



**United Nations Human Rights Council
Universal Periodic Review: Rwanda**

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ICAAD combats structural discrimination and promotes human rights norms consistent with public international law. Structural discrimination refers to systems of inequality that provide a social, political, cultural, or economic advantage to a dominant group while furthering barriers of exclusion that make marginalized communities more susceptible to violence and indignity. Structural discrimination is often operationally reliant on unresolved vestiges of direct discrimination in past eras, and may include direct discrimination in the law. By leveraging partnerships, ICAAD brings together passionate multidisciplinary teams of lawyers, data scientists, and design strategists to improve access to justice for women, girls, and other vulnerable groups while strengthening the capacity of civil society.

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I. Women's Rights Issues

A. Gender Equality

1. Systematic Discrimination

(1) Rwanda continues to face a legacy of cultural tradition that subordinates women. Males remain in firm control of the household and its money. Before the 1994 genocide, women could not own land and were legally classified as minors.¹ While female property ownership has significantly increased in cities, women in rural areas continue to face problems owning land.² Unbalanced share of property, resistance to gender equality, and non-recognition of the inheritances of female heirs all play a significant gender component to the allocation of land rights.³

(2) One significant barrier to women achieving higher outcomes within the family unit and in employment has been their ability to secure independent credit, which is a major part of economic independence. Despite increasing opportunities for females to borrow, 66% of females do not participate in credit borrowing, compared to only 33% of males, speaking to the continued salience of traditional gender roles which limit the scope of female activities.⁴

2. State Response

(3) Article 11 of the Rwandan Constitution sets forth the norm of non-discrimination on the grounds of race, gender, ethnic group, clan, tribe, region, language, culture, social and economic status, and disability. The comprehensive nature of this protection makes the Constitution a good baseline.⁵

(4) Representation in decision-making is essential to progress in women's rights. To that extent, both the Constitution and statutes guarantee that women will have a minimum designated amount of representation in governance bodies. The Constitution's guarantee of at least 30% of seats in the Senate set aside for women has been successful in effecting change.⁶ At the grassroots level, the law also provides for female representation. Law no. 13/2002 provides for a minimum quota of 1/3 women.⁷ These actions have been successful in securing representation. Women have good representation in parliament, at 58% female in the Chamber of Deputies in 2012. They also make up 37% of ministers and 45% of members of district councils.⁸ The existence of a specialized gender ministry has allowed for targeted action plans such as the National Gender Policy to be enshrined as an integral part within broader development goals.⁹ The ministry has participated in gender mainstreaming in all areas of women's rights and has engaged in a variety of public awareness campaigns to this effect.

(5) Two laws in land reform have helped improve women's economic status. The Inheritance and Succession Law of 1999 codified a legal right for women to inherit land.¹⁰ Article 4 of the Land Law of 2005 officially made husband and wife equal with respect to control of the land and banned discrimination regarding ownership and possession of land.¹¹ Women's claims to land can be brought before specialized bodies including the Family Court and the mediatory body Abunzi.¹² This body in particular has been vital in adjudicating several women's claims and will likely play a larger role as awareness grows regarding the laws in place.

(6) The continued enforcement of the Family Code of 1988, which sets forth basic principles of equal legal capacity in matters of marriage, allowing for equal rights with respect to choosing a profession, responsibility over children, and petitions for divorce, has generated positive norms and advanced the social position of women.¹³

3. Remaining Challenges

(7) While the Constitution's guarantee ensuring women a significant place in governance has made it easier to instill gender-equal norms, it has not helped overcome many challenges women face.¹⁴ Gender capacity building in government remains a challenge because women are expected to take up increased vocal roles in society but with no change in their responsibilities at home. In contrast, it is socially acceptable for men to easily shed excessive domestic burdens.¹⁵

(8) Cultural biases remain salient. Many Rwandans still prefer boys over girls and many men are reluctant to implement decisions made by women.¹⁶ Women face negative attitudes when joining trade associations and increasing their economic independence.¹⁷ Their capacity is also questioned and therefore at the grassroots level, communities may not adequately take into account women's needs¹⁸. Women sometimes buy into the cultural atmosphere this creates.¹⁹ Custom represents a barrier to implementation because the Constitution provides customary law a place in jurisprudence. Customary law cannot be inconsistent with statute, but until statutes have further ingrained themselves into society in the form of norms, the continued power of customary law still threatens further progress for women²⁰.

(9) Cultural biases against women owning property have lingered and customary law continues to compete with statutory law in undermining equal rights for women in this field. Many bodies including the Family Court are seen as susceptible to prejudice in favor of longstanding discriminatory norms.²¹ Even the unique Abunzi adjudication system, which has contributed greatly to the increasing recognition of women's land rights, is plagued by a lack of resources.²² Women also persistently lack access to justice because of a fear of reprisal from community and relatives, as well as a lack of adequate legal counsel.²³

(10) The legally sanctioned structure of the family still contains discriminatory provisions despite upholding general equality. In particular, Article 206 of the Family Code still holds that husbands are the head of the conjugal family and his will prevails in case of dispute over parenting.²⁴ Polygamy remains commonly practiced despite being outlawed.²⁵ In general, unregistered marriages remain commonplace and outside of state protection of the rights of women in marriage.²⁶

4. Recommendations

(11) The government and local civil society must engage in additional gender mainstreaming and de-stigmatize domestic work for men, women owning property, and women moving into the labor force. The government should institute incentives to register a marriage, thereby reducing the gaps in existing matrimonial law. Finally, the gap in the family code should be eliminated by removing provisions that install the husband as the head of the family.

B. Violence Against Women

1. Systematic Discrimination

(12) One in every three women in Rwanda has been the victim of violence at the hands of male relatives. 41% of women had experienced physical violence by the age of 15. 22% had experienced sexual violence in their lifetime.²⁷ More than 93% of physical and sexual abuse victims are women.²⁸ Sexual violence against women is also heavily concentrated in incidence of rape against female minors. Statistics from the National Police in 2007 showed that of 2935 reported cases, 2421 of these cases were against minors.²⁹ The root causes of gender-based violence appears to be the old patriarchal system which is perceived to be under threat.³⁰ It is also impossible to ignore that reports of gender-based violence were more concentrated in districts like the capital of Kigali, despite the fact that reports of general sex-based discrimination were lower there.³¹ Authorities must confront the notion that gender-based violence may be underreported in rural areas where women still lack access to education, justice, and exposure to human rights norms.

2. State Response

(13) Rwanda has so far shown good political will to changing gender-based norms in the era after the forced rupture of the social order brought about by the genocide.³² Rwanda has ratified the major international conventions relating to violence against women, including CEDAW and the United Nations Declaration on the Elimination of Violence against Women. It has also instituted domestic legislation that rolls back discrimination and helps combat gender-based violence. In particular, Law No. 59/2008 specifically targets violence against women.³³ The government has instituted the essential frameworks to tackling gender-based violence. It has done so by establishing a separate Gender Monitoring Office. One Stop Centers provide care and support for women.³⁴ In addition, the Rwandan police have separate gender desks. In recognition of the plight of women in disadvantaged rural communities, each district has an Access to Justice Office.³⁵

(14) Local sensitization and training programs run by NGOs and targeting men have shown some promise in changing the attitudes of men toward the effect of gender-based violence on marital relationships.³⁶

3. Remaining Challenges

(15) The gender-based violence law is an important step. However, the law is still incomplete, because it is gender-neutral and fails to take into account the disproportionate impact of violence on women. It remains difficult to prosecute gender-based violence incidents that heavily involve social roles, such as marital rape.³⁷ Furthermore, the law still does not protect against LGBT victims.³⁸ It also has the potential to be discriminatory and onerous in its effect. Articles 14 and 15 provide for punishment for adultery, but applies this punishment to both parties, with no distinction made in defining adultery to take into account voluntariness of allegedly adulterous sexual act.³⁹ Further, Article 36 expressly makes it a crime punishable by imprisonment or fine if a victim refuses to testify as to the violence.⁴⁰ This provision in particular is a blunt instrument unlikely to solve the testimonial obstacles inherent in sexual violence and represents a punitive measure to women who have faced the trauma of violence.

(16) There remain serious gaps in the enforcement/prevention mechanism. A study by the Men's Resource Center showed that 38% of those who faced gender-based violence did not reported it to local authorities.⁴¹ Further, a large plurality of victims, 37%, claimed to have not been assisted.⁴² These results show a large gap in enforcement.

(17) Stakeholders reported the lingering effects of cultural norms legitimizing sexual violence.⁴³ They also pointed out the lack of resources to provide victims with medical, psychological, and legal support. Lack of access to justice by large numbers of rural women exacerbated by a lack of funding and a lack of transportation to report cases is a major challenge.⁴⁴ The training programs run by the local NGO Rwanda Men's Resource Centre, for example, have been implemented in only 12 out of 30 districts in the country.⁴⁵

4. Recommendations

(18) The provisions in the gender-based violence law criminalizing lack of testimony and punishing adultery should be abolished. The government should pay heavy attention to the challenges and recommendations laid out in part I. These social issues contribute heavily to a culture of domestic violence and their eradication would go a long way toward cutting down domestic violence at its root. The government should provide additional services, or funding for NGOs, to work in more remote parts of the country and continue to emphasize the role of men in overcoming traditional values that hamper the progress of women.

II. Minority Rights

A. Batwa

1. Systematic Discrimination

(19) The government has not done enough to promote the rights of the Batwa, whose traditional homeland was destroyed when the forests were turned into national parks.⁴⁶ Indeed, the ban on ethnic identification imposed after the genocide continues to hinder the recognition of the group's needs. There is no law specifically targeting Batwa rights.⁴⁷ The government encourages citizens to see themselves not within ethnic subgroups but as simply Rwandan. However, Batwa have a distinct history and culture that, in addition to their small numbers and widespread social discrimination, hinders their ability to simply identify as Rwandan.

(20) Based on the Convention for the Elimination of all Forms of Racial Discrimination, which Rwanda has ratified, the State's failure to recognize this distinct culture represents a possible violation of Article 5(e), which protects economic, social and cultural rights of populations.⁴⁸ While the State has stressed the unitary culture of all Rwandans, including Batwa and promoted economic and social rights on that basis, history hinders the ability of Batwa peoples to identify as Rwandan and integrate into society. Historically marginalized communities as a whole are guaranteed representation via Article 82 of the Constitution, providing that the President shall ensure representation for these communities by appointing eight members of the Senate.⁴⁹ However, Batwa only have one representative in the Senate.⁵⁰ In the Chamber of Deputies, special measures are taken for the representation of women, youth, and the disabled, but explicitly not for minority populations/ historically marginalized communities.⁵¹ There remains no definition, moreover, of what historically marginalized community means in law.⁵² Existing affirmative action programs point out the disadvantages suffered by various groups, but in comparison to the extensive treatment provided for women and youth, for example, there is very little discussion of historically marginalized communities and no mention of Batwa in particular.⁵³

(21) The Batwa suffer from a lack of land, a lack of employment and education opportunities, poor housing, and general poverty. 47% of Batwa are landless, nearly four times the national number.⁵⁴ Only 45% of

Batwa children attend secondary school and only 5% attend university.⁵⁵ 77% of Batwa are illiterate.⁵⁶ The Batwa suffer high unemployment, with 30% unemployed, compared to 2% nationally.⁵⁷

(22) Batwa suffer from discrimination and harassment on the part of the local population, which often sees them as lazy and dirty.⁵⁸ The law against divisionism prevents Batwa from using law to combat this discrimination. Children, for example, may also suffer indirect social consequences from this discrimination because they may be afraid to go to school.⁵⁹

(23) The law against divisionism burdens the establishment of NGOs that can work on Batwa rights.⁶⁰ For example, the COPORWA can advocate for pottery workers, a historically Batwa profession, but cannot label itself an NGO for indigenous rights. Such restrictions drastically limit the scope and depth of human rights work that civil society can do.

2. State Response

(24) Rwanda has accepted recommendations made in the past UPR cycle to integrate Batwa into society, but at the same time, it has rejected calls to better provide access to basic social services for indigenous populations, presumably because it feels Batwa already have access to basic social services.⁶¹ There is a Batwa organization known as COPORWA and the government has begun to consult this organization. It has a focal point in the Ministry of Local Administration for marginalized groups.⁶²

(25) Vision 2020 is an attempt to eliminate extreme poverty for all vulnerable people by 2020.⁶³ There is some evidence that government is beginning to adopt policies for the advancement of heavily impoverished communities with high Batwa populations and that these policies have begun to reach the Batwa.⁶⁴ In particular, the one-cow per family policy helps families generate income with minimal land ownership.⁶⁵

3. Remaining Challenges

(26) The taboo on ethnicity makes it very difficult to tailor policies to Batwa. Policies are tailored to the marginalized, without referring to Batwa people in particular. This denies the group dispossession that has taken place in favor of a focus on the individual. While discrimination is illegal, it may be difficult to bring claims of discrimination for fear of referring to ethnicity.⁶⁶ Finally, the one-cow per family policy remains insufficient to those who have no land, as is the case with many Batwa.

4. Recommendations

(27) Given challenges imposed by a separate history and culture, as well as lingering prejudices among the population, Batwa may see themselves as a separate group from other Rwandans. Special targeted measures providing for housing, employment and better education may be necessary for the integration of Batwa peoples. In addition, forced assimilation may obliterate the distinctive culture of the Batwa. The ethnic taboo, at least as it relates to the Batwa should be eliminated, so that organizations and government policy may better accommodate Batwa rights. At the very least, the government needs to adopt a strict definition of historically marginalized community and undertake more extensive affirmative action policies for their benefit.

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- ¹ Katie Carlson and Shirley Randell, *Gender and Development: Working with Men for Gender Equality in Rwanda*, May 28, 2013, at 3; available at <http://www.ifuw.org/wp-content/uploads/2014/01/FINAL-PUBLISHED-COPY-Working-with-men-to-end-gender-based-violence-K.-Carlson-and-S.-Randell-1.pdf>
- ² *Secure Land Rights for Rwanda's Women are Critical for Families and the Nation*, Landesa Field Focus Blog, July 2014, available at www.landesa.org/blog-secure-land-rights-for-rwandas-women-are-critical-for-families-and-the-nation
- ³ *Sexual and Gender-Based Violence Base-line Study in 13 Districts*, Rwanda Men's Resource Center, May 2013, at 84; http://www.rwamrec.org/IMG/pdf/baseline_study_on_gbv_may_2013-_rwamrec.pdf
- ⁴ *National Gender Statistics Report 2013*, Gender Monitoring Office of the Republic of Rwanda, at 51
- ⁵ *Single Report Equal to Fourth, Fifth, and Sixth Reports on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women 1994-2005*, Minister in The Prime Minister's office In Charge of Family and Gender Promotion (*hereinafter* MIGEPROF), p. 31, para 81, available at http://www.migeprof.gov.rw/IMG/pdf/CEDAW_Report-2.pdf
- ⁶ *Id.* at 35, para 101-103
- ⁷ *Id.*
- ⁸ *National Gender Statistics Report 2013*, Gender Monitoring Office of the Republic of Rwanda, at 36-37
- ⁹ MIGEPROF, *supra* note 5, at 21, para 35,38
- ¹⁰ Law No. 22/99 of 12/11/1999 regarding Matrimonial Regimes, Liberalities, and Successions, available at http://www.migeprof.gov.rw/IMG/pdf/MATRIMONIAL_REGIMES_LIBERALITIES_AND_SUCCESSIONS-2.pdf
- ¹¹ Article 4, Organic Law No. 8/2005 of 14/07/2005 Determining the Use and Management of Land in Rwanda,
- ¹² *Policy Brief: Women's Lands Rights Gains in Rwanda are Eroded by Cultural Practices and Negative Attitude*, Rwanda Women's Network, May 2011, at 1-2, available at http://www.landcoalition.org/sites/default/files/publication/1159/RWN%20Policy%20Brief%202027%2010%2011_WEB.pdf
- ¹³ MIGEPROF, *supra* note 5, at 64, para 267-268
- ¹⁴ Claire Devlin and Robert Elgie, *The Effect of Increased Women's Representation in Parliament: The Case of Rwanda*, in *Parliamentary Affairs* Vol. 61, No. 2, at 251
- ¹⁵ Peace Uwineza and Elizabeth Pearson, *Sustaining Women's Gains in Rwanda: The Influence of Indigenous Culture and Post-Genocide Politics*, The Institute for Inclusive Security, 2012, at 22, available at http://www.inclusivesecurity.org/wp-content/uploads/2012/08/1923_sustaining_womens_gains_nocover.pdf
- ¹⁶ MIGEPROF, *supra* note 5, at 36, para 110
- ¹⁷ *Id.* at 36, para 112
- ¹⁸ *Id.* at 36, para 113
- ¹⁹ *Id.*
- ²⁰ *Id.* at 114
- ²¹ Policy Brief, *supra* note 12, at 2-3
- ²² *Id.*
- ²³ *Id.*
- ²⁴ MIGEPROF, *supra* note 5, at 65, 276-277
- ²⁵ Uwineza and Pearson, *supra* note 15, at 22
- ²⁶ Gender Equality in Rwanda: Index, available at <http://genderindex.org/country/rwanda>
- ²⁷ *National Gender Statistics Report 2013*, Gender Monitoring Office of the Republic of Rwanda, at 31
- ²⁸ Nishtha Chugh, *A drive to beat Rwanda's Gender-based Violence*, The Guardian, Nov. 22, 2013, available at <http://www.theguardian.com/global-development-professionals-network/2013/nov/22/rwanda-gender-based-violence>
- ²⁹ Country Assessment on Violence against Women: Rwanda, at 11, available at http://www.un.org/womenwatch/ianwge/taskforces/vaw/VAW_COUNTRY_ASSESSMENT-Rwanda-1.pdf
- ³⁰ *Id.* at 14
- ³¹ *Id.* at 13
- ³² Uwineza and Pearson, *supra* note 15, at 6
- ³³ Law No. 59/2008 of 10/09/2008, on Prevention and Punishment of Gender-based Violence, available at <http://www.refworld.org/docid/4a3f88812.html>
- ³⁴ Mary Balikungeri and Immaculee Ingabire, *Women Count: Security Council Resolution 1325: Civil Society Monitoring Report 2012*, Rwanda Women Network, at 8, available at http://www.rwandawomennetwork.org/IMG/pdf/rwn_gnwp_rwanda_report_2012.pdf
- ³⁵ *Id.*
- ³⁶ See generally Carlson and Randell, *supra* note 1
- ³⁷ *Id.* at 10
- ³⁸ *Id.*

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- ³⁹ Article 14-15, Law No. 59/2008 of 10/09/2008, on *Prevention and Punishment of Gender-based Violence*, available at <http://www.refworld.org/docid/4a3f88812.html>
- ⁴⁰ Article 36, Law No. 59/2008 of 10/09/2008, on *Prevention and Punishment of Gender-based Violence*, available at <http://www.refworld.org/docid/4a3f88812.html>
- ⁴¹ *Sexual and Gender-Based Violence Base-Line Study*, *supra* note 3, at 77
- ⁴² *Id.* at 78
- ⁴³ *Id.* at 88
- ⁴⁴ Country Assessment, *supra* note 29, at 27
- ⁴⁵ Rwanda Men's Resource Center, *Achievements January 2011 to June 2012 and Future Perspectives*, October 2012, at 9, available at http://rwamrec.org/IMG/pdf/rwamrec_annual_report_for_january_2011_to_june_2012.pdf
- ⁴⁶ Rwanda, International Work Group for Indigenous Affairs (IWGIA), *The Indigenous World 2012*, at 450 available at http://www.iwgia.org/images/stories/sections/regions/africa/documents/IW2012/rwanda_iv_2012.pdf
- ⁴⁷ *Id.*
- ⁴⁸ *Alternative Report Submitted to the UN Committee on the Elimination of Racial Discrimination at the 78th Session, during the consideration of the 13th-17th Periodic Reports of the Republic of Rwanda*, Unrepresented Nations and Peoples Organization (UNPO), January 2011, at 7
- ⁴⁹ *Id.* at 14
- ⁵⁰ IWGIA, *supra* note 46, at 450-451
- ⁵¹ UNPO, *supra* note 48, at 14
- ⁵² *Id.* at 7-8
- ⁵³ *Id.* at 12-13
- ⁵⁴ *Indigenous Peoples in Rwanda*, IWGIA, available at <http://www.iwgia.org/regions/africa/rwanda>
- ⁵⁵ IWGIA, *supra* note 46, at 452
- ⁵⁶ *Indigenous Peoples in Rwanda*, IWGIA, available at <http://www.iwgia.org/regions/africa/rwanda>
- ⁵⁷ *Alternative Report Submitted to the UN Committee on the Economic, Social, and Cultural Rights for the consideration of the Initial Report of Rwanda during the 50th Precessional Working Group*, Unrepresented Nations and Peoples Organization, September 2012, at 11; See also Nick Ashdown, *The Batwa: Rwanda's Invisible People*, *IC Magazine*, June 4, 2013, <https://intercontinentalcry.org/the-batwa-rwandas-invisible-people-19581>
- ⁵⁸ UNP), *supra* note 48, at 11
- ⁵⁹ *Id.*
- ⁶⁰ *Id.* at 13
- ⁶¹ IWGIA, *supra* note 46, at 452
- ⁶² *Id.* at 452
- ⁶³ UNPO, *supra* note 48, at 12
- ⁶⁴ *Id.* at 9
- ⁶⁵ *Id.*
- ⁶⁶ Nick Ashdown, *The Batwa: Rwanda's Invisible People*, *IC Magazine*, June 4, 2013, <https://intercontinentalcry.org/the-batwa-rwandas-invisible-people-19581/>