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**Women's Land Rights in Rwanda:  
How can they be protected and strengthened as the Land Law  
is implemented?**

**Jennifer Brown  
Justine Uvuza**





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## TABLE OF CONTENTS

<b>I.</b>	<b>INTRODUCTION .....</b>	<b>1</b>
<b>II.</b>	<b>WOMEN AND LAND RESEARCH FINDINGS .....</b>	<b>7</b>
	<b>A. Land Rights in Marriage and During Cohabitation .....</b>	<b>7</b>
	<b>B. Daughters' Inheritance Rights .....</b>	<b>17</b>
	<b>C. Land Disputes .....</b>	<b>23</b>
	<b>D. Land Administration and Registration.....</b>	<b>24</b>
	<b>E. Education and Monitoring Implementation of the Land Law.....</b>	<b>30</b>
<b>III.</b>	<b>NEXT STEPS .....</b>	<b>32</b>

### BOXES

<b>Box 1: Women's Land Rights and HIV/AIDS.....</b>	<b>2</b>
<b>Box 2: Mini-Primer on the Land Law .....</b>	<b>3</b>
<b>Box 3: Comparative Experience: Legal Protection for Cohabiting Couples .....</b>	<b>13</b>
<b>Box 4: Comparative Experience: Registration and Women .....</b>	<b>25</b>
<b>Box 5: Comparative Experience: Joint Titles for Cohabiting Couples...</b>	<b>29</b>



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## I. INTRODUCTION

### *Land issues in Rwanda*

In Rwanda, two factors make land a highly important and contested issue. First, Rwanda has the highest person-to-land ratio in Africa. This creates tremendous pressure on land in a country where most of the population lives in rural areas, and where agriculture remains the central economic activity. Second, Rwanda is recovering from massive population shifts caused by decades of ethnic strife and the 1994 civil war and genocide, which resulted in displaced populations and overlapping land claims. Due to the high person-to-land ratio, many rural families that depend on land resources hold plots of sub-optimal size. Concurrently, insufficient land for the landless and for Rwandans returning from years or decades as refugees abroad is also a problem that the government has attempted to remedy through the controversial policies of “land sharing” and grouped settlement, or “villiagisation.” Additionally, there are conflicting claims to land parcels, which have been created by a series of population displacements and returns since 1959.

### *Women’s land rights in Rwanda*

This mix of land-related problems and uncertainties is further amplified for Rwanda’s women who also face customary restrictions on land acquisition. As in much of the developing world, women in Rwanda are heavily involved in and dependent on agriculture. Despite women’s use of and dependence on land, their access to land generally hinges on their relationships with their birth or marital families, and they rarely hold land in their own right. Securing women’s land rights is a particularly critical issue in Rwanda, where civil war and genocide have resulted in female-headed households constituting 30 percent of all households in the country. Women seek to support themselves and their families in an environment of general land pressure and insecurity, while at the same time facing customary restrictions on land holding. These customary restrictions include limits on women’s acquisition and retention of land rights through inheritance, purchase, or other means.

The government has taken steps to shore up women’s property rights through a 1999 Inheritance Law that grants equal inheritance rights to sons and daughters, and also provides for the protection of property rights within marriage. The power of the law is limited, however, because it applies only to registered legal marriages, which are relatively uncommon. Furthermore, the law has been interpreted in a way that severely limits widows’ right to inherit their husbands’ ancestral land. Additional steps, such as alterations to legislation to protect women living in “consensual unions” (non-registered marriages, which are not afforded legal recognition), are needed to support women’s land rights. It will also be critically important to continue to expand public education on recent legislation that protects women’s land rights and to provide women with access to legal aid.

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### Box 1: Women's Land Rights and HIV/AIDS

The grim realities of HIV/AIDS also have implications for women's access to land in Rwanda. UNAIDS estimates a 5.1 percent prevalence rate for adults 15 to 49 years old. While not as high as in many other African countries, the disease is nonetheless impacting the lives of many Rwandan families. Rwanda's 1994 genocide created an environment conducive to a more rapid spread of HIV/AIDS through mass migrations, systematic rape, prostitution, and the rapid growth of prison and refugee camp populations. Additionally, a large number of widows and orphans from the 1994 genocide are among those in Rwanda's population most vulnerable to HIV/AIDS.

The International Centre for Research on Women (ICRW) has established a set of connections between women's property and inheritance rights and HIV/AIDS. First, women with secure property rights are better able to cope with and mitigate the effects of HIV/AIDS, such as illness or widowhood, on themselves and their children. For example, such women can better maintain their family's income and bear the economic shocks associated with HIV/AIDS. Further, upon widowhood, they are better able to retain their secure property rights and avoid having their property or land taken from them as the result of the stigma of HIV/AIDS, forcing themselves and their children into destitution. Second, when women own property it also helps to prevent them from contracting the disease. Women holding property rights have greater bargaining power within the household, placing them in a better position to avoid contracting the disease from their husband or partner. Further, because property supplies them with a greater level of economic and social security, they are less likely to turn to transactional or risky sex to support their families. For more information on these connections, please see Richard S. Strickland, "To Have and to Hold: Women's Property and Inheritance Rights in the Context of HIV/AIDS in Sub-Saharan Africa," ICRW Working Paper, June 2004.

During our research interviews we learned that Rwandan Women's Network has partnered with several other groups to investigate women's property and inheritance and HIV/AIDS. They are in the process of compiling a report on this work that will shed additional light on this important topic in the Rwandan context.

### *Creation of key land legislation and its impact on women's land rights*

Rwanda is in the midst of developing a new body of land legislation that will define the parameters and scope of land rights in Rwanda. A new Organic Land Law was adopted in 2005 that lays out the basic framework for land relations in Rwanda. While the Land Law establishes the major framework for land rights, the important details will be defined in forthcoming complementary laws and regulations. The Land Law seeks to achieve at least three basic goals: (1) formally recognize land rights in the form of long-term secure lease rights rather than ownership rights and support a land market by legalizing transactions in land including purchases and sales; (2) resolve uncertainty over landholdings caused by the country's post-conflict situation; and (3) encourage consolidated use, increased productivity, and improved stewardship of land.

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The Land Law states that women and men have equal rights to land<sup>1</sup>; however, the details of how this principle is to be realized remain undefined.

Box 2: Mini-Primer on the Land Law

While the details of the Land Law will be further clarified in complementary legislation and regulations, the basic principles of the law are as follows:

- Land ultimately remains owned by the state, but individuals hold long-term, secure use rights to land.
- Land rights can be sold, mortgaged, leased, or otherwise transferred.
- Before land rights can be transferred, spouses and adult children must give their written consent.
- All land rights will be adjudicated and registered.
- When land is expropriated (taken) by the government because it is needed for a public purpose, fair compensation, both for improvements to land and for the land itself, must be paid.
- Land is to be protected and used productively, if it is not, it may be temporarily or permanently taken by the government.
- Major land administration functions, such as registration and land use management, will be handled at the district level. Land commissions and land bureaus will be created at the district level.
- The Government can grant temporary rights to use state private land, such as marshlands, in the form of a concession.
- The Ministry for Agriculture is given the authority to assist local authorities and residents to consolidate the use of land to promote increased productivity. Such programs cannot result in the loss of land by any resident.
- Women and men have equal rights to land.

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<sup>1</sup> Organic Law No. 08/2005 “Determining the Use and Management of Land in Rwanda,” [hereinafter “Land Law”] (July 14, 2005), Art. 4. In the English version of the Land Law this article is translated as “wife and husband.” The French version of the Land Law uses the more broadly applicable “man and woman.” The French version coincides more closely with the understanding of the law among the policy makers we have discussed the law with.

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Rwanda's Ministry of Lands, Environment, Forestry, Water and Mines (MINITERE) is now in the process of defining the details of the many measures and provisions called for in the Land Law through complementary laws and regulations. Some of the primary laws that will be created, and where important gender considerations should be addressed, include:

(1) Law on land tenure types. This law would describe the scope of citizens' formal land rights and their rights and obligations as land rights holders. The Land Law calls for the majority of existing land rights to be held in the form of long-term leases. This law would define the scope and length of these lease rights. It could also further describe how married couples or those living in consensual unions could hold land rights jointly.

(2) Law on land transactions. This law would describe the rights of land holders to sell, lease, mortgage, or otherwise transfer their land. It will describe the process needed to undertake these transactions. It will include a description of the process required for acquiring spousal consent before land can be transferred and should also discuss transfers by inheritance.

(3) Law on land registration. This law would describe how land rights throughout Rwanda can be adjudicated and registered. The Land Law calls for the registration of all land within the country. It will describe the types of titles possible, such as joint registration for married couples or other co-ownership forms for non-married persons wishing to hold land together (for example, siblings inheriting small plots of land together or unmarried couples living in consensual unions).

There are many other important topics that will also be covered by to-be-determined laws, decrees, and orders. Other topics which will be covered include: (1) establishing a new local administration structure, such as the district land commissions and land bureaus called for in the Land Law; (2) national land management; (3) land taxation; and (4) regulation of the surveying and valuation professions.

Within this body of complementary land legislation it will be important to take women's land rights into careful account to ensure that no harm is done to the land rights that women currently hold or access. For example, unless land registration laws specifically take into account women's land rights, registration can cause women to lose their existing land rights. This has been the case in other countries that have undertaken registration projects (for comparative examples see Box 4). Women are often the losers in such registration programs because men, as the traditional head of the household, almost exclusively become the registered holders of land. In addition to avoiding harm to women's current land rights, the body of complementary land legislation should further serve to strengthen and facilitate women's access and rights to land. Such steps should include requiring the joint registration of land held by married couples and clarifying widows' rights to inheritance of lineage land, as described in the main body of this paper.

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*Support exists to ensure that women's land rights are protected*

There is a considerable amount of interest in ensuring that women's land rights are properly considered in the implementation of the Land Law. The Rwandan government has strongly endorsed the equality of women through formal recognition of the equality of men and women in provisions of the 2003 Constitution, the Organic Land Law, and the Law on Inheritance and Marital Property Rights. This commitment to women's rights is also demonstrated by the high level of female representation in all levels of government – a provision of the Constitution requires that 30 percent of all governmental decision-making bodies are composed of women. Furthermore, MINITERE has expressed its concern for women's land rights by endorsing joint registration of land during the implementation of the Land Law and by expressing its desire to monitor the results of the implementation of the Land Law on women's land rights over the long-term.

*Objectives of this research and research methodology*

The Rural Development Institute (RDI) has been working on behalf of USAID on land law and policy issues in Rwanda since 2003. The main objective of this assistance has been to provide technical assistance to MINITERE on the drafting of laws and regulations to implement the Land Law. In order to help inform our technical assistance and to gain a better understanding of gender and land issues, RDI funded a short round of research on women's land rights in April 2006. The costs of the research were greatly subsidized by USAID because the research was conducted as part of a trip that was otherwise funded by USAID. This research was conducted jointly by RDI staff attorney Jennifer Brown and *Maître* Justine Uvuza, a Rwandan lawyer who currently consults on gender and human rights and who formerly worked in the Ministry of Gender. This report describes their findings.

This research had several objectives. First, to directly inform the provision of RDI's technical assistance in drafting the forthcoming complementary legislation and regulations to the Land Law. Second, to determine future needs, including more detailed research, policy discussion, possible legal amendments, and public education that may be needed to ensure that the Land Law is implemented in a gender sensitive manner. Third, to build a stronger dialogue between those creating land policy in Rwanda and Rwandan women. Finally, the study will also add to the broader corpus of information about women's access and rights to land in Africa.

The keystone of this research was a series of focus group interviews with women in Butare, Kibungo, and Ruhengeri. In each location, groups of roughly 10-12 women were brought together to answer questions and discuss the present status of women's land rights in Rwanda. The women participants were identified by a local contact and were selected to represent a wide range of opinion and experience. Interviewees included young women, married women, separated women, women in polygamous relationships, widows, and orphans. They included both poor and middle class women, as well as women who grew up in Rwanda and those who returned to Rwanda after the

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genocide. In each case the women were asked a series of questions about their personal land rights and also about the typical land rights for women in their area. While a checklist of questions guided our discussion to ensure that major topics were covered with every group, the interviews were kept flexible to encourage the women to speak on topics of particular interest or importance to them. In addition to these focus group interviews, women's group representatives in Kigali were also interviewed, including representatives from the National Women's Council, Rwandan Women's Network, Haguruka, the Beijing Secretariat, the Women's Legal Rights Initiative, and Women Waging Peace.

#### *Workshop Supplementing the Field Research*

As a supplement to this research, RDI held a workshop on women's land rights and the implementation of the Land Law on July 31, 2006. The workshop was co-sponsored by USAID and Women Waging Peace, and its main purpose was to bring together land policymakers with women's organizations to discuss the research findings and explore ideas for ensuring the Land Law is implemented in a gender sensitive manner. A list of workshop attendees is provided at the conclusion of this report. This research report has subsequently been modified to take into account the comments and suggestions provided at the workshop.

Perhaps the most significant outcome of the workshop was a decision by several of the representatives of the women's organizations to follow our recommendation to form a Policy and Law Task Force. This Task Force would provide input and advocacy on a variety of Rwandan laws and policies with a goal of promoting women's rights within such legislation. Following the workshop, this Task Force convened for an all day working session to create a statement of recommendations related to the implementation of the Land Law for submission to the MINITERE. These recommendations have also been integrated into the Next Steps section at the end of this report.

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## II. WOMEN AND LAND RESEARCH FINDINGS

Interviewees in Rwanda informed us that women have not traditionally held land rights because land is considered to belong to men. Although women might acquire land rights through purchase, inheritance, or gift, it remains relatively uncommon for them to do so. Women themselves often feel that they do not have the right to own land. These views are changing both in law and in society itself, especially since many women now head their own households. However, a woman who seeks to acquire and retain land still faces many obstacles.

Although a Rwandan woman typically does not hold land in her own name, she is likely able to access land through her birth family or husband. Such access, however, does not mean that she is able to control the land by making key management decisions. She may be able to make decisions about the day-to-day use of the land, but likely cannot make major decisions such as whether to lease out or sell the land. Furthermore, such access rights are extremely vulnerable and can be lost through widowhood, in which case the land may either be directly inherited by her sons or, in the absence of children, reclaimed by her husband's family. A woman might also lose land rights through separation from her husband, in which case her husband will in most cases retain the land exclusively. When a woman loses access to land it may be because the law itself does not protect her rights or, alternatively, the law may provide protection but custom and tradition may deny her land. Further, she may not understand her land rights or, if she does, may not know how to pursue them.

In this section of the report we present findings from our research interviews with focus groups of women in Butare, Kibungo, and Ruhengeri and with women's organizations in Kigali. This section is broken into the following sub-sections: land rights in marriage and in consensual unions, daughters' inheritance rights, land conflicts, land administration and registration, and education and monitoring implementation. Where relevant, within each of these sections we also present a short analysis of current law and policy. Several boxes are also included that describe international comparative experience on a particular topic.

### A. Land Rights in Marriage and in Consensual Unions

The legal land rights of women in Rwanda vary greatly depending on whether they are legally married, and, if they are married, under which marital property regime have they been married.<sup>2</sup> This variation in status will determine whether a woman has any rights to land that she accessed during the relationship in case of separation, divorce, or widowhood. For legally married women living within a community property marital property regime, rights are stronger. For women living in consensual unions, rights are virtually non-existent. In addition to the law, custom and tradition play a large role in

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<sup>2</sup> The three marital property regimes are community property, limited community of acquests, and separate property. All three are described in the following subsection describing the law regarding married women's property rights.

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determining access to land for women who are married or living in consensual unions. An additional layer of complexity is added by the existence of extra-legal polygamous relationships in some parts of the country.

### *The Law*

Under the Constitution, “only civil monogamous marriage between a man and a woman is recognized.”<sup>3</sup> Living in a consensual union does not confer any rights on either member of the couple, nor do religious or traditional marriage ceremonies. There is no provision in Rwandan law to automatically recognize a relationship as a marriage based on the length of time the couple lived together, the existence of children, or the recognition of the marriage by customary or religious institutions. Only civilly registered marriages are legal and confer rights and obligations on the couple.

Because many relationships in Rwanda are legally unrecognized consensual unions, many women have no protection under the law in the case of separation, divorce, or widowhood. The discussion that follows on rights of women at the time of separation, divorce, or widowhood applies only to women who are legally married. Women in consensual unions have no rights under these laws.

Under the Inheritance and Marital Property Law, couples have the option of choosing among three marital property regimes.<sup>4</sup> Under the “community property” regime, spouses jointly own all of their property including both movable (e.g., vehicles or furniture) and immovable (e.g., land or house) property. Couples can also choose a “limited community of acquests” where they make an inventory of their property and decide which property is jointly owned and which property is separately owned. Finally, couples can opt for a “separate property” regime under which each spouse retains separate ownership of his or her property. Community property is the default marital property regime presumed if the couple does not make an affirmative, alternate choice.

This law applies to every marriage entered into since the enactment of the law in 1999; prior marriages remain subject to whatever marital property regime they had before the law’s passage, which was in most cases community property.<sup>5</sup>

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<sup>3</sup> Special Law No. 42/2003 “The Constitution of the Republic of Rwanda” (April 6, 2003), Art. 26.

<sup>4</sup> Law No. 22/99 “Law to Supplement Book One of the Civil Code and to Institute Part Five Regarding Matrimonial Regimes, Liberalities and Successions,” [hereinafter “Inheritance and Marital Property Law”] (December 11, 1999) at 2-13. Couples can change their marital property regime by making a joint declaration to the district registrar. Inheritance and Marital Property Law, Art. 19.

<sup>5</sup> “Subject to provisions of Article 19 of this law [which permits couples to change their marital property regime], spouses who are governed by a matrimonial regime before this law comes into force, shall continue to be bound by that contract, unless, within two years, they make a joint declaration of option before the Registrar, modifying the regime.” Inheritance and Marital Property Law, Art 93.

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Regardless of the marital property regime chosen, both spouses must contribute to the support of the household in accordance with their ability and must administer their property for the benefit of the family.<sup>6</sup> If one spouse threatens the interest of the family by imprudently harming or selling off property, the other spouse can sue for the right to administer all of the household property.

As an additional protection, under all circumstances the consent of both spouses is needed for certain transactions, such as the sale, donation, exchange, mortgage, or long term lease of land.<sup>7</sup> This consent is required in writing, must be registered, and can be given up to six months after the date of the transaction.<sup>8</sup> If spousal consent is not obtained, the transaction is not final until five years have passed without an affirmative objection from the spouse.<sup>9</sup> This is a large incentive for any potential buyer or mortgage lender to ensure that the consent of the spouse is obtained.

In the case of a divorce or separation, the community property is dissolved and shared equally among the spouses.<sup>10</sup> This is true for couples holding any community property, which includes couples with the marital property regime of “community property” or “limited community of acquests”. In the case of separate property marital property regimes, each spouse only has rights over his or her separate property.

In the case of widowhood, the rights of each spouse also hinge on the marital property regime. In the case of community property,<sup>11</sup> the widow’s rights vary depending on whether she had children and whether she remarries. In general the widow retains and is charged with administrating all of the community property for the benefit of the children she bore with her husband and any needy parents.<sup>12</sup> Under certain circumstances the widow has the legal right to directly inherit half of the community property. The other half passes directly to her deceased husband’s children and other heirs. For example, if the couple did not have any children, the widow is entitled to half of the community property, while the other half is distributed to the heirs of her deceased husband.<sup>13</sup>

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<sup>6</sup> Inheritance and Marital Property Law, Arts. 11, 12, and 13.

<sup>7</sup> Inheritance and Marital Property Law, Art. 21; and Land Law, Arts. 35-38. Under the Land Law, the consent of certain other family members, such as adult children, is required as well.

<sup>8</sup> Inheritance and Marital Property Law, Art. 22; and Land Law, Art. 37.

<sup>9</sup> Inheritance and Marital Property Law, Art. 22.

<sup>10</sup> *Id.* at Art. 24.

<sup>11</sup> This would also include any community property that a couple in a “limited community of acquests” holds.

<sup>12</sup> Inheritance and Marital Property Law, Art. 70(1).

<sup>13</sup> The law also includes further specific direction on the inheritance of community property under a number of different circumstances. If all of the children are adults and the widow remarries, she is entitled to full ownership of half the community property, with the other half being distributed to her deceased husband’s heirs. If such a widow remarried, and she still had young children, she would only receive full ownership of one-quarter of the community property with the remaining three-quarters being administered by her for

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In some instances the Inheritance and Marital Property Law is being interpreted to state that widows cannot inherit ancestral land from their husbands. There is some confusion over whether ancestral land becomes marital community property or not. Upon a plain reading of the English versions of the Inheritance and Marital Property Law, it seems clear that all property acquired becomes part of the community property and that women therefore would have the right to ancestral land on the same terms as any other community property. We have since learned that the Kinyarwanda version of the law states that the surviving spouse is not an heir to ancestral land, but rather a manager of such property on behalf of the children or other heirs. The National Executive Secretary for Haguruka confirmed that the law is being applied to find that widows are managers or trustees rather than inheritors in their own right. This variation between the different language versions of the law is a serious problem. If the Kinyarwanda version is being interpreted and applied to find that women do not inherit ancestral land from their husbands, then women's inheritance right to land is dramatically undercut.

In summary, according to the English version of the Inheritance and Marital Property Law, widows have varying rights to property in the case of marital community property, but generally would be legally entitled to become owners of half of the property. They have virtually no rights to their husband's property if they had a separate property marital property regime. In this case, the deceased husband's separate property devolves first to his children, and then to his parents and other lineage relations.<sup>14</sup> There is no provision for inheritance of the separate property by his widow unless all of her deceased husband's lineage relatives are dead.<sup>15</sup>

Importantly, widows are given a limited right under the law to the marital house regardless of the marital property regime: "The surviving spouse remains the usufructuary of the conjugal house as well as of the movable furniture where they are the only property in the succession or are part of the inheritance property."<sup>16</sup> If she remarries, the Council of Succession (which is made of family members of both the deceased and the widow) will decide, based on the interests of the children, whether to allow her to keep the house.<sup>17</sup> Further, the Council of Succession can take the house if the widow tries to sell, mortgage, or exchange the house, or if she is damaging the house.<sup>18</sup> Thus, the law grants the widow very limited and rather insecure use rights to the house that she shared with her husband before his death. This appears to be the case

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the benefit of the children she bore with her husband. Finally, if the widow gives birth to illegitimate children after the death of her husband, half of the property devolves only to the children she bore with her deceased husband, and the other half is distributed to all of her children, both born of her husband and of subsequent relationships. Inheritance and Marital Property Law, Art. 70.

<sup>14</sup> Inheritance and Marital Property Law, Art. 66.

<sup>15</sup> *Id.* at Art. 68.

<sup>16</sup> *Id.* at Art. 75.

<sup>17</sup> *Id.* at Art. 75.

<sup>18</sup> *Id.* at Art. 76.

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regardless of how the house was acquired (whether inherited by the husband or purchased or otherwise acquired by the couple). These provisions limiting a widow's rights to the marital home seem to directly contradict the spirit of the community property marital regime whereby husbands and wives have equal rights to property.

### *Findings*

#### *Marriage and Consensual Unions*

Women stated that there is increased awareness of the value of legal marriage in terms of women's rights, and noted government programs to encourage civil marriage. They mentioned the government campaigns to encourage legal marriage and some mentioned the large group marriage ceremonies that are being held in some areas in order to make the cost of marriage affordable. Many of the women we spoke to understood that legal marriage gives them protections that are not available to those living in consensual unions. For example, two women confidently explained their rights to land in their legal marriages:

- Drocella is legally married and has purchased land with her husband. This land is held in the name of her husband. Despite this, she confidently states that because they are legally married he would have to get her permission before he could sell the land. (Drocella, Butare)
- Ingnaciana said that she and her husband use land that her husband inherited from his family. They also have land that they purchased during their marriage. She feels that she has equal rights to both pieces of land because they are legally married and have a community property marital property regime. She said that she feels even more secure about her joint rights to the marital property because she brought a dowry with her to the marriage. (Ingnaciana, Kibungo)

Others were more skeptical of the property benefits provided by legal marriage:

- The focus group in Kibungo said that they were not convinced that legal marriage, as opposed to living in a consensual union, makes much difference in terms of women's land rights on the ground. The property rights regimes are "just about signing, but in reality a man continues to do what he wants [with the property]."
- Flavia said that, in terms of purchased marital property land, "Usually you have a right to the land but not really any control over the land. The man will make all the decisions. A woman can't even cut a tree without his permission." (Flavia, Kibungo)

These women were essentially stating that marital property rights do not help women gain a greater ability to manage property rights while their husbands are still alive.

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Women may be able to access land but they do not have control over land. The women did acknowledge, however, that these rights can be important to them upon their husbands' death.

Women were also concerned that the pressure to legally marry would negatively impact older women in relationships with men who have multiple partners. The women in Kibungo opined that in such cases, "he will probably marry the youngest woman if he is forced to marry someone." In such circumstances, discussed further below, the other women, perhaps even a woman he had children with, would be left without protection.

Women in consensual unions face even more difficult property rights troubles.

According to the Haguruka National Executive Secretary, the law really disadvantages such women. While they continue to contribute to the household, they do not have rights to the property of the household, leaving their on-going livelihood at the mercy of their male partners and the security of their relationship. Haguruka is a Rwandan NGO that provides legal assistance to women who need help in resolving conflicts, including women facing the loss of property and livelihoods due to the break-up of a consensual union. The Haguruka Executive Secretary opined that it is "very hard to help women who aren't married."

The Executive Secretary shared the story of one case where Haguruka sought to help a woman in a consensual union retain rights to property. A man and a woman had been living in a consensual union for twenty years when the man told the woman to leave. He proclaimed that she was not his wife, but was instead a prostitute. Haguruka did not argue the merits of the relationship or whether the relationship should be legally treated as a marriage, knowing from previous experience that this would be futile. Instead, they claimed damages to cover the twenty year period when the woman had been working as a maid, nanny, and prostitute in his house without wages. In the Haguruka Executive Secretary's view, the case succeeded because the man decided to salvage the relationship and continue to share household property with the woman. She said that the judge helped to persuade the man that this was the right thing to do, but it is unclear what judgment the judge could or would have issued if the parties had not reconciled. She also emphasized that the ability to get a decision that favors a woman depends heavily on the particular judge's opinion and understanding of gender issues.

The focus group in Butare said that increasing numbers of women are pushing for legal marriages, but in some cases men are reluctant to enter into legal marriage. These women were aware of the trouble that can befall a woman in a consensual union and relayed several anecdotes of women losing access to houses they had helped build because their consensual union ended. Some actual experiences of women who were present at the focus group are also relayed below in the sub-section on separation and divorce. Two women leaders, who joined the Butare focus group later in the discussion, said that, in their survey of relationship types locally, they discovered that the majority of people were in consensual unions rather than legal marriages.

Women in Ruhengeri thought that the majority of relationships were now legal marriages. When asked why the number of legal marriages was relatively high in

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Ruhengeri compared against what we had heard in other areas, they laughed and said it might be because education about the law is low in Ruhengeri and the men might not have understood the extra protections that legal marriage grants to wives.

There has been prior public discourse in Rwanda about whether to grant legal rights to couples in long-term consensual unions. The coordinator of the Women’s Legal Rights Initiative, formerly from Haguruka, said that earlier draft legislation included a provision that would have recognized and provided protections to couples in consensual unions. However, there was strong opposition by some segments of the public because they did not like the idea of recognizing a marriage that was not entered into with the explicit consent of both parties. Proponents note, however, that living in a consensual union for a specific period of time is in fact a form of explicit consent, and furthermore, many of these relationships would have been celebrated and acknowledged through traditional or religious ceremonies. Ultimately, the Inheritance and Marital Property Law passed without this provision. The women’s organizations interviewed all wished that the law would recognize rights for women in consensual unions. Even if these relationships were not recognized as a marriage, they hoped that the law could provide some protections to women living in consensual unions in the case of separation, abandonment, or the death of their partner.

At the July 2006 workshop where this research report was first presented, the attending women’s organizations suggested that women in consensual unions should be treated as “associates,” and as associates women should be recognized as holding joint interests in property acquired during the relationship. If the partnership broke up, the assets acquired during the partnership would be shared between both the woman and the man. The women’s organizations further offered that after a couple has lived together in a consensual union for two years, the law should be altered to automatically recognize the couple as married and grant each partner the same property and other protections that married spouses would have. It was clear both from our research interviews and the workshop that women see the lack of recognition of consensual unions as a serious problem that currently harms the property rights of women in these relationships and children born from these relationships.

Box 3: Comparative Experience: Legal Protection for Couples in Consensual Unions

Other countries provide examples of how partners in consensual unions can be provided with property right protections. These countries provide protections to partners in consensual unions to ensure that, in the event that one partner dies or the pair separates, one partner is not unjustly denied a share of property they had acquired, improved, or maintained during the relationship. Below are several comparative examples of how other countries provide protection to partners in consensual unions:

- In Tanzania, if a couple has lived together for at least two years, it is assumed for all legal purposes that they are legally married unless one party can prove that it was not their intention to be husband and wife.<sup>19</sup> Even if the man proves that they did not

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<sup>19</sup> Law of Marriage Act (Tanzania) (1971), Art. 160.

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intend to live as husband and wife, the woman can apply for financial maintenance for herself and for any child born from the relationship. In such circumstances, the court can grant the woman any benefit that could be granted to a divorcing, legally married wife.

- In Uganda, a Domestic Relations Bill is under consideration which would recognize couples living in consensual unions as married, and thus provide them with all of the protections of a married couple.<sup>20</sup> In order to qualify, the couple must have been in a monogamous relationship, lived in a consensual union for at least ten years, and been otherwise qualified to marry.
- Hungary grants legal recognition and protection to unmarried persons living in an emotional and financial community.<sup>21</sup> These relationships are known as “partnerships” under Hungarian law. Such partners hold joint rights to property acquired during the relationship in proportion to their contribution to the partnership. A contribution can be financial or can also be in the form of labor, such as upkeep, cleaning, and maintenance. This allows partners who take care of property, but who may have not have made a financial contribution to the property, to be considered as a part-owner.
- Several states within Australia recognize “de facto” marriages (marriages in fact) and provide protections to persons in these relationships, including the right to an equitable division of property if the couple separates and inheritance rights.<sup>22</sup> In determining whether a particular relationship qualifies as a de facto marriage any one factor does not hold sway (such as a fixed number of years spent together), rather a range of factors such as commitment to a shared life, sharing a household, public perception of the relationship, and level of financial dependence are considered. Couples wishing to avoid the finding of a de facto marriage, and the subsequent property division that can result, can sign a contract stating that they do not have or want a de facto marriage.
- Under Canadian Federal Law, “common law status” is granted to two romantic partners who have lived together for at least one year.<sup>23</sup> “Common law status” grants federal benefits to partners in these relationships that are otherwise available only to married couples. Furthermore each Canadian province provides additional levels of protection to such common law partnerships within their own laws. Depending on the province, these laws can provide partners with property rights at the time of separation or widowhood.

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<sup>20</sup> Domestic Relations Bill (Uganda) (2003); and Vanessa Von Struensee, *The Domestic Relations Bill in Uganda: Potential for Addressing Polygamy, Bride Price, Cohabitation, Marital Rape, Widow Inheritance, and Female Genital Mutilation* (February 2005) available at <<http://topics.developmentgateway.org/gender/rc/ItemDetail.do?itemId=1043113>>.

<sup>21</sup> Government of Hungary, “Establishment and termination of cohabitation,” available at <[http://www.magyarorszag.hu/angol/orszaginformatio/ugyleiras/csalad/ellettars/kapcsolatkotesse/egyutteleles\\_szabalyai\\_a.html](http://www.magyarorszag.hu/angol/orszaginformatio/ugyleiras/csalad/ellettars/kapcsolatkotesse/egyutteleles_szabalyai_a.html)>.

<sup>22</sup> South African Land Reform Commission, Discussion Paper 104, “Domestic Partnerships” (2003) available at <<http://www.law.wits.ac.za/salc/discussn/discussn.html>> at 123.

<sup>23</sup> *Id.* at 109.

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Related to the question of consensual unions, is the matter of men maintaining relationships with multiple women at once, which is relatively common in some parts of Rwanda. Of the three areas we visited it is reputedly most common in Ruhengeri. During our interviews we never learned of a current case of polygamy where several wives were aware of one another. In most instances, men had relationships with several women at the same time, perhaps in different areas of the country. Monogamy has been the only legally recognized form of marriage since 1962, but men continue to maintain relationships with multiple women despite their lack of legal recognition or protection for these women. It is important to remember that actual polygamous marriages entered into before 1962 were and remain legal – a point often forgotten.

The Coordinator of the Women’s Legal Rights Initiative noted that because these polygamous relationships are not legally recognized, policymakers mostly ignore the reality of their existence. In our interviews it became clear that it is the women and children in these relationships, rather than the men, who generally bear the brunt of this lack of legal recognition when they lose land or are denied inheritance rights.

### *Separation and Divorce*

Within each focus group there were several women who were separated or in estranged relationships, which allowed us to gather multiple personal examples of what can happen to women’s property rights when relationships disintegrate. We were told that there is a traditional practice whereby after separation a woman’s birth family will give her a piece of land to survive on. However, women said that today this is an infrequent practice, and that even when land is given, the plot is usually very small. We did hear from several separated woman about the different means they use to access land or to fight to retain land they currently have access to:

- Thérèse is in a consensual union but recently discovered that her partner has a wife in another part of the country. She had purchased some land with her partner during the course of their relationship, but she says the land is registered in his name. Thérèse says that because she and her partner were not legally married, she has little hope of retaining this land. He recently left her and their two children, and returned to his other wife. (Thérèse, Butare)
- A legally married woman we talked to told us about a dispute she has with her husband over a house they purchased together. She says they have a community property marital property regime. They are separated, and he would like to control the house in which she currently lives. She does not want to give up the house. Moreover, she would like to receive financial support from him to assist her in raising their children. Her husband took the case to the Court of First Instance with two issues. First, he would like her to leave the house so that he can move into it with another woman. Second, he wants to mortgage the house. The court granted her the right to continue to occupy the house, but it is unclear what the judgment was regarding his ability to mortgage the house. He continues to use trickery to try to mortgage the house, such as signing her name

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to documents and using connections he has at the bank. Most recently she wanted to mortgage the house to raise money for a small business (to support their children) but he would not give his consent to mortgage the house for this purpose. (name not given, Butare)

- Rehema, who had been part of a consensual union, was fortunate to be given land from her partner's family to help her raise their three sons after her husband disappeared and went to Congo. She currently uses this land on behalf of her sons and says that while she could not sell the land, she might be able to lease it out on her sons' behalf if necessary. The land was given to Rehema via a family agreement. She essentially holds a use right to the land at the will of her in-laws. (Rehema, Ruhengeri)
- Consolleé, a widow, became involved in a relationship with another man after the death of her husband. She had children and a small piece of land from her relationship with her deceased husband. During her relationship with the second man, they purchased a piece of land together and had two children. This second man then left her to return to his first wife. The land they purchased was in his name and now he has reclaimed this land. She took her case to the Abunzi to try to get some assistance in raising the children she had with him. They awarded her RWF 2000 per month in child support; however, he is not making these payments. Consolleé still does not have any right or access to the land that they purchased together. (Consolleé, Ruhengeri)
- When we asked the group in Kibungo generally what a separated women is entitled to from her husband they all laughed and said, "If you're lucky you can take the dress that you put on at that moment." They said that "in words" there is a right to reclaim any dowry paid, but in reality you probably will not be able to claim the dowry or anything else once your husband "dismisses" you.

Overall, we found that very few women are aware of their matrimonial property rights in case of divorce. In most cases, those who are aware of their rights are reluctant to pursue them because of the difficulty and expense of taking a case to court. The majority of women decide to take care of themselves and seek a livelihood on their own without pursuing a property settlement from their ex-husbands. In short, legal recourse is not really an option for most women.

### *Inheritance*

When a widow inherits land from her husband it is almost always considered to be hers to use in trust for her children. Women indicated that the key to whether a widow would inherit land (or at least retain access to land) was whether she had children or not. Whether the marriage was legal or not was less of a problem because customarily the husband's family would allow the woman to stay on the land so long as she bore children with their son, even if they were not legally married.

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Below are several inheritance stories that women shared with us regarding land acquired from their husband's families:

- Consolleé had been given land by her husband's family. Her husband then died, but she continues to use and work on this land to raise money for her children. She said that since she is a widow, she was tempted to be with another man, and in fact brought another man to this land and gave birth to two children by him. After this, her parents-in-law attempted to reclaim the land but were eventually persuaded not to do so. Consolleé has since separated from this second man. (Consolleé, Ruhengeri)
- Colodine, who was in a consensual union, lost her partner when he went to Congo and was killed. She had borne three children with him. The parents of her deceased partner gave her a small piece of land upon her partner's death to help her raise the children. This land was given to her children, not to her. Without the children she says that she would have been evicted. (Colodine, Ruhengeri)
- Daphoise is married and she and her husband were given some land from her parents-in-law upon the birth of their first child. She says this is a traditional practice. She also shared that she expected this land to be reclaimed and redistributed equally among all of her husband's siblings (along with the parents-in-law's other land) at the time of their death. (Daphoise, Ruhengeri)

Generally women indicated that they were able to inherit land that they had purchased with their husbands during marriage. In the discussion on legal marriage above, both Drocella from Butare and Ignaciana from Kibungo stated that they believed their rights to purchased land were secure. We did not, however, interview any women whose husbands had died after they had purchased land during marriage, so we do not know how secure these inheritance rights are in practice.

Finally, many women shared that culture and tradition play a large role in denying widows inheritance rights. Even when women are able to take an inheritance conflict to court, it is often very difficult to enforce the actual judgment. Dina, a village paralegal in Kibungo who was trained by Haguruka, said she has encountered several instances where women have had a case decided in their favor, but were not able to enforce the judgment. She said that "the authorities might understand the law, but they won't follow up on enforcement."

## **B. Daughters' Inheritance Rights**

In addition to asking about marital inheritance rights, we also asked the interviewees about inheritance within their birth families. We interviewed many women who had inherited at least some land from their birth family. Further, of those women who were aware of the Inheritance and Marital Property Law, most understood it to state that sons and daughters are supposed to inherit equally.

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## *The Law*

The law is clear regarding daughters' inheritance rights: "... all legitimate children of the [deceased] ... inherit in equal parts without any discrimination between male and female children."<sup>24</sup> Thus daughters and sons are to inherit equally. This is also true of gifts made by parents to their children while they are still alive: "All children, without distinction between girls and boys ... have a right to the partition made by their ascendants."<sup>25</sup>

Both legitimate and illegitimate children have the right to inherit from their blood parents. This means that if a man had children with his wife and also with a mistress, the man's half of the community property will be inherited by both his legitimate and illegitimate children. The half belonging to his wife will eventually be inherited by only the legitimate children. We did hear that some women's interest groups are not pleased with this outcome because a legal wife will see part of the community property that she and her husband acquired during the marriage inherited by children that were born as the result of her husband's extra-marital affair.

At least some of these succession directives can be ignored if the deceased drafted a will that specified a different inheritance pattern; however, the law does place limitations on a person's ability to use a will to give property to persons other than his or her children.

Our discussion of inheritance rights up to this point relates to all forms of property (including furniture, vehicles and land), but land has other additional, unique restrictions. Under the Land Law, land cannot be partitioned if it will result in a holding of less than one hectare.<sup>26</sup> The question then is how to allow all heirs to claim their share of the property if that property cannot be partitioned. The Inheritance and Marital Property Law provides an answer: "... where it is impossible to establish equal shares in kind, the council of succession determines the compensation to be given by the heirs who receive a share greater than their legal or testamentary share of the succession, for the benefit of the heirs who received a smaller share."<sup>27</sup> Thus, if one child inherits all of the land because it is already less than one hectare and cannot be partitioned, that child will owe compensation to his or her other siblings who did not inherit the land. This same law also provides: "A property which does not exceed an area of one hectare and any other undivided thing cannot be partitioned. The owners have rather to agree on the modalities of their sale or exploitation and share the fruits here from."<sup>28</sup> Thus, rather than one child inheriting all of the land, another option is for the land to be sold and the

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<sup>24</sup> Inheritance and Marital Property Law, Art. 50.

<sup>25</sup> *Id.* at Art. 43.

<sup>26</sup> Land Law, Arts. 20 and 33.

<sup>27</sup> Inheritance and Marital Property Law, Art. 77.

<sup>28</sup> *Id.* at Art. 91.

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proceeds divided or for the land to remain in the family and be either jointly cultivated or leased out with the children dividing the produce from the land or rent. Finally, the Inheritance and Marital Property Law states that, “The partition and donation of an estate forming part of the property in succession are subject to land regulations.”<sup>29</sup> Thus, this law envisions further legal details on the succession of land will be covered by the Land Law, its complementary legislation, and regulations. Because of the provision referencing forthcoming land legislation, some of the representatives of women’s organizations thought that the Land Law would contain more clarity on the process of inheriting land. When they reviewed the Land Law and saw that it did not provide that clarity, they were surprised and concerned. Their concern was due to the outstanding questions surrounding a widow’s ability to inherit lineage land from her husband and questions about what specifically should happen when land cannot be further partitioned. These questions can and should still be addressed in the implementing regulations of the Land Law. This is an important reason that women’s interest groups should be involved in the consultations about these regulations.

### *Field Findings*

Many of the women we talked to reported inheriting at least some land from their birth family. Because of the small number of women we interviewed, it is unclear how common inheritance by daughters actually is. Even though many women did report inheriting land as daughters, many of these women inherited less land than their brothers. Also, sons are often given the most fertile, commercial lands. While interviewees may be confused about provisions of the Inheritance and Marital Property Law regarding wives’ rights, most people who were aware of the law understood that daughters and sons are both supposed to inherit land. Below are personal examples that were shared with us during the focus groups. In many cases, the land was actually given to the sons and daughters during the life of their parents. Under the Inheritance and Marital Property Law, these gifts during life should also be equal. No one mentioned the restriction on partition of land below one hectare as limiting inheritance rights. Women were unaware of this provision and it is apparently not being regularly enforced.

- Consolleé said that her father gave three pieces of land to each of her brothers (it is unclear how large these pieces of land were). All four daughters were also given land, but were only given one piece of land for the four of them to share. (Consolleé, Ruhengeri)
- In Annociata’s family, two sisters were given relatively large pieces of land by their father because he was pleased that their husband’s families had paid a bride price. Her father also gave her brothers large pieces of land. Annociata and another one of her sisters were given two relatively small pieces of land

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<sup>29</sup> *Id.* at Art. 90.

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because their father was unhappy that their husbands' families had not paid a bride price. (Annociata, Ruhengeri)

- Agnes explained that her widowed mother is currently using the family land that had belonged to her father during his life. Agnes does not have any brothers and says that she and her sisters will evenly split the land when their mother dies. (Agnes, Ruhengeri)
- Similarly, Claudine's mother owns land that she had purchased. Claudine feels that she and her brothers will have equal rights to this land. At present, Claudine is letting her brothers use the land exclusively because she does not live near the land and because they cultivate it for the benefit of their mother. Her father, who is dead, also owned some additional land but it is being used by his children from another relationship. She feels that she should also have the right to a portion of this land, but, if her father's other children do not voluntarily offer it, she will not pursue her rights. (Claudine, Ruhengeri)
- Gloriose, who is the district coordinator of the National Women's Council, told us that she does not believe there will ever be a dispute over the inheritance of her birth family's land. She says that she and her brothers understand that they have equal rights to this land. Her mother is still alive at this time. Gloriose has many brothers and they have all agreed to lease out this land out and turn over the proceeds to their mother for her support. Their father is dead. Gloriose is not particularly interested in the land because she grew up in the city and "doesn't have a feeling for the land." She does believe that this land will eventually pass to her children. Interestingly, her family members were refugees in 1959, but were able to reclaim the land when they returned to Rwanda after the genocide. They have a document from the local authorities stating that the land belongs to her family. (Gloriose, Butare)
- Drocella had a rather significant conflict over the inheritance of her birth family's land. Her parents had intended to divide the land amongst her brothers, excluding her, before their death. Despite this desire, they never actually divided the land during their lifetime and after their deaths, the children started arguing over the land. At this time, Drocella was already married and was not living near her birth village; most of the conflict was between her three brothers and three sisters, none of whom had yet married. Her brothers wanted the bulk of the land, leaving the sisters with relatively small shares. They all brought this dispute to the Sector Coordinator in 2000. He divided the land equally between all of the brothers and sisters, including Drocella. She has since been to the village and has seen her share of the land. They have a document that maps out the parcel of land that belongs to each sibling. Originally, she farmed this land herself, but she found this inconvenient because of the distance and now she lets one of her brothers use the land. This brother gives the produce from this field to the "head of the family," her eldest brother, whose responsibility it is to share it

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amongst the siblings. She is not collecting rent. Her motivation in allowing her brother to use the land is not financial; she wants to ensure that the land is being used. Someday when she dies, she believes that her own children will inherit this land. (Drocella, Butare)

- Thérèse inherited land from her parents, but had a conflict with a great-aunt over the rights to this land. This land had belonged to her grandfather, who was her great-aunt's father. Thérèse inherited this land in its entirety from her own father because she has no living siblings. Her aunt subsequently returned to the village to claim some of this land. Thérèse said that she was shocked that her aunt came back to claim this land, saying, "This woman got married a long time ago and now she has come back to claim her rights?" As part of the group discussion, the subtext emerges that the traditional notion that married women should not claim land from their birth family is the reason Thérèse was shocked by her aunt's land claim. The aunt has not tried to vigorously pursue this land claim and Thérèse has not heard from her since this original claim. (Thérèse, Butare)
- Rose, a young student, inherited land from her birth family along with her siblings. She and her siblings have decided to let their cousins use this land for the moment because Rose and her siblings are all living in town and going to school. The cousins give them a token amount in return for the use of the land. Rose does not think that she and her siblings will have any trouble reclaiming their land rights should they want to use the land themselves. They do not hold any documentation proving that this land is theirs, but Rose says that the neighbors and the local authorities all know that the land belongs to her and her siblings. (Rose, Butare)
- Daphiose, second chair of ProFemme in Ruhengeri, said that she and her siblings expect to receive equal shares of their parents' land. Her parents are currently alive, but she is confident that she will receive an equal share of the land in the future. (Daphiose, Ruhengeri)
- Donatha, a young student orphan, told us that she, her sister, and brother equally divided their family land after her parents died, but then gave her youngest brother a little extra, which she says is customary. She says this is a tradition because it is "the youngest who buries his parents." Donatha says that the Inheritance and Marital Property Law had already been passed at the time this land was divided. Their land division is documented in an agreement that they all signed at the end of a family meeting. They have also marked the boundaries between their plots by planting a bush that is typically used for this purpose. Neither she nor her siblings are self-cultivating their shares at this time. Her brother leases out his land on his own and she and her sister lease out their land parcels jointly to one lessee. (Donatha, Ruhengeri)

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- Ignacia has three siblings and says that they will all have equal rights to the land once the time for inheritance comes. She imagines that her own children will also be able to inherit this land from her in the future. (Ignaciana, Kibungo)

Despite the high number of women we interviewed who stated that they inherited some land from their families or anticipate inheriting land from their families in the future, during the general discussion on daughters' inheritance rights, the focus group members were more pessimistic:

- In Butare, several women leaders offered that, in their experience, women usually do not feel comfortable asking for a "share of their brothers' land." The quotation itself reveals that women feel that family land belongs to the sons, and that they would be inappropriately taking land away from their brothers if they requested an equal share. The women said that even women who understand the law will be reluctant to claim their land rights because they have usually moved away for marriage and do not even live near the land. The women would also feel guilty because their brothers often have already been living on the land and using it to support their parents before their death. The women stated that the common view among Rwandan villagers is that daughters should not claim land from their birth families because they will have access to land in their marital families.
- Dina is a married woman who was in a dispute with her birth family because she was fighting to inherit a portion of her birth family's land. The Sector Coordinator, who was helping to mediate the inheritance, said that she could not have land both from her marriage and also from her birth family. Accordingly, the Sector Coordinator denied her inheritance rights to her birth family land. Dina does not remember if the Sector Coordinator made this decision before or after the passage of the Inheritance and Marital Property Law. (Dina, Kibungo)
- Flavia, a focus group member in Kibungo, said that while daughters might technically inherit land, it is their brothers who will actually control the land and make management decisions: "Daughters can live on the land, but cannot sell it; brothers could sell it." Many of the women present sighed in agreement with this statement as she spoke. Flavia also gave a specific example of her neighbor who, after separating from her husband, returned to her birth family's land. Her brothers distributed the bulk of the family land amongst themselves and left her only a small piece. She thought she deserved an equal piece and took her complaint to the Abunzi, which agreed with her. Despite this judgment, her brothers still refuse to give her an equal piece of land. (Flavia, Kibungo)
- Because many of the women in the Butare focus group stated that they had inherited some of their birth family's land or anticipated inheriting land in the future, we asked them whether their experiences are typical. The focus group members told us that women living in and near towns, as many of the women in

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the Butare focus group did, will be more likely to inherit land because their “families know more and are educated.” They offered that in the deep rural areas it would not be nearly as easy for a daughter to inherit land. In these areas, even the local authorities follow customary inheritance patterns rather than the Inheritance and Marital Property Law. The women stated that this is at least partially due to a lack of education about the law in these areas of the country.

### C. Land Disputes

We interviewed many women who were involved in land conflicts centering on either inheritance or separation from their husbands or partners. The women in each of the areas we visited stressed how difficult it is for women to actually pursue a dispute. In Ruhengeri, when asked if women feel comfortable raising disputes, the women said that often women are not comfortable raising disputes because of the social stigma. They stated that when women do speak up, other women will whisper, “How can she bring these family matters out in public?” Further, several women hinted at a fear of repercussions within the family if disputes are pursued publicly, especially disputes with husbands or brothers. In Kibungo, they echoed this sentiment by stating that only a small fraction of women with disputes, or whose rights are being denied, will actually have the ability to fight for their rights. The women in Butare also agreed that it is hard for women to pursue a case because very few women understand their rights and very few have the strength or resources to pursue a case very far. They said that pursuing a court case would be extremely difficult for most women. They did add that as women slowly see examples of other women pursuing disputes, more women start to feel that they too could pursue a case because the women learn by example and understand the process they are supposed to follow.

**Haguruka** helps women with disputes in many areas of the country. They have a paralegal training program where they educate village women, teachers, and key community figures about the law. They select people who are always in contact with women and children in communities for this training. The mission of these paralegals is to provide legal advice and sensitize the communities. The paralegals help women to pursue disputes. If the paralegal comes upon a very complicated problem, she sends a report to the Haguruka office for higher-level follow up. Haguruka assists women with a very wide range of problems. The most frequent cases are over paternity, property disputes, alimony, and inheritance rights.

When asked where women raise disputes we were given several answers. In Butare, the interviewees said that women would probably first turn to the NGO Haguruka for assistance if they were aware of the organization. Others, who were not aware of this organization, would likely raise the conflicts with the women’s council at the cell level. The women in Ruhengeri and Kibungo also stated that the most common place for women to turn when they have a dispute is the women’s councils, but they later said that if a woman was very serious about pursuing a dispute she would take it to the Sector Coordinator. As for the Abunzi, in Kibungo the women said that the Abunzi’s understanding of the law was minimal and that the Abunzi was not the first place they would take a dispute.

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## D. Land Administration and Registration

### *Law and Policy*

Rwanda is embarking on the creation of a new decentralized land administration system, with a goal of widespread land registration. The Land Law calls for land commissions to be established at the “national, the provincial and Kigali City, and district and town level.”<sup>30</sup> Subsequently, we have learned from MINITERE that land commissions will likely not be established at the provincial level. Under the law, land bureaus will also be established at the district level to carry out the technical land administration duties, such as the actual registration of land. The specific duties of these two decentralized bodies have yet to be specified, but it is currently envisioned that district land commissions would provide district level policy guidance and would ensure that citizens concerns were taken into account.

Additional thought is necessary to determine how the decentralized land administration system will be integrated into the on-going decentralization process. Because there currently exists very little land administration in much of the country, Rwanda will face challenges in establishing these new, decentralized land administration bodies.

The Rwandan Constitution requires that at least 30 percent of all positions in decision making organs, of which the land commissions are included, must be women.<sup>31</sup> When the composition of the land commissions is determined, the requirement that it be composed of at least one-third women will need to be adopted as well.

In terms of land registration, recognizing the great difficulties involved in implementing a country-wide formal registration system, Rwanda is considering creating a two-tiered system that would be implemented by decentralized land administration units. Where land values are lower, and holdings smaller, a simplified registration process would be adopted. This simplified process would apply to rural landholders holding under five hectares. Costs would be kept low and basic surveying techniques and demarcation would be used, such as boundaries marked by natural features. A participatory community mapping and adjudication approach would be applied with all local people participating in the process. The more formal registration system would be intended for landholders with more than five hectares or landholders who hold higher-value commercial land in urban and peri-urban areas. More formal and precise survey techniques and technologies would be used and the bulk of the costs would be passed onto landholders. This system is still under consideration and the exact form that the Rwandan land registration system will take is not yet clear.

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<sup>30</sup> Land Law, Art. 8.

<sup>31</sup> Article 9 of the Constitution of Rwanda states, “The State of Rwanda commits itself to ... building a state governed by the rule of law, a pluralistic democratic government, equality of all Rwandans and between women and men reflected by ensuring that women are granted at least thirty per cent of posts in decision making organs ...”

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When establishing a registration system it will be very important to consider the specific land rights of women. Many formal land registration projects worldwide do not take into account the needs of the women. Technical registration staff often view registration as being neutral and as merely recording rights as they exist. They fail to consider political maneuvering that might influence outcomes or the secondary land rights that users may be deprived of through simple registration of the primary land right.

Box 4: Comparative Experience: Registration and Women

Many formal land registration projects do not take into account the needs of women when they are designed, and as a result there are many examples of land registration projects actually harming women's land rights.

Kenya is often used in discussion to exemplify the potential harm that individualized registration can have on women and those holding secondary land rights. Kenya has promoted the individualization and registration of tenure since 1954—a process that is ongoing to this day.<sup>32</sup> This program has been registering land in the name of the head of household without acknowledging women's property or usufruct rights. This has resulted in a slow but steady erosion of women's land rights throughout the country.

The Indonesian island of Java provides an example of a place where, despite customary practices that dictate that husbands and wives are joint owners of any land purchased during the marriage, the land registration system only records such land in the name of the male head of household.<sup>33</sup> The main reason that women were not included on the titles was not because of traditional opposition—everyone considered such land to be owned by both spouses, in accordance with both traditional practice and the marriage legislation—instead, the main reason was because the registration forms and documents only provided one line to register a single land owner. This example emphasizes the importance of making sure the technical and detailed aspects of registration, such as what is included on an application form, are reviewed to ensure that they are gender sensitive and inclusive of women's land rights.

There are also examples of countries that have made a special effort to ensure the protection of women's land rights. Vietnam, after discovering that women's land rights were being ignored because only the household head was listed on land certificates, started re-issuing

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<sup>32</sup> Martin Adams and Stephen Turner, *Legal Dualism and Land Policy in Eastern & Southern Africa* (prepared for the conference, *Land Rights for African Development: From Knowledge to Action*, Nairobi, October/November 2005).

<sup>33</sup> Jennifer Brown, "Rural Women's Land Rights in Java, Indonesia: Strengthened by Family Law but Weakened by Land Registration," *12 Pacific Rim Law & Policy Journal* 631 (May 2003).

<sup>34</sup> Tran Thi Minh Ha, *Pilot Study Report: Issuance of Land Tenure Certificates Bearing the Names of Both Husband and Wife in the Rural Areas (2002)* (World Bank Gender and Law Thematic Group Innovation Grant Pilot Study Report) at 48-49.

<sup>35</sup> Mika-Petteri Törhönen and David Palmer, *Land Administration in Post Conflict Cambodia* (paper presented at the Symposium on Land Administration in Post Conflict Areas) (April 2004).

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certificates that included the names of both spouses.<sup>34</sup> Cambodia has sought to ensure that women's land rights, and the land rights of vulnerable groups, are specially protected in its planned systematic registration project, by appointing an assistant in each village at the time of registration to explain the process and help draft land claims or land claim objections on behalf of those needing extra assistance.<sup>35</sup> Other Cambodian interventions to protect the rights of the women and vulnerable groups include special educational outreach programs planned at times and places that are suitable to women and other populations with potential to be harmed by land registrations, such as orphans and the elderly.

Women, important agricultural producers and perhaps the majority of the rural population in Rwanda, must be given careful consideration when designing a registration program. Serious thought should be given to how family landholdings are titled. Registering land solely in the name of the male head of household can deprive women of their intra-household land rights. Where possible, such titles should be granted jointly to both married couples and to couples in consensual unions. During adjudication, the process undertaken to ensure that the person being registered as the land rights holder is the actual land rights holder, field teams should be instructed to investigate claims to land to ensure that widows or other women are not being divested of their land rights through a stealth registration by a male relative or neighbor. Furthermore, Rwandan legislation already states that spouses must give their consent when land is to be transferred. Consideration of how best to operationalize this provision without unduly placing a constraint on the land market is needed.

### *Findings*

When asked about local land administrators, women stressed that it was very important to ensure that these administrators are properly educated about women's land rights. They also stated that the administrators should be given very clear guidelines on how to follow through with any steps needed to protect women's land rights, such as how to list both husband and wife on the title deed or how to ensure a spouse's consent is obtained before land is transferred. It was said several times that once administrators understood the rules regarding women's rights they tried to implement them properly. Clear guidelines were thought to be important because they would leave less room for discretion by the local administrators and there would be less chance of women's land rights being forgotten. Several women's organizations have also stated that it will be very important to ensure that the land

The **Rwandan National Women's Council** is a government body established in 1996 with roots down to the cell level. Its major objective is to act as a conduit for women at the grassroots level to represent their views on matters of personal importance to central policymakers. The National Women's Council is interested in taking on an educational role in the implementation of the Land Law. They have talked to MINITERE about the possibility of organizing workshops to educate women about the Land Law. They are also interested in acting as a forum for women to comment on the draft laws that will be created to implement the Land Law, such as the law on registration.

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commissions include women because their representation helps to ensure that women's land rights are specifically considered.

In terms of registration, women had strong opinions about the importance of including women's names on registration documents. In Butare, women said that registration in both the husband and wife's names would be beneficial because it would help the husband to really understand that the land belongs to both of them. One woman raised the fact that the current method for registering land, only in the name of the husband, contradicts the provisions of the Inheritance and Marital Property Law which states that those married under the community property regime own their land jointly. At the conclusion of the interview in Butare, the women specifically asked that we inform MINITERE that land should be jointly titled in the case of married couples

Further, the Land Law states that the husband and wife have equal rights to the land and the planned implementation of the law calls for joint registration of land held by married couples. However, while the Land Law awaits wide-scale implementation, there is a need to educate couples about joint ownership of their land and to ensure that any land documents that are issued prior to the wide-scale registration program (for example recognizing an inheritance, purchase, or government land grant) are issued jointly to married couples. Women at the workshop noted that there are many couples currently civilly registering their marriages due to widespread government campaigns. They note that this is an important period of time to educate these couples about their community property rights and the fact that they both, rather than just the husband, have the right to land.

In Ruhengeri and Kibungo, the women also stated that land is usually registered in the name of the man only. In Ruhengeri, when asked about joint titling, these women suggested that it would also be beneficial to, at the least, title land as belonging to the "family of [husband's name]." The women said that this would imply that the land belongs to the entire family, and not solely to the husband. The women in Kibungo echoed this idea, but suggested that the wife's name still be included. Their suggestion was to register land as belonging to the "family of [husband's name] and [wife's name]."

In Kibungo, the women were also explicit that registration forms should very clearly require the names of the husband and the wife so as to ensure that they are both actually included. The idea that registration procedures should be very clear to ensure that women are not forgotten was further underscored by an anecdote shared by Mary Balikungeri, the Executive Director of Rwandan Women's Network. Mary relayed that she was once waiting at the City of Kigali office for her own land rights document along with another woman, who was very educated and financially secure. When this woman's document was issued from the counter, she discovered that it had been issued only in the name of her husband -- despite the fact that she had purchased the land and personally gone through all of the procedures to get the land titled. Mary said that this is because, under current procedures, the City only issues land documents in the name of the head of the household.

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We also discussed the idea of joint titling with Hon. Patricia Hajabakiga, MINITERE's Minister of State for Land and Environment. Very positively, she said that they are already planning to jointly register any land that is held by married couples in a community property marital property regime. Follow-up during legal drafting of the law on registration will be needed to ensure that this provision is included and that the forms and registration processes themselves also reflect this requirement. Monitoring will be necessary to ensure that joint registration actually happens on-the-ground.

The Women's Legal Rights Initiative Coordinator said that while purchased land can certainly be jointly registered, it may not be possible to jointly title land that has been inherited from the husband's family because of the restriction on women inheriting ancestral land. As mentioned above in the section on inheritance, further information is needed on how the Inheritance and Marital Property Law is being interpreted on this point and whether there is scope for widows to inherit this ancestral land.

The National Executive Secretary for Haguruka reminded us that joint titling of land can be viewed as a means of enforcing the provision of the Land Law that grants equal land rights to husbands and wives: "Any discrimination either based on sex or origin in matters relating to ownership or possession of rights over the land is prohibited. The wife and the husband have equal rights over the land."<sup>36</sup>

Several women's organization representatives raised the issue of how registration will impact women who are not legally married but who are in consensual unions. While these women may not technically have any right to be registered as joint owners of land their male partner inherits, they ideally should be recognized as joint owners of land that was purchased and developed by both of them during the course of their consensual union. As detailed above in the section on land rights and consensual unions, several women in consensual unions lost access to land they had purchased during the course of their consensual union upon separation.

Further, it is very important to remember that religious and traditional marriages entered into before 1978 remain legal even if they are not civilly registered. Couples who married prior to 1978, regardless of whether the ceremony was religious, traditional, or civil, are legally married and the provisions of the Inheritance and Marital Property Law apply in full to these marriages.

In discussions with Hon. Minister of State Patricia Hajabakiga, she acknowledged that, ideally, women in consensual unions would also be jointly registered as land owners, but was uncertain that this would be a legal possibility because the law only recognizes civil marriage. The only option she could come up with was that perhaps if the man and woman were business partners they could both be listed jointly on the title. She asked for further assistance in thinking of legal mechanisms which would allow women in

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<sup>36</sup> Land Law, Art. 4. The French version of the Land Law uses the more generic phrase, "men and women," but the sentiment about equal rights is the same.

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consensual unions to be jointly registered as land holders along with their partners. See Box 5 for further background research on this topic that supports the possibility of joint registration for couples in consensual unions

Box 5: Comparative Experience: Joint Titles for Couples in Consensual Unions

A question raised by several people during our research was whether it was legally possible to jointly register land to a man and a woman in a consensual union as co-owners of a landholding. While most people agreed that women in consensual unions deserve some sort of protection to ensure they do not lose land that they helped to purchase, improve, or work on, there was a lack of certainty on whether this was legally possible.

Internationally, there are numerous ways that two persons who are not married can own and register property jointly. In countries with the common law system (most former British colonies), there are two means of registering land held by two people: “tenancy in common” or “joint tenancy.” In any country recognizing these two forms of property, two persons, regardless of whether they are married or not, may hold land together as tenants in common or as joint tenants. Joint tenancy would be the preferable option for partners in a consensual union because upon the death of one owner, it grants the other owner automatic ownership of the entire property. Under tenancy in common, upon death each co-owner’s share is inherited by his or her heirs, rather than being owned by the remaining co-owner.

In many civil law countries, like Rwanda, there are also legal mechanisms whereby two people can own property even if they are not married and even if they are not registered as a company or partnership. In France, two possible means for unmarried persons to own property together are “indivision” and “tontine.” Indivision is similar to tenancy in common in that upon the death of one owner his or her portion of the property would belong to his heirs rather than to the other co-owner. Tontine is similar to joint tenancy in that upon the death of one owner, his rights in the property would then automatically belong to the other co-owner rather than to his heirs.

Thus, there are legal mechanisms in both common law systems and civil law systems to register two unmarried persons as co-owners of land. The Rwandan Civil Code should be reviewed by a Rwandan lawyer to determine exactly how couples in consensual unions could be considered co-owners and registered jointly. We have heard that the Civil Code contains provisions on joint or co-ownership, but this has yet to be confirmed.

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## E. Education and Monitoring Implementation of the Land Law

Rural women's awareness of the protections provided in the law varied between the focus groups that we interviewed. Part of this may have been a regional difference, but part of the reason could be that relatively more or less educated women were brought together by our local coordinators in the three regions we visited.

While most were aware of the Inheritance and Marital Property Law, even if they may not have understood all of its provisions, very few women were aware that the Land Law had been passed. The exceptions were some women connected to Haguruka because the organization publishes a monthly bulletin that includes copies of recently passed relevant laws. Many of the

Kigali-based women's organizations were aware that the Land Law was debated, but may not have known that it had been adopted and were not knowledgeable about its specific provisions. All of the women's organizations said that they would like to know more about the Land Law and Policy. As an initial step to fill this information gap, during the July 2006 workshop basic information on the provisions contained within the Land Law were presented to and discussed with the workshop participants.

Women emphasized that educating women *and men*, as well as local implementers, about the law is critical. They said that women should not only be taught what their rights are, but should be taught how to assert their rights and pursue claims. In emphasizing that both women and men should be taught about women's land rights, women in Ruhengeri said that they have had experiences where they have gone to women-only programs to learn about their rights only to return home and be "told they were crazy" when they tried to explain these rights to their husbands and families. They strongly recommended that both women and men attend the trainings together.

Special care also needs to be taken to ensure that any training campaigns held are actually effective at helping rural women understand the law. Some of the women in Ruhengeri stated that they had previously attended a two hour training on the Inheritance and Marital Property Law, but still did not understand their rights under this law.

**Rwandan Women's Network** has just started a project with the International Center for Research on Women (ICRW) to raise awareness about the Land Law and Inheritance and Marital Property Law. They will be working to create simplified language to explain the law in an understandable way for rural women. Their goal is to help women understand their rights under the law and also to teach them how to assert their rights. This is a one year project and is in the planning stage.

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Women had several different ideas about the best way to get information to women about their land rights. Some said that Haguruka was a good source of information, but others cautioned that it only reaches a small number of women, and the majority of women at the grassroots are untouched by these programs because of the sheer number of women in the country. A suggestion was made to strengthen the Women's Councils to provide this kind of educational support since they are functioning at every level of decentralized government. Further discussion and planning on how best to get information to women about their land rights is needed.

DFID is funding a **Land Reform Team**, which is housed with MINITERE, to assist the government with the implementation of the Land Law. In the autumn of 2006, in coordination with MINITERE, this team plans to launch pilot projects in four districts of the country to test and refine the new land administration and registration procedures on-the-ground. This will be an important moment when an evaluation should be conducted to assess the how the implementation will impact women.

Several of the women's organizations we spoke to also emphasized the importance of monitoring the implementation of the Land Law as it progresses. The organizations mentioned that the trouble with the Inheritance and Marital Property Law is that, while certain provisions of the law look good on paper, there is no implementation at the grassroots level. Education is part of the solution to this problem, and so is monitoring of the implementation of the law.

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### III. NEXT STEPS

Based on our findings, our discussion with women and women's interest groups, and the July 2006 workshop, we suggest the following next steps:

#### Consultation and Discussion

- **Sustain the dialogue and discussion between land policymakers, implementers, and women's interest groups that was realized at the July 2006 workshop.** At this workshop, land policymakers and local women's groups had the opportunity to talk directly to one another about the implementation of the Land Law and remaining gaps that need to be filled to protect women's land rights. The women's organizations also formed a Policy and Law Task Force to comment on forthcoming laws and regulations and make recommendations that will better protect the land rights of women. Key laws and regulations for the Task Force's review would include: a law on land tenure types that will define the land rights that citizens hold, a law on registration, a decree and/or regulation establishing the land commissions and land bureaus, and a law on transactions that would govern sales, mortgages, and other transactions in land.

The key now is to sustain this level of interaction and interest. Because the Task Force members all have many other responsibilities within their respective organizations, external funding for a part time coordinator would greatly help to ensure its viability. Funding will also be needed for the translation and printing of draft legislation and decrees for review by the Task Force.

#### Additional Research and Possible Legal Amendments

There are several areas where immediate additional research would be useful in designing laws, regulations, and procedures that will ensure that the implementation of the Land Law recognizes and protects women's land rights. Additional research in several areas would also help determine whether current laws, such as the Inheritance and Marital Property Law or Civil Code, should be amended to better recognize and protect women's land rights.

- **Research possible legal means for jointly registering land purchased by couples in a consensual union within the Rwandan Civil Code and amend the Civil Code if such a provision does not presently exist.** This legal research should be conducted as soon as possible. As described in our research findings, women in consensual unions often lose rights to land that they may have jointly purchased during their consensual union for the simple reason that they are not registered as a joint land rights holder – such land is usually registered only in the name of the male head of household. Because these women do not have the protections granted to married couples, their right to land is extremely vulnerable. If two people purchase land together, ideally they should both be registered as holders of the land. As described in Box 5, above, there is probably

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a legal mechanism in the Rwandan Civil Code on co-ownership that could be used to allow couples in consensual unions to jointly register. The Civil Code should be reviewed to determine whether provisions exist that would permit joint registration by partners in a consensual union. If the Rwandan Civil Code does not provide such a mechanism, we strongly suggest that it be amended to allow such joint registration.

- **Further research on women’s inheritance rights to land and amendments to the Inheritance and Marital Property Law is necessary to clarify women’s inheritance rights, especially married women’s inheritance rights.** We discovered that (perhaps due to a difference in translation) the Inheritance and Marital Property Law is being interpreted to mean that wives cannot inherit ancestral land from their husbands and can only hold it in trust for their children. However, this application seems to contradict other provisions of the law which state that for those couples married into the community property marital property regime, all property acquired is jointly owned by both of them. Further research and clarification into whether this is an appropriate application of the law is needed. Ideally, the Inheritance and Marital Property Law would be amended to clarify that widows in a community property marriage have the right to inherit ancestral land, just like any other property owned by the couple during marriage.

In addition to this important research question on women’s right to inherit ancestral land, further research on women’s inheritance of land purchased during marriage would also be useful to determine whether women retain rights to this land upon the death of their husband. During our research, while we encountered several married women who had purchased land during their marriages, none of them had yet been widowed and thus we were not able to learn the current practice on women’s inheritance of land purchased during marriage.

- **Determination of the form of registration for land held by couples under the three different marital property regimes.** Any land that is held as community property under the community property marital property regime should be jointly registered. As noted above, there remains some question about whether inherited ancestral land qualifies as community property. Depending on the answers to the previous research question on inheritance of lineage land, clear guidelines should be established in the law on registration or its regulations that state which types of property under which marital property regimes qualifies for joint registration. MINITERE has already stated that married couples’ property will be jointly registered. Precise answers on which property qualifies will help to ensure that as much land is jointly registered as is possible under the law.
- **Further research on couples’ selection of marital property regimes.** During our research we did not gather information on the process that couples go through when selecting a marital property regime. It would be very useful to gather

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additional information on how the various options are presented and explained to marrying couples and how decisions are commonly made. This is especially critical because many couples previously living in unrecognized consensual unions are now having their relationships recognized through civil marriage ceremonies. Often these ceremonies are group weddings arranged by the government. Further training and guidance is needed now for the authorities whose responsibility it is to present the options to marrying couples to ensure that couples understand the options and understand how the marital property regime they select affects their management and ownership of property.

- **Amend the Inheritance and Marital Property Law to recognize couples in consensual unions who have been together for two years.** This was a major recommendation made by the attendees at the July 2006 workshop. They stated that the two year period could begin from the time that the couple was married in either a religious or traditional ceremony. These couples have demonstrated their intention of being married by participating in a traditional or religious ceremony and by living together as husband and wife. Recognizing these marriages as legal would grant the spouses the same property and inheritance protections as legally married couples.
- **Conduct an assessment of previous education efforts aimed at helping women and men learn about women's land rights.** An important step in implementation of the Land Law will be public education about land rights. We learned through some of our interviews that many women who attended educational programs on the Inheritance and Marital Property Law do not clearly understand their rights under the law. Before a new public education program is launched, information about the effectiveness of previous programs should be collected to inform the design of a public education campaign on the Land Law.

### **Designing Land Administration Procedures**

Special care should be taken to ensure that land administration procedures are designed to be gender sensitive. In particular, we recommend careful attention to the following to ensure that the land administration process is gender sensitive.

- **Create registration procedures that ensure the joint registration of married couple's land.** Registration procedures and forms should be designed to ensure that all married couples' community property is jointly registered. This means that field manuals should instruct land administration officials about the importance of joint registration and the types of land that joint registration applies to. Application forms and registration documents should include spaces for the names of both husbands and wives.

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- **Create registration procedures that ensure that land belonging to a couple in a consensual union is registered in both of their names.** Assuming that a legal mechanism does exist in the Civil Code to allow co-ownership by non-married persons, special care should be taken in the registration procedures to ensure that couples in consensual unions who purchase land are both registered as co-owners of that land. Special guidance will be needed in land administration manuals to coach officials to ask about the existence of consensual unions. Special application and registration forms will also need to be created to facilitate the co-registration of such land.
  - **Create land administration processes to ensure spousal consent is acquired when land is transferred.** Under the law, spousal consent is required when land is sold or otherwise transferred. Forms and procedures should be designed to ensure that spousal consent is obtained. Research on the current process for obtaining spousal consent should be gathered to further inform the design of procedures under the Land Law.
  - **Create procedures for the inheritance of unpartitionable pieces of land.** Clarify what will happen when land cannot be partitioned because it is already too small. Create procedures to help land administration officials explain the options to family members. Such options include one member receiving the land and paying the others compensation. Alternatively, the family can cultivate the land together (or lease it out) and divide the produce from the land. Care should be taken in the guidelines and procedures to ensure that daughters do not lose land rights because of the limitation on partition. They should at least receive compensation for their share.

## Education Campaigns

As part of each of the educational campaigns described below, trainees should not only be educated about the Land Law, but also about other existing legislation that is implemented together with the Land Law, such as the Inheritance and Marital Property Law.

- **Create and begin an education program for those who will implement the Land Law.** Training for the land administration officials and local government officials on all aspects of the implementation of the new Land Law will be important. When designing the training syllabus and field manual, special care should be taken to include a clear discussion of women's land rights, especially in terms of registration and transfer procedures.
- **Create and begin an education campaign for women and men on women's land rights.** Several different women's organizations stated that they were planning education campaigns on the new Land Law. These efforts should be coordinated to ensure that the widest numbers of people are reached. Coordination should also cut down on costs because a similar training module,

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including a simplified explanation of the law, could be used by multiple groups. The women we interviewed emphasized the importance of not only informing women of their land rights, but also the importance of teaching men about women's land rights. Taking their advice, we recommend that education efforts be targeted at both women and men. Further, in addition to being taught what their rights are, women should also be taught what to do if they have a land dispute or want to pursue a land claim.

- **Educate the judiciary.** In addition to the public and on-the-ground implementers, judges also need to be educated about the Land Law and about a gender sensitive reading of this law and other laws. In the training, emphasis should be placed on the Constitutional provisions calling for equal treatment for men and women and judges should be guided to let this principle inform their decisions and ignore traditional beliefs to the extent that they contradict this principle.

### **Design and Monitoring of Implementation**

- **Gender assessment of Land Law piloting activities.** MINITERE, jointly with the DFID supported Land Reform Team, will be conducting pilot projects to test the implementation of the Land Law in four districts starting near the end of 2006. We recommend that a special gender assessment of the pilot projects be conducted to ascertain the impact on women. Women in the pilot project areas should be asked about their experience in the public education campaigns and also about their land registration experiences. Case studies of land registrations and land transfers should be conducted to see how women are included in these processes. Monitoring and evaluation of the pilots should give an indication of whether women are better able to access and retain land. Alterations in the draft laws and implementation plans can then be made to address any problems that are identified during the gender assessment of the pilot project.
- **Design a monitoring and evaluation plan for the implementation of the Land Law.** Both MINITERE and the women's organizations who attended the workshop emphasized that a lack of monitoring has been a problem in the implementation of many projects related to women's rights. They jointly suggested that an experienced organization with a specialty in monitoring and evaluation help provide advice to design a monitoring plan and recommend monitoring and evaluation techniques.

On-going monitoring and evaluation will catch any implementation problems that crop up even after the law begins to be implemented nation-wide. Such evaluation would help to continually inform policymakers of the impact of the law on-the-ground. In order to ensure that monitoring and evaluation is considered from the outset of implementation, a process for monitoring women's land rights during the entire implementation of the law should be designed now and tested as part of the MINITERE and DFID supported pilot activities. Simple

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monitoring questions include: How many women show up for educational trainings? Did women understand what their land rights are and how to pursue them after they attended an educational meeting? How many women are in fact being registered as owners or joint owners of land? Are women being included in the land registration process? When spot checks are conducted, is land belonging to married couples being jointly registered?

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### **Persons Consulted during Research in April, 2006**

Focus group of women in Butare (10 women from a mix of backgrounds)  
Focus group of women in Kibungo (11 women from a mix of backgrounds)  
Focus group of women in Ruhengeri (11 women from a mix of backgrounds)  
Hon. Patricia Hajabakiga, Minister of State for Land and Environment, MINITERE  
Mary Balikungeri, Executive Director, Rwandan Women Development Network  
Rose Mukantabana, Women's Legal Rights Initiative Coordinator  
Christine Tuyisenge, National Executive Secretary, Haguruka  
Oda Gasinzigwa, President, National Women's Council  
Aquiline Niwemfura, Executive Secretary, Beijing Follow-up Permanent Secretariat  
Elizabeth Powely, Women Waging Peace

### **Persons Attending Consultative Workshop in July, 2006**

Hon. Patricia Hajabakiga, Minister of State for Land and Environment, MINITERE  
Hon. Judith Kanaduze, Member of Parliament and President, Forum of Women Parliamentarians  
Goretti Dusabe, Land Reform Task Force, MINITERE  
Olivia Kamusime, Field Team Member, MINITERE  
Marguerite Uwamahoro, National Women's Councils Capacity Building Coordinator, Ministry of Gender and Family Promotion (MIGEPROF)  
Emmanuel Twagirayezu, Soil Conservation Professional, Ministry of Agriculture (MINAGRE)  
Jean d'Ark Gakuba, Vice Mayor, City of Kigali  
Oda Gasinzigwa, President, National Women's Council  
Agnes Mujawayezu, Executive Secretary, Pro-Femmes  
Patricia Katamage, Executive Secretary, Reseau des Femmes  
Marie Christine Tuyisenge, National Executive Secretary, Haguruka  
Aquiline Niwemfura, Executive Secretary, Beijing Secretariat  
Mary Barikungeri, Executive Director, Rwanda Women's Network  
Marie Ima. Ingabire, Trainer, Rwandan Women's Network  
Annie Kayiraba, Director, Rwanda Institute for Sustainable Development and LandNet Rwanda

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Francine Bayisenge, SERUKA

Faith Kamukama, Coordinator, Rwanda Women Leader's Caucus

Elizabeth Powley, Country Director, Women Waging Peace

Elvis Gakuba, Staff, Women Waging Peace

Clive English, Team Leader, DFID Land Tenure Project, MINITERE

Elizabeth Daley, Land Tenure Specialist, DFID Land Tenure Project, MINITERE

Kathryn Nash, Political and Economic Section, US Embassy

Ryan Washburn, USAID

Justine Uvuza, Advocate/Consultant, Rural Development Institute

David Bledsoe, Rural Development Institute





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