 Land Law when it comes to rights to their spouse's property. Because they are not entitled to joint ownership and administration of matrimonial property, they are not entitled to retain a share of the property upon divorce or their husband's death. They are also at risk of being forced to leave the land of the husband without being able to claim rights to it. Whereas social recognition of the female partner's entitlements in an informal marriage may vary according to whether the marriage is monogamous or polygamous or whether it is a traditional, community-recognized marriage or simply co-habitation,<sup>27</sup> in cases of separation or death of the husband, women in these *de facto* unions are frequently evicted by the husband or his relatives, losing land, house, furniture, even bank accounts and business stock.<sup>28</sup>

The enforcement of rights to inheritance and *umunani* for daughters is still problematic. Despite women's legal right to equal shares of inheritance and equal opportunity for receiving *inter vivos* gifts, women still have many difficulties claiming land *umunani* and inheritance. They typically receive smaller or less fertile land parcels and are often prevented by male relatives from inheriting land.<sup>29</sup>

Strong social norms and traditions give men the right to receive *umunani*, while women often hesitate to ask for it and may face consequences for doing so, including being shunned by the family.<sup>30</sup> Research has revealed that most claims related to gendered land rights are brought before family hearings (for example

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<sup>26</sup>Annie Kairaba and James Daare Simons, *The Impact of Land Reform on the Land Rights and Economic Poverty Reduction on the Majority Rural especially Women who depend on land for their livelihood: Rwanda case Study*, RSID, p.24.

<sup>27</sup>F. Santos et al., *An intrahousehold analysis of access to and control over land in the Northern Province, Rwanda*, Landesa, Rural Development Institute, paper for presentation at 2014 World Bank Conference on Land and Poverty, Washington DC, March 24-27, 2014, pp 10-14.

<sup>28</sup>Vanhees Katrijin. *Property Rights for Women in Rwanda: Access to land for women living in de facto unions.*,2014, p.84.

<sup>29</sup>Jones-Casey, Kelsey, et al, p.3

<sup>30</sup>*Idem*, p.52.

family and succession councils<sup>31</sup>) that follow customary norms that are not favorable to women.<sup>32</sup>

Under customary traditions, women in Rwanda were often given portions of their parents' land depending on their social circumstances, such as *urwibutso*, *inkuri*, *intekeshwa* and *ingaligali*. However, evidence suggests that these customs have virtually disappeared because of land scarcity.<sup>33</sup>

There are also economic obstacles that prevent women from securing their land rights. Women's economic dependence on men in Rwanda often contributes to their weak bargaining power within the household and minimal control rights over land use and management. In such situations the husband determines women's access and use of land.<sup>34</sup> Even though women who are formally married under the community of property regime are now, by law, joint owners of household property, they are sometimes forced to accept decisions they do not agree with. When a woman refuses to endorse the sale of a land parcel by her husband, for example, she may face severe social and familial consequences, from being ostracized or coerced, to suffering physical and/or emotional violence.<sup>35</sup>

### **2.2.3 Gendered land rights and Land Tenure Registration**

The land tenure registration program initiated in 2008 had as one of its objectives the strengthening women's rights to land by ensuring that their rights were documented during this nationwide land registration exercise. The process of registration and certification of rights was designed to offer women in legal marriages secure recognition of their statutory rights by recording their names on title deeds as co-owners with their husbands. Some supporting studies indicate that joint registration and land titling are correlated with more equal distribution of land between men and women.<sup>36</sup>

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<sup>31</sup> See art.51 and 80 of Inheritance law of 1999

<sup>32</sup> Jones-Casey, Kelsey, et al and Lankhorst&Veldman 2011.

<sup>33</sup> Musahara and Huggins, 2005, *Land reform, land scarcity and post-conflict reconstruction: A case study of Rwanda*, p.324.

<sup>34</sup> Annie Kairaba and James Daare Simons, p.26

<sup>35</sup> Jones-Casey, Kelsey, et al, p.51.

<sup>36</sup> Ayalew, Deininger, and Goldstein, (2011) '*Environmental and Gender Impacts of Land Tenure Regularization in Africa: Pilot Evidence from Rwanda*', World Bank, Washington, *Policy Research*

The limited number of empirical studies available report positive outcomes for women as a result of the land tenure registration program and see it as an instrument through which women can expand their land rights,<sup>37</sup> but the breadth of these studies is rather limited.

#### **2.2.4 Gendered Land Rights and Land Dispute Resolution**

Very few studies offer empirical evidence of women's involvement in land disputes<sup>38</sup>. Despite this, it is evident through observation that women are involved in land disputes. For example, in a study conducted by the Rwanda Women Network in Bugesera District, women reported being involved in land disputes to claim inheritance, *umunani* and ownership rights.<sup>39</sup>

Land disputes are handled both informally and by formal mechanisms. Formal institutions involved in land disputes include Abunzi mediation committees and the courts system. Nevertheless, Rwandan tradition often compels women to first seek resolution in family gatherings where family elders discuss and seek to arrive at a consensus, or in village assemblies where solutions are debated. It is common for disputes to first be heard by families or local authorities before being elevated to the Abunzi, and subsequently the courts if a resolution is not found.

#### **2.2.5 Land Disputes and Gender-Based Violence**

After the 1994 Genocide, many promising changes have occurred in policies and laws that promote gender equality. Nevertheless, full gender equality around land has not been achieved. There is anecdotal evidence that some men continue to

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*Working Paper 5765.*, p.23 and in a study conducted by F. Santos et al., *An intrahousehold analysis of access to and control over land in the Northern Province*, Rwanda, Landesa, Rural Development Institute, paper for presentation at 2014 World Bank Conference on Land and Poverty, Washington DC, March 24-27, 2014, p 9: In fact, in monogamous households women appear to have acquired access to half of their households' land, or more, through marriage (48% for Legally Married Monogamous and 63% for Cohabiting Monogamous households, respectively).

<sup>37</sup>K. Jones-Casey, K., L. Dick, and A. Bizoza (2014). *The Gendered Nature of Land and Property Rights in Post-Reform Rwanda*, Kigali, Rwanda: USAID | LAND Project at 14 *et seq.*; D. Ali, K. Deininger, and M. Goldstein (2011), 'Environmental and Gender Impacts of Land Tenure Regularization in Africa Pilot Evidence from Rwanda', Washington DC, at 17 *et seq.*; F. Santos, D. Flutschner, and G. Daconto (2012), 'Enhancing Inclusiveness of Rwanda's Land Tenure Regularization Program: Initial Impacts of an Awareness Raising Pilot', in *World Bank Conference on Land and Poverty*, at 14.

<sup>38</sup>See Rwanda-Ombudsman Office *Annual Reports 2010-2011 and 2012-2013*.

<sup>39</sup>Rwanda Women' Network (2011), *Experience of women in asserting their land rights: The case of Bugesera District*, pp.6-8

disparage the rights of women and girls and that cases of GBV continue to occur around land disputes. Different studies show that land is one of the most important sources of domestic disputes<sup>40</sup>. Nevertheless, emerging studies show that legal reforms and GBV prevention mechanisms have considerably reduced family conflicts over land ownership and control, especially those involving women.<sup>41</sup>

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<sup>40</sup>Gender Monitoring Office, *Report of Intervention Programs for Gender-based Violence Prevention and Response (2010): The National Policy against Gender-Based Violence and its strategic plan*; F. Santos, D. Fletschner, and G. Daconto (2012), 'Enhancing Inclusiveness of Rwanda's Land Tenure Regularization Program: Initial Impacts of an Awareness Raising Pilot', in *World Bank Conference on Land and Poverty*, 1–3.

<sup>41</sup>*Ibid.*

### **3. RESEARCH METHODOLOGY**

The research design involved a combination of mutually reinforcing qualitative and quantitative research methods. The mixed methods approach enabled the research team to use the appropriate methodology to address each research question and triangulate the findings.

#### **3.1 Quantitative Data**

The quantitative methods consisted of a household survey in all provinces of Rwanda, the collection and analysis of data on the frequency and types of land disputes at the Primary Court level, and on GBV resulting from land disputes in Intermediate Courts.

##### **3.1.1 Household Survey**

The national-level household survey of 1,975 households was designed to provide data and insight into the research questions listed in Section I of this report. It was always understood that it would be difficult, if not impossible, to undertake a statistical *causal* analysis with this household survey data because of the lack of proper control (non-treatment) group. Given gendered legal reforms have been implemented through nationally applied statutory laws and programs, the research team could not study the impact of the gendered reforms by comparing areas where the law applies to areas where it does not. Instead, the study relies primarily on descriptive statistics to inform the research questions.

###### **3.1.1.1 Sampling design**

The sampling process for this study was based on the random selection of districts, sectors, cells and *imidugudu*<sup>42</sup> based on available information and lists. The sampling of households and respondents within the household was based on the distribution of households in the village area and used the Date Summation and Left Hand methods.<sup>43</sup> The target was to complete 28 interviews within each of 72

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<sup>42</sup> Village, the smallest administrative entity in Rwanda) in each of the five Provinces.

<sup>43</sup> Two methods were utilized to select households in a community: (1) Date Summation in which the enumerator calculates the sum formed by adding the first and second numbers of the date of the current day and locates that sum in the first column of the Date Summation Table, and (2) the Left

*imidugudu* for a total of 2,016 interviews. When the enumerator teams were in the field collecting data, they found that two of the selected *imidugudu* had less than 56 households because of expropriation for the construction of a new airport in Bugesera, and that the residents of two *imidugudu* located in the Rweru Lake island have relocated for environmental and safety reasons. For this reason, 1,975 household interviews (98% of the goal) were actually completed.

Once the households were identified, one respondent within each household was randomly selected from among the adult household members using the Kish Grid method.<sup>44</sup> The purpose of selecting the respondent in this manner, and not simply interviewing the household head or spouse, was to obtain data regarding awareness, knowledge, and attitudes regarding gendered land rights from a more representative pool of potential respondents with regard to age and gender. Out of 1,974 respondents, 1,199 were women and 775 were men.

### **3.1.1.2 Data collection instruments**

For the purpose of the survey, the following research instruments were developed:

- A field work methodology guide for researchers and interviewers (mainly focusing on household and respondent selection);
- Guidelines on how to formulate key questions on the interview form (also explaining the objective of the questions and giving examples of commonly made mistakes to be avoided);
- Contact Record Sheet, on which, each day, interviewers kept a record of the households and respondents they selected and whether an interview was obtained in each case;
- The survey questionnaire with four main sections: (1) information on household location, the respondent and his/her household, and socio-economic data; (2) information on the household's land holdings including current land disputes; (3) information on resolved land disputes in which the

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Hand method. In which the enumerator, going along that row to the second column, uses that number to select the house on the left side of the road where she/he is standing.

<sup>44</sup>The Kish-grid method, in this survey, used the number of adult household members and another random number (in this case, the last digit of the questionnaire number) to select the person to interview among the adults in the household.



household has been involved over the past 10 years; and (4) the respondent's awareness of women's land rights;

- The SPSS data entry file (which is identically structured to the survey instrument).

### **3.1.1.3 Data entry and cleaning**

The completion of data collection was followed by data entry using SPSS Dataset. The research team verified and cleaned entered data, removing illogical outliers, properly coding responses that could not be analyzed (e.g., missing data and "don't know" responses), and verifying logical consistency between questionnaires and data entered.

### **3.1.2 Courts data**

To complement the results of the household survey, the research team gathered data focused on the nature and prevalence of land disputes from 1997 to 2014 from the Primary Courts (the lowest level of the court system in Rwanda). Data on GBV resulting from land disputes during the same period was collected from the next tier of the court system, the Intermediate Courts. The idea was to examine how disputes involving women's land rights have evolved since the adoption of the 1999 Succession Law. Trying aggravated cases (as opposed to minor cases which are within the competence of *Abunzi* or Primary Courts) of GBV is within the competence of Intermediate Courts.

#### **3.1.2.1 Review of Primary Courts cases**

Studying the evolution of Primary Court data helped to form a clearer view of the frequency of gendered land disputes and their evolution.

The national-level sampling of court cases involved random selection of six Primary Courts (out of 60 Primary Court that are in Rwanda), followed by random selection of files of cases (in general) tried between 1997 and 2014, to ensure inclusion of cases occurring before and after the 1999 Succession Law. The review of cases consisted of filling in a questionnaire with responses that can filter land-related cases among the selected cases. However, due to multiple reforms in the judicial system, the

number of cases found in the different courts was inconsistent<sup>45</sup>. A total of 1,405 cases were reviewed, putting emphasis on the parties to the cases and their gender, whether it was a land related case or not, the type of dispute, and if it was a land-related case whether it involves a woman or not.

### **3.1.2.2 Review of Intermediate Courts cases**

The selection and review of Intermediate Court cases follows the same method applied for sampling the Primary Courts, except that the type of cases reviewed were those related to GBV and land. Six Intermediate Courts were randomly selected from all 12 Intermediate Courts that are in Rwanda. A total of 1,057 cases were reviewed, putting emphasis on the gender of victim and accused, the relationship between the violence and land right (if mentioned), and the sentence.

## **3.2 Qualitative Data Collection**

Qualitative methods for gathering data to inform the study consisted of collection and analysis of information from Focus Group Discussions (FGDs) and Key informant Interviews (KIIs).

### **3.2.1 Focus Group Discussions**

FGDs were undertaken after the household survey was carried out to explore some of the key themes and perplexing findings emerging from the survey.

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<sup>45</sup> The inconstancy was due to the fact that a case could be selected in the registry of court and not found in the archive. This has led to having different numbers of cases per court. The selection of cases to be reviewed was designed as follows: looking up the records (newly entered cases) for the following years: (1) 1997, (2) 1998, (3) 1999, (4) 2000, (5) 2001, (6) 2003, (7) 2005, (8), 2007, (9) 2009, (10) 2011, (11) 2013. For each year, they will proceed as follows:

- The objective is to select 30 cases;
- First, the total number of cases entered that year (in the civil registry) will be counted;
- Next, this number is divided by 30 and the result (n) is expressed in a single digit (rounded) number;
- For example, if the total is 453, then 453 divided by 30 equals 15,01, so the result is 15;
- This means that the researchers and their assistants will look up every 15<sup>th</sup> (n<sup>th</sup>) for that year;
- In other words, they will copy the docket number (FR: *numéro du rôle*) of every 15<sup>th</sup> (n<sup>th</sup>) case entered into the registry and locate the corresponding case file in the archives;
- In the unlikely event that the total number of cases is below 30, all cases for that year will be selected.

### **3.2.1.1 Selection of Locations of FGDs**

FGDs were conducted in 20 randomly selected sectors. The sampling process was designed to generate data that would be representative of the country, i.e., five sectors in Eastern Province, four sectors in Northern Province, four sectors in Southern Province, four sectors in Western Province and three sectors in Kigali City.

### **3.2.1.2 Profile of Participants**

In order to collect data that would be comparative from one FGD to the next, focus group participants in each sector were selected with the following qualifications:

1. One Abunzi representative at sector level,
2. One Abunzi representative at cell level,
3. One representative of the National Women Council at sector level,
4. The Civil Status Registration officer and Notary at sector level,
5. One representative of non-governmental organizations dealing with land disputes,
6. One representative of faith-based organizations, and
7. One Executive Secretary at cell level.

It was anticipated that the selected participants would be knowledgeable about gender-related land disputes existing in their respective locations, the current mechanisms being employed to resolve them, as well as challenges involved in the dispute resolution process.

### **3.2.2 In-depth Interviews with Key Informants**

The key informants interviewed for this research were persons who are knowledgeable about land rights, gender issues, and land disputes. They included 13 Vice-Mayors in Charge of Social Affairs, the Executive Secretary of the National Women Council, the Director of Unity in Charge of Fighting Gender-Based Violence at the National Public Prosecution Authority, two Chairpersons of civil society organizations dealing with gender and land disputes, 12 Presidents (or judges) of Primary Courts, and 13 Directors of District Land Offices.

## 4. RESEARCH FINDINGS

This section explores the research findings to understand and interpret the influence of Rwanda's legal reforms on the emergence of gender-related land disputes, dispute duration, dispute characteristics, and dispute settlement. This discussion integrates the quantitative findings of the household survey, the qualitative findings derived from the focus groups and key informant interviews, and the data collected from Primary and Intermediate Court records.

### 4.1 Characteristics of the Surveyed Households<sup>46</sup>

The households in the sample are predominantly in rural areas, 1,720 households (87%) compared to 255 from non-rural areas (Table 1).

**Table 1: Household area type by Province**

	Province					Total	
	Southern	Northern	Eastern	Western	Kigali	Number	Percent
Rural	393	462	358	451	56	1,720	87.1
Semi-urban	0	0	84	28	0	112	5.7
Urban	0	0	7	25	111	143	7.2
<b>Total</b>	393	462	449	504	167	1,975	100.0

Source: ILPD 2015 Household Survey

Of the 1,975 households, 75% are headed by men and 25% by women (Table 2). This proportion is roughly the same for Southern province, Northern Province and Kigali City, whereas in Eastern Province 29% of households are female-headed and in the Western Province only 19% are female-headed.

<sup>46</sup>The household survey was fully randomized and is not weighted for population characteristics

**Table 2: Sex of the household Head by Province**

		Province					Total
		Southern	Northern	Eastern	Western	Kigali	
Male	Number	286	345	317	411	127	1486
	% within column	73.0	74.7	70.8	81.5	76.0	75.3
Female	Number	106	117	131	93	40	487
	% within column	27.0	25.3	29.2	18.5	24.0	24.7
Total	Number	392	462	448	504	167	1973
	% within column	100.0	100.0	100.0	100.0	100.0	100.0
	% of Total	19.9	23.4	22.7	25.5	8.5	100.0

Source: ILPD 2015 Household Survey

Over half of the households have 3-5 members and slightly over 20% have either 2 or 6 members. The more rural Provinces tend to have larger households (between 3 to 6 members) while the more urban ones tend to have 2 to 5 members.

Subsistence agriculture is overwhelmingly the main source of income (73%) and wage labor comes in as a distant second (15%). These proportions hold across provinces with the exception of Kigali, a mainly urban area, where only 24% count subsistence agriculture as their main source of income while wage work, salaried work, and formal commerce are each the main source for around one-fifth of urban households. Female-headed households depended as much on subsistence agriculture as male-headed households.

Data on secondary sources of income reveal that over half of the households (52%) had no secondary source of income, 23% declared wage work as their secondary source, and 11% engaged in subsistence agriculture for secondary income. When broken down by sex of household head, these proportions remain the same. These results on sources of income highlight the importance of land (for subsistence agriculture) in providing sustenance for the great majority of the households, particularly those that have no secondary income. This holds for both female-headed and male-headed households.

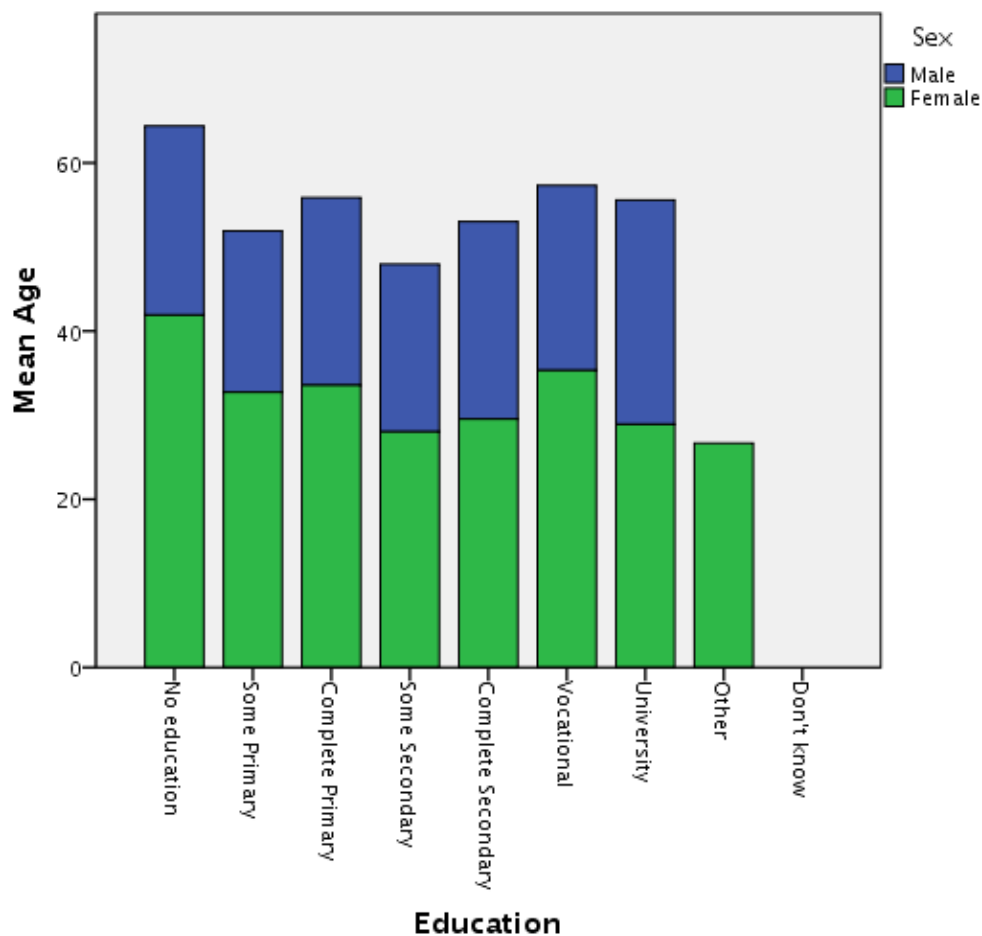
Comparing education by sex of household heads reveals that female household heads have demonstrably less education than their male counterparts. Indeed, the percentage of female household heads within this sample that completed secondary school or over, is half that of their male counterparts (3.5% vs. 7.4%) which is

statistically significant even for this subset of the table (chi-square value of 9.32, df=1 p=0.002). Among those who indicated they had no education, the percentage of women (47.1%) also far exceeds that of men (24.3%). Overall, sex differentials in education are statistically significant (chi-square value of 97.76, df=4, p=0.000).

## 4.2 Characteristics of Household Respondents

The household respondents (see Methodology, section 1.1.2) are mostly women (61%). However, across provinces women make up between 59% and 69% of respondents (Graphic 1), a higher proportion than the sample household population. Most respondents are in their 20s (22%), 30s (28%), and 40s (18%). Nonetheless, there were quite few (31) who were in their 80s or older. These proportions were consistent across all provinces.

**Figure 1: Characteristics of respondents**



Source: ILPD 2015 Household Survey

The education levels of respondents are lower than those of all household members, reflecting the fact that they are adults and therefore older (Graphic 1). Kigali Province respondents (as we also found among all household members) are more educated than those in other provinces, having a much lower proportion with no or little education and a much higher proportion of those who with secondary or post-secondary education.

### **4.3 Customary vs. Legal Marriage**

Customary marriage is commonly practiced in Rwanda. These traditional marriage arrangements were fundamental to the social structure of pre-colonial Rwanda, and were integral to the smooth running of society and the maintenance of culture. Today, many elements of these traditions continue, overlaid by church marriage practices introduced by colonial missionaries, and civil marriage functions established by legal statute. Only civil marriage is viewed as legal by the state, which leaves a large swathe of marriage practices and customs designated as “informal”.

The commonly used term “legal marriage” connotes marriages that are registered with the state through a civil marriage ceremony that often takes place at the administrative offices of the Sector. This ceremony includes explicit, signed agreements on rights to property and resources brought into the marriage and acquired after the marriage.

This issue is of considerable importance to this research because legal and informal marriage arrangements imply different consequences, which can be particularly significant for the wife. Under the 1999 Succession Law, if a couple is legally married under the community of property regime, both spouses have equal rights to marital property, rights and protections. The rights are not afforded to informally married couples, which end up retaining their property acquired before and during the marriage separately.

In this study, 55% of household heads were legally married spouses while 20% were informally married. This is significant for this research as the attributes and characteristics of the household head can be predicted to be of significance to dispute creation, the evolution of the dispute itself, and eventually, to its resolution.

## 4.4 Land Ownership

Of the 1,975 households in the sample, 126 (6.4%) do not own any land; the remaining households (1,849) reported owning 3,730 parcels. Distributing land holding and landless households by area type (Table 3), we find, not surprisingly, that the highest percentage that do not own land are urban households (28%); only 4% of rural households do not own land. Kigali Province, a mostly urban province, has the highest percentage of households with no land (38%) and, among all provinces, contains 29% of all landless households.

Own Land	Rural		Semi-urban		Urban		Totals
	N	%	N	%	N	%	N
<b>Yes</b>	1,648	95.9	96	86.5	105	72.4	1,849
<b>No</b>	71	4.1	15	13.5	40	27.6	126
<b>Totals</b>	1,719	100.0	111	100.0	145	100.0	1,975

*Source: ILPD 2015 Household Survey*

The household survey collected minimal information about land rentals and sharecropping. Only 77 respondents (3.9%) reported renting their land out to others, while 694 families (35%) rented in land for household use.

Land remains an important asset in Rwanda, where the overwhelming majority continues to depend on agriculture to support their livelihoods. As the population of Rwanda continues to grow and demand for land rises, land increases in value. Another factor seemingly raising the value of land is the land tenure regularization program (2009-2012), which potentially enhanced tenure security by supplying landholders with long-term leasehold certificates that can be used as collateral to secure loans. Participants in an FGD in Gisozi Sector in Gasabo District described how rising land values are contributing to individualized claims to land: “People have known the value of land and everyone wishes to acquire it rather than sharing with others.”<sup>47</sup> “Land has increased its value and consequently boys may refuse to share with their sisters.”<sup>48</sup>

Patriarchal views on land ownership continue to be voiced in Rwanda: The following quotes derive from FGDs conducted by the study team. “There are some people who

<sup>47</sup>FGD Gisozi Sector, 14/04/2015

<sup>48</sup>KII, Gender and Family Promotion Officer In Rwamagana District,21/04/2015



think that the woman must have rights to the land of her husband only.”<sup>49</sup> “Some parents and sons think that married daughters/sisters are supposed to live on their husband’s land while sons are given land on which they will establish their household; therefore, married daughters should lose all access to family-owned land since they will have access to land in their new household.”<sup>50</sup>

Yet, despite these views, female ownership of land is considerable. Table 4 indicates who within the household owns land parcels. When it comes to individual land ownership, wives and widows own 22% of all parcels compared to husbands and widowers who own 17%. Still, women tend to individually own smaller portions of land. On average they own only 1.9 parcels compared to men who individually own an average of 2.1 parcels.

**Table 4: Parcels owners**

Parcel Owners		Responses	
		Number	Percent
	Husband/widower	609	17.0
	Wife/widow	803	22.4
	Husband & wife	2,034	56.8
	Son of HH head	23	0.6
	Daughter of HH head	18	0.5
	Brother of HH head	3	0.1
	Sister of HH head	1	0.0
	Others	89	2.5
<b>Total</b>		<b>3,580</b>	<b>100.0</b>
<i>Source: ILPD 2015 Household Survey</i>			

The majority of parcels, however, are jointly owned by wife and husband. This difference extends across the entire range of households, from those that own one plot, to those that own many.

#### 4.5 Land Acquisition

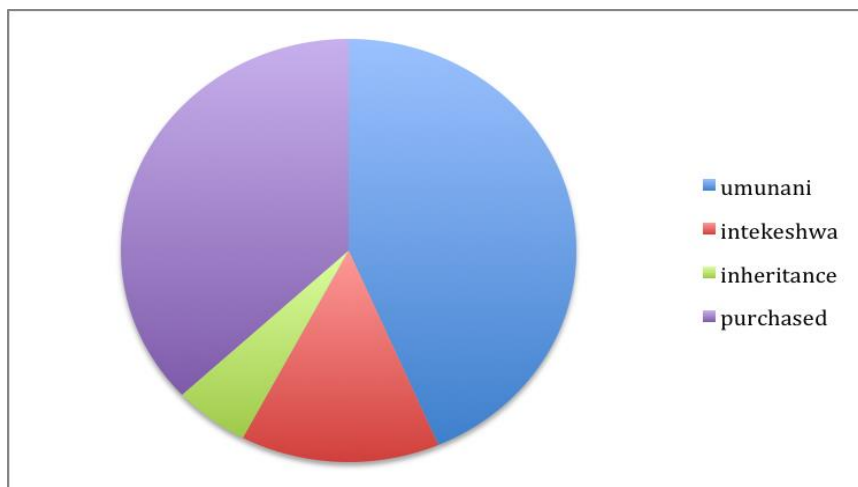
The principal means of acquiring parcels is through inter-generational transfers (63%). *Umunani* accounts for 44% of land acquisitions (Figure 2). Fourteen percent of parcels were acquired through *intekeshwa*, a gift from parents (often the father) to a daughter when she marries. This finding would seem to suggest that not all *inter-*

<sup>49</sup>FGD, Gishamvu Sector, 23/04/2015.

<sup>50</sup>FGD, Mugunga Sector, 16/04/2015.

*vivos* transfers to daughters have disappeared as maintained by some writers (see footnote 37). The fact that only 5% of parcels were inherited indicates that *umunani* and *intekeshwa*, both *inter-vivos* transfers, are the more common type of inter-generational transfers of land. The second most frequent means of acquiring a parcel is through purchase (37%). If we examine each parcel owned by a household, we find that for the first two parcels mentioned by the respondent, most were acquired through *umunani*, but parcels 3 and 4 are more likely to be purchased.

**Figure 2: Parcels 1 to 4 by means of acquisition**



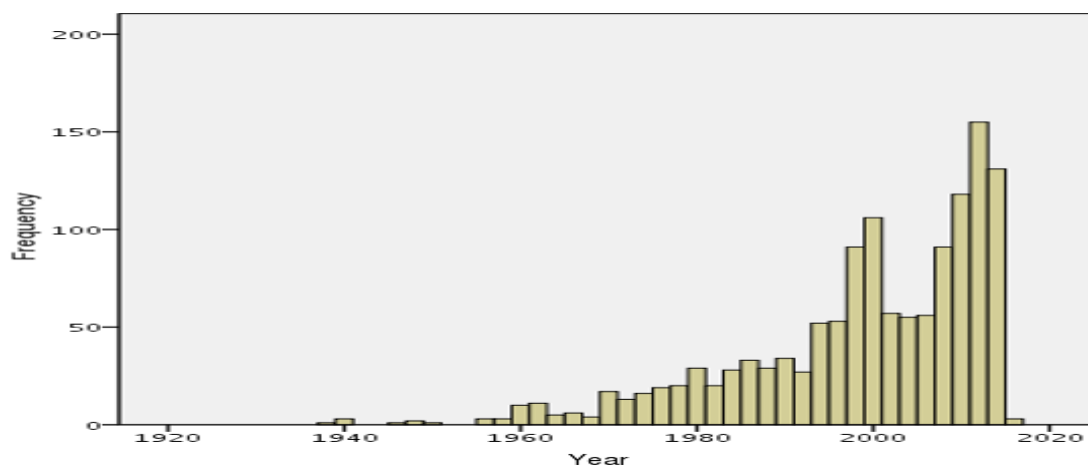
Source: ILPD 2015 Household Survey

There are some differences in how parcels were acquired across provinces, particularly in customary acquisitions of land. In the Southern Province, 56% of parcels were acquired through *umunani*, a much higher percentage than in the other provinces; a smaller percentage was acquired through purchase (25%); and a very small proportion (3.5%) was acquired through *intekeshwa* and *igiseke*. In the Northern Province, customary parcel transfers differ greatly from the Southern Province: *intekeshwa* and *igiseke* transfers comprised up to 30% of the acquisitions, almost the same as *umunani* (31%). In the Eastern and Kigali Provinces, land purchases accounted for over 40% of household parcels. These results would suggest that land transfers in the Southern and Northern Provinces are, in the majority, through inter-generational transfers, while land purchases represent the most frequent type of transfer in Eastern and Kigali Provinces.

## 4.7 Date of Acquisition

The histogram in Figure 3 depicts the year each household acquired the first parcel of land listed in the questionnaire, with 1938 the earliest occurrence of acquisition. The data indicate a large increase in land transfers in the late 1990s and 2000, followed by several years of reduced transfers. One possible explanation links increased parcel purchases to the establishment of security in post-genocide Rwanda leading to rising confidence in the future and consequent willingness to invest, while another connects them to the introduction of the new Land Law, part of which focused on the gendered land rights that are the focus of this research. Changing legal regimes often introduce transitional uncertainties in process and outcome, potentially accounting for subsequent reductions in land purchases. In more recent years, land transactions experienced significant growth once again.

**Figure 3: Year Parcel No.1 was acquired**



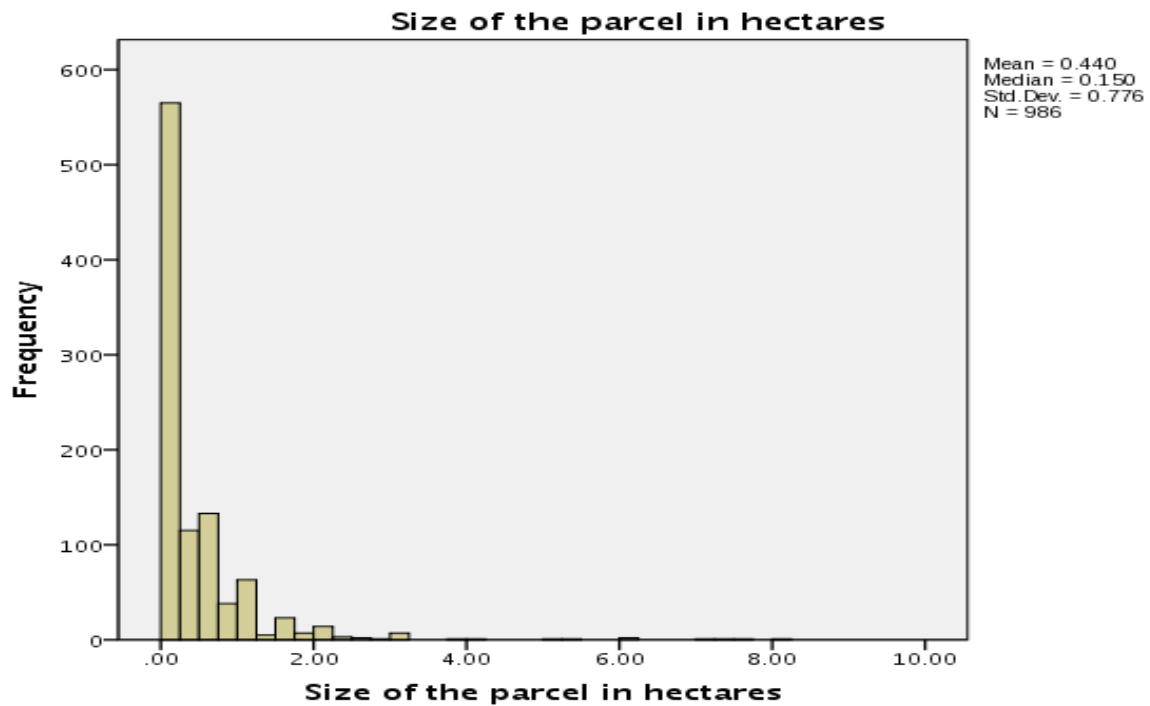
*Source: ILPD 2015 Household Survey*

## 4.8 Parcel Size

The household survey attempted to collect information on the size of each parcel; unfortunately, the data for this variable is mostly missing making analysis of households' parcel sizes and total landholding size unreliable. Looking at the available data, we see that 90.0% of households' first parcels are less than one hectare, what is often considered the minimal size to be agriculturally efficient: Indeed, 50% of households' first parcels are 0.15 hectares or smaller and 60% less

than 0.25 hectares (Figure 4). The largest single parcel is eight hectares, which was in one of only 11 households who reported owning a parcel larger than three hectares.

**Figure 4: Size of First Household Parcel in Hectares (N=986; missing = 989)**



Source: ILPD 2015 Household Survey

FGD participants pointed to how small parcel size and rising land value contributes to increased competition for, and disputes over, land: "As the land is small, some of the beneficiaries will attempt to take it as whole without sharing with others. The result is disputes."<sup>51</sup> Similarly, FGD participants in Huye and Rwamagana Districts reported that land scarcity, poverty and competition over land create conflicts in which "brothers were killing sisters," and provided cases where family members had killed one another over land, especially when women tried to make claims.<sup>52</sup>

#### 4.9 Land Registration

With the implementation of systematic land tenure regularization accompanied by registration and issuance of 99-year leases, virtually all private land in Rwanda has

<sup>51</sup>FGD, Gitega Sector, 14/05/2015.

<sup>52</sup>FGD, Simbi Sector, 24/04/2015 and FGD, Nyakaliro Sector, 20/04/2015.

now been demarcated and registered, with formal land title documents made available to owners.

Of the 3,730 parcels in the sample, 91% are reported to be registered and 55% of registered parcels are jointly registered to husband and wife. However, almost 80% of household respondents reported being legally married, suggesting that some may not be jointly registering their land with their spouse. Fourteen percent (14%) are registered in the name of the husband only, 23% are registered solely in the name of the wife, and 8% are registered to others in the household.

Table 5 portrays the type of marriage arrangement of households where land is registered to both husband and wife. Jointly registered parcels are mostly in households with legally married spouses (85%). This is not surprising since co-ownership is required for legally married couples that choose community property as their marital property regime. However, jointly registered parcels are also found in households with informally married couples. Interestingly, of all provinces, Eastern Province has the highest percentage of informally married couples with jointly registered parcels.

**Table 5: Types of Marriage for Jointly Registered Parcels**

Type of marriage	Jointly registered parcels					
	South	North	Eastern	Western	Kigali	Total
Legally married	333	539	275	442	72	1661
	93%	85%	72%	89%	79%	85%
Informally married	26	96	106	55	19	302
	7%	15%	28%	11%	21%	15%
<b>Total</b>	<b>359</b>	<b>635</b>	<b>381</b>	<b>497</b>	<b>91</b>	<b>1963</b>

*Source: ILPD 2015 Household Survey*

#### 4.10 Land Disputes

The survey explored current land disputes that are ongoing, as well as resolved land disputes that occurred over the past 10 years.

#### 4.10.1 Current Land Disputes

The number of households that reported land disputes was 69 (3.78% of the 1,755 that responded to this question). The total rate of disputes per parcel stands at 4.11%, or 144 of the 3,506 parcels that were reported by those who responded to this question (Table 6). All of these disputes were reported in the first four parcels listed for each household; however most of the disputes are on the first three parcels.

**Table 6: Parcels 1 to 4 Currently in Dispute**

Household Parcels 1-4	Number	Percent
<b>Parcel 1 in dispute?</b>		
Yes	69	3.78
No	1,755	96.22
Total (Parcel 1)	1,824	100.00
<b>Parcel 2 in dispute?</b>		
Yes	54	4.80
No	1,070	95.20
Total (Parcel 2)	1,124	100.00
<b>Parcel 3 in dispute?</b>		
Yes	19	4.63
No	391	95.37
Total (Parcel 3)	410	100.00
<b>Parcel 4 in dispute?</b>		
Yes	2	1.35
No	146	98.65
Total (Parcel 4)	148	100.00
<b>Total Parcels</b>	<b>3,506</b>	<b>100.00</b>
<b>Total Disputes</b>	<b>144</b>	<b>4.11</b>
<i>Source: ILPD 2015 Household Survey</i>		

Households were asked whether the current parcel dispute involved a woman or girl as one of the parties of the dispute. Table 7 shows that 75 disputes (52%) out of 144 involved a woman or girl. Kigali Province had the highest proportion (2 out of 3) of disputes involving a female. While not all of these disputes are necessarily gender-based,<sup>53</sup> this nonetheless seems to indicate that a high proportion of current disputes involve women who are either claiming or protecting their gender-equal land rights.

<sup>53</sup>For example, a dispute could be over parcel boundaries or rental agreements. Since the responses to the question requesting the reason of the dispute resulted in few responses, we cannot determine how many disputes that involve a woman or girl are actually gender-based disputes.

**Table 7: Disputes Involving a Girl or Woman, by Province**

		Province					Total
		South	North	Eastern	Western	Kigali	
Dispute involves claim of woman or girl?	Yes	25	6	22	8	14	75
		50%	40%	52%	50%	67%	52%
	No	25	9	20	8	7	69
		50%	60%	48%	50%	33%	48%
<b>Total Number</b>		<b>50</b>	<b>15</b>	<b>42</b>	<b>16</b>	<b>21</b>	<b>144</b>

*Source: ILPD 2015 Household Survey*

Table 8 lists the reported reasons for the land disputes. Only 30 households (out of a total of 75 parcels with women-related disputes) responded to this question, making analysis problematic – the data are too sparse to interpret with certainty. The most frequent causes of land-related dispute were *umunani* (43.3%) and the sale of household land without the consent of the woman co-owner (16.7%). Only three disputes related to inheritance were reported (10%), all from the Southern Province.

**Table 8: Types of Land Dispute**

Type of dispute	Count	Percent
Umunani	13	43.3
Intekeshwa	1	3.3
Inheritance	3	10
Boundaries	1	3.3
Sale of household land	5	16.7
Renting out household land	1	3.3
Other	6	20
<b>Total</b>	<b>30</b>	<b>100</b>

*Source: ILPD 2015 Household Survey*

Table 9 depicts the types of land disputes that reached the Primary Courts between 1997 and 2014. The largest percentage of these are disputes related to inheritance (42.1%) followed by *umunani* (27.6%). All other land-related dispute categories were less than 10%. This would appear to indicate that a significant proportion of land disputes are resolved at the local level within the family or with local authorities, with perhaps the more legally and socially complex disputes escalating to the primary courts, such as inheritance and *umunani* cases.

**Table 9: Types of Family Land dispute (Primary Court Data)**

	Count	Percentage
Inheritance	237	42.1%
Umunani	155	27.6%
Sale of household land	40	7.2%
Intekeshwa & Igiseke	31	5.5%
Donations	28	5.0%
Boundaries	22	3.9%
Renting out household land	15	2.6%
Other	35	6.2%
<i>Source: ILPD 2015 Review of Court data</i>		

Of the 75 disputes reported to involve a woman or girl, only 27 respondents answered whether gender-based violence occurred, and of them, twelve disputes (44% of 27) were reported to have resulted in violence against a female member of the household (Table 10). It is unfortunate that so few respondents answered this question. Perhaps having a strange researcher knock on your door and start asking about family disputes and GBV can lead to protectiveness and/or a desire not to "wash the family's dirty linen in public."

**Table 10: Dispute Resulting in Gender-Based Violence**

		Yes		No		Total	
		Count	Percent	Count	Percent	Count	Percent
Province	South	2	16.7	4	26.7	6	22
	North	0	0.0	2	13.3	2	7
	Eastern	6	50.0	5	33.3	11	41
	Western	2	16.7	3	20.0	5	19
	Kigali	2	16.7	1	6.7	3	11
	<b>Total</b>	12	100.0	15	100.0	27	100.0
<i>Source: ILPD 2015 Household Survey</i>							

FGD participants in different sectors highlighted the fact that just because the reported cases are few does not mean that they do not exist. In most cases, a woman will not report GBV because she does not like to reveal the secrets of the household. Another participant in Gisozi Sector stated that, "Most of the time women fear to report [gender-based] violence because they think that they may face more problems or simply because others tell them that culturally, the way households are



best managed is when nobody talks (*niko zubakwa*).<sup>54</sup>

In Mugunga sector, one participant remarked that while examples of land-related GBV are somewhat rare, they do exist, but are hidden. “Violence against women who have land disputes was reported in this sector, with the possibility of even being killed, although,” he noted, “it is seldom reported.” This was explained by indicating that some women may keep violence directed against them a secret in order not to break their marriages (*Ngo niko zubakwa*).<sup>55</sup> Also, there are women who do not report GBV cases because they feel incapable of managing the household if the husband is imprisoned after charges are made.<sup>56</sup>

FGD participants in Rweru Sector explained that while few cases of GBV are reported, in reality there are many cases, but people do not want to mention them in public because “It will cause shame to the family.” In Rwanda, they say “*zirara zishya bwacya zikazima*”<sup>57</sup> which literally means that there may be fire in a household during the night, but in the morning the fire is not visible.

Of all focus groups, only participants in Simbi Sector claimed there were no GBV cases in their area. This could be the case, or possibly reflects the culture of secrecy about discussing these issues publicly.

In summary, secretive behavior by both perpetrators and victims of GBV was reported in all provinces of the country and proposed as the key reason why the results of the household survey revealed a low incidence of land-related GBV cases.

#### **4.10.2 Past Land Disputes**

This section focuses is on the history of resolved disputes that have occurred over the past ten years captured in the household survey and through observations by key informants. From 2005 to 2015, land disputes reportedly increased dramatically

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<sup>54</sup>FGDs, Gitega Sector,14/05/2015, Juru sector, 14/04/2015, Kirimbi Sector, 27/04/2015, Nyakiriba Sector,23/04/2015, Mageragere Sector,15/04/2015 and Munyaga Sector,17/04/2015, KII, Director of Land Bureau of Ngoma District, 23/04/2015.

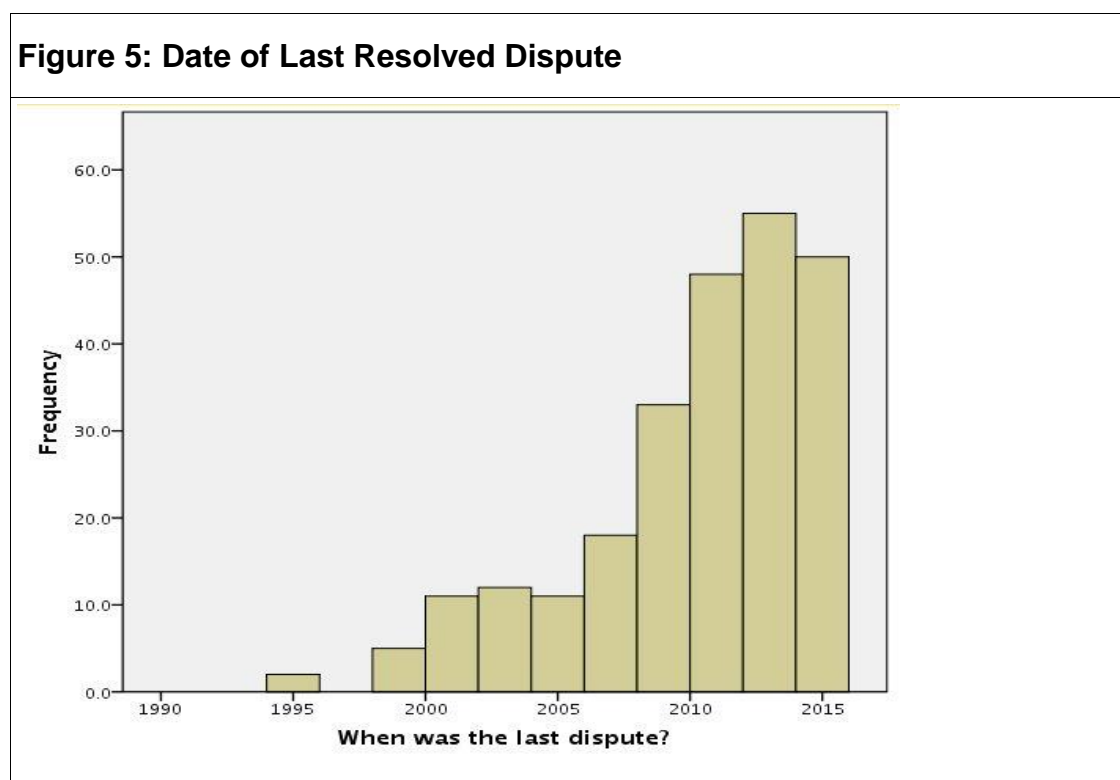
<sup>55</sup>FGDs, Butare Sector,30/04/2015, Nyakiriba Sector,23/04/2015,Kirimbi Sector, 27/04/2015, Juru sector, 14/04/2015, KII, Good Governance Officer of Nyamasheke District,28/04/2015.

<sup>56</sup>FGDs,Butare Sector,30/04/2015 and Gitega Sector, 14/04/2015, KII, President of Ngoma Primary Court,27/04/2015.

<sup>57</sup>FGD, Rweru Sector, 15/04/2015.

(Figure 5), though some caution is warranted as this may indicate merely that memories are more accurate for more recent events than earlier ones.

Several key informants described the rising number of disputes in terms of a generational conflict where older people maintain traditional cultural values, and do not welcome reforms providing for equality of sexes, while younger people are more welcoming of norms of gender equality and young women are more eager to assert these rights. “The old generation is resisting new reforms providing equal rights, and the new generation fighting for that equality.”<sup>58</sup> “The causes of those disputes are related to the mindset, especially the old generation which still thinks that men must dominate in matter related to land.”<sup>59</sup> “The main cause of disputes related to *umunani* and inheritance was reported to be cultural resistance, observed more in the older generation, and ignorance of the law.”<sup>60</sup>



Source: ILPD 2015 Household Survey

<sup>58</sup>FGD, Kayenzi Sector, 21/04/2015

<sup>59</sup>FGD, Kamegeri Sector, 28/05/2015,

<sup>60</sup>KII, Officer in Charge of Gender and Family Promotion in Huye District, 27/04/2015.

Household survey respondents in 286 households reported a total of 323 land disputes within the last 10 years (Table 11). The great majority of households (80%) reported only one dispute. This was also true across provinces, though the Southern and Western Provinces reported more disputes per household.

**Table 11: Number of disputes per household, by Province**

Provinces	Number of disputes per household	Number of Households	Total of Disputes
<b>South</b>	1	86	86
	2	6	12
	3	1	3
	4	1	4
	<b>TOTAL</b>	<b>95</b>	<b>110</b>
<b>North</b>	1	37	37
	2	4	8
	3	2	6
	4	0	0
	5	0	0
<b>TOTAL</b>	<b>43</b>	<b>51</b>	
<b>Eastern</b>	1	39	39
	2	2	4
	3	1	3
	4	0	0
<b>TOTAL</b>	<b>42</b>	<b>46</b>	
<b>Western</b>	1	76	76
	2	5	10
	3	2	6
	4	0	0
<b>TOTAL</b>	<b>83</b>	<b>92</b>	
<b>Kigali City</b>	1	22	22
	2	1	2
	3	0	0
	4	0	0
<b>TOTAL</b>	<b>23</b>	<b>24</b>	
<b>Grand Total</b>		<b>286</b>	<b>323</b>

Table 12 depicts resolved land disputes. Household survey respondents reported a total of 265 resolved land disputes in 243 households within the last 10 years. The great majority of households (93%) reported only one resolved dispute. This was also true across provinces, though the Southern and Western Provinces reported more resolved disputes per household.

**Table 12: Number of resolved disputes per household, by Province**

Provinces	Number of resolved disputes per household	Number of Households	Total of resolved Disputes
South	1	77	77
	2	2	4
	3	1	3
	4	1	4
<b>TOTAL</b>		<b>81</b>	<b>88</b>
North	1	32	32
	2	3	6
	3	2	6
	4	0	0
<b>TOTAL</b>		<b>37</b>	<b>44</b>
Eastern	1	32	32
	2	2	4
	3	0	0
	4	0	0
<b>TOTAL</b>		<b>34</b>	<b>36</b>
Western	1	67	67
	2	4	8
	3	1	3
	4	0	0
<b>TOTAL</b>		<b>72</b>	<b>78</b>
Kigali City	1	19	19
	2	0	0
	3	0	0
	4	0	0
<b>TOTAL</b>		<b>19</b>	<b>19</b>
<b>Grand Total</b>		<b>243</b>	<b>265</b>

A total of 174 households (60%) reported that the resolved dispute involved a woman or girl (Table 13). Northern (74%) and Eastern (69%) Provinces have higher percentages of disputes involving a woman or girl.

**Table 13: Household with Resolved Disputes Involving a Woman or Girl, by Province**

		Yes		No		Total	
		N	Row %	N	Row %	N	Row %
Province	South	54	57.4	41	43.6	95	100
	North	31	73.8	12	28.6	43	100
	Eastern	29	69.0	13	31.0	42	100
	Western	46	58.2	37	46.8	83	100
	Kigali	14	60.9	9	39.1	23	100
	<b>Total</b>	<b>174</b>	<b>60.0</b>	<b>112</b>	<b>40.0</b>	<b>286</b>	<b>100</b>

*Source: ILPD 2015 Household Survey*

Table 14 compares marital status with the household data on land disputes over the past decade. Of particular interest are the “legally married” and “informally married” categories. A chi-square test for differences between these two categories reveals no statistical significance (critical value=3.841, df=1, p=0.082), indicating that involvement in a past land dispute is not linked in any meaningful way to whether the respondent was married legally or informally.

<b>Table 14: Households with land Disputes, by Marital Status</b>				
		Has your household been involved in a land dispute in the last 10 years?		
		Yes	No	Total
Marital Status (module B)	Single	272	1473	1745
	Legally married	145	910	1055
	Informally married	41	356	397
	Widow/Widower	70	285	355
	Divorced	1	9	10
	Separated	26	81	107
	<b>Total</b>	<b>284</b>	<b>1636</b>	<b>1920</b>

*Source: ILPD 2015 Household Survey*

Of the disputes involving women, 42 (65%) were resolved in favor of a woman<sup>61</sup> while five were resolved in favor of a male member of the household. The fact that there are 18 responses in the “other” category might indicate that the response options were not broad enough, or that responses were too complicated to be categorized into the available options.

*Umunani* and inheritance are the most commonly listed causes of these disputes, followed by land-sale disputes. Of the disputes involving women, forty-five (26%) indicated that their dispute resulted in GBV (Table 15).

**Table 15: Dispute Resulting in GBV, by Province (Household Survey)**

Province	Yes		No		Total	
	N	%	N	%	N	%
South	13	25.5%	38	74.5%	51	100.0%
North	9	31%	20	69%	29	100.0%
Eastern	11	36.6%	19	63.4%	30	100.0%
Western	6	12.7%	41	87.3%	47	100.0%
Kigali	6	37%	10	63%	16	100.0%
<b>Total</b>	<b>45</b>	<b>26%</b>	<b>128</b>	<b>74%</b>	<b>173</b>	<b>100.0%</b>

Source: ILPD 2015 Household Survey

The most common form of GBV was verbal abuse (56%). There were four cases of physical violence, and six of death threats. One instance in the Eastern Province reportedly resulted in the death of the victim (Table 16).

Province	Verbal abuse	Psychological abuse	Physical violence	Death threats	Death	Other	Total
South	6	4	0	3	0	0	13
North	7	1	1	0	0	0	9
Eastern	6	0	3	0	1	1	11
Western	2	1	0	2	0	1	6
Kigali City	3	1	0	1	0	1	6
<b>Total</b>	<b>24</b>	<b>7</b>	<b>4</b>	<b>6</b>	<b>1</b>	<b>3</b>	<b>45</b>

Source: ILPD 2015 Household Survey

Out of a total of 915 Intermediate Court cases for which data was available, 273 (29.8%) indicated that GBV was applicable to the case. The lowest incidence of GBV is in the Southern province with 6 cases, followed by 42 in the Northern Province (Table 17). The highest rate of GBV is in the Western Province (Table 17).

<sup>61</sup>According to the options in the questionnaire, this is either wife, widow or daughter.

**Table 17: All GBV cases, by Province (Intermediate Courts)**

		Is this a GBV case?		Total
		Yes	No	
Province	Kigali City	98	300	398
	North	42	169	211
	Western	127	166	293
	Southern	6	7	13
Total		273	642	915

*Source: ILPD 2015 Review of Courts data*

Turning to analysis of court data, Table 18 indicates that the victims in the vast majority of land-related GBV cases found in the Intermediate Courts were women bringing cases against men (254 cases). Court records indicated that only 7 men were involved as victims against women in cases involving gender-based violence.

<b>Table 18: Gender of victim and accused, by all GBV cases (Intermediate Courts)</b>					
Is this a GBV case?			Gender of the victim		
			Male	Female	Total
Yes	Gender of the accused	Male	8	254	262
		Female	7	2	9
		Total	15	256	271
No	Gender of the accused	Male	297	126	423
		Female	24	18	42
		Total	321	144	465
Total	Gender of the accused	Male	305	380	685
		Female	31	20	51
		Total	336	400	736

*Source: ILPD 2015 Review of Courts data*

Of the 285 Intermediate Court cases (cases in general) for which GBV data was available, physical violence was reported in 78.2% of cases, while verbal, psychological abuse/death-threats in 4.3% of cases, and death was noted in 6.7% (19 cases). It is important to note that only 25 (9.0%) of cases involving violence were related to land. Responses regarding these cases were too sparse to analyze or draw conclusions from: eight cases involved *umunani* and five involved land inheritance. Accused males were found guilty in 75% of GBV land-related cases in

the Intermediate Courts for which data was available (n=24), and 63% of those were given prison sentences.

#### 4.10.2.1 Intra- and Inter-Household Land Disputes

The household survey distinguished between inter-household and intra-household land disputes. Survey responses indicate that 39% of all resolved disputes were intra-household and 61% were inter-household (Table 19).

**Table 19: Frequency of Intra- and inter-Household Disputes**

Was the dispute within members of the household or with another household?			
		Frequency	Percent
	Within the household	68	39,1
	With another household	106	60,9
	Total	174	100

Source: ILPD 2015 Household Survey

Table 20 shows that 85% of reported land disputes occurred in rural areas, which is not surprising since 87% of the surveyed households are in rural areas. There are a high proportion of intra-household disputes in urban areas, contrary to the overall dominance of inter-household disputes.

**Table 20: Intra- and inter-Household Disputes, by Area**

Inter HH or Intra HH disputes? * Residence Type Crosstabulation					
		Residence Type Rur-Urb			Total
		Rural	Semi-urban	Urban	
Inter HH or Intra HH disputes?	Within the household	52	6	10	68
	With another household	96	6	4	106
Total		148	12	14	174

Source: ILPD 2015 Household Survey

Table 21 examines the intra-inter household dispute variable in terms of how many land disputes the household had over the past ten years. The data seem to show that the great majority of households had only one dispute and there is not much difference in frequencies between intra- and inter-household disputes.



**Table 21: Type of Household Dispute by Disputes Number in Last 10 years**

Inter HH or Intra HH dispute? * How many of land disputes in the last 10 years? Crosstabulation						
		How many of land disputes in the last 10 years?				Total
		1	2	3	4	
Inter HH or Intra HH disputes?	Within the household	62	3	3	0	68
	With another household	97	6	2	1	106
Total		159	9	5	1	174

Source: ILPD 2015 Household Survey

Table 22 examines the incidence of gender-based violence emerging from inter-versus intra-household land-related disputes. Of the 167 cases that included this data, 43 (25.7%) resulted in some form of GBV. Twenty-one (12.6% of the total) were intra-household, and 22 (13.2%) were intra-household.

**Table 22:GBV Resulting From land Disputes, by Household Dispute type**

Gender-based violence (resulting from dispute) by type of HH dispute						
Inter- or Intra-HH Dispute	Gender-Based Violence				Total	
	Yes		No		N	%
	N	Table%	N	Table %	N	%
Within the household	21	12.6	45	26.9	66	39.5
With another household	22	13.2	80	47.9	101	61.1
Table Totals	43	25.7	125	74.9	167	100.0

Source: ILPD 2015 Household Survey

The ratio of GBV-related intra-household disputes is 21:45 (46.7%), while that of inter-household disputes is 22:80 (27.5%). This indicates that disputes that end in violence against a woman are almost twice as common in intra-household disputes as compared to inter-household disputes.

#### 4.10.2.2 Dispute Resolution

Households chose a variety of dispute-resolution pathways. Local Authorities received 22 reported land disputes (33.8%), courts received 18 cases (27.7%), and

15 were taken for family mediation (23.1%). The Abunzi only received 10 reported disputes (15.4%). However, given that the survey sought dispute data for the past 10 years, the Abunzi number could be underestimated as the Abunzi system was only introduced in 2006. In establishing the level to which the inter-household disputes were taken in order to get a resolution, local authorities once again top the list, but this time family mediation and Abunzi were sought more often than the courts, to which only 14 cases were forwarded for resolution.

#### **4.11 Awareness of 1999 Succession Law Particulars**

About one third of household survey respondents reported that they were not aware of the 1999 Succession Law. Looking at the differences across Provinces, respondents in the Northern Province were the most aware (72%) and those in the Southern Province the least aware (52%). When examined in terms of male/female awareness, the rate of male awareness is slightly higher than that of women. If we consider the marital status of our respondents, legally married (71%) and widowed (61%) women and men were the most aware of the 1999 Succession Law. In part this may be due to their age. What is surprising is the relatively low awareness among divorced and separated male and female respondents. But their numbers among respondents is small so their percentages may not be reliable.

FGD participants agreed that there was more widespread awareness of the law among men than women. However, they also indicated that men are slower to change their mindsets about women's property rights given that they perceive they will lose from implementation of gender-equal land rights. The FGDs in Simbi and Kamageri sectors explained that women's awareness of gendered land rights was lower than for men because of higher levels of female illiteracy compared to men.<sup>62</sup> Additionally, women tend to remain at home fulfilling their domestic responsibilities and often do not attend meetings, workshops or village meetings where awareness

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<sup>62</sup>According to the fourth Population and Housing Census in Rwanda conducted in August 2012 68% of the Rwandan population aged 15 years and above were literate compared to 64.4% in 2002. A person is qualified as literate if he/she is able to read, write and understand at least one language. In 2012, males were more literate (72%) than females (65%). <http://www.statistics.gov.rw/publications/article/rwanda%E2%80%99s-literacy-rate-rises>, visited on 19/06/2015.

campaigns are carried out.<sup>63</sup> Other reasons mentioned included poverty,<sup>64</sup> poor socio-economic conditions of rural women, and the prevalence of cultural norms that privilege boys over girls.<sup>65</sup>

FGD participants in Butare, Mageragere, and Kilimbi sectors disagreed with the assertion that women do not know their rights. They maintained that this only occurs in exceptional circumstances when women are illiterate or uneducated.<sup>66</sup> However, even in these sectors some discordant voices indicated that most women are not interested in knowing changes introduced by laws or other policies.<sup>67</sup>

Although most men and women are aware that they are required to register their land and that selling land requires the consent of both husband and wife, disputes about these issues often occur. Several participants reported that when a wife did not consent to the sale of land, the result was serious intra-family conflict.<sup>68</sup> In practice, men think that they should have the authority to make decisions in regards to the sale of land and often do not value the wife's opinions on the matter. Discussion group participants indicated that men usually feel that their rights to land

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<sup>63</sup>FGDs, Munyaga Sector,17/04/2015, Remera Sector,20/04/2015, Butare Sector,30/04/2015, Musanze Sector,21/04/2015, Nyakiriba Sector,23/04/2015, Kayenzi Sector, 21/04/2015, Gatumba Sector, 27/04/2015, Mugunga Sector, 16/04/2015 and Juru sector, 14/04/2015. KII with National Executive Secretary of HAGURUKA, 16/04/2015, Officer in Charge of Gender and Family Promotion in Rwamagana District, 21/04/2015, Interview with Vice Mayors for Social Affairs in the following districts: Burera, 15/04/2015, Musanze, 22/04/2015, Ngororero, 28/04/2015 and Gakenke, 17/04/2015, Interview with Good Governance Officer in Rubavu District, 24/04/2015, Interviews with judges: Gakenke Primary Court, 17/04/2015, Nyakiriba Primary Court, 24/04/2015, Gatumba Primary Court, 28/04/2015, Kamembe Primary Court,30/04/2015, Kibungo Primary Court,23/04/2015. Interview with Directors of Land Bureaus: Ngororero District, 28/04/2015, Bureau District, 15/04/2015, Kamonyi District, 22/04/2015, Ngoma District, 23/04/2015, Rusizi District, 30/04/2015, interview with Program Manager in Pro femme TWESE HAMWE,20/04/2015

<sup>64</sup>FGD, Kinoni Sector,14/04/2015, KII,officer in charge of Gender and Family Promotion, National Women Council.

<sup>65</sup>FGDs Gitega Sector, 14/04/2015 and Juru sector14/04/2015, KII, Good Governance Officer in Kamonyi District, 22/04/2015, ,KII, Directors of Land Bureaus: Kamonyi District, 22/04/2015. ,Nyamasheke District, 28/04/2015, KII, President of Gacurabwenge Primary Court,22/04/2015, KII, Judge at Kibungo Primary Court,23/04/2015.

<sup>66</sup>FGDs, Mageragere Sector,15/04/2015, Butare sector,29/04/2015 and Kirimbi Sector, 27/04/2015.

<sup>67</sup>FGD, Mageragere Sector,15/04/2015.

<sup>68</sup>FGDs, Gishamvu Sector, 23/04/2015, Simbi Sector, 24/04/2015 and Butare sector,29/04/2015, KII, National Executive Secretary of HAGURUKA, 16/05/2015 KII, Judge at Primary Court of Nyamirambo, 16/04/2015, KII, Gender and Family Promotion Officer In Rwamagana District,21/04/2015.

are superior to the rights of their wives.<sup>69</sup> Many communities have not internalized the notion that the sale of jointly owned land requires the consent of both co-owners.

Participants in the Northern Province also asserted that some women themselves do not believe they have a right to claim their land rights and lack confidence.<sup>70</sup>

In examining legal awareness, one needs to differentiate those persons who have no knowledge of legal reforms that enhance gender equality in land matters, and those who are aware of these reforms, but are unclear about its content and its extent. For the first category, participants in the qualitative research noted that those who do not yet know what the law provides on these matters will continue to apply cultural norms which privilege men in matters of land.<sup>71</sup> For the second category, participants claimed that there is ignorance about the principle of non-retroactivity of the law. Daughters increasingly lay claim to land *umunani* and inheritance that they would not have been entitled to before enactment of 1999 Succession Law.

According to the Executive Secretary of HAGURUKA, “The Inheritance Law is not retroactive. Many cases from women claiming their rights to *umunani* and inheritance even if the act of giving *umunani* or inheritance has taken place before 1999 are received by HAGURUKA legal department.”<sup>72</sup> Participants in the Gishamvu FGD indicated that some women were claiming rights to *umunani* or inheritance that took place before 1999, and that this was causing family problems.<sup>73</sup> A judge from the primary court in Ngoma District added, “The remaining problem is that of women who come to court claiming rights related to inheritance in situations that took place before 1999. The inheritance law is not retroactive.”<sup>74</sup> It should be kept in mind that women can, nevertheless, claim these rights based on provisions in the Constitution.

The characteristics of the household respondents do not seem to be very important in whether they are aware of the 1999 Succession Law. Among the 35% of respondents who were not aware of this legislation, their characteristics are not

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<sup>69</sup>FGDs, Kamegeri Sector,28/04/2015, Munyaga Sector,17/04/2015, Remera Sector,20/04/2015 and Mugunga Sector, 16/04/2015.

<sup>70</sup>KII, Vice Mayor for Social Affairs, Burera, 15/04/2015.

<sup>71</sup>FG, Butare Sector, 29/04/2015, KII, Good Governance Officer of Kamonyi District, 22/04/2015

<sup>72</sup>KII, National Executive Secretary of HAGURUKA, 16/04/2015

<sup>73</sup>FGD, Gishamvu Sector, 23/04/2015.

<sup>74</sup>Interview with the President of Ngoma Primary Court,27/04/2015

radically different from those who are aware. The former nevertheless have slightly less education, are younger, and are not legally married.

#### 4.12 Perspectives on Gendered Land Rights

Respondents' perspectives about daughters' rights in different situations (unmarried with children, divorced, and widowed) were also explored. While the data across these three categories of daughters indicate a high level of consistency in the responses, this very consistency might raise validity questions because these questions were asked in sequence, which can often result in responses with minimal variation. On the other hand, a very high percentage of respondents believe that daughters (as a general category) should receive *umunani* land, which has traditionally been limited to sons.

In Rwanda, there is broad recognition that the position and roles of women in society have been changing. Many women now know they are entitled to *umunani* and inheritance and must be consulted in decision making over marital property. The problem continues to be a gap between knowledge and the practical experiences of women when they attempt to exercise their rights.

Some people still follow traditional norms in matters of land and use cultural norms as a justification for not upholding gender-equal practices. For example, some parents continue to follow the cultural norm that *umunani* remains the sole right of male children. As one FGD participant stated, "The first reason is the cultural belief that says that boys have rights to more *umunani* and inheritance than girls."<sup>75</sup> Yet, daughters believe they also have a right to *umunani*. According to another FGD participant, "Inequality in matters related to land must be eliminated. Men have to be aware that women's emancipation concerns also having access to all properties."<sup>76</sup>

More varied ideas were expressed when respondents were asked about *umunani* land portions. About 31% of the respondents believed that daughters should receive a smaller portion of land *umunani*. This percentage is highest in the Northern

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<sup>75</sup>FGD Gisozi and Gitega Sectors, 14/04/2015 and assertions like this were met also in: FGD, Mageragere Sector, 15/04/2015, FGD Musanze Sector, 21/04/2015, FGD, Kamegeri Sector, 28/04/2015

<sup>76</sup>FGD, Mugunga Sector, 16/04/2015.

Province, where 45% responded that women should have a smaller portion, and lowest in Kigali City, where only 3 individuals (2%) felt similarly. Only one individual in the entire sample believed that sons should receive smaller portions of land.

A broad consensus emerged in the FGDs that the gendered nature of land disputes involving women's land claims arise primarily for the following reasons: a) cultural resistance to legal reforms that offer equal access to land to both sexes, b) increasing land scarcity and competition over land, c) legal ignorance, and d) unclear legal provisions in regards to *umunani*.

#### **4.13 Unclear Legal Provisions for Umunani**

According to Article 42 of the 1999 Succession Law, an "ascending partition" (*umunani*) is an act accomplished by parents while they are still alive, by which they share their patrimony between their children or their descendants who acquire, each for the portion devolved to him or her, full ownership." Furthermore, "This partition shall be regarded as the accomplishment of parents' duties to educate their children and to provide them with a personal patrimony." Whereas article 43 of the same law states that all children, without distinction between girls and boys, or, in cases where they are deceased before parents, their descendants, excluding those banished due to misconduct or ingratitude, have a right to the partition made by their ascendants.

FGD participants raised concerns about these articles, indicating that they are not clear in the following contexts:<sup>77</sup>

- Is it obligatory for a parent to give *umunani* to his/her children? In other words, can a parent simply decline to distribute any land as *umunani*?
- Can a child claim *umunani* or must he/she wait until the parent decides to give it?
- Does the equality provision (article 43) on *umunani* imply equal shares among children regardless of sex, as the article 50 provides for cases of inheritance?

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<sup>77</sup>KII, National Executive Secretary of HAGURUKA, 16/04/2015, KII, President of Primary court of Nyarugenge, 16/04/2015, FGD, Remera Sector,20/04/2015, Gishamvu Sector,23/04/2015, and FGD Simbi Sector, 24/04/2015.

- Is the parent entitled to give as *umunani* whatever piece of land he/she decides? No limits?

These questions received much attention because they are highly relevant with regard to the practice of *umunani*. Some parents appear to hide behind this confusion in order to give smaller portions to some children (especially daughters). Additionally, a parent may give land as *umunani* to some children, leaving others with nothing at the time of inheritance.<sup>78</sup>

Despite the fact that children often need land to start new families, some FGD participants suggested that the practice of *umunani* should be abolished such that land transfers within families are accomplished only through inheritance, as it is more clearly regulated by the law. Although they acknowledged that it could be very difficult for many families to follow this proposed practice, they felt doing so would reduce land disputes and be advantageous to women.<sup>79</sup>

Respondents in the household survey were asked about practices in their community regarding *umunani* land. Out of a total of 1,935 valid responses, the great majority (92%) indicated that daughters in their village receive *umunani* land and only 160 (8%) indicated that daughters do not. Interestingly, Kigali City had the highest rate (22%) of daughters that were not included in the distribution of *umunani* land in their locality. This may reflect the relatively high proportion of households without land or with parcels too small to provide *umunani*.<sup>80</sup> Among the 160 respondents, the two most cited reasons for why daughters are not allotted *umunani* were custom and small family land size.

Respondents were also asked whether they had knowledge of daughters in their community who had not received *umunani* land and claimed their right to it. More than half had heard of such cases, with the exception of respondents in the Western Province where only 47% had heard of such cases. Regarding how a woman is treated by her family after making a claim for *umunani*, of the 1,034 respondents who answered this question 72% said a daughter's claim for *umunani* resulted in an

<sup>78</sup>FGD, Munyaga Sector, 17/04/2015

<sup>79</sup>FGD, Remera sector, 20/04/2015.

<sup>80</sup>All household respondents were asked about land practices in their community, whether the household had land or not.

internal family dispute, 11% said her family rejected her, and 10% said her family harassed her. This pattern is roughly consistent across the entire country. Clearly, there are social consequences for claiming rights that traditionally were not available to women.

More often, when a daughter does not receive land *umunani*, she does not claim it from her parents. Across all respondents, the most frequent reasons given for why daughters do not claim *umunani* were: “to avoid conflict with her family” (39%) and “ignorance of their rights to *umunani*” (28%). Only 31 respondents (5%) reported that woman do not claim *umunani* due to a fear of violence.

Though also a traditionally male right, beliefs about land inheritance rights from one’s natal family follow a somewhat different pattern. Across all provinces, the overwhelming majority of respondents (93%) said that daughters should have inheritance rights to land. When asked about the different situations daughters may find themselves in (married, divorced, abandoned, with children), this majority belief prevailed, increasing slightly for daughters that had been divorced or abandoned by their husbands.

The research team explored why 7% of respondents answered that daughters should not have rights to inherit land from their birth families. The majority (58%) said it was because of custom, while others said that a married woman would benefit from her husband’s family (21%) and need not inherit land from her birth family. Reasons varied significantly by province: 73% of respondents in the Southern Province said that it was not the customary norm and 27% in the Eastern Province answered that daughters will have access to their husband’s land. The numbers within each province are too small, however, to draw robust conclusions.

When asked about inheritance practices in their village, a total of 1,188 (60%) responded negatively to the question as to whether daughters receive land as inheritance from their parents in their particular location (Table 23), a much higher negative response than the practice with *umunani* land (9%). This response was also found across all provinces, ranging from 53% in the Northern Province to 66% in the Eastern Province. While this may sound surprising, recall that a minority of the parcels in the survey’s households was inherited by both men and women. Hence,



this response likely to mostly reflect the fact that little land is transferred through inheritance.

		Province					Total
Do daughters in your village inherit land?		Southern	Northern	Eastern	Western	Kigali	
Yes	Count	158	216	154	190	59	777
	% within Province	40.4%	46.9%	34.5%	38.0%	35.5%	39.5%
No	Count	233	245	293	310	107	1188
	% within Province	59.6%	53.1%	65.5%	62.0%	64.5%	60.5%
Total	Count	391	461	447	500	166	1965
	% within Province	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: ILPD 2015 Household Survey

Table 24 highlights respondents' perceptions about daughters' land *umunani* and inheritance rights. A significant majority (75.5%) agrees that daughters have a right to both, while roughly 24% feels that daughters have a right to one of these entitlements, but not to both.

**Table 24: Perception of daughters' Umunani and Inheritance Rights**

**do you think that women have the right to receive Umunani? \* do you think daughters have the right receive land as inheritance?**  
Crosstabulation

Count

		do you think daughters have the right receive land as inheritance?		Total
		yes	no	
do you think that women have the right to receive Umunani?	yes	77	12	89
	no	12	1	13
Total		89	13	102

Source: ILPD 2015 Household Survey

Ninety seven percent (97%) of survey respondents uphold the rights of divorced daughters to receive land *umunani* and inheritance from their family. This seems to indicate that families are more inclined to modify customary norms regarding daughters' rights to family land when their daughters find themselves in an unfavorable economic situation. A similar examination of perceived rights of

daughters to equal-sized land as their brothers reveals more discrepancy, but still a significant majority (61.3%) supports equality.

Respondents reported a clear difference between how *umunani* and inherited land for daughters is perceived and practiced in their community. The overwhelming majority of respondents (97%) believes that daughters have the right to *umunani* and they perceived that actual practice in their communities is only slightly lower (91%). With regard to inherited land, however, the difference between belief and perceived practice is quite large: 93% believe that daughters are entitled to inherit land, but only 40% indicated that daughters in their community actually inherit land from their parents. As already discussed, the reason may be that very little land is actually inherited; rather, most land passed from parents to their children is through *inter-vivos* transfers.

#### **4.14 Married Women's Rights to Family Land**

Regarding the right of spouses to marital property, Table 25 describes responses regarding the rights of a legally married wife to the land her husband brings into the marriage. By an overwhelming margin, in all regions of the country, respondents indicated that a wife has a right to her husband's land (98% - 99.4%).

**Table 25: Legally Married Wives' Rights to husbands' Land, by Province**

Do you think a legally married wife has rights to the land her husband brings to the marriage? * Province Crosstabulation								
			Province					Total
			South	North	Eastern	Western	Kigali City	
Do you think a legally married wife has rights to the land her husband brings to the marriage?	Yes	Count	387	452	441	500	166	1946
		% within rows	19.9%	23.2%	22.7%	25.7%	8.5%	100.0%
		% within columns	98.7%	98.0%	99.1%	99.4%	99.4%	98.9%
		% of Total	19.7%	23.0%	22.4%	25.4%	8.4%	98.9%
	No	Count	5	9	4	3	1	22
		% within rows	22.7%	40.9%	18.2%	13.6%	4.5%	100.0%
		% within columns	1.3%	2.0%	0.9%	0.6%	0.6%	1.1%
		% of Total	0.3%	0.5%	0.2%	0.2%	0.1%	1.1%
Total	Count	392	461	445	503	167	1968	
	% within rows	19.9%	23.4%	22.6%	25.6%	8.5%	100.0%	
	% within columns	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	
	% of Total	19.9%	23.4%	22.6%	25.6%	8.5%	100.0%	

Source: ILPD 2015 Household Survey

#### 4.15 Land Rights of Informally Married Women

Respondents' perspectives regarding an informally married woman's rights differed; in every region of Rwanda. Except in Kigali City, a preponderance of respondents indicated that an informal wife has no rights to her husband's land (Table 26). Clearly the legal status of a wife has significant consequences when it comes to land rights and land disputes.

**Table 26: Informally Married Wives' Rights to Husbands' Land, by Province**

Do you think a wife in an informal marriage has rights to the land her husband brings to the marriage? * Province Crosstabulation								
			Province					Total
			South	North	Eastern	Western	Kigali City	
Do you think a wife in an informal marriage has rights to the land her husband brings to the marriage?	Yes	Count	126	132	135	193	80	666
		% within Province	32,20%	28,70%	30,50%	38,40%	48,20%	33,90%
		Count	265	328	307	310	86	1296
		% within Province	67,80%	71,30%	69,50%	61,60%	51,80%	66,10%
	No	Count	391	460	442	503	166	1962
		% within Province	100,00%	100,00%	100,00%	100,00%	100,00%	100,00%
		Count	391	460	442	503	166	1962
		% within Province	100,00%	100,00%	100,00%	100,00%	100,00%	100,00%

FGD participants in almost all sectors agreed that informally married women's fragile claims to property make them particularly vulnerable. While the law protects formally married women's rights to joint property under the community of property matrimonial regime, women in informal marriages were recognized as having no such protections.<sup>81</sup> Women in such situations are said to lack bargaining power within their relationships, have little or no say in whether or not the property they use is sold by their spouses, and are typically unable to remain on that property upon the death of the husband.<sup>82</sup> Invariably, FGD respondents concluded that all marriages should be formalized in order to resolve the situation. In doing so, legal protection for all women would be enhanced.

During the land registration process, there was not a systematic approach for the registration of land to both spouses in an informal marriage. Some informally married wives were registered as co-owners (as "partners" or even sometimes as "spouses"), while others were not registered at all, thereby leaving them without legal claim to the land shared with their husband.<sup>83</sup> The District Land Officer in Rubavu explained, "Men do not want to share their land with their informal wives. These men want the power to register the land in their name only, despite the fact that their informal wives have contributed to land acquisitions."<sup>84</sup>

Some participants mentioned the GBV Law as a legal tool for protecting the land rights of informally married women. Article 39 of the law states: "If a person concerned with the provision of the previous paragraph of this Article was living with many spouses, he shall first of all share the commonly owned belongings with those spouses equally."<sup>85</sup> In addition, the law provides that: "The property distribution referred to in paragraph 2 of this Article shall not infringe on the children's legally recognized rights." and "Modalities of such distribution shall be determined by an

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<sup>81</sup>FGDs, Butare Sector,30/04/2015, Kirimbi Sector, 27/04/2015, Jarama Sector, 21/04/ 2015, Gishamvu Sector, 23/04/2015, Munyaga Sector,17/04/2015 and Kayenzi Sector, 21/04/2015.

<sup>82</sup>FGD, Munyaga Sector,17/04/2015.

<sup>83</sup>FGDs Musanze Sector,21/04/2015, Mugunga Sector, 16/04/2015 and Gitega sector, 14/04/2015, KII, Director of Land Bureau of Kamonyi District, 22/04/2015.

<sup>84</sup>KII, Director of Land Bureau in RUBAVU District, 24/04/2015.

<sup>85</sup>FGDs, Munyaga Sector,17/04/2015 and Gatumba Sector, 27/04/2015

Order of the Minister in charge of Local Government."<sup>86</sup> However, these protections are limited because they only come into play when the husband intends to legally marry another wife. It then requires the informal wife to prove evidence of mutual contribution in acquisition of the land.

According to HAGURUKA, these difficulties usually result in no legal claim being asserted. Their Executive Secretary explained, "Informally married women are not protected by the law. They report their cases, but it is difficult for HAGURUKA to help them when the land is not registered to them. Indeed, they are entitled to half of the land that they have acquired with their husband when the latter is about to formally marry one wife, but it is difficult to obtain evidence that they have acquired it together."<sup>87</sup> Interviewed judges also agreed that this problem exists and is significant.<sup>88</sup>

Both formally and informally married women face challenges in asserting and receiving their rights to land. However, informally married women experience far fewer protections under current legislation and practice, and as a consequence tend to suffer more egregious abuse of their rights. Formally married women have greater legal protection, but they still have weaker bargaining power within the household compared to men when it comes to matters related to land use, management, benefits or control.

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<sup>86</sup>Article 39 of law N°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence.

<sup>87</sup>KII, National Executive Secretary of HAGURUKA, 16/05/2015.

<sup>88</sup>KII, President of Ngoma Primary Court, 27/04/2015.

**Table 25: Informally Married Wives' Rights to Husbands' Land**

		Do you think a wife in an informal marriage has rights to the land her husband brings to the marriage?		Total
		Yes	No	
Marital status	Single	22 (27.5%)	58 (72.5%)	80
	Legally married	321 (30.1%)	746 (69.9%)	1067
	Informally married	179 (46.4%)	207 (54.6%)	386
	Widow/Widower	114 (32.9%)	233 (67.1%)	347
	Divorced	3 (33.3%)	6 (66.6%)	9
	Separated	27(37.0%)	46 (63.0%)	73
Total		666 (33.9%)	1296 (66.1%)	1962
Area Type	Rural	564 (33.0%)	1145 (67.0%)	1709
	Semi-urban	35 (31.5%)	76 (68.5%)	111
	Urban	67 (47.2%)	75 (52.8%)	142
Total		666 (33.9%)	1296 (66.1%)	1962
Education	None	199 (33.8%)	389 (66.2%)	588
	some primary	227 (35.2%)	418 (64.8%)	645
	finished primary	157 (31.9%)	335 (68.1%)	492
	some secondary	32 (29.4%)	77 (70.6%)	109
	finish secondary & over	49 (39.5%)	75 (60.5%)	124
Total		664 (33.9%)	1294 (66.1%)	1958
Type of marriage if the parcel is co-owned	Legally married	58 (27.9%)	150 (72.1%)	208
	Informally married	16 (43.2%)	21 (56.8%)	37
Total		74 (30.2%)	171 (69.8%)	245

Source: ILPD 2015 Household Survey

Table 25 combines several attributes of respondents (marital status, area type, education and co-owner's marriage type) regarding attitudes towards the idea that informally married women have rights to their husbands' property. The difference in responses between legally married and informally married women in the survey is highly significant ( $p=0.0000$ ), indicating a meaningful difference in the views of the two groups. Despite greater support for informally married women's rights by those who are in informal marriages, less than half of informally married individuals believe that informally married women should have these rights. Likewise, area type (rural, semi-urban and urban settings) is statistically significant as a differentiator of attitudes with urban households demonstrating greater support towards informally married women's rights. Nevertheless, it is surprising that even in urban settings

where attitudes might be expected to be less traditional, less than half (46.4%) of respondents indicated their acceptance of informally married women's rights to their husbands' property.

When asked about decisions such as land use, 87% respondents believe that joint decision-making on land use is the norm in a formal marriage context, while 21.5% feel this is the case within informal marriages.

According to many household survey respondents, co-ownership of land by a husband and wife gives women greater decision-making power over land. Yet according to participants in FGDs, this outcome is not always fully observed.<sup>89</sup> Cases were described of men who sold land without the consent of their spouses: "Women then feel they are not respected, and this increases disputes over household land. But, the husband feels he is the one who should be making all decisions, including decisions on the household land."<sup>90</sup>

#### **4.16 Widow's Land Rights**

Next, we explore awareness regarding the land-related rights of a widow to the land of her deceased husband. In the distant past, when a woman's husband died, customary norms ensured she was quickly married to one of the husband's brothers.<sup>91</sup> This tradition, common across much of sub-Saharan Africa, preserved the extended family structure, gave a certain kind of protection to the widow, and ensured that the children remained part of the family.

In the aftermath of the colonial introduction of Christianity, polygamy was frowned upon and levirate marriage was discouraged. However, since traditional property rights had never derived from the marriage act, but were rather an extension of the marriage fact, the consequence of doing away with levirate marriage was that upon the death of her husband, a widow was usually denied rights to land, house, furniture, and sometimes even to her own children, all of which were claimed by the

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<sup>89</sup>FGDs, Kamegeri Sector, 28/05/2015, Gisozi Sector, 14/04/2015.

<sup>90</sup>KII, officer in charge of Gender and Family Promotion, National Women Council, 17/04/2015.

<sup>91</sup> Levirate marriage was a custom practiced by the Jews during Biblical times, too (Deuteronomy 25:5-10,

family of her husband<sup>92</sup>. Whereas the 1999 Succession Law provides statutory protection for legally married spouses upon the death of a spouse, this still leaves uncertainties regarding the rights and protections afforded to informal marriage partners.

The survey sought to explore respondents' knowledge on what legal rights a widow has regarding her deceased husband's land according to the 1999 Succession Law. Three-quarters of the respondents correctly identified what the 1999 Succession Law decrees regarding widows' land rights. However, far fewer respondents felt that a widow who had been informally married has the same rights to the land her husband brought into the marriage as those in legal marriages. Nevertheless, the views of respondents regarding "informal" widows appear to indicate some compassion or leniency that perhaps attaches to widowhood, though this differs across regions. In Kigali City, Southern and Western Provinces, a significant majority holds the view that an informally married widow has rights to the land her deceased husband brought into the marriage, while only one-third of respondents in the Eastern Province thought so (Table 26).

**Table 26: Informally married rights to the land her husband brought to the marriage**

Do you think a widow who was informally married has rights to the land her husband brought to the marriage? * Province Cross-tabulation								
			Province					Total
			South	North	Eastern	Western	Kigali City	
Do you think a widow who was informally married has rights to the land her husband brought to the marriage?	Yes	Count	290	203	145	289	95	1022
		% within Columns	74,40 %	44,70 %	32,70%	59,50%	59,40%	52,80 %
	No	Count	100	251	299	197	65	912
		% within Columns	25,60 %	55,30 %	67,30%	40,50%	40,60%	47,20 %
Total		Count	390	454	444	486	160	1934
		% within Columns	100,00 %	100,00 %	100,00 %	100,00 %	100,00 %	100,00 %

Many FGD participants distinguished between widows who are formally married and

<sup>92</sup> Peterman, Amber (2012) Widowhood and Asset Inheritance in Sub-Saharan Africa: Empirical Evidence from 15 Countries, Development Policy Review, Overseas Development Institute



those who are not. Widows who are informally married are at risk of being chased from their land regardless of her ownership claims resulting from joint registration or participation in the acquisition of that land. By contrast, formally married widows more often continue to enjoy their rights over the matrimonial land, though they also can face challenges. The Executive Secretary of HAGURUKA described cases they have received as follows: “After the husband has passed away, widows continue to enjoy their rights over land. However, there are some widows who come to HAGURUKA to report that they have faced problems related to their rights to land because members of the husband’s family try to chase them or some neighbors claim to have bought the land from the deceased husband.”<sup>93</sup>

Some cases that tend to create challenging problems for formally married wives include when, for example, the wife did not have a child with the deceased husband.<sup>94</sup> Her chance of securing rights to her deceased husband’s land can become weaker if she gives birth to other children after the death of her husband through another relationship.<sup>95</sup> This is because after the death of her husband, her in-law's sympathy and willingness to support her claim substantially depends on her "faithfulness" to the deceased husband. There are even cases where the husband’s family decides to take the children, appropriate the house and seize household property, leaving the widow with nothing.<sup>96</sup> Some participants highlighted that “chasing the widow away” is very rare in their regions, but that it happens at times, especially when the woman did not give birth to a child with the deceased husband.<sup>97</sup>

One judge attributed resistance to upholding the land rights of widows to ignorance of legal provisions giving widows such rights.<sup>98</sup> In fact, some claim that cases of widows being deprived of their co-owned land are not frequent in Kigali and this is largely due to knowledge of the law and a greater sense of gender awareness.<sup>99</sup> Similarly, focus group participants in Gatumba Sector affirmed that in their region, widows enjoy their land rights. Widows who take initiatives to claim their rights are

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<sup>93</sup>KII, National Executive Secretary of HAGURUKA, 16/05/2015

<sup>94</sup>FGDs, Kirimbi Sector, 27/04/2015, Jarama Sector, 21/04/ 2015 Gisozi, 14/04/2015, Simbi Sector, 24/04/2015, and Gishamvu Sector, 23/04/2015.

<sup>95</sup>FGD, Mugunga Sector, 16/04/2015.

<sup>96</sup>FGD Nyakiliba and Musanze sectors, KII, Director of Land Bureau of Ngoma District, 23/04/2015

<sup>97</sup>FGDs Simbi Sector, 24/04/2015 and Gisozi, sector, 14/04/2015.

<sup>98</sup>KII, Judge at `Kibungo Primary Court,23/04/2015.

<sup>99</sup>FGD,Gitega sector, 14/04/2015, KII,Good Governance Officer of Nyamasheke District,28/04/2015

helped by the administration. The District Land Officer in Rusizi described how his offices handle cases where families try to evict widows: "Those cases exist within the community, and we try to resolve them. For example, if the land is registered to both spouses, we cannot allow changing the land registration certificate because of the family which is harassing the widow."<sup>100</sup>.

The 1999 Succession Law and co-ownership of land do not offer widows full rights to the matrimonial land, however. Whereas Article 70 of the 1999 Succession Law protects a formally married widow's right to remain on the land previously held with her deceased husband, widows are not actual heirs to the portion of the land owned by the husband. They only have rights to administer the land until such time as the heirs (usually the children) reach the age of majority and can inherit. Widows also have lifetime rights to remain in the matrimonial home.

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<sup>100</sup>KII, Director of Land Bureau of Rusizi District, 30/04/2015.

## 5. CONCLUSIONS AND RECOMMENDATIONS

Gendered land rights in a dynamically changing social and statutory environment present many challenges in terms of measurement and analysis. The findings from the research provide pertinent and useful insights from which the following conclusions are drawn:

1. One third of the respondents reported that they were not aware of gendered land rights changes introduced in the 1999 Succession Law. The rate of male awareness is slightly higher than that of women. This is a strong indicator of there is still a need for a public awareness program, with particular efforts directed to heightening awareness among women, particularly young women.
2. While traditional norms governing gendered land rights and ignorance of the law are important reasons why women fail to claim their land rights, the desire to avoid family disputes and possible family rejection are even more prominent reasons. Roughly one third of respondents indicated their belief that within a family, daughters should receive a smaller portion of *umunani* land than sons. Additionally, two-thirds believed that wives in informal marriages (defined as marriages not legally registered) do not have rights to their husbands' land. Similarly, widow's rights regarding the land of her deceased husband is an arena of uncertainty and confusion, even when the marriage is legal.
3. Land ownership patterns have changed significantly since pre-1999.<sup>101</sup> Of the land parcels captured in the household survey, male husbands and widowers claimed sole ownership of 17% of these parcels, while female wives and widows claimed to own 22.4%. Importantly, respondents claim that husbands and wives jointly own 56.8% of the parcels. Although the study does not possess data prior to 1999 to compare with this data, the fact that the land tenure regularization program required formally married spouses to jointly register their land strongly suggests that there has been a considerable shift

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<sup>101</sup>Musahara and Huggins, 2005, *Land reform, land scarcity and post-conflict reconstruction: A case study of Rwanda*.

towards legal co-ownership of land among couples. Nevertheless, the fact that some legally married spouses possess land solely registered in their names suggests that compliance with law requiring them to register their land jointly is not being fully upheld.

4. Land disputes are most commonly related to *umunani* and inheritance, distantly followed by boundary disputes. Among those disputes involving women, forty-three (25.3%) indicated that their dispute resulted in GBV, including verbal abuse, physical violence and death threats.
5. Of 65 resolved disputes involving women, 42 (65%) were resolved in favor of a woman (according to the options in the questionnaire, either wife, widow or daughter) while thirty-five were resolved in favor of a male member of the household.
6. The survey captured 68 intra-family and 106 inter-family disputes that involve a woman. Overall, the data indicate that disputes that end in violence being perpetrated against a woman are almost twice as common in disputes that occur within households, as compared with those that are between households.

Drawing from the main research, the following policy recommendations are offered:

1. A nation-wide campaign of education and awareness-building is needed to address overall insufficient knowledge regarding gendered land rights, and particularly the information, awareness, and confidence gap between men and women. At the same time, efforts are needed to influence the mindsets of men, who may be aware of legal provisions, but not supportive of them.
2. The same information campaign must address the persistence of traditional beliefs among men and women that men and boys have stronger claims to land (*umunani* and succession) than women and girls.
3. The social consequences associated with a woman's claim to *umunani* or her succession of land rights must be the subject of sensitization of the general population on the rights of women to claim their legal rights without facing social or cultural problems. Existing institutions—National Women Council,

Gender Monitoring Office and Civil Society Organizations--should take the lead in this campaign.

4. The rights and legal circumstances of informally married women must be addressed. This may require legal reforms that enable couples in informal marriages to have the same property rights as those in legal marriages, or where possible, it might focus more on regularizing informal marriages.
5. Similarly, the right of a widow to the land of her deceased husband (whether she was married legally or informally) must be clarified and harmonized to reduce social consequences that can sometimes attend widowhood.
6. Local authorities, Abunzi Committees and the lower tiers of the court system should be sensitized to the urgent need to bring quick resolution to intra-household land disputes, as there is a potential for these to generate violence against women claimants.

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