

Securing Women's Land Rights:

Learning from successful experiences
in Rwanda and Burundi



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in collaboration with

Procasur



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The background is a light gray illustration. It features a woman with dark, curly hair, wearing a polka-dot dress, pointing her right index finger towards the right. She has a surprised or expressive facial expression. Behind her is a wall with various handwritten-style text elements. At the top left, a speech bubble contains the word 'EXPERIENCES'. Below it, the word 'OIL' is partially visible. To the right of the woman, there is a small diagram of a house with an arrow pointing to it. Further down, the words 'ING', 'FROM', 'GROUPS WOR-', 'H GRASSROOT', 'N LAND', and 'ES' are visible in a large, bold, sans-serif font. At the bottom right, the letters 'IN PA' are partially visible. The overall style is that of a hand-drawn poster or mural.

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by Elisabetta Cangelosi and Sabine Pallas

June 2014

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This paper could not have been produced without the valuable contributions of a number of actors. First of all, we want to thank Procasur and its team for planning the Learning Route (Viviana Sacco and Diana Puyo) and for technical and logistical coordination (Justine Mirembe and Enid Ingabire). A special mention goes to the three organisations visited, and in particular to Mary Balikungeri, Annette Mukiga and Peninah Abatoni of the Rwanda Women's Network, René Claude Niyo and Ernst Kamwenubusa of APDH, and Espérance Musirimu of PRTPC. The group of experts who kindly contributed to the Learning Route also deserve to be mentioned, and we want to express our gratitude for the time they spent with us: Judith Murara of Action Aid, Muvara Pothin, Deputy Registrar of Land Titles for the Western Province of Rwanda, Christine Tuyisenge of the National Women's Council, Anna Knox, Chief of Party of the LAND Project at USAID and Patrick Ntunga, Director of Gender mainstreaming and Gender Audit and Margot Tedesco, research at RCN Justice & Démocratie in Rwanda.

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Foreword

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The International Land Coalition (ILC) is a global network with a diverse membership of 152 organisations, including civil society and international organisations, working towards a common vision of secure and equitable access to and control over land for women and men. Securing women's land rights is a priority for ILC members, many of whom have engaged in the Coalition's global initiative on this topic over the years.

As a Coalition, we emphasise the importance of sharing knowledge and experience both within and beyond our network. Peer-to-peer learning, such as the Learning Route described here, is valuable not only because it provides an opportunity to see the work of others up close, but also because of the group spirit that develops through travelling, analysing, asking questions, and learning together and from one another.

A Learning Route creates a community of people working to a common goal, for the duration of the Route and (hopefully) beyond. What has worked in one context may not work in another, but to take the time to discuss and reflect together makes a difference by encouraging us to think about not only best practices but about those that can be applied. One of the major lessons taken from the Learning Route is that there are no perfect examples to study, but rather that we learn the most from people who are dedicated to the same ideals, from what they have found to work well, and from the challenges they have faced and which so often mirror the challenges we face in our own work.

I hope that this paper can share some of the knowledge that we were privileged to acquire, as well as a flavour of a collective experience that I hope all participants will remember for many years to come.

Sabine Pallas

Programme Officer

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Acronyms and abbreviations

APDH	Association pour la Paix et les Droits de l'Homme
CBO	Community-based organisation
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CNTB	National Commission for Land and Other Property (Burundi)
CSO	Civil society organisation
CWS	Church World Service
EDPRS	Economic Development and Poverty Reduction Strategy
FAO	UN Food and Agriculture Organization
FDC	Family Development Centre
GBV	Gender-based violence
GLTN	Global Land Tool Network
GMO	Gender Monitoring Office
IFAD	International Fund for Agricultural Development
ILC	International Land Coalition
PoH	Polyclinic of Hope
PTRPC	Programme Transitoire Post-Conflict
RWN	Rwanda Women's Network
UDHR	Universal Declaration of Human Rights
UNDP	United Nations Development Programme
VoH	Village of Hope

Introduction

One of the best ways to learn is to experience: this allows people to see, touch, and “taste” new approaches, knowledge, and methodologies, which can then be shared and applied elsewhere. This is what a “Learning Route” aims to do, and this was the aim of the “Innovative Tools and Approaches to Secure Women’s Land Rights” Learning Route, which took place in Rwanda and Burundi on 4-11 February 2014. The intention was to learn from the experiences of diverse organisations working to promote women’s land rights. Those participating in the Learning Route, the *ruteros*, were 16 women and men working for civil society organisations (CSOs) and government programmes in Africa, Asia, and Latin America, ranging in age from those in their 20s just starting out to those in their 50s with decades of experience. Together, they visited three case study projects, one in Rwanda and two in Burundi, to learn about tools and approaches used to secure women’s land rights and to question the implementing organisations, local leaders, and women and men from local communities to better understand how these worked in practice.

The idea for this Learning Route emerged from a workshop on “Tools, Guidelines, and Approaches for Strengthening Women’s Access to Land”, held in Nairobi in May 2013 by ILC, the International Fund for Agricultural Development (IFAD), and the Global Land Tool Network (GLTN). The purpose of the workshop was to identify and share tools and approaches for securing women’s land rights and to identify gaps and tools that could be developed to fill them. Based on the outcomes of this workshop, ILC approached Procasur¹ to jointly develop a Learning Route focused on innovative tools and approaches used at a country level for securing women’s land rights. Rwanda and Burundi, two neighbouring countries in central/eastern Africa, where pressure on land is strong and there is a history of violent conflict, were selected as the location for the Learning Route on the basis of a preliminary assessment and feedback from thematic experts, which ensured that a variety of tools and approaches used by different types of actor could be included as case studies. The experiences provided by this Learning Route represent a contribution by CSOs towards the recognition, protection, and enjoyment of women’s land rights.

This paper introduces the rationale for focusing on women’s land rights and explains the Learning Route methodology and the preparation of this Route in particular, before providing background information on land tenure and women’s land rights in Rwanda and Burundi. The three case studies and the lessons learned from them are then presented, followed by the personal stories of women who have benefited from the work of the Route’s hosts, the CSOs Rwanda Women’s Network (RWN) and Association pour la Paix et les Droits de l’Homme (APDH), an ILC member, and the Programme Transitoire Post-Conflict (PTRPC), a Burundi government programme funded by IFAD. In closing, it presents some conclusions emerging from the Route and gives space to the voices of the *ruteros* reflecting on their participation.

1 ¹ Procasur Corporation, an ILC member, aims to provide technical assistance services and tools to manage knowledge and build capacity of actors engaged in the fight against rural poverty <http://www.procasur.org/>

Women's land rights: recognised as crucial, but not enforced

As highlighted by the UN Food and Agriculture Organization (FAO)'s landmark report, 'The State of Food and Agriculture 2010–2011. Women in Agriculture: Closing the gender gap for development', evidence of gender inequalities in access to land is "overwhelming" (FAO, 2011: 23ff).

Despite their critical role and contribution to agriculture, rural development, and food security, women across the world are discriminated against in terms of access to, ownership of, and control over land and income produced from it. Women's ability to access land and to claim, use, and defend rights to land and other natural resources is weakened by their status within the household and community due to discriminatory customary or statutory laws. Furthermore, growing commercial pressures on land are increasing dependence on subsistence agriculture and further undermining women's land rights.

Land rights for women – not just for households – are important because they have the potential to reduce poverty and vulnerability. A growing body of research shows that when women have secure rights to land, their families' nutrition, education, and health all improve. Respect for women's land rights would make an important contribution to closing the gender gap in agriculture, and would boost efforts to achieve gender equality and women's empowerment in the household and within the community.

Women's rights to natural resources, including land, are embodied in human rights law and in a number of "soft law" instruments. The *Universal Declaration of Human Rights (UDHR)* (Articles 2, 17, and 25) ensures equality between men and women and their rights (including to property). The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) states that women have a right to own and administer property without discrimination (Article 15) and to equal treatment in land and agrarian reform (Article 14). CEDAW also affirms that both spouses in a marriage must enjoy the "same rights ... in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property" (Article 16).

Despite official recognition of their rights, many female farmers lack rights to the land they cultivate, which belongs rather to their male relatives or to the community, and many are forced to work as day labourers. The full enjoyment of land rights by women must be secured through a variety of tools and a series of discrete steps: recognising rights (through policies and laws, awareness raising), recording rights (registration, certification, titling, land use planning), and defending rights (legal aid).

A recent soft law instrument, the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT)* calls for "specific measures aimed at accelerating de facto equality" of women and men with respect to their human rights, and for states to "ensure that women and girls have equal tenure rights and access to land, fisheries and forests independent of their civil and marital status" (VGGT, FAO: 2012, para 3.B.4).



The Learning Route: an innovative way of sharing experience

A Learning Route is a planned journey with educational objectives designed around the knowledge needs of actors involved in development issues associated with rural poverty, and focused on the identification of relevant experiences of local organisations that have dealt with similar problems in an innovative way and whose acquired knowledge is potentially useful to others. This methodology enables different stakeholders – including policy-makers, practitioners, CSOs, and development agencies – to interact with beneficiaries and creates space for sharing experiences both vertically and horizontally. Furthermore, it aims to create a community of practice.

The Route consists of field visits to different case study projects and provides a context for knowledge sharing. Besides the field visits, participants are provided with specific information about the legal and political context through panel presentations and discussions with experts and a reading list is shared some weeks before the Route takes place. A systematisation document, which summarises the key information and entry points for learning for each of the case studies, is also prepared in collaboration with the organisations involved. During the Route, participants have access to a field blog in the local language (in this case English and French), which includes additional reading, an itinerary and map, logistical information, and data on the sites visited.

In preparation for the Route, participants are requested to fill out an “Experience Fair” form, describing the current work of their organisation or project and the issues that they hope to address with the learning from the Route. During the Route, they are asked to prepare and submit innovation plans, the aim of which is to apply the new knowledge and tools they have acquired in their work contexts and in the specific cases they deal with when they return to their organisations.

Social media are used to share videos, pictures, and documents relating to the Route’s topic or generated during its implementation with the participants, other stakeholders, and interested partners. In this case a page was set up on the ILC Land Portal prior to departure and was updated during the Route with short daily summaries and video testimony from participants.² A Facebook page was also set up to share links and pictures taken during the Route.³

² <http://landportal.info/content/learning-route-innovative-tools-and-approaches-securing-womens-land-rights-rwanda-and-burund>

³ <https://www.facebook.com/pages/Learning-Route-Innovative-tools-to-secure-Women-Access-to-Land/1390031251260342>



Gashinkanwa community representatives receive their certificate for training the Ruterios

Procasur's Learning Route Methodology

The Learning Route methodology, developed by private non-profit organisation Procasur Corporation, emphasises learning in the field and provides novel ways of acquiring and exchanging knowledge between different stakeholders. Participants in a Learning Route (*ruterios*) are taken to visit local initiatives that embody best practices. Local actors become trainers for the Route, sharing their knowledge and innovations with the *ruterios* during their field visits. The participants, drawn from different professional and geographic backgrounds, collectively analyse the case studies that they visit. While travelling the Route, they work with facilitators and other participants to identify specific lessons relevant to their individual contexts. Learning during the Route goes two ways: local champions share their knowledge while the *ruterios* provide specific recommendations. Throughout the journey, time is devoted to the development of innovation plans, an important tool aimed at introducing innovations and changes to the participants' own institutions and organisations when they return. This approach allows innovative practices to travel from one place to another.

The case studies

The selection of case studies was based on a thorough evaluation of different experiences. During the design phase, after consultation with a number of thematic experts, Burundi and Rwanda were identified as two countries where innovative experiences in securing women's land rights have been observed.

Identification of the tools and approaches to be included in the Route considered the experiences of ILC member organisations and partners involved in the Coalition's Securing Women's Access to Land projects and in IFAD projects. The organising team prepared detailed programmes, agreed with the host organisations during the preparatory process; permanent and close communication was maintained with the hosts before the Learning Route in order to provide them with all the support they needed to prepare for the visits.

The selection of the case studies was based on the identification of key elements for the development and implementation of innovative tools and approaches dealing with women's land rights, the drawing of lessons from local experiences in Burundi and Rwanda, and an analysis of the challenges faced by practitioners in securing women's land rights.

Based on these criteria three case studies were identified, one in Rwanda and two in Burundi:

- » The *Rwanda Women Network (RWN)*, a national humanitarian non-government organisation (NGO) dedicated to the promotion and improvement of the socio-economic welfare of women in Rwanda;
- » The *Association pour la Paix et les Droits de l'Homme (APDH)*, a community-based organisation (CBO) in Burundi, which aims to promote peace and human rights through education and capacity-building; and
- » The *Programme Transitoire Post-Conflict (PTRPC)*, an IFAD programme in Burundi, closed in 2013, whose main focus was on legal aid and awareness raising.

Each case study was selected on the basis of the specific contribution it offered in terms of innovative tools and practices. RWN was selected because it offers spaces for vulnerable female victims of Rwanda's genocide, has implemented local-to-local dialogue processes, and has introduced a successful community paralegal programme. APDH was selected for its rights-based approach, characterised by the implementation of programmes aimed at building capacity and involving women in community decision-making structures. APDH is also undertaking a land tenure programme aimed at facilitating land registration. PTRPC's experience includes a major innovation in the form of mobile legal clinics and the promotion of legal awareness amongst rural communities. The programme also promoted legal orientation and mediation sessions, the training of paralegals, and information, education, and communication activities.

Having established contact with these organisations and secured their agreement to host the Learning Route, the organising team visited Rwanda and Burundi to conduct in-depth interviews, group discussions, and workshops during the first two weeks of November 2013. The aims of this visit were to collect information, highlight lessons learned and key success factors, identify local champions in the field and support them in organising and sharing their knowledge, define the pedagogical contents of the Route, and agree on logistics.

Land tenure in Rwanda and Burundi



The context

Rwanda is ranked 166th out of 187 countries in UNDP's 2011 Human Development Index, with a score of 0.429. With a surface area of 26,338 square kilometres it is a very densely populated country, with more than 416 inhabitants per square kilometre (Rwanda Demographic Profile, 2013).

Over 80% of its population of 11 million people are engaged in agriculture (Institute of Policy Analysis and Research – Rwanda, 2009). Of women who are economically active, 96.1% are involved in agriculture (data from 2010, FAO 2011: 104-111). Women make up almost 50% of the adult population and several women are widows. Partially because of the 1994 Rwandan genocide, 34% of all households are headed by women. Women also account for over 50% of Rwandans infected with HIV (Rwanda Demographic Profile, 2013).

Women in Rwanda face numerous cultural, customary, economic, legal, and social constraints that hinder them from accessing land and other property. Discriminatory laws and practices regarding land, coupled with land scarcity, have stifled women's land rights and have had a negative impact on female-headed households. Furthermore, across the country, but particularly in areas most affected by the genocide, widows and orphans lack knowledge about their land rights.

History of land tenure in Rwanda

In pre-colonial land system ownership of land was collective and based on families lineages and clans. The King was in charge of managing the land in the interest of all Rwandans. Two main systems of land tenure were in use: *ubukonde* and *igikingi*. (Burnet and RISD, 2001 and *Rurangwa*).

Under the long-established *ubukonde* system, decisions concerning land were taken by the lineage chief (who was, of course, a man) who originally cleared the land, inhabited it, and provided settlement to other members of the patrilineal family. In this system three types of land were considered relevant: grazing, hunting, and agricultural land. The land owner (*umukonde*) could grant access to these lands, receiving in turn as payment labour or a portion of the harvest (Andre, 1998). Since women did not engage in hunting or grazing activities and had only usufruct rights to their husbands' land, the *umukonde* had no reason to grant them access to land.

The *igikingi* system, introduced in the early 19th century, was the common land tenure system in central and southern Rwanda. Under it, land was distributed to warriors or other individuals who gained the respect of the community: as women played no part in war and had low levels of participation in public life their chances of being assigned land were very low.

During the colonial period land tenure changed substantially: during German colonisation (till 1916) the king's authority over land was recognised but at the same time Catholic and Protestant missions started buying land properties. Belgian colonizers (after 1918) introduced deep changes that strongly affected traditional tenure systems: colonial administration was in charge of assigning land to colonialists and other foreigners intending to settle in the Country, however natives should not be dispossessed of land (which remained under customary law) and vacant areas were attributed to the state. In practice land law had different applications for foreigners (whose land was protected by the colonial administration) and locals (*Rurangwa*).



Public information poster by the Rwandan government

In 1926 the Country was divided into chiefdoms with the goal of reinforcing land control by the colonial administration . Vast tracts of land were owned by colonialists, religious institutions (also run by foreigners), and Indian traders from the East African coast (Burnet and RISD, 2001) who were favoured by the newly introduced Codes and Laws of Rwanda) (*Rurangwa*).

The *ubukonde* traditional system was definitely abolished during the 50s and at the end of the decade land tenure became a controversial issue and so remained after the Independence (in 1962)

Most of the land was managed under customary law and the 'communes' obtained a relevant role by the government in terms of land administration. Abandoned land began being assigned to the communes. Since 1976 ownership rights were recognised by the government only for registered land. At the beginning of the 80s land scarcity was already an issue with increasing land pressure which contributed to lead to a land crisis at the beginning of the 90s that the government tried to face strengthening its role.

The 1994 genocide and its effects on land tenure

Among its other effects, the 1994 genocide had a major impact on access to land, due to displacement of people, conflict within communities, and the creation of large numbers of widows and orphans. One of the main consequences was an increase of pressure on land.

After the genocide, the Government of National Unity enforced the Arusha Peace Accords of 1993. These provided for the return of exiled Rwandans to their motherland, with returnees allowed to repossess their former properties if they had not lived outside the country for more than ten years. Customary land rules were not always adequate to deal with the complex land situation and the new resettlement programmes.

In the meantime, with many men dead, in exile, or in prison, a significant number of women assumed positions of authority and responsibility for family property. Many had to deal with the threat of their land being taken over by the families of their absent husbands, but in this situation of uncertainty women could foresee new opportunities, as well as constraints, for addressing their limitations within customary land norms (Rose, 2004). The Government of Rwanda recognised that alleviating post-conflict insecurity of tenure and disputes over land was critical to nurturing peace, and undertook a comprehensive reform of policy which led to the current legal land framework.

Towards the current legal framework

The government began a process of legislative and institutional reforms in order to deal with land issues, resolve disputes, improve family livelihoods, and develop the country in general. These laws included specific attention to women's land rights.

The Rwanda Family Code (1988) was revised in 2008 to meet the principle of gender equality. At present both spouses in a marriage are deemed to have responsibility for maintaining and bringing up their children, but the father is considered to be the head of the family. The Family Code and the Constitution of the Republic of Rwanda protect only women whose marriages are registered, though a provision to protect women in de facto marriages (Article 39, GBV Law) is also under revision.

The Inheritance and Marital Property Law (N° 22/99), which granted equal rights to women and men in terms of succession, entered into force in 1999. The Constitution of Rwanda, adopted in 2003, established under Article 185 the Gender Monitoring Office (GMO) to monitor the compliance of policies, programmes and projects with fundamental principles of gender equality, along with state budgets, international agreements, and issues such as gender-based violence (GBV) and injustice. The National Land Policy and the Organic Land Law, introduced in 2004 and 2005 respectively, included clear provisions with a mandate for gender equality in land rights and set out a context in which all land should be registered and rights gained under different means of access to land should be considered equal. This new body of land policy and law is currently in the process of being implemented.

Rwanda presents a very particular context because of the unique post-genocide circumstances that enabled women to gain new land inheritance rights, while statutory law and customary norms often interact. Customary systems responsible for resolving land and matrimonial disputes – such as the *abunzi* (Mediation Committees), made up of elected members who serve two-year terms – are integrated into formal law under Article 159 of the Constitution and by the 2006 and 2010 Laws on Mediation Committees. The philosophy behind the *abunzi* is that they put responsibility for

peace in the hands of individuals at the local level. The *abunzi* have jurisdiction over many types of dispute between people in their local area, including matrimonial disputes and property disputes that involve less than RWF 3 million (USD 4 425) worth of property. If the *abunzi* have jurisdiction, then a case must go to them before a formal court will consider it.

Gender was made a cross-cutting issue in Vision 2020, the national long-term development strategy, and Rwanda's Economic Development and Poverty Reduction Strategy (EDPRS) identifies land registration as a critical element for improving land productivity and the functioning of the land market, reducing conflicts, empowering women, and improving overall governance.

In collaboration with CSOs and international NGOs, the government has also tried to raise awareness of relevant laws and land dispute resolution institutions within communities, and to improve the coordination and accessibility of existing institutions. Many marriages are still not registered, but campaigns to encourage legal marriages have been organised, up to the controversial point of arranging mass marriage ceremonies.

Among the policies implemented by the government is a decentralisation plan, which also aims to ensure that gender-related issues, including land, are effectively addressed. Both the decentralisation strategy and the presence of *abunzi* at the cell and sector⁴ levels have helped to address the issue of parties to a dispute having to travel long distances to ordinary courts, which is both costly and time-consuming.

These reforms are intended to overcome discriminatory norms, and the Constitution reinforces the principles of gender equality and the elimination of discrimination against women. Laws have been enacted and revised to ensure gender equality. In particular, the Land Law and the Inheritance and Marital Property Law set out rules governing access to land, property rights, and equality between spouses in the management of their property, avoiding discrimination between male and female children. Indeed, inheritance issues are crucial to women's land rights.

Women, land, and inheritance

Most households are headed by men, who own land. Some men misuse the power of headship and take decisions on their own that are not in the interests of the family. The legal framework concerning inheritance and property is complex, with statutory succession law co-existing with and incorporating customary norms.

In principle, the Inheritance and Marital Property Law grants equal inheritance rights to daughters and sons and, in the case of a parent dying, protects the property of the surviving spouse and children. Different marriage regimes exist under law that affect inheritance,⁵ but they all protect the rights of the children of the deceased regardless of sex. For example, in the case of marriage under the separation of property regime children are the first heirs, while under the common property regime the spouse

4 Above the Village, the smallest politico-administrative entity, is the Cell. The Sector is the third level of administration where people participate through their elected representatives. Both cell and sector have elected councils and executive committees. For more information see Rwanda Ministry of Local Government, <http://www.minaloc.gov.rw/index.php?id=450>

5 Community of property (spouses have equal rights to property acquired both before and after marriage); limited community (spouses agree to jointly manage property they acquire after marriage and have equal rights to this property, but property acquired before marriage is owned and managed individually); separation of property (under this regime spouses agree to contribute to the expenses of the household in proportion to their respective abilities while retaining the right of enjoyment, administration, and free disposal of their personal property).

continues to manage the property solely, if there are children, or in the absence of children has a right to half of the inheritance, with the other half going to the relatives of the deceased. The succession of the deceased is wholly or partially testamentary⁶ or intestate.⁷

Under customary norms and practices, women who had never married, divorced women, and those who did not want to enter into a levirate marriage,⁸ could obtain a plot of land (*akarima kuburushyi*) from their own families to build a house for themselves and their children, if they had any. Divorced women could take children with them to their families only if their husbands had not paid a dowry. However, both married and unmarried women could receive land as a gift from their fathers as a symbol of recognition of the special relationship between father and daughter. Upon marriage, a woman could be given land by her parents to help her settle in her new home (*intekeshwa*) or when she presented a new-born baby to her parents (*inkuri*).

However, it was also the case that land could be allocated to women as long as it was not needed by others, meaning that plots allocated to women could be reallocated or taken back if a man or his family needed land. Furthermore, the cultural protections for women's access to land outlined above were already under attack before the 1990s, and the situation was exacerbated by the 1994 genocide, following which many women were not be allowed to occupy their husbands' land or retain land that had previously been given to them as a gift.

The issue is complicated by the fact that the body of law (the 2003 Constitution, the Rwanda Family Code, and the Inheritance and Marital Property Law) recognises only monogamous marriages, which means that women in unregistered polygamous unions are less likely to benefit from laws equalising property rights. The Law on Prevention and Punishment of Gender-Based Violence (2008) protects women's land rights in consensual unions and cohabitations (Article 39), but the ministerial decree required to implement it has not yet been put in place.

However, the Land Law stipulates: "Any person or association with legal personality has the right over the land, and to freely exploit it as provided for by this law. 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" (art. 4 Rwanda Land Law, 2005). This equality also applies to access rights to land and its products and to decision-making on both the use and sale of land.

Another constraint is that almost 80% of existing plots are smaller than one hectare, which is the minimum size for a piece of agricultural land to be registered, according to the law. Therefore land registration is limited, and this affects inheritance rights in general and women's rights in particular⁹.

Generally speaking, the situation for women in Rwanda, according to the country's laws, is relatively fair. However, significant challenges remain, such as gaps in legislation, difficulties in accessing justice, lack of financial assistance, high rates of illiteracy (especially among women) which provide a barrier to knowledge about rights, GBV (sometimes caused by land-related issues), discriminatory customary norms and their interactions with statutory law, poverty, poor health, and HIV/AIDS.

6 If a will exists, the individual decides on the destination of his/her patrimony after his/her death and fixes the provisions.

7 An intestate succession is one that is legally made where no will was written.

8 A levirate marriage is one in which a widow is obliged to marry her deceased husband's brother.

9 http://usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Rwanda_Profile.pdf

Burundi

The context

Burundi is ranked 185th out of 187 countries by the UNDP Human Development Index (Burundi Demographic Profile, 2013). It is a largely rural country, with more than 90% of its 10 million inhabitants relying on agriculture for their livelihoods. Women make up more than 52% of the adult population and a large number of female headed households (21% of all households in Burundi) due to the civil war. Women also account for 60% of war casualties (EAC Secretariat, Arusha, Tanzania, 2009).

Administratively, Burundi is organised into rural areas consisting of provinces, communes, zones, and *collines* (hills). Different causes have contributed to the loss of fertile land: demographic growth, erosion due to over-cultivation, and frequent drought. The displacement of people by the conflict, low literacy levels, and a lack of social and economic infrastructure have worsened an already critical situation.

Burundi has also been affected by ethnic conflicts, albeit not as cruel and violent as the Rwandan genocide. However, the consequences of this conflict on women's everyday lives have been similar. Also as in Rwanda, land in Burundi has traditionally been administered by the head of the family, always a man.

History of land tenure in Burundi

In the pre-colonial era, Burundi's territory was ruled by a monarchy – a king (*mwami*) and a number of princes (*ganwa*) – and this system remained in place until the creation of the Republic of Burundi four years after independence, in 1966. The king was considered to be the sole owner of land and cattle. Under the kingship, there were loyal chiefdoms that were also responsible for distributing land to heads of clans. There were three types of land: land for grazing, land for agriculture, and forestry land for hunting.

The grazing land was mostly owned by the cattle-owning Tutsi, who comprised approximately 14% of the population. Hutus comprised 85% of the population and were engaged primarily in agriculture. Twa hunter-gatherers made up the remaining 1%. Designations of Hutu, Tutsi, and Twa referred primarily to lineage and occupation, and were stratified along lines of wealth and socio-political standing. This social hierarchy also governed the distribution of land based on a patron-client relationship (USAID, 2010).

During the colonial period, the right to administer land was reinterpreted as ownership, thus excluding women from ownership and inheritance rights. The period from 1916 to 1962 was characterised by a legal dualism, of customary law versus European law. During this period, land grabbing was not particularly common but some institutions, such as the Catholic Church, owned large amounts of land.

In the post-colonial era, there was little change under statutory law regarding inheritance rights (Kohlhagen, 2012). Women in Burundi have not enjoyed equal inheritance rights in the pre-colonial, colonial, or post-colonial eras, and it is only recently that they have been able to buy plots of land. Throughout this time land was given to the head of the clan, who was always a man.

Even though it was not formally recognised as genocide, Burundi has experienced several outbreaks of inter-ethnic violence since independence in 1962, with large-scale massacres in 1965, 1969, 1972, 1988, and 1991. Between 1993 and 2005, a civil war caused hundreds of thousands of deaths. People were displaced internally or had to seek refuge in neighbouring countries, leaving behind their land and livestock. Many men died, leaving behind thousands of widows and orphans.

Each time war broke out, women were forced to abandon their farmlands and to flee with the orphans they supported, thus becoming heads of household – a new role for them in Burundian society. This situation affected their access to land and exacerbated pressures on it; on their return from refugee camps or exile, women often went to live with their families and so did not own any land. Furthermore, conflicts and disputes were common within communities between those who had fled the country and those who stayed behind.

The country's population grew very rapidly after the war and this, combined with the return of displaced people, increased pressures on land, reduced the amount of fertile land available for agriculture, and contributed to an increase in land and family disputes. The result is a critical situation today.

Towards the current legal framework

Security of land tenure in Burundi tends to be quite weak and women are particularly affected: the scarcity of land, the lack of legislation, and customary norms all have a negative impact on their livelihoods. Men have traditionally enjoyed access to land while women have faced inequalities in both access and ownership, especially unmarried women and widows. Three legal domains are particularly relevant to women's land rights in Burundi: land law, succession law, and the Family Code. In the area of land legislation, a series of attempts has been made since the Arusha Peace Agreement in 2000 to improve land management in Burundi. These have included the post-transition constitution (2005), the Communal Law (2005 and again in 2010), the national decentralisation policy (2007), a pilot project of communal land offices (2008), the National Land Policy Letter (2010), and eventually the Land Law (2011).

The Land Law made a distinction between land belonging to the state (publicly and privately) and land belonging to private citizens, recognising private property rights over land: land owners have the right to exclusive use and possession, the right to transfer land freely, and the right to mortgage their land. Land can be acquired by inheritance, purchase, donation, lease, or government allocation. Land rights acquired and held under customary law are recognised though, if not registered, customary rights do not have the same protection as formal law. However, land registration is not compulsory and technical difficulties relating to the registration process contribute to the fact that less than 5% of all land is registered.

In this context, the decentralisation policy is particularly important and indeed as relevant as the Land Law itself. Decentralisation is intended to support land reforms and has been implemented in four provinces (under the Gutwara Neza programme to strengthen good governance)¹⁰, with the specific objective of promoting an enabling environment for participatory governance and the rule of law.

10 For more information on this programme see <http://www.gutwaraneza.bi/>

Local municipalities involved in the process need external support, which is provided by overseas organisations (such as the European Union and the Swiss Agency for Cooperation and Development) or domestic ones (such as APDH).

The most relevant field of activity under the decentralisation policy is the registration of land, which has the potential to reduce future land disputes. It also promises to have positive effects for women, whose rights can be better protected if their names appear on land registration certificates.

Most land registered in women's names consists of plots they have purchased on their own. Both the 2005 Constitution and the Land Law enshrine the principles of gender equality and non-discrimination on the grounds of sex, which means that women are able to buy land. The Family Code (Code of Person and Family), amended in 1993, is also relatively favourable to women with regard to access to property since it provides for joint management of family property (although certain limitations exist).

The main issue in Burundi is the lack of a succession law. In this juridical vacuum, customary norms are applied and, as society is both patrilineal and patrilocal,¹¹ women (daughters and wives) tend to be excluded from inheritance. Culturally, daughters are expected to be part of their husband's family, or to look after their brother(s) if unmarried. The situation for widows is complex, as access to land is granted through sons (as primary heirs) or through levirate marriage. The implication is that unmarried women and widows without children or with only daughters may end up being landless.

Under customary succession law, there are two categories of heir: legitimate and irregular heirs. The first category, including sons of the deceased, his parents, his brothers, his paternal uncles, and female relatives in paternal lineage, takes priority over irregular heirs (Sabimbona, 2001). This second category includes the widow, daughters (unmarried, divorced, widowed, married but domiciled at their father's home), natural or adopted children, female relatives on the mother's side, legitimate children whose parental rights are guaranteed by the maternal family (a specific category called *Nkurinkobwa*), and eventually the State.

The lack of a succession law, combined with a very low rate of land registration, has a serious impact on women. As in Rwanda, many couples live in de facto (unregistered) marriages, which complicates the situation even further. According to the Land Law and as part of the decentralisation process, land can be registered in either a husband's name or a wife's (though this happens almost exclusively when a woman has purchased the land herself and it does not belong to the husband's side of the family), or both. In the absence of a succession law, if the marriage is not registered the widow does not inherit the land, as the customary norm applies. Women have no right of appeal against customary law to defend their (and their children's) rights to land.

This situation was highlighted in 2001 in the report of the Burundian government to the CEDAW Committee and again in 2007, when the government reported that reforms had stalled due to other political priorities (Burundi, Gender Index, 2012). Eventually, in 2008 CEDAW noted concerns about the treatment of widows under discriminatory customary inheritance practices, underlining that they risked being left landless and homeless if their paternal family (*i.e.* their brothers) did not take care of them.

11 *i.e.* a married couple lives with the husband's family.

In this context it is important to realise that, in dealing with land-related disputes, it is possible to combine and integrate customary institutions with new, formally established courts of law. A good example in Burundi is that of the *bashingantahe*, traditional community leaders who have responsibility for solving disputes locally, and who became particularly relevant in the transitional phase of justice following the *Arusha* agreements and peace talks. On another level, land disputes related to internally displaced and repatriated persons are resolved by the National Commission for Land and Other Property (CNTB), which had its mandate renewed in 2009.

Despite efforts such as the peaceful resolution of conflict by the *bashingantahe* councils, other major concerns remain, in particular legal awareness and access to justice. Even when specific rights (relating to land, but not exclusively) are recognised, individuals may not be fully aware of them, particularly in rural communities. Even if individuals are aware of their rights, they may face cultural and practical obstacles (e.g. illiteracy, distance) that impede any access to formal courts and to the legal system. These obstacles are particularly severe for women, who are more likely to be illiterate and for whom long journeys to access justice are more difficult because they cannot leave their households and children.

The prevalence of traditional cultural norms based on patrilineal and patrilocal systems intersects with more recent and concrete problems such as the deaths of many male heads of household during the civil war. This has left a large number of extremely vulnerable households headed by women and children, who face additional problems such as a lack of financial and legal assistance and the threat of GBV. Furthermore, community members often lack trust in formal legal institutions. It appears clear that in this context access to land represents a key asset for women's empowerment, but many challenges exist.

Comparing women's land rights in Rwanda and Burundi

Rwanda and Burundi have a number of cultural, historical, and geographical aspects in common that have a bearing on women's land rights. Both countries are affected by pressure on land, with scarcities of available land due to factors such as population growth and soil erosion. Their cultural backgrounds are largely similar, with women in both countries facing social and customary constraints that hinder them from accessing and owning land. Patrilineal and patrilocal systems mean that men have traditionally had responsibility for administering land as heads of the household.

Both Rwanda and Burundi have been affected by conflicts and outbreaks of violence that have had major social and economic impacts, with serious consequences for women's lives and livelihoods. Conflict has created a huge number of widows and female-headed households, and women have been affected physically and psychologically as victims of violence and rape (with the further serious consequence of HIV infection).

However, the two countries have taken a slightly different direction post-conflict. The bloodiness of the Rwandan genocide has led to efforts by citizens and by the government to establish a context of peace and reconciliation. Gender equality has been introduced into legislation and, however effective these laws may prove to be, the principle of gender equality has been affirmed and gender discrimination in land use and management has been recognised as an issue to be tackled.

In Burundi, on the other hand, despite efforts to reform land law and to recognise women's rights and gender equality, the lack of a law on inheritance makes it difficult for women's land rights to be legally defended. In both countries, a combination of customary and statutory law is applied to land disputes in general and to those concerning women's land rights.

Rwanda Women's Network (RWN)



Rwanda Women Network (RWN) is a national NGO with four centres – which it calls Polyclinics of Hope (one based in the Village of Hope in Gasabo, near to Kigali) – in the districts of , Bugesera Gasabo, Nyarugenge and Huye. In 1997 it took over from its parent organisation, the Church World Service (CWS), with the aim of promoting and improving the socioeconomic welfare of women in Rwanda, and began a programme of promoting women's rights to land, housing, and inheritance, specifically targeting victims of rape and other violent crimes perpetrated largely the 1994 genocide, as well as vulnerable homeless women returnees after the war. It developed a number of tools and organised a set of specific activities, starting with services for women survivors of the genocide who had been raped and who were living with HIV/AIDS.

In 1995 (when RWN was still CWS) the first centre was established in Nyarugenge district of the capital Kigali; its aim was to provide a place for women to organise and to have access to medical services. RWN's activities expanded in 2000 with a community outreach programme that created the Village of Hope (VoH) in Gasabo district, providing shelter for more than 120 women and their families. In 2006 a Polyclinic of Hope (PoH) was created in Bugesera in Eastern Province, where 69% of households had been exposed to the ambitious Land Tenure Regularisation programme which started in 2007. This centre currently serves 1,200 people in the ten sectors of Nyamata, Butama, Musenyi, Ruhuha, Gashora, Mayange, Rilima, Juru, Kamabuye, and Rweru. It targets women who were badly affected by the genocide; many have lost their land and many are living with HIV. Government plans have also had an impact on land issues; for example, the extension of highways and plans to build an international airport in Bugesera have attracted many land buyers to the area, emphasising the need to secure land rights.

Despite great efforts, financial constraints remain a serious challenge, especially for vulnerable women. RWN provides them with services such as health care and support for psychosocial trauma, and counselling, mobilisation, and sensitisation on issues including HIV/AIDS, GBV, reproductive health, property and inheritance rights, women's and children rights, and conflict management and peace-building skills. In total, the NGO serves around 11,000 beneficiaries in different districts. While its initial intention was to respond to a health emergency, over the years its outreach has expanded to include issues of poverty and GBV as well as women's land rights and housing. The complementarity of these different issues has strongly influenced the way that RWN has developed tools and approaches to implement its activities.

Activities and tools

As well as providing clinical support to women affected by rape and other violent crimes and to those living with HIV as a result, which was initially its scope, RWN has applied a holistic approach whose rationale is to link together different aspects of women's empowerment. For example, according to this approach, empowering women to secure their land rights also reduces their vulnerability to HIV/AIDS.

Space for women to exchange learning

RWN contributes to the creation of spaces where women can develop a common understanding of their own issues and develop a united voice. The aim of these spaces is to organise, strategise, and build solidarity for women, and they also contribute to the exchange of learning, another activity organised and facilitated by RWN. This aims to reinforce women's knowledge and capacities and encourages ways to solve issues arising from women's lack of confidence and awareness around land rights. Women can share their experiences and knowledge and discuss best practices, challenges, and lessons learned. Peer exchanges can take place at local, national, or international levels. Through these exchanges, women have become agents of change.



Community paralegal programme

RWN's community paralegal training programme is an essential part of its activities and has proved to be very effective (although few statistics are available). The paralegals it has trained are trusted by communities and by local authorities, even though they are not officially recognised as a government structure. The programme enhances RWN's rights-based approach to dealing with the issues of vulnerable women and their families, including their rights to land and inheritance.

Paralegals are trained and provided with basic legal knowledge that enables them to provide legal aid and advice and to report human rights violations to relevant authorities. Paralegals help to educate communities on their rights with specific, focused activities; capacity building and awareness raising among women, and in the community as a whole, are also part of the goal.

Paralegals are selected by the local community, based on its trust in them and their level of integrity, along with their willingness to volunteer. They work closely with local leaders and *abunzi*, part of whose mandate is to mediate in and resolve land disputes. They are also involved in monitoring cases and advising on issues such as appealing to higher courts. Among the positive effects of the training of paralegals has been that women have been equipped with the skills to assist others, to reclaim their rights to land, which has had indirect positive effects on women securing rights to land to mortgage their land and obtain loans, as well as while children who have lost their parents claiming their inheritance.

Mapping and documentation and public awareness raising

In the Rwandan context, there is a strong need for the documentation of rights to help build capacity and strengthen public awareness. RWN collects and maps data on land, housing, inheritance, HIV/AIDS, GBV, and gender equality through research, focus group discussions, community meetings, and other activities. Its findings are documented and shared through reports and training materials with women in the community and with other stakeholders, such as partner groups, local authorities, and women councillors (at cell and sector level).

The research reflects RWN's holistic approach and focuses on cross-cutting themes such as good governance, HIV/AIDS and other infectious diseases, family planning, gender equality, combating GBV, women and peace building, and income-generating activities. Besides contributing to public awareness, mapping and documentation of women's issues help to support lobbying and advocacy and resource mobilisation.



Mary Balikungeri is the founder of RWN. Just after the genocide, she had the idea of creating a space where women could recover physically and psychologically from the violence they had suffered. With the collaboration of a number of other women and other partners, she managed to create new centres which coordinate various activities that aim to empower women and increase their awareness and capabilities.

Mary is highly esteemed by the women involved in RWN projects, who see her as a symbol of women's agency and courage in a time of crisis. She says: "If the world truly believes in the empowerment of women, the only way to achieve this is to invest in women's spaces, because these spaces are venues of safety, healing, and promoting gender equality."

Local-to-local dialogue

RWN helps to facilitate women's engagement in dialogue with local leaders, supporting them to negotiate on issues that concern them in order to influence policies, plans, and programmes in ways that address women's priorities. They are given space and encouraged to speak out and contribute to finding solutions. This local-to-local dialogue process complements the NGO's holistic approach, as part of a common effort to increase women's economic empowerment, agency, and property ownership. It has included a number of specific actions in different districts, such as the creation of a brick cooperative in Bugesera.

Lobbying and advocacy

RWN collaborates with other stakeholders to take women's issues to the national level. For example, it has advocated for the liberalisation of matrimonial and succession law and has organised awareness-raising campaigns on the succession law, with the result that more women have inherited land from their deceased spouses, parents, and other relatives. Enhanced legal awareness among women has made some of them good negotiators for women's priorities in government plans and programmes and has given them a relevant role in the negotiation process. RWN also contributed to the enactment of the Land Law of 2005 and 2013 through lobbying and advocacy. Its involvement in the legal process has been reflected in capacity-building activities to help communities and women understand new laws and policies.

Lessons learned from RNW

- » When the Polyclinic of Hope was established, it was reacting to an emergency situation and the aftermath of genocide. Over time, its focus has shifted to long-term development goals and to integrating programmes that emphasise women's rights and the active participation of beneficiaries eg. through volunteering as community paralegals.
 - » Securing the rights of vulnerable women is particularly sensitive and requires specific strategies that work within a specific context; collaboration with local authorities is also important. Different actors need to be involved in order to make programmes effective.
 - » The holistic approach combines different areas of intervention and improves the effectiveness of the actions undertaken.
 - » In addressing women's land rights needs, RWN quickly learned that providing women with capacities as paralegals would build a strong resource base for them and for the community at large, leading to its current community paralegal programme.
 - » Paralegal programmes are replicable, as the presence of four centres in Rwanda demonstrates.
 - » Paralegal training and spaces for women also provide a means of increasing women's awareness and allowing them to share experiences. Women's participation is essential, and the fact that the organisation is primarily run by women contributes to building trust, confidence, and solidarity amongst beneficiaries.
 - » Over time, there has also been a realisation that active involvement by men adds value to the community paralegal work, as men engage with other men. Men are therefore being brought on board as role models to assist in the drive for women's rights.
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Association Pour la Paix et les Droits de l'homme (APDH)

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APDH is a community-based NGO created in Burundi in 1996, which operates in the provinces of Ngozi, Gitega, Muyinga Kirundo, and Bujumbura Mairie. It aims to promote peace and human rights through education and capacity building, using advocacy, research, documentation, and community education as its main tools to achieve its mission.

The organisation was created by a group of students at the Lycée Don Bosco secondary school in the northern province of Ngozi who, although from different ethnic groups, came together to create a human rights club that aimed to create peace through community dialogue. In a context of violence and generalised chaos in a country divided along ethnic lines, students began mobilising their peers and people in neighbouring communities, talking about peace and human rights and ways to overcome violence and restore mutual confidence.

APDH was registered in 1998. Several clubs have since been created in various parts of the country and have started networking to promote peace and human rights. They are led by executive committees at both the section and national levels; the national executive committee is responsible for overall coordination and representation, while the provincial sections have operational autonomy.

Over the years the clubs have grown stronger and have implemented innovative activities, such as research on key social and land issues; the Ngozi section is the most active. APDH is interested in strengthening and securing people's land rights, especially those of women, children, and other vulnerable groups. A human rights-based approach is applied in order to achieve this.

APDH joined the ILC network and has since taken advantage of being connected to a wide community of learning, capacity building, and sharing, while improving its own position in terms of visibility and advocacy. This has had an impact on its campaigns and activities on women's land rights. Belonging to such a network has increased the organisation's self-confidence and feeling of belonging; it makes it feel that it is "on the right track" and is "connected to a worldwide movement of people, organisations, and institutions", upon which it can depend, says Ernest of APDH team.

Activities and tools

Research and involvement in law reform

APDH conducts, first of all, research-based work on land issues. For example, in 2003, it conducted a study on land rights with the support of CARE International and Global Rights. The study started as a pilot in Ngozi province, where there was a need for advocacy between refugees and people who had remained in the area during the civil war. In 2004, APDH developed an advocacy document and targeted members of parliament and local authorities. This was the first field-based research paper to be produced on this topic and it secured APDH a role in the law reform process, while its findings were also used for advocacy purposes. In 2005 APDH staff benefited from training on the investigation of land conflicts on the ground, and mapped land ownership and conflicts in Karuzi in the commune of Bugenyuzi.

Following further research and advocacy work on land issues, APDH became involved in the process to reform national land policy and land law, which began in 2010. It was a member of a thematic group on land whose objective was to exchange information, coordinate activities, and harmonise approaches.

Register of land parcels in the local land office in Makebuko



In 2010 the Government of Burundi adopted the National Land Policy, with an emphasis on changes in both legal and institutional frameworks. After the land law was enacted, APDH worked to disseminate it, developing modules on land law in collaboration with RCN (Justice & Démocratie) and, with other actors, developing a document to harmonise approaches in the decentralisation of land management. APDH has also supported the establishment of decentralised land registration offices, which allow local authorities to register land; this was made possible in theory by the new law, but could not be implemented without external support. APDH has made efforts to strengthen the capacity of local officials to deal with land issues as well as trained land officers and land commissioners at the *colline* level and continues to support them. APDH has always involved existing structures as entry points for lasting social change and attaches great importance to the evolution of partnerships amongst different stakeholders at all levels.

Education and capacity building

APDH runs specific programmes that aim to empower women and support female leaders to have influence in decision-making processes within the community. In 2006, with the support of CARE International, it introduced a gender and governance programme called “Umwizero, A Positive Future for Women”. The first phase involved research on women’s rights in communities in Ngozi province (three communes), Kirundo (two communes), and Kayanza (two communes). The second phase (2009–2013) covered Ngozi (six communes), Kirundo (five communes), Kayanza (five communes), and Muyinga (three communes). As part of the project, women’s solidarity groups were formed, each with 20–30 members. Members are trained on human rights and women’s rights in particular, and at least every week sensitisation workshops are held on topics such as CEDAW, the Family Code (CPF), the Penal Code, civil procedures, conflict resolution techniques, monitoring, and advocacy. Women are encouraged to register their land – which connects this project with the one on land registration – and have benefited greatly from the programme. Solidarity groups are used as an entry point for women to sensitise and mobilise other women in their *collines*.

The Umwizero project has also sensitised women on the importance of formally registering their marriages and has even provided practical help for many couples to celebrate and officially register their unions, which is essential for women’s land inheritance rights. Women in customary marriages would often be chased out of their homes if they were separated or widowed, and were unable to claim any rights through community-based conflict resolution bodies or official tribunals or courts. With APDH encouraging women to register their marriages, the situation has gradually changed so that women are now entitled to protection under the Family Code with regards to their land rights.



René Claude Niyo, Camille Munezero, and Jean Marie Habwintahe are part of a large APDH team actively working for the improvement of everyday living conditions in Burundi. They might seem young, but all have been involved since they were in high school.

Although most APDH members are educated people based in urban areas, they are deeply involved in rural communities and dedicate much of their time (most of them are volunteers) to developing programmes and projects to increase legal awareness and agency, while also conducting advocacy activities aimed at influencing government policy.

They say:

“APDH is contributing to building a changed Burundian society, oriented more to justice and peace, moving together towards sustainable and integrated development.”



Lessons learned from APDH

- » Human rights-based and community-based approaches contribute to securing women's land rights. Involving women and engaging in a participatory approach can help to strengthen these rights.
- » No change can take place without projects that raise awareness.
- » Laws can be influenced and shaped by advocacy activities.
- » CSOs can actively contribute to the development and implementation of new laws. They can also provide technical support to local administrations in the implementation of specific programmes.
- » Involving existing structures and building partnerships amongst different stakeholders at various levels is both possible and effective.
- » Virtuous circles can be activated: beneficiaries (particularly women) become sources of information for other members of the community and contribute to the success of the project.
- » Women's solidarity groups help to establish trust and facilitate the participation of women.
- » Registering land in women's names positively affects not only their incomes and economic empowerment but also their roles within the community and the community's perspective on women and gender issues.
- » The use of human resources with expertise in and commitment to land issues is valuable for the implementation of land-related programmes.

Programme Transitoire de Reconstruction Post-conflit (PTRPC)

Participant
answering a
question in a legal
competition in
Bururi

The Transitional Programme of Post-Conflict Reconstruction (PTRPC) was implemented by the Government of Burundi, with financial support from IFAD, between 2004 and 2013. Its main aim was to restore livelihoods, build social capital, and promote dignity and food security in poor communities, restoring a sense of justice at a local level and educating communities about their legal rights and responsibilities. The major innovation of the programme was the provision of legal aid, with victims of human rights violations listened to and then directed to responsible authorities and given the necessary legal support to go to court.

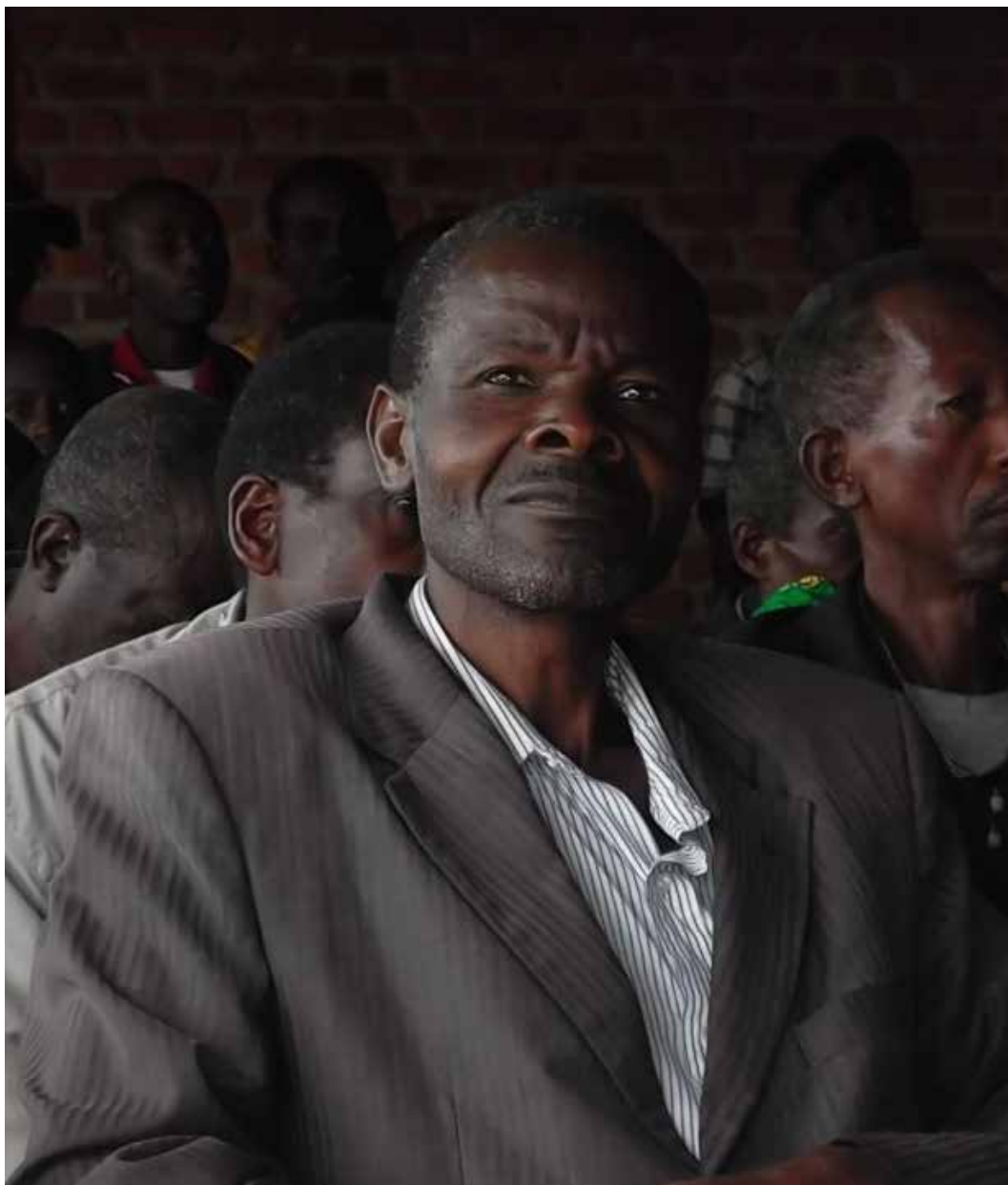
In collaboration with the Ministry of Justice, the programme established mobile legal clinics to enable community members to claim their rights through both local customary and legal systems, in the provinces of Bujumbura Rural, Bururi in the west, and Ruyigi in the east. The clinics also provided communities with information about their legal rights and disseminated legal information. They dealt with a variety of topics, but focused in particular on cases involving family relations and inheritance, and in particular encouraged rural women to fight discrimination and to exercise their rights. Some 70% of the land disputes brought before the clinics involved women.

Other programme activities aimed at increasing legal awareness included the training of paralegals chosen by the community and educational and communication activities aimed at awareness raising (Jonckheere, 2013). PTRPC activities paid special attention to women and to vulnerable groups at risk of violence.

Activities and tools

PTRPC developed and implemented specific tools to address the difficulties faced by rural communities, and especially women, in gaining access to legal services. The programme involved a number of different interventions, including mobile legal clinics, training of paralegals, and legal competitions – an innovative approach to raise legal awareness at the community level. The recruitment phase was meant to begin in 2004 but, due to elections and the fact that the country as a whole was still recovering from war, it was not actually launched until 2006, with implementation beginning in 2007. IFAD collaborated with various government institutions as joint implementers of the project, in particular the Ministry of Justice, which was asked to allocate lawyers to the programme. After long negotiations, the Ministry allocated a total of six judges (three judges and three assistant judges) to support the project's activities, with one judge and one assistant working in each of the three provinces in which it was active.

PTRPC was launched in Bujumbura rural area (11 communes), Bururi (nine communes), and Ruyigi (seven communes), covering 27 communes in total. During its first phases, the project had to contend with communities traumatised by war, a lack of trust in judges, a great deal of bureaucracy, and cultural resistance by the *bashingantahe* (traditional authorities at village level who provide dispute resolution on land and other types of conflict; their role and functions are incorporated into the country's constitution). However, all these challenges were overcome, and the *bashingantahe* became involved in the paralegal programme: by the end of the project, paralegal groups each included two women leaders, two younger community representatives, two representatives of the minority Twa community (if present), and two *bashingantahe*, based on proposals made by communities themselves (IFAD, 2012).



The training phase lasted from 2007 to 2010, and by 2012 a total of 1,020 paralegals and 15 judges had benefited from training. The presence of paralegals in communities has had a tremendous effect on the lives of women, and the project's success in integrating *bashingantahe* as paralegals has shown that it is possible to combine traditional structures with new approaches.

Providing legal support and raising awareness

One of the main challenges for members of rural communities in accessing justice is their distance, both geographically and culturally, from legal institutions. The mobile legal clinics, staffed by lawyers and trained community paralegals, set out to address this problem. The aim of the clinics was to resolve disputes amicably; beneficiaries were listened to and given appropriate advice. When a dispute was settled, the paralegals ensured that the two parties left satisfied and in peace, and followed up to monitor

enforcement and ensure that the relationship between the two parties remained amicable. If a case could not be resolved, complainants were directed to a different administrative level or to a court of law.

Resolving legal disputes has strong positive consequences for community members, particularly for women. PTRPC found it essential to interact with local institutions that provided justice at the community level, such as the Family Development Centre (FDC), the *bashingantahe*, and national judicial bodies. Paralegals were selected by the community and trained on the Land Law, the Penal Code, the Family Code, civil procedures, and the structure and procedures of the judicial system. Paralegals are volunteers, *i.e.* receive no regular payment, but in this case, they received some hardware to help them carry out their tasks (such as computer and printer) and which they could use to generate an income by providing other services.

The presence of the legal clinics and the paralegals contributed to greater awareness of rights amongst communities, but as most Burundians in rural communities knew little about their rights and obligations, other activities were also implemented, such as education, information, and communication projects.

As part of awareness raising, competitions were organised and promoted by the clinics to sensitise the community. The aim was to help people internalise the legal concepts relating to paralegals, and the competitions were open to all, regardless of gender, age, or other social factors. They were held in public places such as markets, were structured like quizzes with prizes on offer for those providing correct answers, but also for some 'cultural' contributions, such as songs etc. to keep the format entertaining. The dates and venues of the events were publicised by various means, including through churches, loudspeaker announcements, and advertisements on local administrative buildings.

One of the main reasons for the lack of awareness of rights was low levels of literacy, particularly among women. To address this, PTRPC implemented literacy classes in collaboration with the Family Development Centre (FDC) under the Ministry of Gender and Family Promotion. By 2012, some 11,000 people had benefited from adult literacy courses (Jonckheere, 2013 and the programme had also helped to increase women's knowledge of their rights.



Esperance Musirimu was a judge in Bujumbura. She was the first woman to be registered as a lawyer at the bar in Burundi, and is a fervent defender of human rights.

When the PTRPC project began, she became involved as Responsible for Local Governance Component and she was our guide during the Learning Route throughout the PTRPC activities.

Her presence in the project team was extremely valuable, as both a lawyer and as a woman. She is confident that PTRPC has positively influenced the lives of many women and men in rural communities.

To ensure the enforcement of judicial decisions, PTRPC trained judges in order to address the lack of monitoring in the legal system and, realising that the enforcement of court verdicts was a problem, provided transport to enable judges to travel to rural communities. It scheduled two field visits for judges each month, with 250 visits in total made to communities in the project area (IFAD, 2012). The programme also provided private lawyers to assist beneficiaries with filing their cases and to represent them in court.

Enabling and enforcing rights provided community members with greater awareness and practical solutions, as well as freeing up time to be used for other activities. New levels of trust were built in legal institutions and the project succeeded in integrating customary and state law thanks to the presence of *bashingantahe* among the paralegals. The programme proved particularly successful for women, who gained greater knowledge of their rights and were able to claim them while reinforcing structures of mutual help.

Lessons learned from PTRPC

- » Legal awareness is vital for rural communities. Community members are much more interested in legal issues than might be expected (as demonstrated by the high levels of participation in legal competitions).
 - » Low literacy levels do not prevent communities from gaining legal awareness if proper programmes are planned and implemented.
 - » Facilitating access to the legal system has a positive impact on rural communities. Proper tools can contribute to making legal knowledge effective in people's everyday lives. Innovative and original tools and strategies to sensitise rural communities (and women in particular) about laws and rights can help support improved livelihoods.
 - » Interventions by paralegals reduce the number of disputes to be settled in formal courts and contribute to easier and more peaceful resolution of conflicts.
 - » Relevant programmes can help to re-establish trust in the law, where it is lacking.
 - » Women in particular benefit from legal awareness-raising programmes relating to property rights.
 - » It is possible to integrate customary approaches (e.g. the *bashingantahe*) and new methodologies (e.g. paralegals), while also giving women a more relevant role within the community.
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Personal stories



Lydia



Lydia, now 25 years old, was only 14 when both of her parents died. Her two little brothers, the youngest just a few months old, were eventually adopted by their mother's brothers, which kept them out of an orphanage, but they were considered a burden. As Lydia became older, she asked about taking over her mother's land, but her uncles ignored her requests and told her to ask her father's family instead, as they believed it was their right to keep control of her mother's land.

Lydia confided to a friend at school about her desperate situation. By chance, this friend's mother had received training from the Rwanda Women Network (RWN). She told Lydia about their programme, dedicated to helping women and girls claim their rights to inheritance. RWN assigned

a paralegal to help Lydia defend her interests and also offered to pay her legal fees. As Lydia was still studying at the time, she gave the paralegal the power of attorney to act on her behalf and to represent her interests.

Lydia confronted her mother's relatives with the paralegal in February 2010, and met a great deal of resistance. Having an RWN paralegal at her side, however, set the stage for her eventual success, and showed her uncles that the old ways of ignoring girls' rights to inheritance would no longer be tolerated. The case was eventually assigned to the local *abunzi*, one of the community-based Mediation Committees established by the Rwandan government in 2006 to settle disputes between community members. After an arduous process, seven months later in September 2010 Lydia won her right to inheritance.

However, although the conflict had been resolved, her relationship with her mother's family was poisoned. She decided to sell the land and bought a plot elsewhere to make a fresh start.

Lydia finished secondary school, participated in training on modern cultivation techniques (organised by USAID), and started growing vegetables. Her vision is to go to university in two years. "Agriculture is my passion," she says. She is now a successful farmer and produces more than enough for her own consumption and to feed her two brothers. She sells the rest of her produce at the local market to pay for her brothers' attendance at boarding school.

She has also founded a self-improvement club called "Umukisi" ("Vision") to show other young people how she has turned her plot of land into a productive asset, and to demonstrate that, to survive, there are alternatives to getting involved in prostitution.

Recently, Lydia decided it was time to reconcile with her mother's family. She visited them, shared her stories, and showed them what she has accomplished. She even helped them to plant a kitchen garden. Last New Year's Eve, they came to celebrate at her place.

Vivine



Vivine was a victim of the Rwandan genocide, which badly affected her both physically and psychologically. She is now 49 and has six children, but she lost her husband in 2005. Their marriage was not formally registered, so her in-laws refused her access to the land she farmed with her husband and which he had left to her.

She was in bad health and without any resources for her children or herself when she first encountered RWN. Initially she was offered medical assistance, and RWN then legally supported her case.

With the aid of a lawyer she went to court and, after a legal battle lasting three years, won the case against her in-laws and had her land rights recognised. When she eventually got

her land back, she sold the plot and bought a parcel of land in another village.

Instead of farming this plot, she obtained some credit through a credit and savings cooperative and started building a house. She obtained a mortgage in order to pay school fees for her children. After the house was completed she rented it out, and she now uses the rental income to pay back the bank and to support her household.

She wants her children to be educated and to learn about the law and their rights. She wants a better Rwanda for her children, one where the events of 1994 will never happen again.

She says that her in-laws thought that “a woman cannot do anything”, but her story shows otherwise. She owes a great deal to RWN, and now she knows that women can fight for their empowerment and see their rights recognised. And when she is no longer able to do so, her children will carry on the fight.

Jacqueline



Jacqueline is 37 years old and a member of the community of Gashikanwa. She has benefited greatly from APDH's gender and governance programme.

She is active in the community and is part of the Conseil de la *Colline*, the administrative council for the area. In 2008 she ran for election as Chef de la *Colline* ("chief of the hill"), a position that is traditionally held by men. She came fourth in the election, but when she stood again in 2010 she came second. She thinks that she might win the position in future elections.

From her own personal experience and what she has seen in the community, Jacqueline believes that the programme has substantially improved women's general situation and that awareness of their rights has increased.

As a member of the Conseil de la *Colline*, she contributes to the resolution of community and domestic disputes. Due to the presence of women representatives like her in these structures, women feel more confident about reporting abuses and asking for support.

APDH's programme has offered women a new role in the community as facilitators of the peaceful settlement of disputes and conflicts, and this role is recognised by the whole community. Jacqueline's participation in community life has empowered her as a woman and has helped to empower other women. Women now have easier access to the dispute resolution system and they can trust other women in the solidarity group.

Jacqueline says that men are becoming more responsible about not selling land without their wives' consent (which they often did before) and she is proud to be part of this change in her community, to which she knows she can actively contribute.

Médiatrice

Mediatrice is a land registration officer (agent foncier) in Makebuko. She is employed by the municipality and works within the land registration programme supported by APDH.

She visits deals with bureaucratic issues at the office in Makebuko and visits the plots to be registered, explaining the procedure to community members, providing technical support, and registering the land. There are two officers involved and it is important for the project that one of them is a woman.



Médiatrice comes originally from another community and was trained as an administrative agent by APDH. She owns a plot in her home village and described to Learning Route participants how women can go about registering their land. Médiatrice is one of the agents who make land registration real and effective. As a woman actively involved in the programme, her presence can encourage other women to get in touch, ask for information, and eventually register their land. She is herself simultaneously an example of women's empowerment and an agent, not only of land, but of change.

Joyce



Joyce has benefited from the PTRPC programme twice: she obtained legal aid to defend her land rights and she also became a paralegal, thanks to the training provided by the programme.

Her personal story was told in one of the explicative dramas used during the Learning Route to convey examples of legal cases. She had received some land from her father as *igiseke*, which is land given to daughters when they get married. When her parents died, her brothers would not allow her to utilise this small plot. In order to protect her rights and to settle the dispute, she reported the matter to family and community members. She was asked to buy them beer as a form of remuneration but she could not afford it.

The PTRPC project was already under way, so she asked the paralegals for legal aid to settle the dispute with her brothers and their families. The mediation of the paralegals, which was based on customary norms recognised by Joyce's brothers, won recognition of her rights over her plot. She can now lease it out or farm it herself and earn income by selling the harvest.

After this successful experience, Joyce decided to engage personally and become a paralegal herself. She received training and took part in legal competitions, and now she can help other members of the community to resolve their disputes, with special attention to other women.

LEARNING ROUTE

MOVING TOOLS AND APPROACHES
TO SECURE WOMEN ACCESS TO

Conclusions



The Learning Route was fruitful and enriching, both because of the case study sites visited and because of the participants involved, who brought with them different backgrounds and experiences and shared their varied competences, knowledge, and perspectives. Capacity was reinforced in both directions since the participants learned from the three host organisations about good practices in securing women's land rights by means of innovative tools and approaches, and also shared comments and suggestions based on their own knowledge.

The approaches used in each of the case studies have potential for replication, and some of the lessons learned during the Route could potentially be implemented at home by participants as innovative tools in planning the activities of their organisations. The innovation plans prepared by the participants at the end of the Route, based on their experiences, were a crucial step in ensuring that these good practices will contribute to the enrichment of different organisations and become part of a knowledge-sharing framework. This includes disseminating documentation amongst participants' organisations and, more widely, amongst partners and stakeholders, in order to capitalise on and scale up the learning of the Route.

Besides the technical knowledge and specific competences acquired – such as the potential for empowerment of women's solidarity groups, the strategic role played by paralegals, the innovative role of mobile legal clinics in filling gaps in access to justice, and the effectiveness of legal competitions to raise awareness – some theoretical conclusions can also be drawn:

- » CSOs can be influential at both local and national levels, in the implementation of projects in local communities and the development of national policies. The external assistance of international organisations can be of help, but the local knowledge and expertise of CSOs is crucial if positive results are to be achieved.
- » Lobbying and advocacy are tools that can have a successful impact on national policies and reform of laws.
- » Gender issues, human rights, and land management are interconnected topics, a connection that is increasingly being acknowledged at both national and local levels.
- » Although customary norms can often lead to discrimination against women, they can also be positively integrated into projects, as was the case of the *bashingantahe* being recruited as paralegals by PTRPC.
- » The active involvement of women in community life and in dispute resolution processes (through women's solidarity groups and as paralegals and agents of change) is a positive result of focused projects but is also a tool in itself that can create a virtuous circle of women's empowerment.
- » Legal awareness within communities is just as crucial as legal reforms at the national level; both call for targeted studies and activities.
- » Inheritance and succession laws are key issues to be addressed in the area of women's land rights.
- » Customary unregistered marriages, de facto marriages, and polygamous unions are not recognized by law. As a consequence, even in countries where women have inheritance rights over their husbands' property (as in Rwanda), many women remain unable to enforce those rights. There is thus a need to improve laws to protect all women and to respond to the social context.
- » Land registration may be a good tool to protect women's land rights but some aspects concerning women, such as the impact registration in a woman's name can have on social relations within the family if this is not a culturally accepted practice deserve further clarification and precision, both in legal theory and in practice.
- » Certain cultural and social norms make it difficult for women to claim and defend their rights. For this reason, it is crucial that women are actively involved in projects and programmes that defend their land rights.

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Los ruterros

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Shila Gnyawali, Assistant Forest & Planning Officer, LFLP, Department of Forests, Kathmandu, Nepal

Our Mission

A global alliance of civil society and intergovernmental organisations working together to promote secure and equitable access to and control over land for poor women and men.

Our Vision

Secure and equitable access to and control over land reduces poverty and contributes to identity, dignity, and inclusion.

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