

# WOMEN, LAND AND EMPOWERMENT IN RWANDA

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**Abstract:** Rwanda has recently registered all legal owners of land and has required spouses to be registered as co-owners of joint property; this is aimed at contributing to the empowerment of women, among many other things. A 2015 survey explored the impact of law and official practice on women's empowerment—whether they knew their rights and whether they could claim them. The conclusion is that there has indeed been some impact. The problems of women's subordination remain, however, given patriarchal attitudes, unequally shared decision-making and a tension between Rwanda's espousal of the rule of law on the one hand and the principle of dialogue and consensus on the other. Moreover, the position of a substantial proportion of women in unregistered domestic partnerships has not changed. Copyright © 2018 John Wiley & Sons, Ltd.

**Keywords:** Land Tenure Regularisation; inheritance; women's empowerment; Rwanda; patriarchy; consensus governance

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## 1 INTRODUCTION

The vast majority of Rwandan households own land (Niyonsaba, Bisiaux, & Habimana, 2013; Abbott & Mugisha, 2015). Land is the main source of subsistence for a majority of the population and the only wealth of most families. Rwanda's declared policy is to eliminate inequalities between men and women, and some of its tools for doing so are the inheritance laws and the land laws, coupled with a regularisation of the system of land tenure to include rights for married women. Land Tenure Regularisation (LTR) has involved the systematic identification of occupiers of all land in Rwanda to determine legitimate occupancy and issue long-term tradable leaseholds. Rwanda is the only country in Sub-Saharan Africa that has succeeded in formalising and documenting individual land tenure on such a comprehensive scale (UNHabitat *et al.*, 2012). Rights for married women

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are enforced as part of the registration. This article sets out findings from a survey carried out in 2015—the first representative survey in Rwanda to tackle some of these topics—on respondents' experience of LTR, their knowledge of the laws and their ability in practice to claim and be accorded the rights that the laws and LTR are supposed to afford them.

The research described in this article was carried out before the 2016 *Law Governing Matrimonial Regimes, Donations and Inheritance* was passed and gazetted in Rwanda, so the legal position regarding inheritance is now a little different in its detail from the situation to which the survey respondents were reacting, which was based on the 1999 Inheritance Law and the 2013 Land Law. References to this and other laws as promulgated in Rwanda's Official Gazette will be found in the 'Laws' section of the References. The changes do not make any substantial difference to the arguments of the article, however (see Note at end of text).

## 2 BACKGROUND AND CONTEXT

Following the devastating effects of the 1994 Genocide against the Tutsi, Rwanda has become a relatively stable and peaceful country with one of the most effective governments in Africa (Collier, 2010; Booth & Golooba-Mutebi, 2011). The country's ambitious social programmes make it dangerously aid dependent, and the poor balance of imports and exports renders it vulnerable (Abbott & Sapsford, 2016), but the economy is growing and poverty is recorded as declining (although the method of measurement has changed over the years and the figures are therefore not entirely to be trusted). There is legislation for gender equality, and Rwanda is famous for the proportion of women in its Parliament, although this is slow to be duplicated in industry or even in government (Burnet, 2011).

Land and its produce remain crucial to Rwanda's economy and the survival of its people. Only 6 % of agricultural production by value is exported, but this accounts for over 40 % of the value of exports (Ministry of Finance and Economic Planning, 2014; NISR, 2015b). Agriculture was listed as the main occupation of 60 % of men and 80 % of women in 2013/14 (NISR, 2015a). There is huge pressure on land: Rwanda is one of the most densely populated countries in the world, and the average area cultivated by a rural household is 0.6 ha, despite FAO (UN Food and Agriculture Organization) estimates that at least 0.9 ha of land is needed for a household to feed itself (NISR, 2012); three-quarters of agricultural plots are judged to be too small to support a household by themselves (Abbott & Mugisha, 2015).

The 2003 Constitution mandates gender equality, gender is mainstreamed in all government policies, gender quotas ensure the representation of women at a national level in government and gender-responsive budgeting is practiced (Abbott, Mutesi, & Norris, 2015). Laws governing land (Law No. 08/2005 and its successor, Law No. 43/2013) and inheritance (Law No. 22/1999) give women the right to own land in their own right, girls have the same right to inherit as boys and married women in legal (registered) marriages where community of property has been chosen as the 'marital regime' (the vast majority) are co-owners of their joint property and have the same legal rights in principle as their husbands to participate in controlling it and disposing it. The underlying question that this article seeks to address is the impact of the laws and LTR—whether women know their rights and whether they are able to obtain them through the dispute-resolution mechanisms. Our model of empowerment comprises the existence of legal rights, women's awareness of them, awareness of them by others (especially those involved in dispute-resolution) and the absence of barriers to their being asserted successfully.

## 2.1 Women and Land

Land Tenure Regularisation was rolled out across Rwanda in 2012–2014, and land titling is now virtually complete, bar possibly a small number of disputes about ownership. All owners and interested parties, including legitimate children and any illegitimate children recognised by the husband, have to be named on the registration document as having an interest in the land; women legally married (in civil ceremony involving registration of the marriage) who have opted for community of property also appear as joint owners and have the right to be consulted about land sale and management.

Gender equality is a human right in itself (see, e.g. United Nations, 1979), but women's empowerment is also an element of 'smart development' (World Bank, 2012). Promoting gender equality and empowering women give nations access to the other half of their human capital. Economically empowered women drive development (Elborgh-Woytek *et al.*, 2013)—they produce an increase in gross domestic product at national level, and any money they earn tends to improve the well-being of children and men (Burgess, 2007).

Women's right to own land is complicated by the law on inheritance. Before the 1999 Law, women had no ownership of the household's property and did not inherit it, although they might manage it in the interests of dependent children. The inheritance law of 1999 created a category of 'community of property' that meant that women and men had joint ownership of the property, including what was brought to the marriage and anything acquired afterwards as joint property. On the death of one partner, half the joint property reverted to the sole ownership of the survivor, and the remainder passed to the deceased's children (in equal shares, unlike *umunani*, which at the time of the survey could be given in unequal allocations) or to other relatives of the deceased spouse if there were no children. These rights of inheritance are restricted, however, to the family members of a registered civil marriage plus, from the man's share, illegitimate children recognised by him during his lifetime. (Women's illegitimate children are taken automatically as having been recognised by their mother, because the fact that she gave birth to them is known.) The law provides no protection to women or men living in consensual unions (i.e. not state registered), which can leave them and their children especially vulnerable; on being widowed or abandoned, a woman can be left without means of support. However, there is also nothing in law that prevents partners who are living in consensual unions from registering land jointly, and this has occurred under LTR, as we shall see.

Ownership of land does not necessarily increase women's economic empowerment, however; they need also to share control over the land and its uses. Even when married women know their rights and have their names on the land title, they may have little say in how land is used or how the income from the sale of surplus or cash crops is spent (Abbott *et al.*, 2012; Abbott & Malunda, 2015). Provisions in the law, especially the 1999 Inheritance Law, reinforce traditional values that see women as dependent on and inferior to men (Abbott & Alinda, 2012; Polavarapu, 2011). This is not the situation of legal pluralism, which prevails in some African countries, with 'tribal' laws working in parallel with statute law under rules as to which shall prevail. Before statute law in Rwanda, the common understanding was that land belonged ultimately to families and was inherited in the male line, so a wife (from outside the family) was unable to own land at all, but statute law abolished the old legal bases. The 2006 Land Law and its successor, the Law of 2013, make all land ultimately the property of government, to be managed for the good of Rwanda. Smallholder farmers have a 99-year lease, and there does not seem to be any concerted resistance to this principle. (The state has the power to take away land

that is not being properly used and reassign it, however, and there are the usual provisions found in most countries for requisition of land needed for public projects; unremarkably, these are less popular.)

## 2.2 Land Disputes

The importance of land ownership is demonstrated by the number of land disputes. It has been difficult in the past to obtain quantitative data on land disputes, but one recent survey found that just over one landowner in 10 (13 % of women and 12 % of men) was engaged in a dispute at the time of the survey (USAID Land Project, 2014b). Disputes were as likely to be with neighbours about boundaries as with family about inheritance (31 % of all disputes in each case), with the other noticeable category being disputes with government (18 %). It has also been difficult to determine the extent to which disputes are being resolved to the satisfaction of claimants.

Where the problem comes in land *practice* is that Rwanda has opted formally, in its Constitution, for ‘consensus’ rather than ‘debate’ in its governance. At national level, this means that decisions are generally not taken that risk dividing the population; they are more likely to be put to one side for further dialogue than forced through while leaving any significant group dissatisfied. At the level of individuals and households, its corollary is that civil disputes should be sorted out without formal recourse to the law if this is possible, by discussion leading to an agreed solution. This sets up a conflict of principle between the concept of the rule of law as guardian of individual rights and the need for consensus, or at least agreed compromise, to preserve unity and avoid factional grievance. ‘Mediation committees’ (*abunzi*) have the duty of this mediation, and the law makes their use prerequisite before taking cases to the courts (Organic Law No. 02/2015). Most land disputes are dealt with first at an even lower level of dialogue, by the family meeting or local leaders, with only a minority of cases being dealt with even by the *Abunzi*, let alone the courts (authors’ analysis of Senate Survey dataset—see also Veldman & Lankhorst, 2011). The research literature suggests that knowledge of the rights and obligations contained in the land and inheritance laws is patchy among people in general, local leaders and even the *Abunzi* (Abbott & Alinda, 2012; Mutisi, 2012; Abbott & Rwica, 2014; USAID Land Project, 2014a). The laws governing the *Abunzi*, both the 2010 Law and its revision in 2015, require that the solutions they propose shall be within the written law and shall draw on customary practice only where this is not in conflict with the law. However, the pressure in mediation is to bring the parties to agreement and the oath the *Abunzi* swear requires them to ‘seek first to conciliate the two parties’ (Organic Law No. 24/2010), which may mean each party giving up something to which the law entitles them (Mutisi, 2012). The decisions of the Mediation Committee are not binding—they may be appealed in the primary courts—but few can afford to take their disputes there (Ndangiza, Masengo, Murekatete, & Fox, 2013). Women may therefore settle for a mediated outcome that they know does not meet their full legal entitlement (Abbott & Alinda, 2012; Abbott & Rwica, 2014).

LTR aimed to ensure that women married under community of property and the widows from such unions have been recorded as co-owners on lease certificates. Listing all those with an interest in the land also means that the inheritance rights of daughters as well as sons are protected. Widows and female orphans have been able to claim back land to which they have a legal right which was previously grabbed by their relatives (Uwayezu & Mugiraneza, 2011). LTR and its initial wide round of ‘sensitisation meetings’ increased

women's understanding of their land rights, with virtually all women knowing that they had the same basic right to inherit land as men (Santos, Fletschner, & Daconto, 2012; Niyonsaba *et al.*, 2013). However, later research (Santos, Fletschner, & Savath, 2014) suggests that there is still considerable misunderstanding of the detail of women's rights and that local leaders, volunteers and paralegals do not have a comprehensive and accurate understanding even after training (Abbott & Rwica, 2014).

### 3 THE SURVEY: METHODS

The aim of this research was to gather nationally representative data on the impact of law and official practice on Rwandan women's empowerment—whether they knew their rights and whether they could claim them. For greater detail of the methods, see Abbott and Mugisha (2015).

The survey was targeted at all non-institutionalised adults (18 or older) in Rwanda. We used a multistage probability sample:

- (1) The current administrative structure of the country subdivides the population of Rwanda into 30 districts; 15 of the districts were randomly selected.
- (2) A sample of 60 villages was selected—four villages in each of the selected districts, with probability of selection proportional to the number of households in the village. (A 'village' in Rwanda is an administrative unit of about a hundred households. In rural areas these may be dispersed rather than concentrated in a settlement.)
- (3) In each sampled village, a 10 % random sample of households was selected using lists held by the village leaders, updated by the survey team as necessary, and all the adults normally resident in these households were targeted for interview. [In other words, the selection excluded people who were present only temporarily during the survey period, as visitors, but it included everyone who would count the household as their residence even if they were temporarily away at the time of the survey (e.g. on a visit or at boarding school).]

Applying the usual formula yields a minimum sample size of 423 households, to be 95 % confident of household results being accurate within  $\pm 5$  %. The procedures listed previously yielded a sample of 480 households, all of which agreed to participate in the survey. The total number of individuals identified for interview was 1089, and just over 78 % of them were contacted and interviewed. The non-contact/non-response rate is low by international standards but higher than is usual in Rwanda, and there may be under-representation of some groups, discussed further below.

The questionnaire was based on the one used for the 2013 survey carried out by Niyonsaba *et al.* (2013). Questions were retained that had been used to measure the impact of LTR in the previous study; others were added that would provide information on land ownership, the LTR process and dispute resolution. We added detailed questions to measure women's (and men's) understanding of land and inheritance rights, based on the laws of the time. The questionnaire was drafted in English and translated into Kinyarwanda, and the translation was checked for accuracy. It was then piloted and amended in the light of the findings and a further check made of the accuracy of the Kinyarwanda version.

Fieldwork was carried out between 30 March and 10 April 2015. At each sampled household, the interview team listed all the members aged 18 or over and normally resident; this formed the list to be interviewed. Respondents were interviewed away from

other family members, and informed consent was obtained in all cases. Time constraints on carrying out the survey meant that it was not possible to do the three callbacks that are generally made to increase the response rate, and the second week of fieldwork coincided with Genocide Memorial Week, which reduced the response rate in some households. Those who have non-farm employment away from the home and those in full-time education may particularly have been under-represented.

Analysis was carried out using SPSS. Scales and composite measures were computed as follows:

- a composite measure of ‘perception that LTR reduces land conflicts’, by combining the inter-household and intra-household items into a single variable;
- a measure of ‘understanding of *basic* land rights’, based on the number of correct answers given to questions on who can own, who can inherit, who can rent and who can purchase land;
- a measure of ‘*working knowledge* of land rights’ based on the number of correct answers given to all 12 questions measuring knowledge of land rights.

Steps were taken to ensure the ethics and quality of the research: training of research assistants, eliciting informed consent, a guarantee of and a reminder that respondents had the right to withdraw at any time during the interview. Team leaders were responsible for ensuring that the members of their team actually contacted households, carried out interviews and correctly completed the questionnaires, through callbacks to a random 10 %. Once the data had been entered, respondents’ personal details were stored in a different secure place from the main questionnaires. After the analysis was completed, all records of personal details were destroyed.

#### 4 THE SURVEY: FINDINGS

Three quarters of adults living together as a couple had married in a civil ceremony (78 % men and 76 % women) (Figure 1). Of these, the vast majority had opted for community of property—90 % of men and 87 % of women.

The vast majority of adults were economically active—96 % of men and 89 % of women. Three quarters were engaged in subsistence farming and 37 % in farm labouring. Women were more likely to be engaged in farming than men were, and men were more

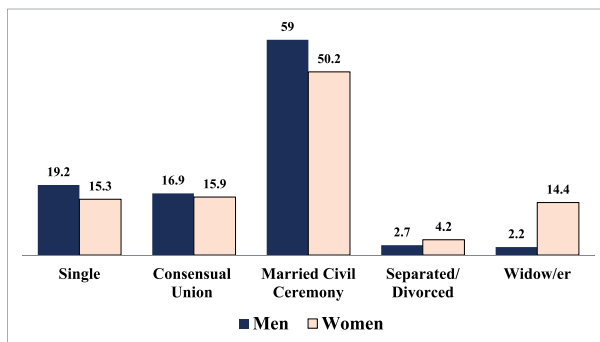


Figure 1. Marital status by gender, %. [Colour figure can be viewed at [wileyonlinelibrary.com](http://wileyonlinelibrary.com)]

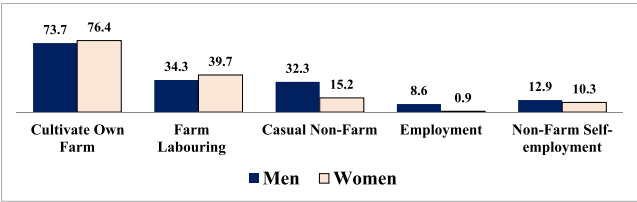


Figure 2. Employment in last year, by gender, %. Note: totals add up to more than 100 per cent as some people have engaged in more than one livelihood activity. [Colour figure can be viewed at [wileyonlinelibrary.com](http://wileyonlinelibrary.com)]

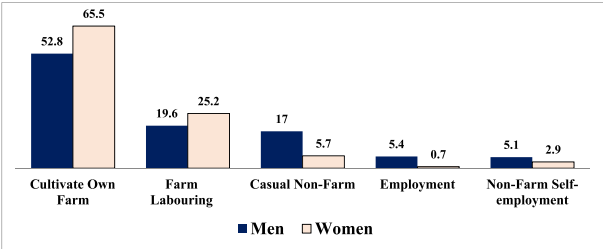


Figure 3. Main employment, by gender, %. [Colour figure can be viewed at [wileyonlinelibrary.com](http://wileyonlinelibrary.com)]

likely to engage in non-farm livelihood activities (Figure 2). In terms of *main* livelihood activity, women were much more likely to be engaged in agriculture than men were, while men were noticeably more likely to be engaged in non-farm activities (Figure 3)—although it is interesting that a majority of the women who would class themselves as dependent workers are in fact co-owners of the farm or plot.

#### 4.1 Land Ownership and Registration

Only 9 % of households did not have access to land; 77 % of adults were landowners—78 % of men and 75 % of women. The most frequent way in which land is obtained is through *umunani* (gift of land on reaching majority), with men more likely to have obtained land in this way than women (Figure 4). The second is by purchase. Women are twice as likely as men to have become owners of land through marriage; until now,

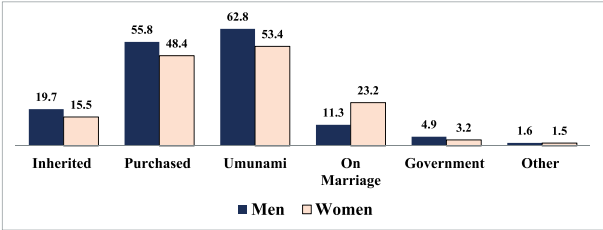


Figure 4. How land was obtained, by gender, %. Note: totals add up to more than 100 % as some respondents obtained land from more than one source. [Colour figure can be viewed at [wileyonlinelibrary.com](http://wileyonlinelibrary.com)]



it has not been given consideration in the research because in practice it is mostly men who have the land on marriage, although women have inherited equally with brothers since 2005. The reason for this is that most land is obtained through gift from parents (umunani) and not on death, and under the 1999 Inheritance Law, parents could (and generally did) give sons much larger gifts of land than daughters. However, under the 2016 Law, parents will have to give the same to all children (Endnote), and land brought into the community of property by the wife may become a larger issue in the future.

The most common form of land registration was in joint name; 60 % of all landowners' land was registered jointly. Three-quarters of landowners who elected for community of property on marriage registered land jointly but also 48.3 % of those living in a consensual union. In other words, a quarter of adult landholders married under community of property had *not* jointly registered their land, despite the legal requirement that the Land Registry is required to ensure, and nearly half of those living in a consensual union *had* done so.

The survey looked at knowledge of the inheritance and land laws. Ninety-three per cent of both men and women had at least a basic knowledge of women's rights—that is, that women can own, inherit, purchase and rent land on the same basis as men. There are no significant differences by household's poverty status, education or ownership of land. People living in Kigali (the capital city) were a little more likely to do so than those in other towns or in rural areas, irrespective of gender. There was no detectable correlation with marital status.

However, the men and women themselves were not so sure that they did have a basic understanding of their land rights, and women were less certain than men: only 81 % of men and only 74 % of women said that they thought they know their rights correctly. Only 9 % of women and 13 % of men had received any instruction in land rights. The main sources of information for both men and women were community meetings, the radio and the LTR process itself (Figure 5).

Looking in more detail at women's and men's understanding of the land laws, however, it is clear that their specific knowledge is often not fully adequate (Figure 6). This is perhaps not surprising, given the high reliance on community meetings for gaining information about the laws and on radio programmes that are unlikely to give comprehensive information. It is important, however, because intra-family disputes most frequently involve more complex issues than just the basic rights of inheritance.

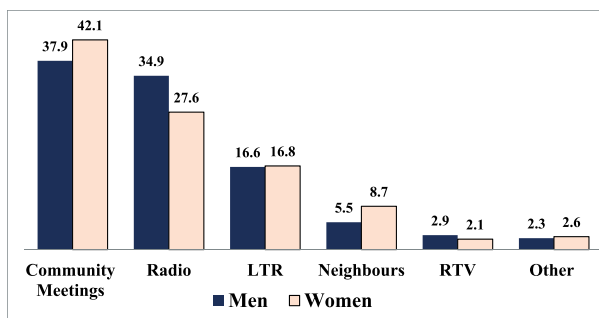


Figure 5. Main sources of information on land rights, by gender, %. Land Tenure Regularisation, LTR; Rwanda Television, RTV. [Colour figure can be viewed at [wileyonlinelibrary.com](http://wileyonlinelibrary.com)]



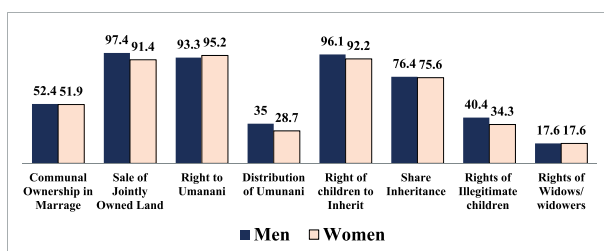


Figure 6. Percentage of men and women that answered more detailed land rights questions correctly. [Colour figure can be viewed at [wileyonlinelibrary.com](http://wileyonlinelibrary.com)]

Over 90 % of both men and women knew that

- if they gave umunani to any of their children, they had to give it to all of them;
- daughters as well as sons inherit land from their parents and, perhaps, more unexpectedly;
- if a husband and wife jointly own land, then they both have to agree to the sale.

However, only three-quarters of either men or women knew that all their children should inherit an equal share of land, and only 40 % of men and 34 % of women knew that illegitimate children do not have the same automatic rights to inheritance and umunani as legitimate ones. Only just over a third of men and 29 % of women knew children did not necessarily have to obtain the same amount of umunani, by the law of the time.

Gender differences in knowledge were few and slight. While virtually everyone was aware that partners become co-owners of land, only 52 % knew that this was mandated by law only when a couple had married under community of property; around 30 % thought it was the case for any couple that married in a civil ceremony and around 15 % that all couples shared land in common, whatever their form of marriage. Only 18 per cent understood the land rights of widows/widowers: that when formally married under community of property, the surviving partner has ownership of 50 % of the land. Twenty-two per cent of men and 27 % of women thought that a surviving partner inherited the property whether they had had a civil or traditional marriage or had merely lived together, and 55 % of men and 50 % of women thought that the surviving partner inherited provided they had been married in a civil ceremony, whether or not they had chosen community of property.

## 4.2 Ability to Exercise Land Rights and Dispute Resolution

Over 90 % of adults thought that LTR made it easier for people to assert their land rights and more likely that land disputes would be resolved. There were no significant differences by gender, poverty or education, but those that owned their own land were significantly more likely to think that LTR had strengthened their ability, although the difference was not large—95 % compared with 87 % (Cramer's V:  $p < 0.001$ ).

Seventeen per cent of landowners have been involved in a land dispute, with little difference between men and women, and 32 per cent of disputes had taken place in

the last 2 years; despite the perception that land disputes are declining, this does not seem to be the case. However, men are more likely to have been involved in a recent case than women are; 37 per cent of the disputes reported by men were in the last 2 years compared with 26 per cent of those reported by women. Women were more likely than men to have been involved in disputes with their family—68 per cent compared with 58 per cent—and to have been involved in disputes about inheritance; 40 per cent of disputes reported by women concerned inheritance compared with 20 per cent reported by men. (Not all of the claims will have been justified, of course; for example, women whose partners died before the 1999 Law was gazetted do not fall within the Law.) Men are much more likely to have been involved in disputes with neighbours about boundaries—28 % compared with 11 % of women (Figure 7).

Women went through more disputes resolution services than men (Figure 8). They were nearly twice as likely as men to go to a formal court (32 % compared with 18 % for men) and much more likely to start at a family court (44 % compared with 18 % for men). It is also noticeable that around two thirds of disputes were heard by village leaders (68 % of cases brought by women and 61 % by men), reinforcing the importance of training local leaders in the land and inheritance laws as well as the Abunzi.

Disputes had been resolved to the satisfaction of just over 50 % (50 % men and 55 % women), partly resolved to the satisfaction of 15 % (17 % men and 12 % women) and not yet resolved for 17 % (14 % men and 20 % women). Women were a little more likely to report a satisfactory outcome in all types of location; people who lived in Kigali were less likely, irrespective of gender. A satisfactory report does not, of course, necessarily mean that they obtained what was due them under the law; they may mean merely that they accepted the compromise that was offered.

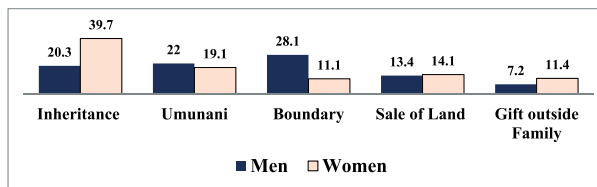


Figure 7. Causes of disputes reported by women and men, %. [Colour figure can be viewed at [wileyonlinelibrary.com](http://wileyonlinelibrary.com)]

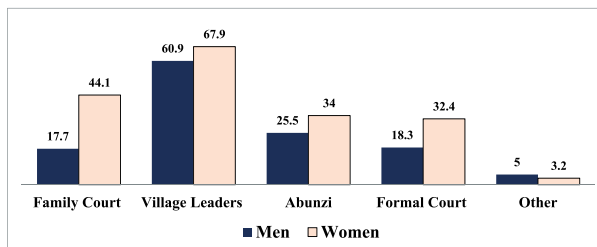


Figure 8. Dispute-resolution mechanisms by gender, % going to each mechanism. Note: totals add up to more than 100 % as some disputants use more than one mechanism. [Colour figure can be viewed at [wileyonlinelibrary.com](http://wileyonlinelibrary.com)]

## 5 DISCUSSION

Previous qualitative research suggests that disputes over land are frequent and place a high burden on informal dispute-resolution mechanisms. An assumption has often been made that most disputes involve women bringing cases against male relatives but there has been no systematic research on a national scale. It was assumed that LTR would reduce the number of disputes because landowners would have titles clearly demarcating the boundary of their land, land would be jointly registered in the names of husbands and wives when they had been formally married under community of property and all children with a legal interest in the land would be recorded on the land title. Over 90 % of adults think that LTR makes it more likely that land disputes will be resolved and three-quarters that the number of land disputes has declined over the last 5 years. However, there is little evidence to support the latter belief.

Our survey is the first systematic attempt to investigate the extent to which women and men do understand the laws, using a research sample that is large enough to represent the variety in the wider population and is selected randomly. In the survey, only 9 % of women and 13 % of men had any training on their rights, with most relying on community meetings and the media as their main source of information. Three quarters of women and 81 % of men said they thought that they had a basic understanding of their land rights, and in fact our findings suggest that over 90 % are aware of women's basic rights to own and inherit land and receive umunani, with little difference between men and women. However, only a fraction are aware of the law in detail—from around three quarters knowing about umunani, through half knowing that registration of marriage and community of property is required for inheritance, to around a third for the inheritance rights of illegitimate children and the *distribution* of umunani (with men slightly more likely to give the correct answer than women). A much lower proportion have a good working knowledge sufficient to enable them to claim all their legal rights and for informal disputes resolution mechanisms to make decisions in line with the formal law.

The Land Tenure Regulation exercise was designed to ensure that all those who had the right were recorded on the title deeds. Success has not been complete in this respect, but a substantial majority of the women in question have indeed been named on the deeds. The law does not compel registration of women who are married *de facto* but whose marriage is not registered, but a significant proportion of them also appear on the deeds, and it will be interesting to see how this is handled when inheritance becomes an issue.

Women do appear to have some knowledge of their legal rights, and this is also true of those who will be involved in mediation and the resolution of land disputes, although their knowledge is often patchy. However, women are still not able to claim everything to which the law entitles them; traditional practice and the culturally presupposed ontology that underlies it often inform the decisions that are taken, at the stage of informal conflict resolution. This is not the clash between statute and traditional law that takes place in some countries; in Rwanda, there is no traditional law to be upheld in the courts. Traditional practices may legitimately be taken into account transitionally in the absence of a written law, but laws are proliferating; to some extent the law may codify traditional practice, but often it changes it, as is the case with the land and inheritance laws.

There is still a substantial research literature on legal pluralism in Rwanda, but it is mostly concerned with the time before the Genocide, and Rwanda has reinvented itself in legal terms since the events of 1994. Some of this reinvention may indeed consist in the re-use of traditional governance mechanisms such as *Gacaca* and the *Abunzi*, but they

are reinvented for specific purposes (Nagy, 2009; Clark, 2010). *Gacaca*, formerly a local court providing conciliation and restorative solutions to reasonably minor civil and sometimes criminal complaints, was reconstituted for the explicit purpose of dealing expeditiously with the people still in prison as a result of the Genocide—over 130 000 of them, whose investigation and reintegration would have taken longer than the lifespan of the prisoners by conventional means (Tirill, 2015). The *Abunzi* (mediators) were reinvented as a compulsory and mostly affordable stage before going to the expense of bringing issues such as land disputes to the formal courts and to reduce court case loads. In the early 20th century, Rwandan law refers to ‘traditional practices’ as a basis for decision-making where there is no written law, but such remnants are being closed off one by one and replaced by written legislation. In the area of land ownership, the 2005 Law recognises that it is making a change in traditional practice: ‘It also *institutes* the principles that we respect on land legal rights’ (Organic Law 18/2005, Article 1—our emphasis). Custom and tradition as a source of property rights is recognised in the 2005 Land Law as a sound reason for issuing a Land Certificate, but LTR is precisely about converting this customary basis into a written certificate of leasehold ownership, and while this provision persists transitionally in the 2013 Law that replaced it (given that LTR was not then quite complete), the Law also declares that ‘the State is the sole authority to accord rights of occupation and use of land ...’ (Article 3).

Daily practice between husband and wife is nonetheless not as equitable as the laws would appear to demand. Co-ownership of land does not necessarily mean that women exercise control over it; land is still frequently regarded as ‘really’ belonging to men (Abbott & Rwica, 2014; Santos *et al.*, 2014; Mechta, Buscagli, Bikesha, & Route, 2016). The major barrier to gender equality and the implementation of the laws and policies appears to lie in deeply embedded cultural values and practices that continue to construct women as ‘naturally’ inferior (Batiwala, 1995). The barrier in practice to women being able to claim and exercise the rights that Rwandan law and Rwandan policy confer on them follows from the continuing dominance, despite the law, of traditional, customary norms that devalue the work women do (Debusser & Ansoms, 2013) and construct women as inferior to men and needing to be controlled by them (Abbott & Malunda, 2015).

These norms do not need to be codified in propositional terms; they are visible to both women and men as part of lived experience.

- It is women who are responsible for most of the reproductive work. This may be true across most of the world, but in poor Africa, this means more than it would in, say, rich England, because we are talking not only of housework and childcare but also wood and water, whose collection is the work of women, girls and children—you will rarely or never see a boy past puberty in the water queue—and may require hours of work each day.
- Much of the agriculture is also done by women—‘feeding the family’ (Abbott & Malunda, 2014)—and this is classed with housework rather than as ‘productive’ (i.e. paid) work.
- Where jobs are available, men are more likely to get them than women, and it is men more than women who are succeeding in building ‘household enterprises’ that generate income. Where women do set up such enterprises they are likely to be small in scale and in the informal sector of the economy (IFC, 2008; Masinjila, 2010). One reason for this is the social norms—the shared views of what is ‘proper’ and ‘appropriate’ for men and women (and we make no suggestion that Rwanda is unique in this respect). Behind this again, however, is the fact that women simply do not have the time for outside work; someone has to do the housework and feed the family. Women work on average 20 h a week longer than men (Strode, Wylde, & Murangwa, 2007; Abbott *et al.* 2014c).

- Because women do not seek outside work to the same extent as men, their ties to the home become a 'fact' warranted by lived experience. Men's view (shared to some extent by women) that women are different and inferior is reinforced by it and feeds into what we might call 'village governance', whereby a man bears the responsibility for his household's behaviour and is expected to keep it under control.

Sometimes control is necessary, an uncontrolled woman can make mistakes; this control is in order to help her to have good conduct and behaviour.

(Member of an adult male focus group in Kicukiro district of Kigali—Abbott *et al.* 2014b)

- In a bizarre form of backlash, women tell us, government 'sensitisation' to women's equality can even add to women's work burden—that now that they 'have equality' they should also be going out and making money as well as doing all the domestic and childcare work and most of the farming (Abbott & Malunda, 2015).

Given that it is the men, however, who are mostly finding or making outside work and bringing in the money, it 'stands to reason' that men retain the dominant position in the family discourse and control the spending of it. However, this 'reason' stands as reasonable only within a discourse where women's work carries no such obvious value and is taken for granted as 'just what women do' for the most part (Abbott & Alinda, 2012). If a fair value were placed on 'housework'—which, we must remember, includes agricultural labour in Rwanda—then it might often turn out that the man's additional contribution was trivial; not many casual labourers or self-employed 'household enterprises' could feed a family. The same may often be true even where the men's work consists in growing and marketing a cash crop. Thus, the set of social processes that leads to women's experience of themselves as incapable and to men's expectation of domestic control rests on beliefs—that men have a duty to keep women under control, that the labour women perform has no monetary value—which are absorbed from a historical discourse of what it is to be a man or a woman.

Another point worth making is that people in Rwanda generally think that men should control property and money because it is they who brought them to the marriage. This has generally been true in the past, but it may not be so in the future: women can own and inherit land, and increasingly, they will bring land to the marriage that was received from their parents at *umunani*, now that parents may not make larger *umunani* land gifts to boys than to girls, under the 2016 Law. However, prior ownership of land is only one of many pillars supporting the traditional view that it is men who own the land and have the competence to take decisions about it, and unless/until gender attitudes change, land ownership will not necessarily empower women.

Male dominance in the household is beginning to loosen; where women do earn money, they do get more say in the family decisions (Abbott *et al.*, 2015). Much more is needed if discursive equality is to be reached, however: a recognition of women's work on the land as farming rather than housework, a more equal sharing out of reproductive labour and ultimately the development of a form of masculinity that is not threatened by women's empowerment. Regrettably, there is not as much civil society advocacy of women's rights as would be found in some other countries. Women were very active politically in the early post-Genocide years and made a substantial impact on the content of the 2003 Constitution, but some of the most effective of them became Members of Parliament and were diverted away from specifically women's issues to the governance of Rwanda

more generally (Abbott & Malunda, 2015). In any case, divisive advocacy by independent institutions is not something the Rwandan political state naturally encourages, and its instrument for expressing its commitment to the emancipation of women has been an official Women's Council to look after women's issues. However, the Women's Council is underfunded, and its mere existence tends to 'crowd out' the independent organisations that might have lobbied for change (Abbott *et al.* 2014a).

## 6 CONCLUSION

In conclusion, land ownership is central to life as a Rwandan, and the laws and the process of LTR have guaranteed some women their fair share of household land, namely, those who are registered as married and are in a marriage where community of property has been chosen. Women in other sorts of union are not protected by the laws, but a significant number have in fact been named as co-owners on their household's land certificates, which might become a loophole through which this injustice could be overcome. Both women and men tend on the whole to have a basic knowledge of the land and inheritance laws, and while far fewer have a good working knowledge sufficient to sustain them through dispute procedures, those who do understand the law quite well are a significant minority. Thus, some of the conditions for empowerment are fulfilled: rights have been established, women are aware that they have these rights, they do claim their rights when they are infringed and at least some have sufficient knowledge to be able to bring a successful claim.

However,

- in practice, women's co-ownership does not always give them a say in the management of their household's land—there is an overwhelming 'feeling' that land 'really' belongs to men and that men rather than women have the competence to deal with it;
- when it comes to disputes, a majority of women cannot afford the cost of formal court proceedings and all are required by law to go through a mediation process first;
- this means that cases are adjudicated by informal 'family courts' and/or by the village leader and elders and/or by the Abunzi—many cases go through several of these stages, which wears claimants down; and
- through lack of legal knowledge on the one hand and a mission to procure consensus on the other, decisions are made which again reflect the 'feeling' of men's superior eligibility for land ownership.

What we are talking about is a clash of discourses or cultures or ways of life. One is embodied in 'western-style' law, which sees individuals as subject to laws—governance is the rule of law—and the law does not discriminate between individuals. 'Human rights' are another product of this discourse. The battle is not entirely won even on its home territory; in the countries of the North and West, patriarchy has not disappeared and patriarchal norms still have their appeal, although the discourse that underlies rights and laws is now well known and mostly dominant. What emerges in Rwanda as a barrier to women's empowerment when they are forced to accept compromise solutions in mediation is a different culture or discourse in which it is natural to think of men as in charge and women as incompetent or inferior. The mere fact of being required to go through mediation before taking a dispute to court—and in many cases the inability to afford court proceedings—lays claimants open to compromise and receiving less than their legal due in a discourse in which law is not something to be obeyed because it is the law, but something



to be obeyed because there is consensus (among competent adults, which often means males). Rwanda's emphasis on 'dialogue and consensus' expresses this second discourse. Overall, women's structural position—the 'normal' demands on their time and energy, together with traditional social rules and societal decision-making practices—reduces the impact of procedures such as LTR and contributes to making women's empowerment hard for a government to achieve.<sup>1</sup>

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<sup>1</sup>Rwandan inheritance law has changed again since this research was carried out, and some of the detail is different, but the principles that it expresses remain the same. Law No. 27/2016 Governing Matrimonial Regimes, Donations and Inheritance contains the following main changes:

1. Parents are still not required to make umunani donations of land to their children, but if they do so, they must treat sons and daughters equally (Articles 27 and 28).
2. Only legitimate children automatically succeed (Article 54). However, illegitimate children inherit from their mother (Article 73), being recognised by her automatically, and any child has a right to inherit if formally recognised by the father (Article 76), as in the preceding law.
3. For the first time, the surviving spouse has the same right to inherit from the deceased one as the other heirs (Article 75). Under community of property, the surviving spouse inherits all the property, with a duty to look after the children (Article 76). However, if the surviving spouse remarries, then he or she keeps half the property (as would happen in any case) and shares the other half with the children, if any.



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