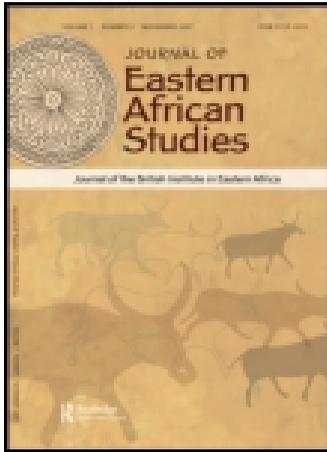


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Jeannette Bayisenge<sup>a</sup>, Staffan Höjer<sup>a</sup> & Margareta Espling<sup>b</sup>

<sup>a</sup> Department of Social Work, University of Gothenburg, Gothenburg, Sweden

<sup>b</sup> Department of Human and Economic Geography, University of Gothenburg, Gothenburg, Sweden

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## Women's land rights in the context of the land tenure reform in Rwanda – the experiences of policy implementers

Jeannette Bayisenge<sup>a\*</sup>, Staffan Höjer<sup>a</sup> and Margareta Espling<sup>b</sup>

<sup>a</sup>*Department of Social Work, University of Gothenburg, Gothenburg, Sweden;* <sup>b</sup>*Department of Human and Economic Geography, University of Gothenburg, Gothenburg, Sweden*

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Over the last decade, many international organisations such as the World Bank, Department for International Development (DFID) and United States Agency for International Development have expanded their programmes on land tenure reforms in developing countries. Throughout this process, women's exclusion from land ownership has been increasingly questioned and legal reforms have been suggested as one solution. The aim of this paper is to explore and analyse the experiences of implementers of land registration and titling vis-a-vis women's land rights in the Northern Province of Rwanda. Data were collected through semi-structured interviews and focus group discussions with administrative staff at different levels involved in the programme. From the implementers' experiences, the findings show that the land certificate does not necessarily guarantee women decision-making over land, but also that women show increased awareness of land issues, which has led to land conflicts involving women. Secondly, the challenges encountered, such as polygamy, inheritance and *ingaragazi* issues, as well as men's unwillingness to register their marriages, are related to men's customary rights to land and to deeply embedded socio-cultural norms. The implementers' experiences and the encountered challenges during the reform process are framed by the values of a patriarchal society in which the supremacy of men over women is still strong. This leads to a 'theory/practice dilemma' where laws and policies that look good on paper are not necessarily easily implemented and where the intentions of laws are not necessarily logic to the local-level implementers.

**Keywords:** Rwanda; land tenure reform; land rights; women; policy implementation; land registration

In recent years, land tenure reform programmes (LTRP) in developing countries have been a hot issue among scholars, political leaders and institutions such as the World Bank, Department for International Development (DFID) and United States Agency for International Development. Such programmes have been undertaken or are underway in many African countries and international donors have been deeply involved in their design. African countries, such as Mozambique, Uganda, Tanzania and Zambia all passed new land laws between 1997 and 2006.<sup>1</sup> In Rwanda, a LTRP was initiated in 2006. A set of laws, orders, legal and institutional frameworks were developed in order to enable its implementation and establish better coordination and an appropriate land management system. The four core documents<sup>2</sup> that comprise the new body of land policy and laws are

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\*Corresponding author. Emails: [jeannette.bayisenge@socwork.gu.se](mailto:jeannette.bayisenge@socwork.gu.se); [jbayisenge@ur.ac.rw](mailto:jbayisenge@ur.ac.rw)

The Inheritance and Marital Property Law of 1999, The Rwandan Constitution of 2003, The National Land Policy of 2004 and The Organic Land Law of 2005.

One claimed reason for implementing a LTRP is that it will promote economic growth in developing countries.<sup>3</sup> Land-related reform programmes are not new in Africa, but have been implemented since the colonial time, even if the intensity, focus and motivations have changed over time.<sup>4</sup> Until at least the 1970s, agrarian reforms were mainly gender-blind, leading feminist advocates in the late 1970s and the 1980s to advocate for the recognition of the role of women in the subsistence agricultural economy. More recently, previously overlooked gender issues in land reforms have been raised,<sup>5</sup> and agencies implementing land reforms have increasingly recognised the importance of women's rights to land, as well as the previous failure of land administration programmes to protect these rights.<sup>6</sup>

The outcomes of land reforms have been different from country to country, within countries, and between different groups of people. In any land registration process, there are both winners and losers; however, there are also possibilities to minimise the risks if the implementation is well planned.<sup>7</sup> Some of the main factors that can threaten the success of LTRP are conflictive legislation, legal pluralism,<sup>8</sup> the pervasive influence of gender bias, formal laws that are not culturally sensitive and do not build on local practices,<sup>9</sup> institutional weakness, unambiguous definitions of land legislation and regulations<sup>10</sup> as well as low level of government commitment. For the case of Rwanda, studies have shown that there is a promising future towards women's land rights considering a new body of gender sensitive laws and policies as well as a committed government.<sup>11</sup> However, for these laws to be implemented, McAuslan stressed the need for vigorous programmes of public education and awareness.<sup>12</sup> In addition, the report from the preparatory field consultation<sup>13</sup> recommends a land registration system that builds on and formalises existing tenure practices as much as possible, in order to make it socially acceptable to maximise its chances of success.<sup>14</sup>

Prior to the new land legal framework, Rwanda had no proper land policy or laws, except the 1976 land law and a few scattered land regulations, most of which date back to the colonial period. As a result, the prevalence of customary systems and the very limited application of written law, gave rise to land tenure insecurity and instability.<sup>15</sup> The Government of Rwanda (GoR) regarded a new land tenure reform as key to people's land tenure security, and as a means to bring about rational and planned land use, while ensuring sound land management and an efficient land administration.<sup>16</sup> One of the main goals of LTRP was to ensure gender equality with regard to access to land.<sup>17</sup> However, the reform has some important limitations, for example, that it only protects the rights of women in legally registered civil monogamous marriages.<sup>18</sup> Though the GoR has made efforts to encourage couples to register their marriages, resistance persists and studies found up to one-third of marriages are not registered.<sup>19</sup> Living in consensual unions and polygamous marriages do not confer any legal rights on women, nor do religious or traditional marriage ceremonies.<sup>20</sup>

The Rwandan LTRP has three main components: the land registration and titling (LRT); the grouped settlement programme and finally the land use consolidation for increased productivity purposes. This article will focus on LRT. This component is concerned with the official and public registration of all land in Rwanda and the dissemination of information about ownership, value and use of land, as well as all related assets. By having a land title certificate, land can be used as collateral for loans, and it can be formally transferred or sold.<sup>21</sup>

The aim of this article is to explore and analyse the experiences of implementers of the LRT programme in relation to women's rights to land. To that aim, the article will discuss four research questions. Firstly, how has the process of LRT been carried out? Secondly, how was it planned to ensure the protection of women's rights to land? Thirdly, what were the experiences of implementers during the process of LRT with regard to women's rights? And fourthly, what were the major challenges encountered during the implementation process and how were they dealt with? These questions are crucial since policy implementation does not always bring the results intended.<sup>22</sup>

### **Understanding policy implementation from a gender perspective**

Policy formation and implementation must be seen as a process and the result of interactions among a plurality of actors with diverse interests, goals and strategies, operating at multiple levels, from the global to the local. Policy implementation is evolutionary and contextual, in that it is taking place under certain material conditions as well as within particular socio-administrative cultural value systems. Policy implementation is, thus, not a value-free process. It is laden with social values, norms and practices that are location-specific as well as country-specific.<sup>23</sup> Norms and values in society may constrain the effective implementation of policy as many studies have pointed out.<sup>24</sup> If we are to understand policy implementation as a contextual process involving multiple actors, we need to evaluate whom these actors are and within which contexts agency is performed. This paper only addresses implementation, not the formation process, of the Rwandan land law and policy.

The role of law is central in policy processes. As men are privileged over women in many societies, law may play conflicting roles both in preserving and maintaining patriarchy, as the control of men often has been consolidated by legal means, and in transforming existing norms and structures of patriarchy.<sup>25</sup> Policy implementation based on law, feminist perspectives suggest, is not neutral but rather a social and political product. Therefore, the adoption of good laws does not necessarily bring the predicted results. People react against change for a wide range of reasons, including fear of the unknown, lack of information, no perceived benefits, fear of failure, low trust in the organisation, strong peer group norms and being bound by custom.<sup>26</sup> Feminist and gender perspectives on policy implementation will help us in analysing the experiences of implementers of the land registration with regard to women's rights in Rwanda.

### **LRT and women's access to land**

Securing women's land rights is a particularly critical issue in Rwanda, since the 1994 Genocide and the HIV and AIDS epidemic have resulted in increasing numbers of female-headed households, constituting an average of 27.7% of all households in the country.<sup>27</sup> Currently, 82% of women work in agriculture,<sup>28</sup> seeking to support themselves and their families in an environment of general land pressure and tenure insecurity, while at the same time facing customary restrictions on holding land, including limits on women's acquisition and retention of land rights through inheritance, purchase or other means.<sup>29</sup> The concern here is that the means for women's access to land generally depend on their relationships with their birth or marital families, and women rarely hold land in their own right.<sup>30</sup> According to Rwandan custom, land was inherited patrilineally from father to sons. A woman automatically gained access to her husband's fields to cultivate for him, their children and herself. If her husband died, as a widow she remained on the

husband's land, holding it in trust for her male children until they were mature enough to manage the family land.<sup>31</sup>

There is substantial research on women's access to land through LTRP that particularly focuses on Rwanda. Most of the studies were made before the full-scale implementation of LRT; they explored women's possibilities of accessing land through the legal reform, identified weaknesses in the land law, as well as made suggestions on how to overcome these.<sup>32</sup> Ayalew et al. evaluated the short-term gender impact of the LRT after 2.5 years of implementation in the trial areas in 2006.<sup>33</sup> To ensure gender equality during the implementation of LRT, the extensive field consultations and trial interventions suggested that attention should be paid to some categories of women identified as potentially legally vulnerable.<sup>34</sup>

Many of the previous papers on the LRT in Rwanda, have been concerned with how to make the land reform implementation a success story, particularly with regard to women's rights. So far, very little is known about how the implementation process of the LRT has been carried out and what its effects on women's land rights have been. In order to learn more about the implementation process at local level, a first step is to find out more about implementers' experiences in relation to women's rights to land.

## **Methodology**

This is a qualitative study carried out in one of the sectors of the District of Musanze in the Northern Province. In order for the implementers to be more open about their role, we have sought to maintain anonymity by naming neither the sector nor the informants. The chosen sector is not one of the trial sectors.<sup>35</sup> One factor behind the choice of the district was that polygamy – a main challenge to women's land rights and the implementation of LRT – was found to be more common in this area than in other parts of the country.<sup>36</sup> Another factor was that this district is densely populated leading to land scarcity.<sup>37</sup> Therefore, drawing on experiences of the policy implementers in a district with such challenges could be particularly interesting to see how they dealt with them.

The secondary data draw on information from government reports, policy documents, laws and regulations, research reports, as well as scientific papers. Empirical material has been collected through semi-structured interviews and focus group discussions (FGDs) during January 2012. The interviews and FGDs were conducted by the corresponding author of the paper. The intention was to interview and discuss with key actors at different levels in the implementation process of LRT, but also with people outside of the administration with good knowledge on the matter. The focus was placed on sector level because the land records are kept at this level.<sup>38</sup>

The semi-structured interviews are based on an interview guide of nine themes such as, experience with the land registration implementation process with regard to women's land rights, challenges encountered, as well as the ways of dealing with them. Key informants from different administrative levels were interviewed, for example the Land Technical Operations Division Manager at the National Land Centre (NLC) in Kigali, the Deputy Director at Northern Province Land Centre (NPLC) and staff from the District Land Bureau (DLB). At the sector level, the Executive Secretary, the Agricultural Technician and the person in charge of Registration and Administration took part in interviews. Additionally, one key informant from *Haguruka* (The Association for the Defence of Women and Children's Rights) was interviewed. In all, nine interviews were made.

Three FGDs were undertaken with participants selected according to their direct involvement in LRT implementation, one with five members of the sector land committee, normally made up of nine members. The second and third FGD were with the *Abunzi* (local-level mediators),<sup>39</sup> one group of five women and one of six men. The *Abunzi* are deeply involved in land conflict mediation, operating at sector level.

Most of the informants were met during working hours at their work places. The interviews and FGDs were recorded, with one exception. The interviews made in *Kinyarwanda* were transcribed verbatim.

During fieldwork, some challenges were met. First, translation has sometimes been difficult and some terms have been kept in *Kinyarwanda*. Secondly, the people interviewed were supposed to critically reflect on the LRT, but they were also the ones implementing it. There is, therefore, a risk that they would be prompted to say how it was supposed to be, referring to policies and laws, instead of how it worked in practice. Though FGD participants knew the interviewer is not from the government but an independent researcher, they started to ask about her opinion on issues such as, inheritance law and land consolidation. In situations as these it is important to be attentive to the power relationships between the researcher and the respondents.<sup>40</sup> It is equally important to acknowledge some limitation of the empirical dataset. The paper does not aim to make an evaluation or description of the implementation process in the whole country, but to use examples from one area in order to discuss some challenges met in the process that are likely to affect women's land rights in the country.

### **The administrative process of the land tenure reform**

The results presented are based on interviews and FGDs with the administrative staff at different levels, involved in the implementation process of the LRT programme. The presentation follows the four research questions.

#### ***The process of LRT***

Implementation activities started with local information campaigns, sensitisation meetings, as well as training of local land and *Abunzi* committees about the laws and regulations related to the LRT programme, organised by staff from the NLC and the DLB.<sup>41</sup> Local land committees carried out the tasks of demarcation and adjudication of land parcels, whereas NLC and DLB staff worked as technicians to support the overall LRT process. Additionally, television and radio broadcasts, and newspapers were used in order to raise the awareness of the reform to limit related conflicts. The DLB coordinated the awareness raising, as well as all activities related to the use and management of land in the district, issuing land documents, and participating in resolving technical problems, e.g. demarcation. According to the implementers, the activities related to demarcation and adjudication were made transparent at the lowest level of administration with substantial public participation. The local land committees together with the technicians from the NLC and DLB demarcated the land, parcel by parcel, guided by the leader of the concerned village. All landholders were supposed to be present at their parcels during the time of demarcation, but occasionally some were not. The informants claimed that many issues could be solved with the assistance of the village leader and neighbours being present.

The first step in the actual registration process was to identify each parcel and give it a number. If it was not clear who possessed a parcel, or when many people claimed to be

the holders of the same parcel, the parcel was registered as having conflicts and no final document was released until the problem had been settled. Immediately following demarcation and adjudication, those whose land parcels were numbered were asked to come to the offices at cell level to register their identification number. All data were entered into computers. The second step was to invite all landholders to come and crosscheck if all the information was correct, before printing the land certificates. The adjudication committee recorded any changes admitted in red ink in the claim registers that were used to update the database. Thereafter, all records were crosschecked to make sure that what was entered in the database was the same as what was written in the claim registers. The third step of the registration process comprised the issuance of land certificates.

In parallel with these activities at local level, the Land Technical Operations Division Manager at NLC informed us that, at national level they were developing a system of maintenance and administration of information in order to maintain the titles issued to the population. This would include the set-up of a database through which all land transactions should be channelled in order to formalise the land market.

How is LRT planned to ensure the protection of women's land rights?

The Deputy Director at the NPLC reported that there have been many campaigns of sensitisation, mobilisation and awareness raising to enable women's land-related rights to be protected throughout the process. The campaigns aimed at explaining to the local population – men and women, boys and girls – that their rights with regard to land are equal. Laws giving equal land rights to men and women are new, why this knowledge may be hard to grasp. Some women do not understand how they can have equal rights to their brothers or husbands and are therefore reluctant to fight for their land rights. For legally registered couples, it was a requirement in the actual land registration process for both wife and husband to be present during the registration period and the marriage certificate was asked for when there was some doubt. If one of the spouses was not present, he/she left an ID card with his/her partner. When all of this failed, the case was suspended until the requirements were fulfilled.

### ***Experiences of implementers of LRT with regard to women's rights***

The implementers drew attention to three main experiences in relation to women's land rights during land registration.

#### *Women's access to land titles and their participation in decision-making*

Studies have showed that strengthening women's land rights through LRT programmes have led to positive outcomes such as increased bargaining power, participation in decision-making and improved welfare; however, results have been very dispersed, contextualised and scant.<sup>42</sup> According to the informants, a number of women received either independent or joint titles with their husbands. Although legally registered wives get 50% of the land share on paper, having their names on the land certificate and participation in decision-making on how to use this land remain two very different things. Women members of the *Abunzi* committee said that the majority among them still consider land as belonging to the husband, and not only the land but also everything valuable in the household is attributed to their husbands as the head of the household.<sup>43</sup> Regarding agricultural harvests, crops for consumption are regarded as women's crops, while men manage the cash crops. One female member in the *Abunzi* stated that:

in this region, the Irish potatoes are for men while sorghum are for women. An exception can be made in very few households that are gender sensitive, where a husband can send his wife to sell potatoes on the market. But in general they are men's crops. The problem is that sorghum, which used to be a women's crop is no longer grown in this area due to the new regulations of land consolidation, which has led to women's financial deprivation.

This quote shows some criticism of the land use consolidation of LTRP with regard to women's decision-making. Though this study focuses on the component of LRT, it is clear that this component is inextricably interlinked with the other components of LTRP which, in turn, suggests that some part of the programme may contradict the intention of another. Here, land use consolidation seems to challenge the desire to increase women's welfare and their participation in decision-making about land through LRT. It is clear that gendered land rights relations are affected by the integrated components of LTRP.

The level of participation in decision-making seems to vary according to what kind of decisions that are to be made. The female *Abunzi* group claimed that when an important decision is to be made, such as selling, transferring, lending or buying land, a man cannot make it without the approval of his wife because the consent of his wife and adult children is required and recognised by the law in cases as these. However, many women still think that they are and will always be subordinate to their husbands and that the final decisions should always be made by husbands. On the other hand, some informants reported that under certain circumstances, women have a higher level of decision-making than men. Because of high fertility rates and the scarcity of land, land alone cannot assure the survival of families, so women work on the land while the husbands go to search for other sources of income. In these cases, women become the main managers of the agricultural production.

Generally, the informants argued that many families still have problems adapting to the legal changes. Few families have understood the advantages of involving women in household decision-making, and when some people share their experiences in organised village meetings, others may show signs of disapproval. The Deputy Director at the NPLC said that:

It takes a long time to change the mind-set of the people, even those who are educated. The male dominance might be there if the society is not fully sensitized and if women do not understand what their rights are and what they can stand for. The programme is new; the mind-set is changing a bit.

### *The handling of conflicts*

According to the implementers interviewed, the majority of people involved in land-related conflicts are women. The number of conflicts increased at the beginning of the programme, partly because of the raised awareness due to mobilisation meetings held and more women became aware of their rights. However, the number of land conflicts has decreased significantly during the registration process as a precondition was to resolve all conflicts before registering land. The informant from *Haguruka* explained that 'conflicts have gradually decreased since no land over which there is a conflict can be registered and no final document is issued. That is why people are eager to solve their conflicts in order to get their land registered'.

According to some informants, it is advisable to first try to solve all land conflicts at family level, except when one of the disputing parties does not trust family members. When conflicts are not resolved at family level, the matter is taken to the village level,

and then registered at cell level, requiring an *Abunzi* intervention. At these levels, conflicts are handled through a mediation process to try to reach an understanding between the conflicting parties. If no agreement can be reached at any of these levels, the disputants are advised to go to the *Abunzi*, that are also required to follow statutory law,<sup>44</sup> for mediation. If the conflicts are still not solved they are directed to the formal courts, which is the last option for complicated cases. During the process, women and children may seek help from other institutions and associations defending women's and children's rights, such as the *Haguruka*. However, *Haguruka* makes sure that the claimants have gone through the whole mediation process and failed to find a solution before coming to them.

According to the Land Technical Operations Division Manager at NLC, the challenges met during the LRT are not alarming. The programme is new and implementation of all new policies might meet some obstacles. Considering the high value attached to land as the main means of subsistence, the number of conflicts was regarded as low. He reported that at the time of the interview, only some 7000 conflicts had been identified among 8.9 million land parcels already registered. He continued that this was a result from involving the local population and local leaders throughout the whole process.

#### *Increased awareness*

The informants recognise that the LRT has induced women to strive for their rights that were not there prior to the programme. Women's rights have been protected during the LRT process and women have also been encouraged to take active part in LRT-related activities. Some have worked as field managers and para surveyors and earned some income. Women are also members of land and *Abunzi* committees.<sup>45</sup> During all phases of the LRT, women have shown more willingness than men to be part of the activities. In general terms, women also seemed more content than men with the benefits the programme was bringing to them (further discussed below).

In general, men argue that the LRT programme is bringing more benefits to women than to men. Some informants said that this might be true as the reform gives women the double possibility of inheriting land, from their parents as well as from their husband's family. Others, however, argued that such statements stem from the traditional attitudes of some men who believe in male supremacy and who do not want to recognise the rights of their mothers, wives and sisters. In this regard, the Director at NPLC said that:

They cannot say that this programme is more beneficial to women than men. What seems to be appropriate is that the awareness raising is brought to the attention of both men and women. The husband has known that he had the absolute supremacy over all the property, which is not the same today. The woman also has never been aware that she has got certain rights over the property. So people are becoming informed about their rights (...).

However, according to the male *Abunzi* group, there are women who abuse the rights and power given to them by *gahunda y'uburinganire* (gender equality policy) and behave in improper ways, like not taking care of the household and spending more time in bars or outdoors, pretending that it is their right to behave as men because it is *uburinganire* (gender equality).

***Five major challenges encountered and measures taken******Polygamy***

The major challenge according to all informants was that of polygamy. Polygamy was reported as one of the main causes of land disputes throughout Musanze district, where it is much more widespread than in the other three trial districts.<sup>46</sup> The male *Abunzi* group claimed that approximately 85% of the conflicts they solved were land related and of those about 85% were related to polygamous marriages and inheritance.

Traditionally, every woman in polygamous unions was given a plot of land to farm by her husband. Yet the majority of these women do not have ownership rights but exercise usufruct rights over that piece of land. The land laws give rights to non-registered married women to register any land or property that they may have acquired independently. However, the land that non-registered wives in polygamous marriages may have acquired from their husbands mostly fall outside of the scope of the law. Therefore, the situation is complex as to how and to whom to register land farmed by these wives. Different conflicts related to polygamous unions were raised.

For example, the husband denied the rights of the registered wife and wanted to register land to his favoured non-registered wife/ves. One of the local mediators recounted a story:

A husband was legally married with his wife but he denied it constantly because he did not want to share land with her. They had to go to court and the court found their marriage was registered in the sector and commanded that they should equally share what they had. But as the husband did not like that woman he continued to refuse. However, as it was clear that the wife was registered, they shared land equally. The husband left her and married another woman and bought for her other pieces of land.

This case was not complicated since the law protected the registered wife. During the LRT, the registered wife under community of property regime<sup>47</sup> was the only one recognised by the law and legally entitled to the joint title with the husband. The situation becomes complicated when women claiming land are the second or subsequent (non-registered) wives as there are no legal provisions on their rights in relation to the matrimonial property.

During land registration, there were some cases in which the man and his registered wife did not want to leave any land to the second wife and/or subsequent wives. To solve these cases, all informants said that, as the norm was that a man with more than one wife would give a piece of land to each of them for the sustenance of themselves and their children, a solution was that these wives would keep the piece of land they had acquired from their husbands. Therefore, the registration was made based on that decision and second and/or subsequent wives secured independent/individual titles in their own names. Similarly, the Deputy Director at NPLC added:

this was not provided by the law, but we would advise the population to find a way to protect women in non-registered marriages, as long as the neighbours and relatives recognize that those ladies have rights to the piece of land acquired from their husbands, bought the land...

In cases when nothing tangible was provided to the other wives, those involved in conflict resolution required the registered wife to discuss with her husband what they should give the other wives if the husband recognised them as his. In such cases, if the registered wife did not like conflicts, she and her husband would easily decide to give a

piece of land to the other wives and their children. Theoretically, the informants claimed that when the registered wife did not want to share her property with other wives and wanted her rights to be respected as provided by the law, it was suggested that the land would be shared equally between herself and her husband. After getting his share (50%), the husband could share it with his second and/or other wives and their children. However, according to the informants, this did not happen in practice because where such cases would be presented, the man would prefer to buy land for his other wives instead of splitting the joint matrimonial property. Additionally, the informants said that in a majority of cases, consensus was reached between wives and their husbands. Although legally married women have the right to refuse to share joint property with any other wives their husbands marry, the majority will not claim such rights in order to keep good relationships with their husbands.

There were also cases in which a man had many wives but none of them was legally registered. In these cases, when it was found that those wives had bought the land together with the husband or had worked hard to acquire it, that land was registered as independent property to the wife and the husband was recorded as having interests in the land.

### *Inheritance*

The second major challenge identified is related to the inheritance law. The group of female *Abunzi* recognised the benefits brought by this law. In the past, a married woman was not allowed to claim land from her birth family after the death of her parents, but now the law gives women the same rights as their brothers to an equal share of the land and other property, *umunani*. However, during the land registration process, this raised some challenges.

First, conflicts arose when family members ignored that female children have the same inheritance rights as their brothers. When a married daughter came back to her family after her marriage had ended, the family members did not want to give her any land. Many of the informants, including women, did not fully support the inheritance law, e.g. that sons and daughters should share parents' land equally under all circumstances. One man in the *Abunzi* group said that:

There are some women who do not care for their brother who might be poor. It happens that a daughter has a very rich family while her brother is very poor, but she ignores it and wants to share equally with her brother without considering his critical economic situation. In that case, when she refuses to help her brother we cannot do anything and we apply the law and we share them equally.

According to this man, in such a situation, the woman should have understood the economic situation of her brother and refrained from claiming her share. Similarly, many informants agreed that sons and daughters should share the property of their parents, but argued that sons should get larger shares than their sisters. One female *Abunzi* member emphasised that: 'It is logic that boys first get their shares and after that their sisters could get theirs if land is still available'. The other members of the female *Abunzi* insisted that it was not proper for married daughters to claim to share the *itongo* (the ancestral land: a parcel that served as the habitation of the parents) with their brothers. This is an example of a theory and practice dilemma where the influence of cultural norms affects the intended results of laws and policies.

Secondly, conflicts resulted from women misunderstanding the inheritance law. Informants said that women married long ago, who were in their 60s or more, had claimed land from their family when they heard that the LTRP had started. In such cases, the *Abunzi* advised them to give up their claims. Some did, but others decided to go to court. Legally speaking, these women are not protected by the law if their parents died before the adoption of inheritance law in 1999.

Thirdly, conflicts arose between widows and their in-laws. For widows with children, whether their marriage was registered or not, when their husbands die they remain on the land to take care of their children. However, when they have no children it is likely that in-laws will threaten them to make them leave. Most conflicts arise when widows start having children with other men after the death of their husbands. The in-laws would react because their daughters-in-law are bringing other men's children onto their property.

Fourthly, one informant from the sector land committee said that the inheritance law may bring some unexpected conflicts:

Suppose that I am the only son in my family with three sisters. I was expecting to get the whole family land or at least a big part of it, as all my sisters are married. But when I see that the land is being equally shared among all of us members, of course I will not believe it and get angry. I may tell my wife, -you see I gave to my sisters what was supposed to be mine, so you too have to go to your family and get your share otherwise your family will have to pay back my dowry.

This quote can be understood in two ways. One consequence is that women who fail to bring land with them into their marital households may risk conflicts or even rejection by their husbands. Another aspect is when women inherit equally they would bring land into their marital household, i.e. the husbands get more land via their wives.

#### *Unwillingness of men to regularise their marriages*

Some informants revealed that the practice of polygamy is disappearing and mostly remain among old couples. However, there are still many young couples who do not regularise their marriages despite the consequences for women's rights and for the family in general. In polygamous marriages, one of the factors may be that the man does not know how to make a choice of whom to officially register among his two or several wives. The failure to make a choice between several wives was not the only suggested reason. The informants also stated that some men were reluctant to register their wives because they knew that then they would have to equally share their property in case of a separation or divorce. The expression *ni ukwizirikaho igisasu* (tying a bomb on your body) is used among men when talking about the registration of marriage.

Consequently, some men have negative attitudes towards joint titling. Informants claimed that many men did not want joint registration with their wives but there was no way to avoid the shared registration because all activities related to LRT have been carried out with local leaders and local land committees in the presence of neighbours. Therefore, it has been quite impossible for men to lie about their families – family members, number of children, their age, the type of marriage, etc. – because almost all local people know each other. The agricultural technician revealed that:

Some men skipped the first day and did not register their land thinking that things would change the following days, but finally they accepted to register the land as the law required including wives and children's names.

*Ingaragazi*

Another major problem was that related to the *ingaragazi*<sup>48</sup>, a piece of land owned by the man alone. The whole family recognised it as his own property and none of the wives had rights to it. This is common practice in some parts of the Northern Province. When the man dies his children, not his wife, will share it. Through the LRT, the husband and the registered wife were considered joint owners of this particular piece of land. However, if a woman did not raise her voice to claim this piece of land, fearing conflict between herself and her husband, the land was registered to the husband alone, with his children as successors. Even if there is joint registration, in practice this piece of land is still regarded as belonging to the husband. One woman of the *Abunzi* group stated: 'Yes, theoretically it is equally shared but in practice we still recognise that piece of land as individual property of our husbands'. This quote points to the discretion of the local implementers to adapt the implementation of the law and policy to match local customs. The customary practice of *ingaragazi* used to be common in polygamous marriages, where it served as a guarantee for the man in case no one of the wives was taking care of him, but gradually monogamous men have also adopted it. This land is mostly used for cash crops or forest, the man managing the income.

*Low participation of men in activities of LRT programme*

Almost all informants asserted that many men did not turn up as easily as women for the organised activities during the process of land registration despite the fact that all possible means of communication were used to inform them. All the local population was called to the meetings, they were told when they should be on their land for demarcation, that they needed to come for any objection and to check if all information was correct. Even so some people, especially men, were busy with their businesses, others did not come because of ignorance, or they did not understand how the programme would be beneficial to them. The Deputy Director at NPLC stated:

To my observation, we call for participation; the awareness raising meetings and generally the turn up of women is even higher than men. Men tend to be a little bit ignorant; they seem to be busy in business. Because everything is meant to be for them, they don't mind about the meetings because the property is there, with the supremacy over their family. They think that things are going to remain like this. In fact they get surprised when they see that they are registering men and women.

Some informants said that because of polygamy, all the wives of one man want to be in all organised activities to follow what is going on to be able to fight for their rights. Another reason was that women are the ones who struggle most to raise their children, especially in case of separation or divorce. That is why women want to make sure they have property to their disposition when the husband is not with them. Further, women spend all their time working on the fields, while men go to search for income-generating activities or jobs. So, when men are far from home, women stay near the fields. That is why women mostly turn up for organised meetings in their villages. According to many of the informants, these reasons are not sufficient to justify the low participation of men, as everyone ought to know what is going on in LTRP for its successful implementation. The Deputy Director at NPLC argued that:

What is critically important is to raise awareness among both women and men because if one chose to raise this awareness among only women, definitely this will fail until their brothers and husbands are also included.

Similarly, informants from *Abunzi* and the sector land committee concluded that it is worthy that the laws are giving rights to women, but the implementation still faces some important challenges. They suggested that more and constant sensitisation is needed to make everyone aware of the new regulations.

### **Concluding discussion**

Generally, this study has confirmed that a policy implementation process is inevitably the result of interactions among multiple actors, operating at multiple levels, with diverse interests, goals and strategies. Implementers from local to national levels of administration claimed that they interacted with different actors, such as civil society activists, international organisations and agencies, as well as local men and women throughout the implementation process of the LTRP. Implementers at the top administrative level seemed mostly to be in line with the national land policy and laws, while those at local level in the study area sometimes expressed more critical views towards the intention of the new laws. Additionally, many cases illustrated how local-level implementers used their discretion to adapt the policy implementation to match local customs, e.g. when the land rights of second and subsequent wives in polygamous relationships have been handled by considering how these women were protected customarily.

The implementation process has followed a top-down perspective but the implementers claimed that they always tried to involve local people throughout the process. During the preparatory field consultations, the involvement of local people revealed what they thought about the LRT and related laws and made recommendations for the full-scale implementation. The findings also highlight the involvement of local people during demarcation and adjudication. Further, all conflicts that might be raised during the process of registration were to be solved locally by trying to reach consensus with the help of family members and/or neighbours before going to *Abunzi* or formal courts.

According to the implementers, land titling can empower and give positive outcomes to women. For the case of Rwanda, previous studies have revealed that there is a promising future considering what has been done so far. A committed government and gender sensitive laws are the first important steps towards strengthening women's land rights. However, the implementation of new policies usually meets some challenges. The adoption of equitable land laws and the issuance of land titles to women do not always guarantee that women will automatically enjoy the benefits attached to the titles. From a legal feminist perspective, the law is not neutral but rather a social and political product and it is not implemented in an accepting world. Some challenges have been described in this article. This study has validated some of the accounts previously made or anticipated, especially the increase of land disputes in the short term prior to and at the beginning of land registration, and the resistance to change mostly stemming from the perpetuation of customary practices and deeply embedded socio-cultural norms and beliefs.

This study highlights the views and experiences of some of the implementers of LRT in the Northern Province of Rwanda, both men and women. It reveals how their views and experiences are still framed by norms and attitudes towards gender relations supporting traditional values of male supremacy over women. Local-level implementers clearly stated their doubts about the logic of equal rights to land for both genders, especially in relation to inheritance. These local-level implementers are supposed to be the channels of government policy to people. However, we have seen examples of when their own traditional attitudes may undermine the principle of gender equality in land rights. The central recommendation made by the report on field consultations was to design a land registration system that

builds as much as possible on existing tenure practices and is flexible enough to allow for changes in local land tenure practices over time. The question here is, if we are to allow time for changes to take place, leaving family councils, local leaders and *Abunzi* to mediate according to common sense and local norms and practices, the actual rights given to women in practice may be questioned, which would contradict the intentions of the new policies. However, not all aspects of customary practices are in opposition to women's rights. Findings illustrate cases where customarily based decisions have helped e.g. second/other wives to secure independent titles where no statutory provisions were available. Therefore, the recommendation here would be to strengthen the idea of building on what is protective of women's rights in the customary tenure systems.

Continuous sensitisation among the local-level implementers is one way to contextualise both knowledge and understanding of the policy under implementation in order to enable increased embeddedness of policy implementation into the specific, complex and diverse realities of local people, rather than just importing policies from completely different contexts. In addition, as no research has been published so far regarding the actual full-scale implementation of LTRP in Rwanda, more extensive studies are needed that look at the whole programme and not just at separate segments. This study has indicated the locally specific outcomes of the implementation process, which may prove to have been quite diverse across Rwanda, but on which others can build by examining implementation in other areas of the country. Conclusively, the discussion of the findings has repeatedly pointed out the problem of 'theory/practice dilemma'. Laws and policies are not necessarily easily implemented just because they look good on paper. Norms and values in society may constrain their effective implementation as many other studies have pointed out.

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## Notes

1. Daley and Englert, "Securing Land Rights for Women," 91–2.
2. Daley, Dore-Weeks, and Umuhoza, "Ahead of the Game," 132–5.
3. Deininger, *Land Policies*; De Soto, "The Mystery of Capital"; Deininger and Feder "Land Registration"; World Bank, FAO, and IFAD, "Gender Issues."
4. Bruce and Mogot-Adholla, "Introduction", 8–10.
5. Razavi, "Liberalisation," 1479–80.
6. World Bank, FAO, and IFAD, "Gender Issues," 125.
7. Daley, Dore-Weeks, and Umuhoza, "Ahead of the Game," 144.
8. Ibid. 145–6; World Bank, FAO, and IFAD, "Gender Issues."
9. Whitehead and Tsikata, "Policy Discourses"; World Bank, FAO, and IFAD, "Gender Issues," 127.
10. World Bank, FAO, and IFAD, "Gender Issues," 127; Deininger and Feder, "Land Registration."
11. Daley, Dore-Weeks, and Umuhoza, "Ahead of the Game"; McAuslan, "Personal reflection."
12. McAuslan, "Personal reflection," 127.
13. This is an extensive preparatory study of LTRP carried out during March–October 2006 by the GoR and its partners. It followed three discrete 'stages', which were consultations with sector-level authorities, consultations with the public and trial interventions cell reconnaissance. The findings from this study have contributed to designing the approach and procedures for land registration, including the safeguards needed to protect the rights of vulnerable groups.
14. MINITERE/DFID/HTSPE, "Phase 1 of the Land Reform Process for Rwanda," 130.
15. Huggins, "Shades of Grey," 44–50.
16. Republic of Rwanda, *Strategic Road Map for Land Tenure Reform*.

17. Republic of Rwanda, *National Land Policy*.
18. Republic of Rwanda, *The Constitution of the Republic of Rwanda*, article 26.
19. Cooper, *Challenges and Opportunities in Inheritance Rights in Rwanda*, 5; Gender Monitoring Office, *Gender Impact Assessment of the Law Successions*, 33.
20. Brown and Uvuza, *Women's Land Rights in Rwanda*; Daley, Dore-Weeks, and Umuhoza, "Ahead of the Game," 144.
21. Van Der Molen, "Unconventional Approaches to Land Administration."
22. Narendra, "A Critical Account"; Parsons, *Public Policy*.
23. Parsons, *Public Policy*; Narendra, "A Critical Account"; deLeon and deLeon, "What Ever Happened to Policy Implementation?"; Thomas and Merilee, "After the Decision."
24. Jackson, "Gender Analysis of Land"; Rao, "Custom and the Courts"; Cousins, "Contextualising the Controversies," 19.
25. Levit and Verchick, *Feminist Legal Theory*; Rudman, "Equality before Custom?"
26. Sutton, *The Policy Process: An Overview*.
27. National Institute of Statistics of Rwanda, *The Integrated Household (EICV3)*.
28. *Ibid.*, 94.
29. Brown and Uvuza, *Women's Land Rights in Rwanda*.
30. Englert and Daley, "Introduction."
31. Daley, Dore-Weeks, and Umuhoza, "Ahead of the Game," 136–7.
32. Laurel, "Land Access," Ansoms and Holvoet, "Women and Land Arrangement"; Polavarapu, "Procuring Meaningful Land Rights"; Brown and Uvuza, *Women's Land Rights in Rwanda*; Daley and Birgit, "Securing Land Rights for Women"; McAuslan, "Personal Reflection."
33. Ali Ayalew, Deininger, and Goldstein, *Environmental and Gender Impacts*.
34. MINITERE/DFID/HTSPE, "Phase 1 of the Land Reform Process for Rwanda."
35. *Ibid.*
36. *Ibid.*, 84; Veldman and Lankhorst, *Legal Empowerment*, 23.
37. MINITERE/DFID/HTSPE, "Phase 1 of the Land Reform Process for Rwanda," 113–9.
38. *Ibid.*
39. The lowest level of government authority with responsibility for dispute resolution in Rwanda is that of the *Abunzi* (Local mediators) governed by the *Organic Law of 14/08/2006* on Organisation, Jurisdiction, Competence and Functioning of the Mediation Committee, and have jurisdiction in the first instance for civil cases relating to lands and other immovable assets.
40. Ackerly and True, *Doing Feminist Research in Political and Social Sciences*.
41. The process of LTRP based on the respondents' experiences may not recount exactly the official procedures nor what actually happened. For more details, please see Daley, Dore-Weeks, and Umuhoza, "Ahead of the Game" especially pp. 135–6, and MINITERE/DFID/HTSPE Ltd, "Phase 1 of the Land Reform Process for Rwanda."
42. Agarwal, "Gender and Command over Property"; Agarwal, "Gender and Land Rights Revisited"; Deere and León, *Empowering Women*; Holden and Bezu, *Joint Land Certification*; FAO, "Improving Gender Equity"; Deininger and Feder, "Land Registration, Governance and Development"; Jackson, "Gender Analysis of Land."
43. See Bayisenge forthcoming paper on women's experiences of the LTRP in Rwanda, specifically the section on LTRP and women's decision-making and control over land.
44. MINITERE/DFID/HTSPE, "Phase 1 of the Land Reform Process for Rwanda."
45. Article 9, point 4 of the Constitution of Rwanda of 2003, focuses on equality of all Rwandans and between women and men reflected by ensuring that women are granted at least 30% of posts in decision-making organs. Similarly, the article 8 of the Organic land law guarantees the representation of women at each level of the land commissions.
46. Other trial districts were Gasabo, Karongi and Kirehe, see MINITERE/DFID/HTSPE, "Phase 1 of the Land Reform Process for Rwanda," 3–4. See also Bayisenge's forthcoming paper on the complexity of Land Rights of Women Living in Polygamous Relationships in Rwanda.
47. Article 2 of the inheritance law of 1999 states that upon entering marriage spouses shall choose one of the following matrimonial regimes: (1) community of property; (2) limited community of acquests; (3) separation of property. In case no provision is made, the spouses shall be deemed to be married under the regime of community of property.
48. *Ingaragazi* should not be confused with *ingaragali* sometimes also known as *indeka* (leftover) or *ibisigara* (vacant land) which is the land that remain with the parents after sharing land (*iminani*) to their children, see MINITERE/DFID/HTSPE Ltd, "Phase 1" 54–9. *Ingaragazi* was

mentioned by the informants during this study as the practice that is known and specific to the study area though the practice is disappearing due to land scarcity and legal land reforms. See also Bayisenge forthcoming paper on the complexity of Land Rights of Women Living in Polygamous Relationships in Rwanda for more details.

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