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An Evolution of Tradition: Understanding the Unintended Effects of the 1999 Inheritance and Marital Property Law on Intra-Family Relationships in Rwanda.

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SIT Study Abroad

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An Evolution of Tradition: Understanding the Unintended Effects of the 1999 Inheritance and
Marital Property Law on Intra-Family Relationships in Rwanda.

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Rwanda: Post-Genocide Restoration and Peacebuilding

Fall 2016

Abstract

In the months following the 1994 genocide in Rwanda, a disproportionate number of Rwandan women were left without husbands, homes, family, or property. These losses required women to take on cultural responsibilities hitherto reserved for men. One roadblock to assuming these responsibilities was the legal and cultural right of property ownership reserved exclusively for men. Then in 1999, the Rwandan government enacted legislation which allowed women and girls the rights to family property -- Law/n° 22/99 of 12/11/1999 on Matrimonial Regimes, Liberalities, and Successions. On paper, this Rwandan policy seemed like a step toward gender equality, a watershed moment in the larger Rwandan history of women's empowerment. However, claiming family property has marked the beginning of a series of hurdles and conflicts for some. The law has served as a basis of conflict among family members, in particular men who have failed to recognize that property ownership is now a Rwandan woman's right. The intent of this study, therefore, is twofold. First, this study will attempt to gather evidence to determine the ways in which the 1999 law impacted the Rwandan cultural beliefs regarding women's ownership of family property. Second, this study will examine Rwandan perceptions on what extent and in what forms the execution of this law affected intra-family relationships between the female member who have claimed family property and the male members of the same family. A sample of five genocide mother widows living in Kimironko Village were identified, and semi-structured interviews were conducted with each. In addition, a total of eleven civil society actors and government employees were interviewed to gauge local perceptions. The research project took place in the month of November, 2016. Qualitative data was analyzed, unintended consequences of the law identified, and policy implications discussed.

List of Abbreviations

GoR: Government of Rwanda

ISP: Independent Study Project

LTR: Rwanda's Land Tenure Reform Program

RPF: Rwandan Patriotic Front; the ruling political party in Rwanda. Led by President Paul Kagame, the party has governed the country since ending the 1994 genocide against the Tutsi

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Chapter I: General Introduction and Background of the Study

1.1 Background to the Study

In most countries in the Global South, land is a highly contested, highly valued economic resource. Land is a source of income, food, identity, shelter, power, and more (Agarwal, 1994). Yet many women lack secure land rights, despite policies and practices meant to ensure gender equity in property rights. In Rwanda, women's experiences of land-related conflict vary depending on social location and bargaining power. Rwandan women first gained legal property rights in 1999, five years after the Genocide against the Tutsi left a disproportionate number of Rwandan women without husbands, homes, or property. Whether killed, imprisoned, or exiled, the decrease in the number of Rwandan men led to an increase in the number of female-headed households. The National Gender Statistics Report states that, following the genocide, women headed over one third of all Rwandan households (2013, p. 11). Thus, women's traditional role expanded to encompass some roles previously reserved for men. Since 1999, women's activity in myriad aspects of economic and cultural life has increased (Adekunle, 2007).

In 1999 the Government of Rwanda (GoR) enacted legislation which allowed women and girls the rights to family property, which had previously been restricted to men only. This law - Law/n° 22/99 of 12/11/1999 on Matrimonial Regimes, Liberalities, and Successions - impacted wives of husbands who lost their lives or were imprisoned in and following the 1994 Rwandan genocide. In particular, under this law, women and girls were granted the right to legally claim and inherit family property that, prior to 1999, had been owned only by husbands and family men. Since the 1999 legislation was enacted, hundreds of Rwandan women have exercised their right and legally claimed ownership of family property. On paper, this Rwandan policy seemed like a step toward gender equality, a watershed moment in the larger Rwandan history of women's empowerment and enfranchisement.

1.2 Research Problem

The “story” of women who exercise their right to claim family property does not end with securing legal property rights. Rather, claiming family property has marked the beginning of a series of hurdles and conflicts for some women in Rwanda. In particular, the 1999 law has indirectly led to a change in tradition which may be more challenging for marginalized women than for others. Insofar as the 1999 law has challenged traditional cultural expectations that only men will own property, the law may have served as a basis of conflict among family members, in particular men who have failed to recognize that property ownership is now a Rwandan woman’s right. The cultural tension that may be caused by this law would no doubt impact women’s gender norms, evolving Rwandan cultural notions of women’s ownership, women’s roles in family life, and women’s claim to property. But to what extent, if at all, has the law evolved Rwandan gender norms, and are there any unintended consequence of the law?

While extant literature on the 1999 law comprehensively addresses the immediate post-genocide context which led to the law’s enactment, as well as the struggle to raise awareness about the law, the literature concerning the long-term effects of the law on intra-family relationships and land-based conflict is comparatively scant, particularly for marginalized groups of women like genocide widows. My study will take up the broad question of how the law may have unintended consequences for Rwandan traditional culture, or how this change in culture may have created intra-family conflict between men and women with different ideas of gender norms and women’s right to own property.

1.3 Objective of the Study

The purpose of this study is to examine the effects, criticisms, and consequences of the 1999 law on Matrimonial Regimes, Liberalities, and Successions -- Law/n° 22/99 of 12/11/1999. Ultimately, it will discuss Rwandan cultural beliefs regarding women's right to property, and how these beliefs have evolved, causing tension and conflict among some family members. So far, no study has exclusively focused on the effect of the 1999 law on land-related conflicts among genocide mother widows and the perceptions of these widows by professionals whose work involves women's property rights, a gap that this paper will partially fill. This paper neither evaluates nor spans the Rwandan country in scope. Instead, this study draws on experiences from one village to underscore the challenges that genocide mother widows are faced with when trying to legally claim property. Thus, the objectives of my study are twofold. First, the study seeks to understand the impact of the 1999 law on Rwandan cultural beliefs regarding Rwandan women's ownership of family property. Second, the study seeks to determine the extent to which the law has affected intra-family relationships between female and male members, particularly among marginalized groups. In order to examine this law and its intersection with various aspects of culture and intra-family conflict, the study will seek to answer the following three questions.

- 1.) In what ways has the 1999 law impacted Rwandan cultural beliefs regarding women's ownership and inheritance of family property?
- 2.) To what extent, if at all, has the 1999 law caused or affected intra-family conflict between the female member who has claimed family property and the male members of the same family?

- 3.) What forms, if any, did intra-family conflict take if affected caused in-part by the 1999 law?

This study will fill a gap in the current literature by answering these three main questions. To the extent that this study answers these three research questions, the information provided within will help explain the consequences - intended and unintended - of the 1999 law. This study seeks to fill the gaps in literature pertaining to marginalized Rwandan women's rights to land, and clarify the relationships between the 1999 law, Rwandan cultural notions of women's property rights, and any resulting intra-family conflict stemming from the root of the 1999 law. Ideally, this information can be used to help improve Rwandan policy to protect and strengthen women's property rights, informal and alternative marriages, matrimonial regimes, liberalities, and successions. Furthermore, the information in this study will parse out conflicts rooted in evolving cultural norms of women's property ownership from conflicts rooted in the provisions of the 1999 law.

Chapter II: Research Methodology

2.1 Scope of the Study

This pilot study was conducted in Kigali, Rwanda in November, 2016. Data was gathered from two sample groups: a.) Kigali government and civil society actors whose professional work focuses on Rwandan women's property rights (n=11); and b.) Kigali genocide mother widows who had either legally claimed property or had been trained to assist other widows to claim property, and were thus involved in the property claiming process (n=5). Kimironko Village was

chosen as the site of this second sample group because it is the specially designated home¹ to 120 genocide widows, four of whom have legally attempted to claim property and at least one of whom has received special training to assist genocide widows in the property claiming process. The informant population in Kimironko Village is older, suburban, and typically dependent upon cooperatives and handiwork for income. Consequently, conducting an in-depth exploration of the experiences and narratives of five genocide mother widows as a sample is of particular interest in order to gather data on the property rights-related experiences of a marginalized group of Rwandan women. Interviews enabled the principal investigator to better understand the perceived meanings and emergent themes offered by participants during semi-structured interviews.

Kigali was chosen as the site of the first sample group so as to achieve a diverse sample of civil society and government actors with different stakes and viewpoints on Rwandan women's property rights. The informant demographics for the Kigali professionals sample group ranges in age, gender, and socio-economic status. This diverse group of stakeholder perspectives enabled the principal investigator to gauge perceptions and awareness of Rwandan laws concerning women's property among a group of professionals who, perhaps more than any other Rwandan professionals, should be familiar with Rwandan women's property rights.

2.2 Data Collection Techniques

This study is an explorative, pilot study employing qualitative methods. Qualitative data were collected during semi-structured interviews with mother genocide widows and government

¹ Rwandan NGO Avega-AGAHOZO facilitates living arrangements in Kimironko Village - nicknamed "Avega Village" - and ensures that the village is a designated space only for genocide widows.

and civil society actors. The purpose of a qualitative approach is to collect frequency of perceptions, experiences, and opinions while identifying themes that emerge from the data. Two research assistants aided in the translation and collection of information from genocide mother widows, while the principle investigator was the sole researcher present during interviews with government and civil society actors.

Data was collected through individual, semi-structured interviews with five genocide mother widows and eleven government and civil society actors whose professional work was either influenced by or involved Rwandan women's property rights. All sixteen respondents lived in Kigali at the time of the study. Respondents were not entirely randomly selected; no list or set of names existed which would have allowed for a full random sample. Moreover, participants were not selected randomly so as to help ensure different backgrounds and perspectives were obtained during data collection. This study thus identified two target groups: genocide mother widows who were at least 43-years-old, and government and civil society actors who held a professional stake in some aspect of women's property rights. The age criterion for genocide mother widows was based on the idea that if participants were to have children at the time of or before the 1994 genocide against the Tutsi, then they would need to be at least 21-years-old in 1994. Aside from setting a minimum age limit, no attention was paid to differing the social or economic status of mother genocide widows within the sample. Five genocide mother widows were randomly chosen from a sample of women associated with Avega Agahozo, a Kigali women's organization, who lived in Kimironko Village.

2.3 Ethical Considerations

Numerous ethical challenges were associated with this study and sample groups. First, the ethical issue of a “genocide business” came up in a number of interviews with genocide mother widows. Some of these women were keen to know who the principal investigator was, why he was interested in their experiences, and where the information that they shared would be published, if at all. The principal investigator was asked some variation of the following more than once by participants: “What will you do for me now that I have given my story to you?” To minimize this ethical concern, the answer offered in response to variations of this question explained that the interview was not for research, but for a school project in which the principal investigator was required to speak with local Kigali citizens to learn about a topic of interest. Widow participant information would be kept anonymous, and the author would receive no compensation, monetary or otherwise, for the information recorded during data collection.

The second ethical consideration was that of subjectivity. As the principal investigator is pursuing a degree in Gender Studies, and has personal and professional record for speaking out against oppressive power structures, the author fought the compulsion during data collection to take a side with the women being interviewed when relating stories of corrupt legal systems and patriarchal oppression. Nonetheless, the principal investigator remained as objective as possible during data collection and has presented the data in this paper in a fair, impartial manner. To further minimize the risk of subjectivity, brief debriefing meetings were held with research assistants immediately following each semi-structured interview. The purpose of these meetings was to double check my interpretation of the data offered so as to ensure I did not record any information with a personal bias. As no audio recording was used during data collection - all data was handwritten - ensuring accuracy and objectivity was reduced to a relatively simple task of

the research assistant reading through the principal investigator's notes, searching and correcting for bias.

The third ethical consideration was inadvertently causing psychological burden. Every precaution was taken between the principal investigator and the two research assistants/translators to minimize "re-opening old wounds" when asking for information and experiences from informants. Even still, one participant verbally expressed discomfort at having to answer personal questions, and a number of genocide mother widows displayed closed body language and were initially hesitant to share information. To minimize psychological burden when interacting with the genocide mother widows, the two research assistants and I opened conversation in Kinyarwanda, introduced ourselves, shared stories about our families, and talked lightly about our experiences during the past week. After approximately thirty minutes of this "warm up talk," I began to ask simple questions about the participant's name, province of origin, and age. Only once rapport had been established were questions regarding personal experiences with property posed.

The fourth ethical consideration was that of participant self-censorship. Some participants, particularly the genocide mother widows, were not immediately comfortable with a twenty-one year old white male from the USA sitting in their home and asking them questions, some of which dealt with personal and legal experiences. As such, the principal investigator was concerned that he was receiving only one side of a participant's story. The extent to which the informants, particularly the genocide mother widows, self-censored was and is unclear. But the author attempted to minimize participant censorship by briefly speaking with the participant in Kinyarwanda upon meeting her, sharing personal information, and establishing rapport before asking personal questions. Additionally, the author sought five genocide mother widows as

participants so as to incorporate a number of perspectives. Lastly, the author made clear that he was a student speaking with participants for the purpose of academic assignment, not to use the data against the participant, for an institution, or for profit. The author explained in each interview that he is a student attending a program organized by Rwandans, working on a final writing assignment.

In consideration of ethical protocol, names and associations of mother genocide widows have been disguised. Widow participant anonymity is maintained throughout this paper.

2.4 Limitations of the Study

Being a pilot study conducted over a four-week period, this research is bound by a number of limitations. Research design and methodology impacted the sample and interpretation of data included in this study. As such, two broad categories of limitations will be briefly outlined here: methodological limitations and limitations of the researcher.

This study's sample size limits the generalizability of its findings. Because the study's sample size of sixteen participants is too small and too varied in demography, numerous significant relationships cannot be drawn from the data. Statistical operations require larger sample sizes which make possible a representative sampling of the population. Because sample size is less relevant in qualitative research, this study utilizes a thematic approach to analyzing experiences and narratives offered by participants.

Additionally, the principal investigator lacked easy access to genocide mother widows who would comfortably and reliably communicate their personal experiences. This relative lack of reliable sources slightly limited the scope of the analysis and the size of the sample. As such, one

area for future research is to obtain a list of mother genocide widows and randomly sample to collect quantitative data.

Furthermore, the measure used to collect data was inhibited by the nature of this being a pilot study. In retrospect, the principal investigator sees additional questions to pose to participants that may help flesh out particular issues addressed in the study. Thus, there is a need for future researchers to review my semi-structured interview questions, revise the method, and gather additional qualitative data.

Yet another limitation that is problematic of qualitative methods generally is that of self-reported data. Self-reported data is limited; it can be difficult to objectively verify or independently corroborate. The principal investigator thus took participant experiences and narratives at face value. In addition, self-reported data often contains different forms of bias that must be noted as limitations. These forms of bias include but are not limited to: (a) selective memory (remembering only a portion of an event); (b) telescoping (recounting events in a different time and context than those in which the event took place); (c) attribution (assigning positive outcomes to personal agency, while assigning negative outcomes to external forces) and, (d) exaggeration (hyperbolizing events or outcomes, making them more important than other sources suggest). In the portion of this study that concerns genocide mother widows, court corruption was a theme that emerged frequently. However, as has been pointed out to the author, 'crying corruption' is common among people who don't want to accept that they lost a court case. Thus, the author is taking these women, and all informants, at their word.

The last methodological limitation identified by the researcher is that of translation. During data collection, the principal investigator experienced numerous advantages and pitfalls of

communicating through translator when conducting interviews held in a language other than English. The two research assistants, two young Rwandan men who translated interviews in-person and in real time, performed a number of tasks for and with the principal investigator, including scheduling interviews in Kinyarwanda over cell phone, introducing the author to interviewees, facilitating “small talk” before interviews, translating interview questions into Kinyarwanda, translating corresponding answers into English for the author to write down, and helping gauge whether more questions should be asked and whether or not answers given were honest or sufficient. As such, a number of risks and rewards were inherent in the methodological design of my research project.

Risks included mistranslation by either research assistant (neither assistant was completely fluent in English), misinterpretation of translated English on the author’s part (Rwandan English carries slightly different meanings than US American English), the mismanagement of impressions given to interviewees (explaining to the interviewee who the author was, why a translator is necessary, and who the translator is), and the translator going outside of the bounds of the interview questions to make statements that may sway the interviewee’s response. Dealing with these risks involved one-on-one, pre-interview meetings with both assistants to ensure that the study’s purpose was clearly communicated, the interview questions phrased in an easy-to-understand way, and the manner in which the author desired to conduct interviews well established. Even with these meetings, visits to interviewees and subsequent interviews always came with challenges. Miscommunication, awkward gaps in conversation, and interruption on the part of the interviewee and the translator occurred often. Figuring out how much could be said in any language before the translator, his head full of words, would need to step in and begin translating was an ever-present

conundrum at the beginning of interviews. While the aforementioned limitations deal with methodology, the study also suffered from limitations of the researcher.

One notable limitation of the researcher was access. This study is dependent upon access to certain groups of people - genocide mother widows and professionals whose work involves Rwandan women's property rights. Access to genocide mother widows was somewhat limited as it was found that these individuals are neither easily identifiable nor often willing to be contacted to discuss their experiences with claiming property.

Another limitation is the longitudinal nature of this study. Due to the four-week window in which this study was conducted, the time available to obtain and analyze data was constrained. While the nature of my study did not require several months to complete, a follow-up study or longer original time period for this pilot study would undoubtedly improve the quality of the results.

The principal investigator's cultural bias is yet another limitation of the researcher. As the principal investigator is a US citizen who, prior to conducting this study, spent only two months in Rwanda, certain social cues and subtle shades of meaning may have been lost, overlooked, or omitted. Furthermore, the author's understanding and representation of participants is undoubtedly influenced by his cultural bias, having only a limited familiarity with Rwandan customs. For example, the principal investigator spoke only limited Kinyarwanda, and thus relied on two research assistants to translate some interviews. Meaning may have been lost in translation, and the author's interpretation of the translation may be different - if only slightly - from the original, intended meaning offered in Kinyarwanda. As such this study suffered from the researcher's lack

of fluency in Kinyarwanda, though attempted to compensate by using two translators as described in the methodological limitations portion of this section.

Chapter III: Literature Review and Definitions of Key Concepts

3.1 Literature Review

Land in the Global South

Women across the Global South experience challenges to their right to land (Agarwal, 1997; Davidson, 1988; Deere & Doss, 2008; Joireman, 2006; USAID, 2013). Whitehead and Tsikata (2003) have shown that trends in gender-based land conflict increasingly concern shifts in land use, land-grabbing, land's increasing value, and legal conflicts. Women's access to already limited quantities of available land in densely populated, Global South countries is complicated by increasing demand, population growth, patriarchal power structures, and land privatization (Agarwal, 1994; Muziranenge interview).

In Rwanda in particular, Ayalew et al. (2011) claims that factors fueling land-related conflict include abuse of the customary land tenure structure, the shifting cultural norms of

property ownership, and traditional gender roles increasing inability to cope with the aforementioned changes. Moreover, Rwanda is a densely populated country - roughly the geographic size of Vermont with sixteen times the population (Prunier, 2006). Land scarcity, slowly expanding non-agricultural income opportunities, and land grabbing have increased conflict and inequality (Brown & Uvuza 2006; RISD, 2013). These changes have affected women, whose land rights were traditionally oppressed by patriarchal power structures (Yngstrom, 2002).

Rwandan Gender Ideologies

Rwanda has long been a patriarchal society (Adekunle, 2007). A number of events shaped Rwandan gender roles, including colonization, modernization, and the 1994 genocide (Adekunle, 2007). Rwandan traditional gender roles were situated around household division of labor: women were childbearing domestic workers in charge of cooking and cleaning; men were decision makers and resource owners. While some suggest that traditional Rwandan men could not make decisions regarding family assets and property without first consulting their wives (Karugarama interview), others claim that these actions were gestures of formality, not cultural requirement (Uwineza, Pearson & Powely, 2009). Traditionally Rwandan men were culturally accorded land and the right to it, while women's rights to land were non-existent (Bayisenge, 2015). What little claim to land that Rwandan women did have was dependent upon their relations with marital families (Isaksson, 2011). In other words, access to land was gained through a husband (MINIRENA et al., 2007).

However, Rubagumya (interview) suggests a different framework focused less on oppression and power structures and more on a traditional Rwandan cultural duty: *umunani*.

Historically, when Rwandan sons were to be married, the father's cultural duty was to give a piece of his land to his son so that he may build a house for him and his bride. Traditionally, a Rwandan man could not marry without first having land and a house. As such, Rubagumya contends, there was no need for women to own property, because all land was gifted from the husband's father to the husband, who would in turn occupy it with his wife and be expected to gift a portion to his son. When the time came for a husband-turned-father to transfer property to his newly married son, the cycle would repeat. The wife, then, never need worry because she would live on her husband's land, which was constantly being partitioned to sons and their wives. When the husband passed away, continues Rubagumya, the wife would be taken care of by her family per cultural duty. While this code of conduct lasted for hundreds of years in Rwanda, it began to crumble under the weight of Rwanda's post-1994 reconstruction.

Post-Genocide Reconstruction and Gender Relations

Gender equality in Rwanda today is almost entirely the result of post-genocide social and political factors (Uwineza et al., 2009). Certainly, one of the most prominent reconstruction themes after 1994 was the expansion of roles and opportunities for Rwandan women (Adunkle, 2007). However, this theme emerged out of necessity as much if not more than out of political reconstruction or social justice efforts. During the 1994 genocide against the Tutsi, genocidaires targeted men before, if ever, targeting women and children (Rubagumya interview; Strauss, 2006). As a result, Rwanda emerged from 1994 with considerably fewer males than it had in the previous year. This shift in demographic forced Rwandan women to adopt new responsibilities. Indeed, over one-third of Rwandan households were headed by women after the genocide (National Gender Statistics Report 2013, p. 11). Women increasingly became invested in civil

society, government, and social life in Rwanda (Adekunle, 2007), having to adapt to adverse circumstances to care for their families and neighbors (Uwineza et al., 2009). Because Rwanda's economy was and is primarily driven by agriculture, women found their post-genocide survival and livelihoods increasingly dependent on access to land (Brown & Uvuza, 2006). And yet, women had no right to property. With husbands dead, fled, or incarcerated, women could not easily lay claim to family land (Veldman & Lankhorst, 2011). Through policy and civil society consultation, the GoR has implemented numerous initiatives to ensure gender equality. And while recent legal frameworks such as the 2003 Rwanda Constitution and a collection of laws comprising Rwanda's Land Tenure Reform (LTR) program attempt to curb the challenges faced by women in the immediate aftermath of the 1994 genocide, women continue to struggle to secure their property rights (USAID, 2008).

Resolving Land Conflicts in Rwanda

A growing academic literature characterizes African land rights and their institutions as 'legal pluralism' (Bayisenge, 2015; Ik Dahl et al., 2005; Meinzen-Dick & Pradhan, 2002). A legal pluralist perspective suggests that land disputants 'forum shop,' opting for any combination of customary and legal courts, processes, and institutions to resolve a land-based conflict in Rwanda (Meinzen-dick & Pradhan, 2002; Razavi, 2007). In Rwanda land-based conflict is mediated through intersecting and interlocking institutions and norms, both formal and informal.

The majority of Rwandan land disputes are handled at the local level (Rwanda Women's Network, 2011). The *inama y'umuryango* (family meeting) is typically the first institution individuals go to in order to resolve conflict (Bayisenge, 2015). The *inama y'umuryango* is a customary institution with few mandatory or formal regulations. As Bayisenge (2015) writes,

“The way the meetings are convened and led, meeting frequency, reasons for convening the meetings, the role given to women in the hearing, the interaction of family members, and the methods that families adopt to resolve disputes, all vary from family to family.”

In the event that the *inama y’umuryango* is unable to resolve a dispute, the case is taken to the *umudugudu* (village) council, and then after to the cell’s executive secretary (Veldman & Lankhorst, 2011). If the cell fails to resolve the dispute, the disputant may then take the case to the *abunzi* (“reconcilers” or “mediators”) committee. Oftentimes, land-based conflicts are mediated by the *abunzi*. At the *abunzi* committee, the case is heard and tried in public. Should the *abunzi* fail to reconcile the dispute, the case may be taken to the Primary Court, or the *abunzi* may set forth a binding decision that can only be appealed at the Primary Court. According to Takeuchi & Marara (2009), *abunzi* has jurisdiction over civil cases involving land worth less than 3,000,000 Rwandan Francs (RwF). If the value of property in question exceeds 3,000,000 RwF, then the case is under the jurisdiction of the Primary Courts. Recently, according to Rubagumya, this minimum land value has increased to 5,000,000 RwF (interview).

A very small number of Rwandans will ever bring a case to Primary Court (Bayisenge, 2015). According to Veldman & Lankhorst (2011), rural Rwandan households own an average of 0.72 hectares, valued below 3,000,000 RwF, meaning that land-dispute cases almost always end at the *abunzi* committee. As noted by Bayisenge (2015), this value-ceiling puts Rwandan disputants in a sort of double-bind. On one hand, Rwandan disputants will almost never gain access to formal courts by the very nature of the value of their land being well under 3,000,000 RwF. On the other hand, local customary institutions of justice present an informal and somewhat arbitrary quality of justice. Rwanda’s traditional justice structures are relatively gender-biased, both in composition and orientation (WB et al., 2009). Yet the verdict issued by

customary courts may come much quicker than those issued by legal courts. Furthermore, customary courts are more accessible, more affordable, more culturally legitimate, and more likely to be composed of members who are familiar with the parties involved in the dispute (Veldman & Lankhorst, 2011). But as Bayisenge (2015) reminds us, “functionality and legitimacy do not automatically result in transparent and equitable governance.”

Bargaining and Feminist Frameworks for Women’s Land Conflicts

Building upon the approaches used by a number of scholars in the field of women’s land conflict, this paper utilizes a feminist framework and a bargaining approach to understand women’s land disputes in Rwanda (Agarwal, 1994; Bayisenge, 2015). Feminist theory claims that society undervalues and subordinates women culturally, economically, legally, politically, and socially in a number of arenas and contexts that can be rooted in patriarchy, androcentrism, and sexism (Wade & Ferree, 2014). Bargaining theorists argue that resources are accessed and controlled depending upon a disputant’s social location - gender, class, race, sex, age, etc - and posits that decision-making processes involve bargaining and negotiation (Kabeer, 1997). Through gendered lenses, bargaining theory can be seen as a framework that sets forth biased social constructions as the basis for debate and exchange between actors of varying agency and power. Outcomes depend on the bargaining power of the parties involved, and bargaining power is not distributed equally. Rather, bargaining power depends on parties’ fallback positions, and fallback positions are generally weaker for women than for men (Kabeer, 1997). Women, situated in the traditional Rwandan family context, are thus more likely to experience land-related conflicts.

The feminist-bargaining framework conceptualizes access to land in terms of social relation, argues Bayisenge (2015). Indeed, land is both an economic resource and a set of relationships formed from symbolic, material value. This paper focuses on the social relations inside and outside of the home, and how these power relations shape Rwandan women's access to land. The principle investigator agrees with Bayisenge (2015) and Agarwal (1997) that while the household is a basic social unit, an arena in which gender roles are assumed and bargaining takes place, intra-household conflict and bargaining is influenced by interlocking structures of power and oppression. Thus this paper presents and analyzes data by framing women's land rights as a series of social relations negotiated through structural institutions of power and patriarchy.

3.2 Definition of Key Concepts

Bargaining: a type of negotiation in which the buyer and seller of a good or service debate the price and exact nature of a transaction

Disputant: a person involved in a legal dispute

Evolution: the gradual development of things from earlier versions of those same things

Genocide: intentional action to destroy a people (usually defined as an ethnic, national, racial, or religious group) in whole or in part

Identity: the qualities, beliefs, personality, looks and/or expressions that make a person (self-identity) or group (particular social category or social group)

LTR Program: manages the process of land tenure reform in Rwanda; launched in 2005 to coincide with a technical assistance project supported by the UK Government's Department for

International Development - DFID to design a strategic road map for the implementation of land tenure reform in Rwanda (Laws, Policies and Programmes)

Patriarchy: a social system in which males hold primary power and predominate in roles of political leadership, moral authority, social privilege and control of property

Property: that which belongs to or with something, whether as an attribute or as a component of said thing

Sexism: prejudice or discrimination based on a person's sex or gender

Social Location: the position of an individual in a given society and culture which influences their social status

Chapter IV: Presentation, Analysis and Interpretations of Data

4.1: Land Related Conflicts among Genocide Mother Widows

Three of the five respondents reported experiencing multiple, land-related conflicts with family members. Each of the five respondents reported experiencing at least one land-related conflict while claiming property or advising others to claim property. Types of conflict reported by respondents varied. Some women experienced multiple, prolonged arguments in and out of court with members of the opposing legal party, while other women reported receiving multiple death threats near and around their home community. Thus, the grounds for conflict remained the same - land - while the form the conflict took differed among women. Of note, however, was that each woman only spoke of family conflict when asked about interactions with peers, neighbors, and families that took place during the legal claiming period. Four of the five women mentioned court corruption and conflict with court officials before talking about conflict with those individuals with whom they had relationships - neighbors, family, or friends. Because of the frequency with which land-related conflict was reported, it is important to share and analyze these women's conflict stories in an effort to reduce the instance of intra-family, land-related conflict involving Rwandan genocide mother widows.

All conflicts reported were related to land inheritance and legal claiming of land. Congruent with Bayisenge's (2015) findings, the respondents reported that the majority of conflicts occurred when family members of a deceased husband acted legally and illegally to claim property, leaving the widow with none. In some other reports, conflict with uncles and cousins whom the respondent knew only vaguely were offered. In other reports, conflicts

involved family or militia members successfully bribing court officials. Each of the five respondents strongly agreed that the 1999 law and the Rwandan land and gender-based laws that followed reduced conflict among men and women. However, four out of the five widows also agreed that the 1999 law was in conflict with traditional Rwandan culture. Each of the five women either strongly agreed or agreed that the early efforts to implement the 1999 law were met with pushback from men *and* women, who, one woman stated, “could not understand why women could own land.” But each of the five respondents strongly agreed that conflicts had decreased dramatically from 1999 to 2016. However, all of the women who had attempted to claim property for themselves reported being involved in protracted legal battles with family or militia members for at least three years.

Moreover, court corruption was a theme that emerged in each of the five interviews with widows. As such, some widows were skeptical about Rwanda’s LTR program, its property and gender-based laws, and the government’s willingness to mitigate court corruption. Three out of five participants reported experiencing unresolved conflict with no “end” or resolution in the foreseeable future. While each of the five widows agreed that the laws had decreased conflict, four wondered whether or not the new laws were in tension with a part of Rwandan traditional culture, which in turn caused a sort of evolution of traditional culture due to the influence of legal and social modernization. Four out of the five widows claimed “court corruption” or “justice corruption” that took place because the opposing legal party offered either money or power to the *abunzi* council or the Primary Court. Because each of the five women reported having few or no available resources - each informant related stories of acquiring free lawyers and/or subsidized transportation for themselves or for others - the corruption seemed to be taking place on an unmeritocratic, not-so-level playing field.

4.2: Women's Stories About Intra-Family Land-Related Conflicts and Court Corruption

Each of the five genocide mother widows offered detailed, in-depth accounts of their experiences claiming legal property for themselves or for others. In different ways, the following accounts touch on themes of legal corruption, patriarchal power, and familial greed. Excerpts from these accounts will be presented and analyzed, drawing on a feminist-bargaining framework to interpret and analyze the data.

One of the respondents who experienced court corruption was also involved in a polygamous marriage - a form of union for which Rwandan law has often struggled to adequately recognize and provide and protect rights. She explains her experiences with corruption and polygamy, elaborating on the ways in which they intersect with intra-family conflict experienced when she attempted to legally claim land:

“My uncle wanted to own my mother’s property for himself as extra property. My mother lost her husband in genocide, and has since passed away herself. The family of her husband wanted to claim her husband’s property. I am the one left as the leader of the family. So I moved to Kigali, wanting to keep some part of the property. So I opened up the case. Because of corruption, court leaders are always changing, and with new court leaders the case must restart. Local leaders don’t take things too seriously. I tried to get in touch with the person who owns the property to make them understand who was the rightful owner, but the person I approached was a cousin of my husband. I questioned him. He was corrupt and did not listen. He had hired other people to deliver threats to me and insult me. Then I went to different institutions - CNLG, Ibuka - but the cousin was there before me and gave each organization something [as a bribe]. Even the cousins threatened me and tried to kill me. So I approached the head appraiser and asked ‘Why do you want to give the property to them who have done things illegally?’ He said ‘Are they not your family?’ I said ‘No, my husband’s [family], and I have a right to this property.’ These cousins and uncles were super powerful. They were greedy. The husband’s family wanted extra property but my friends and neighbors said it was unjust. How did I fight this battle? Prayer, all the time, to God to let me fight back to get the property.

My husband had two wives at the same time. The other woman was a Hutu. A Congolese militia tried to kill her, so she moved to Kigali before she almost lost her life. The militia wanted to remove genocide survivors so as to leave no evidence, witness, or backlash. During this time, I came to Avega-AGAHOZO to ask to start over in a new place. I had nothing, only two children. So Avega relocated me.

I claimed one piece of property in 2004. I am still in the process of claiming a second. Still, I receive threats to my life.

This widow's story highlights one form of court corruption, makes salient the challenges of polygamous marriage, and the threat of distant relatives to women who seek to secure property. Rwanda's patriarchal culture can be drawn upon as a source of the exchanges between the respondent's cousins and different local organizations, namely Ibuka and CNLG. In this instance, the bargaining power of the respondent was reduced largely by her social location - a poorer, widowed woman who had neither the human capital nor the financial means to negotiate in a competitive way with her cousins or the institutions. Moreover, the respondent noted that while she still receives threats, she feels a powerlessness to adequately respond or to protect herself. She explains that she is a woman and a Christian, and that it would be unlike her identity to return threats. However, the respondent noted that even if she *were* willing to respond to threats, she would not know how or from whom to seek help, aside from the women in Kimironko Village. Thus, interlocking power structures have limited the respondent's bargaining power, as the opposing legal party enjoy the patriarchal privilege, greater wealth, and the power in numbers that allow them to bribe individuals and organizations, and continue to threaten the respondent without apparent fear of retaliation.

Furthermore, this participant's life outlook seemed influence by experiencing the 1994 genocide against the Tutsi. The respondent used the genocide multiple times as a comparative benchmark for other tragic experiences in her life, noting that if her Christian faith brought her through 1994, it could bring her through land-based conflict. When the author questioned her about her emotional response to threats, she replied that, "I live without fear because I survived the genocide. I am dauntless. As a Christian, to forgive makes you stronger." The respondent indirectly hinted at compensating for a loss of gendered power and financial means by prayer

and faith. She draws power, in part, from her religion, she said. And while the respondent may experience oppression due to her marginalized social location, she draws confidence and strength from her identity as a genocide survivor. “After the genocide,” she said, “I am not afraid of [the intra-family conflict] so much.”

Reflecting on her encouragement of other women to claim property in the early 2000’s, the participant claimed that it was not easy to convince men or women that women could have legal property rights. But she credits good governance as “the key of everything;” the Kagame administration was attributed praise as the single most important factor in women’s property rights by each of the five widow informants.

Still other widows discussed a lack of transportation and funds to pay for lawyers and court fees. One respondent in particular elaborated on the barriers facing poor, vulnerable widows when they try to claim property:

“I claimed my brother’s property in 2012, but the people wore me out. I stopped because of a lack of transportation and money to spend. CNLG gave me a lawyer, but the date of the case kept being put off and of in the future by the court. I thought this was corruption to deter me from claiming the property. I stopped in 2013. I reopened the case in 2015.

Claiming this land may profit me, but I decided to stop the case again after a few months because it became so expensive. The first court case of Bugesera District said to move to Gasabo District, but this made the entire case start all over. I think [the people in court] were doing this to me on purpose to make me drop the case. I had wasted a lot of energy and money already, so I could not start all over, waste triple the money, and may not end up winning the case. So today, the District has given a normal man this property. They gave it to him because it had been a long time and they thought everyone in my family had died. They seemed not to know that I am still alive. The normal man has a provisional deed to the land. So I tried to present my provisional deed, but after three years Bugesera District decided that they wouldn’t try my case. CNLG gave me a letter to take to the Association of Lawyers to get a free lawyer, but transport was expensive. Though CNLG offset the cost of transportation, too. But after the first case failed, I paid 200,000 RwF for one lawyer in the second case. So, 300,000 RwF is the cost of a court case, win or lose. The services I used cost over one million RwF.

I stopped because I didn’t have the 300,000 to pay for a lawyer in Gasabo. And, because the property was worth 20 million, it was tempting, but I did not have the 300,000.

My neighbors were sad for me. The Ombudsman told me that he would check on the case and try to solve it in 2014, but he never did check on the case. Now I’m jobless, and the land would help create my own job with the money from that property.”

This woman agreed, as did some others, that the 1999 law contradicts traditional Rwandan culture. Though, she admits that the culture has now changed and “empowers women to have equity among society.” She notes that she never encountered any intra-family conflict as a result of claiming property, but that she instead indirectly experienced corruption in court and with ombudspersons. She also believes that the 300,000 RwF price to participate in court is too high for genocide mother widows who typically are poor and classified as vulnerable persons. In conjunction with her identity as a genocide mother widow, the high prices lower her bargaining power even further, inhibiting her from engaging in a court case that she feels could have been “simpler” without the financial or emotional struggle.

Once more, this respondent’s experience makes evident the lack of bargaining power that genocide mother widows have as a result of their identity and social location. Women generally are undervalued in societies, and Rwanda’s patriarchal culture is no exception. Yet interlocking identities - woman, widow, genocide survivor, lower-class - have lowered even further the bargaining power of this respondent and, to different extents, the other four widow informants.

She also maintains that in the rural villages, uneducated people think that “men should beat down women, and that women should not have the same opportunities and power as men.” Generally, she concluded, the LTR program and the 1999 law is good for Rwandan men because if a man should marry someone, and the property is shared, then the husband and wife will likely use the property to contribute to the family’s well being. Each respondent vocalized a variation of the following: give men resources, and they will use them to enjoy themselves; give women resources, and they will use them to develop their family.

Yet another respondent provided the perspective of someone who was still claiming property and experienced militia corruption and hostility. She began reclaiming her property in

2012 after the GoR directly encouraged her to open a court case. A group of militiamen had taken her family property that her father-in-law had given her and her husband in 1962. The militiamen, to this day, refuse to concede the property:

“I talked to the militiamen multiple times in order to negotiate without going to court. But the militia refused. So I sued them in First Court in Kibeho. The militiamen won. So I appealed the case in Nyamagabe. I won this appeal in Second Court. But then the militiamen appealed. Their appeal was denied, and I enjoyed. But the case was somehow not closed. Many lawyers and judges were familiar with the militia so the First Court was corrupt in justice. It was me against seven people on the militia’s side. Also the corruption was the court measuring my land at 2,000 square meters instead of the 6,000 square meters I know it to be. This is corruption! The seven militiamen acted quickly to claim the rights for the land, and to this day the case is still processing.

My neighbors and friends supported me. The young brother of my husband even went to court to argue. I only had conflict with the seven militia people. We don’t talk or communicate. They demand to know why I am trying to claim this property when I already have property to live on.

The worst case of corruption was the discrimination a Rwandan Minister showed to me when he said: ‘The property in question is for the refugees, and you are only borrowing, not keeping the property.’ The seven [militiamen] would not negotiate and I ended up spending over 2000,000 FRW.”

This participant, like others, explained that her forgiveness and patience with the seven militiamen is rooted in her Christian faith. She also explained that uneducated, rural Rwandans generally do not accept women’s property rights; at the same time, she claims that the educated, urban people may accept women’s property rights and the LTR program publicly, but not inside the walls of their homes. She wonders if men associated with militias, especially those in countries outside of Rwanda, are particularly ignorant with regard to women’s property rights, and are willing to bribe the courts because of patriarchal and sexist power structures that still exist, inhibiting judges from issuing just verdicts.

That the case involved seven militiamen against one genocide mother widow suggests a number of things. First, patriarchal power was asserted to claim the property and then, to reduce the legally recorded size of the property through corruption. Furthermore, the theme of men

bribing other men to gain property appears in this widow's testimony as it does in others. This male sharing of power at the legal level is a negotiation in which women - particularly genocide mother widows - struggle to take part. Women's bargaining power is reduced when male privilege and sexism influence court proceedings.

Still another genocide mother widow - the only informant in the five-person sample who had not engaged in legal action to claim property - explains how she had once tried to claim property. Though she was too sick with diabetes to continue with the legal process, she justified her inability to claim her rights by undergoing training to help other genocide mother widows to claim property for themselves:

I was born in Kicukiro and lived in Nyamirambo. I had the opportunity to claim family property but was too sick with diabetes to follow through.

So I was trained to help other women in the area to understand their property rights and the legal process to claim land. The new [land] laws are good. A husband has his own property and the woman has hers, so everything is equalized now, unlike before. Now, if a husband dies, the wife — not the husband's family — gets the property.

The [land] law has changed culture in a good way. Education now is equal too. Girls received training in the house while boys went to school. Still, some people are not understanding how women take power of property.

Without the leading political administration, none of this [women claiming land rights] would have happened. The RPF [Rwandan Patriotic Front] knows that your father's culture is not your culture.

The training that this respondent participated in was sponsored by Avega-AGAHOZO, the same national NGO that placed her in the Kimironko Village with a permanent living arrangement. The respondent suggested that she feels a sense of duty to educate some of the other 120 village women, because only four of them have engaged in the legal process to claim property. While the participant notes that the success rate of the village (three cases 'won,' one case 'lost,' two pending) has been promising, more genocide mother widows may be encouraged to claim property if they understood their rights and were assisted with court proceedings.

The respondent's comment that "your culture is not your father's culture" is powerful, yet ambiguous. Certainly, the culture of exclusively male-owned property has been legislated against. Moreover the cultures of patriarchal power, sexism, and male privilege have been legislated against. And yet, these oppressive cultures persist, as described by several widows, particularly in rural villages. However, each of the five widow respondents explained that the urban males involved in widows' property claiming cases negotiated in ways that would not have been possible had they not drawn on Rwanda's patriarchal culture of male privilege for bargaining power.

The last respondent in the subsample of five genocide mother widows experienced considerable conflict both inside and outside of her family when claiming property. She is the president of her neighborhood association, and has used her Avega training to train the members of the association to claim their property rights and encouraged them to pursue legal action. This woman is the only woman out of the sample who was unsuccessful in claiming property. However, as she describes, she has forgiven and made peace with herself and the opposing legal party:

"I am a 58-year-old widow, mother of four, originally from the Western Province. My work is basket-making with cloth in the umudugudu association in a house in Kimironko Village.

I moved to Kigali because of marriage before genocide, but came here to this house after genocide with the help of Avega. After genocide we didn't have a house to stay in. Life was too hard, we had no shelter. So in this area there are many widows from areas around the country, because this place has security and Avega brought [widows of genocide] here. Kigali widows form a group and live here in "Avega Kimironko," Avega's first ever umudugudu with 120 widows' families. These families live here because we are not strong enough to fight for ourselves. Orphans were brought here too, through Ubuka and CNLG, advocating for survivors and orphans

In 2011 I started to claim property. My mom's brother died, so my mom owned all of the family property and then married her husband post-1994. Then, the problem started. Family members - cousins - returned from the Congo to take property illegally. The returnees lied and said 'it's our property, [you] are just renting it from us.' So they went to court and said, 'in 1959, no woman could inherit owned property and so it should go to us, the living Congolese family members.'

What these cousins of mine did was unjust, coming from the Congo. It was illegal. And they were rich and had a big family. So if you use your mind, this is injustice. Each had their own property, but they wanted to have this house of my mother's. So we went into the First Court and won the case. Then we went to the High Court and lost the case. The ombudsman was contacted by me to see if the case was fair or unfair to me.

My family was mad and misunderstanding. I was charged one million [RwF] and was told to remove the house from the land so the cousins could have it. But I couldn't! I can't carry this house on my shoulders. But I could sell the house to them. So I paid one million, gave the house to [the cousins], and went away back to my house - I was not living in this house, but renting it. But I wasn't happy with the decision! So I took it to the ombudsman, who gave me another try in court, because it was unfair, in the High Court a second time. The ombudsman started the case over a second time in the High Court after examining the fairness of the case, because it was evident I owned the property. There was argument, but the good thing is that we are not neighbors, my cousins from the Congo and me. When I saw them, I thought they were my only surviving family! But they were not happy to see me, they had something else in mind - my property - even though I was happy to see them. I met them in 1995 and we took the case to court in 2011. So there was not good relations between us. They may have killed me if I had lived closer to them. I thank God I have somewhere to live, a home, and I have forgiven my cousins because that's the mindset of a Christian: you forgive before you are asked for forgiveness. By taking the case to the ombudsman, I was fighting for my right. I received threats from cousins, and they took things of mine even when they are rich.

One of the many themes that this respondent touched on was the resurrection of 1950's Rwandan patriarchy. During court proceedings, the respondent's cousins repeatedly argued that, "Your mother was born in 1959!" To this, the respondent reportedly countered with, "But I said nowadays it's different - I have the right!" But a right can only go so far when the opposing legal party are males with money and the court officials, as reported by the respondent, are overwhelmingly male and possibly open to taking bribes from disputants.

The respondent also mentioned that she appealed her case with the ombudsman. "Because the ombudsman has lots of cases, mine is still in the 'wait list' - so as of now, my Congolese cousins won and occupy the house and land," she said. The respondent hinted that the ombudsperson would likely never review the case because the respondent "is a poor woman." Moreover, the respondent noted that "the culture of men's ownership is violence toward women, and this culture is rooted in selfishness."

The legal loss, corruption aside, has caused the respondent suffering. She reports that, “I lived with sadness in my heart. I’ve never had that kind of sickness before. I have a long, long stomach ache.” However, she was clear in indicating that she does not wish anything bad upon the family of the opposing legal party. Her justification for forgiveness is her experience in the 1994 genocide against the Tutsi: “We lost many things, many people, in the genocide. This [property dispute] is not worse than that.”

And yet, the respondent reported completely forgiving the cousins: “[My cousins and I] don’t talk, but I would be happy if they come over. Sincerely. I have already forgiven them. If there is a funeral on their side of the family, I will be there before they call me. If there is a wedding, I will go.” She reports feeling peace now, but stated that, “injustice will always be there. What [the cousins] did was not genuine, true, or worthy.”

Additionally, the respondent expressed uncertainty of how willing Rwandan men are to understand that women have property rights. She notes that, “When the 1999 law came, it was too hard for the men to understand. It took time to change them to make them understand. In the beginning, they could not accept it because if parents died, the men got the property. Boys and girls now have equal rights in the law, but I don’t know if everyone believes that.”

Of note was the respondent's assessment of the root of property-related conflict. While this widow expected her cousins to greet her warmly during their first meeting in 1995, the exact opposite happened: “The problem is that people love things more than they love people. I was not expecting my cousins to love things more than they loved me. They have big, big property! I don’t understand why they wanted such small property from me and my family. The cousins even paid money in corruption to get the land during the court case.”

Like other widow respondents, this woman was fighting a one-versus-many legal battle. While the respondent was the only member of her legal party, the Congolese family consisted of eleven people. The Congolese family had two parents and nine children. One of the girl children worked in government and “had great power;” she worked with President Paul Kagame. The respondent reported that each of the family members were well-educated. And, though the family left Rwanda in 1959 to live in the Congo, they returned to Rwanda in 1995. Since 1995, the “powerful” daughter has worked with the Rwandan President

The reason that this respondent gave when asked why she wanted to claim a second property involved legal rights and bargaining power: “I claimed property after having this house because it’s my right. And because I could make money from the new property from renting it. If I got this chance to own this house, it would ameliorate my life.”

One of the lessons that this respondent, and many others, have taken away from this experience is that court proceedings are extensive, expensive, and corrupt. This widow noted that, “The lesson I’ve learned is to never go to the court because it takes along process.”

4.3 Perceptions of Civil Society and Government Professionals on Women’s Property

Rights: Thematic Analysis

Sensitization and Adoption

Nearly all professional informants spoke of the progress made by national efforts to sensitize Rwandans to women’s property rights. Many also spoke of the need for continued sensitization efforts, particularly in rural areas of Rwanda where individuals adhere to traditional culture more than those living in urban areas like Kigali. A few respondents tied sensitization efforts to national “adoption,” questioning the meaning of such a term as its legal orientation

differs from cultural and personal orientations. These meanings matter when measuring the impact of sensitization efforts at a national level. One employee at the Ministry of Justice noted the need for continued sensitization when stating, “We still need to reach the corners of the country to mobilize and sensitize to show that men and women are equal before the law” (Y. Muhire, personal interview). Indeed, women and men are “equal” in more ways than just property rights, and this employee suggested that by sensitizing rural citizens to understand that gender equality extends beyond property, these citizens might more easily come to understand and accept women’s property rights.

Another professional, a Gender Consultant at Rwanda’s Gender Monitoring Office, affirmed the need for national sensitization beyond Kigali. She remarked that, “Land, land, land is an issue! Mostly in villages, there are women who don’t know their land rights. Even in villages, the uneducated and religious fundamentals believe that men should be the head of the family, house, and property. We sensitize by organizing dialogues in these [rural] provinces with men and women” (L. Uwinkesha, personal interview).

A partial aim of sensitization is to combat patriarchal power structures. By lessening men’s power generally, efforts at land rights sensitization can be more easily achieved. Another employee at the Ministry of Justice rephrased the need for sensitization when saying, “During the late 1990’s, men were not understanding gender equality correctly. But now both men and women are involved in the sensitization war against men for their power. The law is quick to pass; the mindset is slow to change. Conflict between sisters and brothers may be resolved in court, but some women will even refuse to go back [to court] and inherit their property, but the husband urges her and this causes conflict. Through sensitization and public awareness, [these kind of people] are getting to know their rights” (O. Yankurije, personal interview).

Prevailing power structures influence and inform a culturally-constructed mindset. Yet another interview respondent grounds the aim of sensitization in a practical example concerned with changing mindsets: “The law changed, but the mindset not so much. There was a need of sensitization. But most women reported not having any rights to land and having to beg their husbands for things. But men said the law made them not have any value in their families, and it was very embarrassing for them, our study found. These men told us that, ‘We cannot do anything if our wife says ‘no’” (J. Rubagumya, personal interview). Many respondents connected the sensitization efforts to shifting mindsets. A smaller number spoke to the embarrassment experienced by men who began to realize the fragility of their masculinity when confronted with the right of women to own property. “Now, however,” he remarks, “the mindset has started to shift. There have been a lot of sensitizations” (J. Rubagumya, personal interview). Many respondents confirmed that the national mindset regarding women’s rights has shifted considerably since 1999. And yet, no interviewee reported that the national mindset was in such a state that required no more sensitization efforts.

The dual, ambiguous meaning of the word “adoption” was touched on by a small number of respondents who spoke about sensitization. In particular, one respondent elaborated on the confusion around the term, and remarked that its ambiguity made it of no use in formal legislation and academic writing. A director at a local NGO elaborated on adoption of law when saying, “A law in place is one thing, but citizens must be sensitized before the laws are fully, socially adopted. What does adoption mean? Legal adoption is different from cultural adoption, and even different from personal adoption. What does it mean to speak of a law being adopted? Measuring adoption is not so easy” (D. Gihana, personal interview). So while sensitization may be an easy buzzword to use as a solution to cultural resistance to women’s rights, understanding

the cultural resistance and measuring cultural and personal ‘adoption’ is a much more difficult endeavor.

Umunani and Cultural Resistance

Cultural resistance to women’s property rights is broadly rooted in Rwanda’s patriarchal culture and can be tied, in part, to the historical practice of *umunani*. As the Rwandan traditional practice of *umunani* was described in detail earlier in this paper, a brief summary of the practice can be stated as follows: traditionally, land passed from father to son when a son was wed. Because wives married into property, so to speak, there never existed a need for Rwandan women to own property, because she either lived on her birth-family’s land or on her husband’s land. Even after her husband passed away, the woman continued to live on her husband’s or son’s land and was cared for by her sons and family members. This practice endured for centuries in Rwanda. Thus, the cultural mindset that only Rwandan men can own land is rooted in a long-standing cultural practice that “only changed when Rwanda began to modernize” (J. Rubagumya, personal interview).

A handful of professionals spoke to the collective cultural resistance of women’s rights in the late 1990’s. An employee of SOS Children’s Village in Rwanda stated that resistance to women’s land rights, given Rwanda’s history of cultural practices is to be expected: “[You should] expect men to resist when they’re told to share property. You see, land ownership is not an issue until it is your sister or mother who is trying to own land. So if you say ‘women should not own land,’ say it for your sister and mother, too. So, resistance is a patriarchal power issue” (A. Muziranenge, personal interview). She continues, “You see those who are resistant and to me that’s normal! A law alone cannot change culture, but a law with other elements -

participation and decision making rights - can change culture. Also, you can enact a law, but if it is not well implemented, you will not achieve your results. Domestication remains a challenge after enacting laws” (A. Muziranenge, personal interview).

Yet another respondent spoke of cultural resistance in relation to patriarchal power. A Ministry of Justice employee argued that, “Resistance is the product [of many factors]. Inheritance: men and boys still don’t understand why women can inherit property plus assumption of female inferiority to males plus informal marriage or cohabitation means the woman is not protected because they can’t register property to their names when they are not married, because there is no legal relationship between them” (Y. Muhire, personal interview). Of course, resistance to change is common, particularly among older, rural, uneducated members of a society. However, the resistance to women’s property rights in Rwanda *can* be tied to certain factors, a number of which are the product of cultural practices.

Perhaps surprisingly, those who were reported as resistant to accepting and protecting women’s property rights were not exclusively men. Some women, too, did not understand or outright opposed Rwanda’s legal adoption of women’s property rights. One civil society actor explains: “One unintended consequence of the [1999] law is that the law meant to reduce land conflicts. The law can change in one day, but the cultural mindset doesn’t change so quickly. That’s what we saw during our project. First, [we asked] do men and women know about the 1999 law? Do women know they have rights to land? Most women didn’t, and those who did had only vague information. And there was always a vague resistance of this law because it was reducing men’s familial power, which derives from their control over the family land. One participant said, ‘If I no longer have power over family land, I no longer have power in the family.’ Even some women did not feel they deserved this right: ‘As long as my husband takes

care of me, I don't understand why I have to struggle with land'" (J. Rubagumya, personal interview). That Rwandan women, particularly those living in rural areas, did not understand or even opposed women's property rights is testament to both the need for sensitization and the longstanding influence of traditional culture.

One final piece of cultural resistance that emerged as a theme was the idea of ownership versus management. A small number of respondents noted that while a woman may *own* property legally, this does not mean that she *manages* this property in practice. Though a woman may be entitled to fifty percent of land that is owned by her and her husband, it is likely that the husband manages the land, and thus exercises power over the property, according to informants. One government employee, in particular, described the implications of ownership and management in relation to gender ideologies and cultural patriarchal power structures: "The problem of property is management. You can find a property registered onto a woman's name, but the husband manages the property. The 2005 and 2013 land laws mandate that family property be registered under husband and wife fifty-fifty. Before this law, it was catastrophic because men had total control over land and could drunkenly sell land, for example. But when you go in deep, men benefit from the woman's properties because they are brought to the family and the husband enjoys it. But when the wife is implicated in the management, everyone - including the family — benefits" (O. Yankurije, personal interview). So while women may enjoy *ownership* of property, the question remains whether or not they enjoy *management* of the property they own.

No Law Without Leadership

According to many respondents, there can be no law enforced without leadership. Again and again, respondents came back to the RPF administration to credit President Paul Kagame and his government with enacting, enforcing, and protecting women's property rights. When asked whether the 1999 law had changed Rwandan culture, many respondents hesitated before adding that the evolution in Rwandan culture from patriarchal toward a more gender egalitarian culture could be largely attributed to President Paul Kagame's political leadership. One civil society organizer testified to the institutional mechanisms that have shifted Rwanda's culture: "Leadership and institutional mechanisms have pushed and coordinated other stakeholders invested in gender equality. Political leadership and institutional mechanisms allowed the Gender Monitoring Office to review the penal code to ensure that the 2008 GBV law was passed and enforced" (A. Muziranenge, personal interview). An employee of Rwanda's Gender Monitoring Office touched on the necessity of good governance to protect women's rights when stating that, "Before 1994, Rwandan society was completely patriarchal. So good leadership is to credit for the change. If we leave women behind, we are going nowhere, and the RPF administration knew this and acted on it" (L. Uwinkesha, personal interview).

In response to whether the 1999 law had shifted Rwandan culture, one Head of the Rwandan Ministry of Justice concluded that, "Since 1994, many things have changed in Rwanda. One of the objectives and targets was the promotion and respect of all women. There were so many properties remaining after the 1994 genocide. But because of the law, ladies couldn't get [the property]. So legal and cultural change are both the result of a combination of the two - the law and the [political] leadership" (O. Yankurije, personal interview). A former Attorney General confirmed the RPF's role in shifting Rwandan culture that allowed for cultural adoption of the 1999 law: "The RPF was a forward-looking movement. To have a successful post-

genocide transformation, the RPF needed to upgrade the status of women. There would be no way to sustain development with so much disequilibrium between the genders, and the RPF knew that” (T. Karugarama, personal interview). Still others added, “The liberation war by the RPF engaged women to take a role in the liberation struggle. So when RPF won and took over, women were continually empowered” (D. Gihana, personal interview); and “The RPF Philosophy is this: if you exclude women, you cannot develop. They say ‘husband may be the head, but wife is the heart.’ So to empower women is to empower the whole family. Women are the stakeholders in family development; so to empower them is to empower others. Also, in the genocide, almost exclusively men were killed. So women and children were survivors. So to the RPF as a political party, it would politically make no sense to ignore the majority of people in the country: women and children. In order for orphans not to be a burden to the Government of Rwanda, the RPF empowered the mothers” (N. Umurerwa, personal interview).

Polygamy, Informal Marriage, and Communal Ownership

Three general “loopholes” with the 1999 law and the LTR program laws that followed it were identified by professionals. These three contentious issues are polygamous marriages, marriages not recognized by the law or ‘uncivil’ marriages, and the communal ownership or joint ownership of property in marriage. Though Article 39 of the Rwandan Law n° 59/2008 of the 10/09/2008 on prevention and punishment of gender based violence ambiguously attempts to address each of these three issues, much disagreement and various interpretations of the law prevail.

Concerning polygamy, it was reported that a community of polygamists have long lived in Northern Rwanda. When one man marries multiple wives, the distribution of property can not

so easily be 50-50, as a 2003 LTR law mandates. One informant elaborated on this confusion when saying, “Rwanda is really good at law enforcement. That said, there will still be polygamous families in the North, which is a loophole the law struggles to address. But the law is trying to take care of such things even though constitutionally polygamy is not allowed. So women are asking keenly what it means to be a second wife. There is no marriage so important as a civil marriage - it’s the civil wedding that legally protects women more than anything else” (D. Gihana, personal interview). Another informant commented that, “People in the Northern province were generally polygamists in nature - one man with two, three, or four women. There were no rights for these women because the man decided how much [property] to give [to each wife]. So what happens when the father dies and leaves behind children? [This is a] repugnant challenge to a growing administration” (T. Karugarama, personal interview). So while the 2008 law, and in particular Article 39, attempted to solve the polygamy issue, challenges remain. A civil society leader commented on the challenges of interpreting the 2008 law: “The 2008 GBV law fixes the informal marriage possibility of a husband kicking his wife out and claiming all property. Post-2008, these women [in informal marriages] were no longer considered as sex workers. The polygamous issue [was attempted to be] resolved, too, with Article 39. However, judges use Article 39 differently. To use it well you have to check on jurisprudence. Judges also have patriarchal behavior affecting outcomes, Haguruka studies have found. Judges often don’t understand these laws” (N. Umurerwa, personal interview).

Concerning informal marriage, several professional respondents were unaware of the 2008 law’s attempt to address the consequence of a couple living together without having underwent a civil marriage ceremony. While some civil society organizers reported that the 1999 law encouraged unwed couples to marry in order to gain the legal benefits (J. Niyitegeka,

personal interview), many reported that a large number of unwed couples still exist. One government employee affirmed that the 1999 law and LTR laws can indirectly lead to violence, particularly when the needs of informally wed couples are not legally addressed: “Yes, gender-based violence results from these intra-family land conflicts. We have seen men kill their wife because they don’t want them to take the land. Or, a brother kills a sister because he wants to get the land. Informal marriage allows husbands to separate and to keep one hundred percent of the land” (L. Uwinkesha, personal interview). Another respondent noted that, “when the marriage is not formal, [women] don’t benefit from legal advantages. If it’s not a legal marriage, there is no help from any court in claiming property. So informal marriage is a risk for the couple and the kids because they are not well protected. The new law says that informal wives can be evaluated for work done in the house and ascribed property accordingly, and that this property for unwed couples must eventually be divided equally among kids, too” (O. Yankurije, personal interview).

The final concern with legal loopholes in gender-based property right law is that of the communal ownership - or joint ownership - at the time of marriage. Communal ownership is one of two property ownership choices available to the bride and groom at the civil registry. The communal ownership choice, if made, entitles the wife to fifty percent of the husband’s assets and resources upon marriage (T. Karugarama, personal interview). In essence, the wife owns half of what the husband owns. But while “fifty-fifty” communal ownership was originally proposed in part to strengthen women’s power in marriage and the family as part of the Rwandan Law N° 43/2013 of 16/06/2013 Governing Land in Rwanda (N. Umurerwa, personal interview), there are now concerns surrounding its implementation in practice. One informant described the drawbacks of joint ownership:

“Most people at civil registry agree to communal property because it shows more love [to the partner]. So if you want to show her love, you’ll say ‘joint ownership.’ Then, your new wife who may usually want nothing all of a sudden owns fifty percent of everything you own in your life. So the divorce comes, and it causes resentment. The provision for owning separate property but then declaring communal ownership before marriage is a scene of conflict - a catalyst of conflict - and will be given increased legal attention. Communal ownership of post-marriage property obtained but separate ownership of pre-marriage property is one solution. The whole joint owned property scheme is at-risk if the man has taken a loan from the bank and defaulted. In this example, the bank will take the whole house even as it is jointly owned. In other words, you can’t have separate collaterals - that’s dangerous. You can’t joint mortgage property! Whereas if [the husband and wife] had registered separately, the couple can mortgage separate and use as collateral separately. So if the man or woman gets into a serious problem and property is joint-owned, it will affect the entire family. The threat of conflict based on community ownership is real, not imaginary. It is latent. A widow who inherited a lot of property from a dead husband should watch out for a new husband who comes in with a good smile, who proposes marriage, who gets fifty percent and starts asserting male dominance and calls the shots for the whole family” (T. Karugarama, personal interview).

So while the 1999 law and the LTR program laws are a source of empowerment for some women, they can be a source of conflict for others. Ultimately, as informants admitted, the fifty-fifty ownership of property likely helps more Rwandan women than it hinders. And yet, a number of women in varying forms of marriage are more prone to conflict due to their social location and Rwandan law’s lack of specific provisions for these various forms and social locations.

Chapter V: Conclusions and Future Directions

5.1 Conclusions and Recommendations

This paper's purpose is to examine land-related conflicts as experienced by genocide mother widows living in Kimironko Village, the unintended consequences and cultural shifts associated with the 1999 law, and the perceptions of women's property rights among Rwandan government and civil society actors whose professional work involves women's property rights. The findings of this pilot study show a surprisingly large percentage of widows sampled have been involved in intra-family conflict as a result of land-related conflict. Findings also indicate that government and civil society professionals with stakes in women's property rights can be considered "specialists" instead of generalists;" in other words, these actors seemed to know little about the gender-based and property right laws compared to the knowledge they held in their specific professional area. Perhaps ironically, nearly all government and civil society actors spoke extensively about and advocated for national sensitization of land rights, oftentimes without being prompted. And yet, nearly all of these actors included in the study were unaware of the many landmark provisions of laws dealing with land and gender, often commenting on the need to address loopholes in current legislation that *had* been amended as many as many as eight years prior. When asked about the effects of the 1999 law on culture, more than half of all respondents (n=16) stated that the law had not changed culture, but instead that the Kagame administration's focus on gender equality was the driving force behind the gradual acceptance of the 1999 law and a gradual evolution of culture and gender ideology in Rwanda. However, while

some respondents went so far as to say that the 1999 law did not contradict traditional Rwandan notions of women owning property, nearly all respondents expressed skepticism about the LTR program's ability to stop land-related conflict among rural, uneducated Rwandans who hold fast to traditional Rwandan culture. So one may conclude that Rwandan culture was not ruptured by the 1999 law, so much as it underwent a gradual evolution buoyed by the RPF administration's emphasis on gender equality. Yes, respondents said, old conflicts were cleared up when women were granted property rights. And yet new conflicts emerged. These findings are, in part, congruent with Bayisenge's (2015) study and the RISD report (2013), both of which conclude that the LTR program, though well-planned, has not significantly changed the frequency of land-related conflict. This study builds upon the aforementioned two, suggesting not only that the 1999 law and its related LTR laws did not significantly change the number of land-related conflicts, but also that the LTR package of laws may have shifted the nature of these conflicts from inter-family to intra-family. In other words, the author concludes that, whereas before 1999 land-related conflicts were played out between men of separate families, after 1999 land-related conflicts slowly began to be played out between members of the same family, oftentimes a male member(s) pitted against a singular female member. New laws and policies create new spaces in which resources - land - are negotiated and new arenas (inside the home) in which conflict can occur.

Each of the five genocide mother widows claimed that they have increased rights and opportunities as a result of the 1999 law. Furthermore, each of these women claimed that boys and girls were equal now. However, each of the eleven professionals claimed the opposite; while boys and girls may be equal before the law, oppressive power structures still exist in latent, underlying forms. The examples of Rwandan men forming "men's rights" groups and instances

of men complaining of “Kagame laws” - meaning laws that oppress men in favor of a more equal society - are testament to this latent form of sexism (N. Umurerwa, personal interview).

Indeed, that each of the five mother genocide widows reported experiencing, directly or indirectly, some form of conflict is very rare. As suggested in studies by Bayisenge (2015), Jackson (2003), and Walker (2003), Rwandan women generally shy away from reporting or discussing land conflict, possibly because they are unaware of their rights, they do not want to experience the social costs, or because they do not want to experience divorce or punishment from their husband (Walker, 2003). Speaking of family conflict, particularly to guests and strangers, is taboo in Rwanda. This is particularly true of Rwandan women, as airing dirty laundry risks group exclusion, being stigmatized, or ostracized from their community (Uwineza et al., 2009). Were the women sampled for this study outliers in their willingness to discuss conflict? Or, by virtue of having been the only five in a village of 120 genocide widows to have experience with legally claiming property, did my sample self-select as most willing to discuss property-related conflict?

There still exist legal discrepancies in Rwandan law that may cause land conflict now and in the future. Because land negotiations occur in a tightly contested space influenced by interlocking structures and institutions (Agarwal, 1994), women’s bases for land conflicts are multidimensional and high stakes. As Baysienge (2015) writes, Rwandan women’s grounds for property dispute “have both structural (scarcity, limited size) and relational (inheritance, polygamy, border encroachment; daily management of land and its produce) grounds and are interconnected and influence each other.”

This pilot study concludes that the 1999 law, and Rwanda’s subsequent LTR program, impacted Rwandan cultural beliefs by providing a legal framework that, according to

respondents, shifted cultural practices. However, respondents made clear that without the RPF leadership and political administration, Rwandan culture would not have been impacted much if at all by laws alone. Additionally, respondents agreed that the 1999 law can and does inadvertently cause intra-family conflict between the female who attempted to claim property and her male relatives. The extent to which the law caused these conflicts is difficult to gauge given the limitations of this study, but it can be said that Rwandan women's legal right to property has caused at least some intra-family conflict among mother genocide widows. This conflict can take many forms, from court corruption to death threats.

Polygamy, informal marriage, and communal ownership are three issues which continue to be associated with women's land-related conflict. Marital land sharing in the first two of these three issues can be said to highlight legal blind spots; they are circumstances for which the law does not clearly or comprehensively account. This pilot study thus provides the following three recommendations: evidence-based sensitizations in the rural "corners" of Rwanda, destigmatization of communal ownership of property at marriage, and amending Article 39² of Rwandan Law n° 59/2008 of the 10/09/2008 on prevention and punishment of gender-based violence to include clear language and a legal framework for distributing property ownership in informal marriages and nontraditional forms of marriage in Rwanda.

5.2 Future Directions for Research

The circumstances and recommendations outlined in the preceding section present particular questions useful for guiding future research and policy making: With what standard measures is the housework of informally married wives evaluated to determine the share of land

² See Appendices B for Article 39

that they receive? What rights do polygamous wives have to shared land when the polygamous husband dies, divorces, or otherwise abandons one or more wives? How is parent-inherited land shared in polygamous relationships? In the event that a widow remarries, how will her land be inherited by children or extended family? How ought children fairly and equitably divide parent-inherited land?

Future areas of research may address Rwandan women's perceptions of property ownership versus property management. Do women manage property, or simply own property in name only? In addition, trends in communal ownership at the time of marriage may be another important area for research. Future trends in communal, or joint, ownership of property will dictate the need of future laws to further govern the fifty-fifty allocation of property between husband and wife. Lastly, a larger sample of genocide mother widows is desirable for generalizability. While the claims presented in this paper stem from data collected from widows, the generalizability of their experiences and perceptions is questionable. Perhaps future research may produce a comparative analysis of Kimironko Village with another village, comparing the perceptions and experiences of genocide mother widows, for example.

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Appendix A

ISP Interview Questions³

1. What is your name?
2. Please spell your name.

³ Depending on the interview informant, I will select different, appropriate combinations of these questions to pose. For example, question #4 will only be asked of women who are being interviewed because they have claimed property.

3. Which province of Rwanda do/did you live in?
4. Have you legally claimed property?
5. Did people understand your situation and how were you feeling in society?
6. In what year did you legally claim property?
7. How old were you in the year you legally claimed property?
8. Why did you claim that property?
9. Describe the legal process you experienced when claiming property.
10. Do women legally owning property agree with or contradict Rwandan cultural notions/traditions/beliefs regarding women's ownership/inheritance of property?
11. If "contradicts," name the cultural/traditional norm that it contradicts.
12. What are Rwandan traditional/cultural norms of property rights?
13. How did your peers/friends/neighbors react to your legal claiming of property?
14. How did your family react to your legal claiming of property?
15. In what ways, if at all, has the legal right of Rwandan women to claim property changed the Rwandan cultural notions/traditions/beliefs regarding women's ownership/inheritance of family property?
16. Have there ever been arguments between you and family member(s) about you, as a woman, legally owning property?
17. If yes, how many arguments or disagreements have you experienced as a result of your legally owning property?
18. If yes, how long do these arguments or disagreements last?
19. If yes, describe one or more of these arguments or disagreements.
20. If yes, what is specifically said during these arguments?

21. If yes, why are there these arguments between you and your family member(s)
22. If yes, with which family member(s) do/did you argue?
23. If yes, how many of these conflicts have you resolved?
24. have you been involved in claiming property for other women?
25. If yes, when was the most recent conflict over your legally claiming property?
26. If yes, how has this conflict/disagreement made you feel?
27. If yes, what effect, if any, has this conflict had on your family?
28. If yes, what has resulted from these conflicts or disagreements?
29. Do Rwandan traditional values regarding women's property ownership still govern Rwandan culture?
30. If yes, has the 1999 law affected Rwandan traditional values of women's property ownership?
31. How has the 1999 law impacted Rwandan culture?
32. Do some Rwandans still believe that women should not have legal rights to property?
33. If yes, describe these Rwandans.
34. How has the 1999 law affected you/women in Rwanda?
35. How has the law affected Rwandan men?
36. what do you think should be done to make things going well?
37. What lessons or things have you learned from this experience that you will pass on to the youth?

Appendix B

Article 39 of Rwandan Law n° 59/2008 of the 10/09/2008 on prevention and punishment of gender-based violence

Ingingo ya 39: Ishyingiranwa n'igabana ry'umutungo w'ababanaga ku buryo butemwe n'amategeko

Ababanaga nk'umugore n'umugabo batashyiringanywe mu buryo buteganywa n'amategeko, bashyiringwa hakurikije ihame ry'ubushyiringanywe bw'umugabo umwe n'umugore umwe.

Mu gihe umwe mu barebwa n'ibivugwa mu gika kibanziriza iki, yabanaga n'abagore cyangwa n'abagabo benshi, abanza kugabana ku buryo bungana na buri wese mu bo babanaga, umutungo bari bafitanye cyangwa bahahanye mbere y'uko ashyingirwa.

Igabana ry'umutungo rivugwa mu gika cya 2 cy'iyi ngingo ntrivutsa abana babyaranye uburenganzira bahabwa n'amategeko.

Article 39: Legalizing unlawful marriages and common assets distribution

Those people entertaining unlawful marriages shall be married in accordance with the monogamous principle.

If a person concerned with the provision of previous paragraph of this Article was living with many husbands/wives, he shall first of all share the commonly owned belongings with those husbands/wives equally.

The property distribution referred to in paragraph 2 of this Article shall not trench on the children's legally recognized rights.

Article 39: Légalisation d'unions illégales et partage de biens communs

Les ménages entretenant des unions conjugales illégales se marient selon le principe de mariage monogamique.

Lorsqu'une personne concernée par les dispositions de l'alinéa précédent du présent article vivait avec plusieurs femmes ou hommes, il procède d'abord au partage égal entre ces femmes ou hommes de leurs biens communs d'avant son mariage.

Le partage des biens visés à l'alinéa 2 du présent article ne prive pas les enfants du droit que la loi leur confère.

Ibikurikizwa muri iryo gabana bigenwa n'Iteka rya Minisitiri ufite ubutegetsi bw'Igihugu mu nshingano ze.

Ingingo ya 40: Ivanwaho ry'ingingo z'amategeko zinyuranyije n'iri tegeko

Modalities of such distribution shall be determined by an Order of the Minister in charge of Local Government.

Article 40: Abrogating provisions

Les modalités de ce partage sont fixées par arrêté du Ministre ayant l'Administration Locale dans ses attributions.

Article 40: Disposition abrogatoire