

5

POLICY BRIEF MAY 2011

Women's land rights gains in Rwanda are eroded by cultural practices and negative attitude

RWANDA WOMEN NETWORK (RWN)

Executive summary

A two-year (2009–2010) action research study entitled “Experiences of Women in Asserting their Land Rights: the case of Bugesera District, Rwanda”, was carried out by Rwanda Women Network (RWN) in collaboration with the Makerere Institute of Social Research (MISR). The study shows that gains for women's struggle on land rights in statutory law are undermined on the ground by the continuation of discriminatory practices, which are prejudicial to women and due to the negative attitudes towards women's land rights in Rwanda.

Land scarcity in Rwanda is a huge problem due to population density and the fact that the country's population is more than 80 percent dependent on agriculture. Due to the country's history of conflict and the 1994 genocide, the complex land problem has deteriorated. Today, women constitute approximately 53 percent of the adult population and 50 percent of these are widows. Women continue to face the impact of genocide; for example, today 34 percent of all households in Rwanda are headed by women. In addition, of the Rwandan population infected with HIV, over 50 percent are women due partly to the mass rape during the genocide.

The struggle for women's land rights has been helped by the progressive statutory regime that recognizes and protects women's rights to own and inherit land. Relevant legislations include the Constitution (2003), Inheritance and Succession Law (1999), Land Law (2005), which together complement the 1960 Civil Code. In particular, Articles 4 and 9 of the Rwanda Constitution (2003) provide for equality of all Rwandans, men and women and between husbands and wives respectively. Even though these policy and law reforms have greatly enhanced women's land and property rights, in practice there is still a need for change.

Research findings

The study was conducted in two sectors of Bugusera District, namely Nyamata and Gashora. Bugusera is located 40 kilometers from Kigali, the capital of Rwanda. The objectives of this study were to:

- identify women experiencing challenges in securing access and control over land;
- document their experiences in fighting for their rights;
- identify impediments to fair settlements of land disputes involving women; and
- together with interviewed women, devise strategies to enforce and protect women's rights to land ownership as provided under the statutory law.

A total of 147 cases reported to the *Abunzi*¹ (70) and the Court (77) were obtained from the records of these two institutions. A closer look at the details of the cases revealed that the most common type of dispute reported by women was related to inheritance (34%) and *Umunani*² (22%). The defendants in these cases were mainly relatives (26%) and spouses (13%). Information on the relationship between the women and the defendants was missing in over 40 percent of the records, indicating a deficiency in the way information is recorded by land administrators.

50 women who had reported cases to the *Abunzi* and the Court were interviewed in order to attain greater insight into their experiences.

1 The *Abunzi* is a dispute mediation body that has its roots in tradition but was formalized by the enactment of Organic Law No. 31 in 2006, which sets out its organization, jurisdiction, competence and functioning.

2 Inheritance in waiting or birth right.



The interviewed women shed more light on practices of inheritance and *Umunani*. The findings revealed that women encounter resistance when they exercise their rights, which are equal to men's, and take possession of inherited land. In addition, on *Umunani*, there is an additional issue of parents' unequal allocation of land between their male and female children.

These findings show the persistence of cultural practices where women are not allowed to inherit land, even if access may be granted under specific circumstances, such as using the family land for farming. The bias in attitude is depicted by the unequal allocation between their male and female children.

The fact that more women are reporting cases to these two institutions indicates a rising level of awareness. However, there are many who still suffer in silence and who must be empowered to speak out.

Secondly, the records also revealed that over 70 percent of the cases had been settled by these two institutions, which is good news for women's land rights. While 66 percent of women first reported the dispute to the Cell Executive Committee and 26 percent to the Family Council, all settled cases have been resolved by the *Abunzi* (22) and the Court (10). This finding highlights the role of the *Abunzi* in regaining women's land rights in Rwanda.

Thirdly, the lower institutions of the land administration structure in Rwanda, particularly the Family Court and the Cell Executive Committees, were perceived by the interviewed women as being biased against women in their handling of land disputes. They were also viewed as being highly susceptible to prejudice, corruption and manipulation, mainly because they are guided by the discriminatory cultural practices and norms that do not normally recognize women as owners of land.

Fourthly, findings revealed that the negative attitude of land administrators is not the only challenge faced by women in regaining their land rights. They often lack necessary assistance during court proceedings, as they do not have the capacity to adequately represent themselves. Women fear that there may

be a backlash to the actions they take to assert their rights. Such backlash is not only from disputants, but also from relatives and the community which has a negative attitude towards women's land rights. This is a major reason why some women whose rights are violated may not report it or fight back.



Finally, the institutions that are used by women to defend their land rights are not adequately supported and therefore end up being ineffective. Deficiencies cited by members of the *Abunzi* include lack of law reference materials, transport and orientation in gender and land issues.

The results of this study have affirmed that customary practices are still applied alongside the statutory law. It is evident that customary practices regarding inheritance are still widely applied in Rwanda, alongside the new legislations that give equal land rights to men and women. This is highlighted by the dominance of inheritance cases involving relatives in the semi-rural district of Bugesera. It was striking to find that disputants include 'own children' implying significant vulnerability of aging women.

Although the Rwandan law tends to follow a traditional hierarchy by involving Family Councils to dispute resolutions, it was found that most of the disputes involving women are resolved outside these councils by the *Abunzi*. It is evident that the *Abunzi* play a key role in the protection of women's land rights in Rwanda. This further explains why women are encouraged to pursue these rights through the institutions provided.

There are indications of increasing awareness of land rights among women. However, they still suffer a number of challenges in asserting these rights. In particular, women lack the necessary assistance in claiming and pursuing these rights. Also, women face the challenge of stigma and fear of societal repercussions, including disapproval by the family or community, loss of dignity and at worst, physical violence.

Rwanda Women Network (RWN) is a national, non-profit making/humanitarian organization dedicated to promotion and improvement of the socio-economic welfare of women in Rwanda. RWN implements four core programs including provision of health care and health support, education and awareness programs on different issues affecting women, socio-economic empowerment as well as networking and advocacy.

Contacts

Mary Balikungeri
Director

Rwanda Women Network

Plot 1521 Mawanda road – Kamwokya
Tel./Fax: +250-252-583662
e-mail: rwawnet@rwanda1.com
Website: www.rwandawomennetwork.org

RWN's recommendations

- Organizations advocating for women's land rights should focus on the centrality of land administration institutions, particularly the *Abunzi*, in the resolution of land disputes involving women. These institutions must be supported to become more effective in their functions and have the ability to record information.
- Take advantage of the favorable law on joint marital property; and a strong political community land information system should be set up to record both primary and secondary rights over land aimed at forestalling false transactions and claims over land.
- Awareness raising campaigns should aim to change negative attitudes towards women's land rights.
- Watchdog groups at the grassroots level – community paralegals – can help in furthering and deepening awareness of women's land rights, by reporting these rights abuses, as well as holding land administration institutions accountable for their actions.

About the Initiative

This policy brief is part of a wider initiative on Women's Land Rights (WLR). If you would like further information on the initiative and on the collaborating partners, please contact the Secretariat of the International Land Coalition or visit www.landcoalition.org.

International Land Coalition

Secretariat
Via Paolo di Dono, 44
00142 – Rome, Italy
tel: +39 06 5459 2445
fax: + 39 06 5459 3628
info@landcoalition.org
www.landcoalition.org



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