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DEVELOPMENT (ILPD)

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COURSE: GENDER AND DOMESTIC RELATIONS

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## **Abstract**

Rwanda has taken many steps to provide legal solutions to gender issues prevailing in Rwandan society. The government has initiated laws that are gender-neutral, in particular; the law on succession of 1999 which legally recognizes and uplifts the status of women and girls in the society to be equal to men's. However, in practice, the effects of discrimination and abuse against women have persisted and continue to impact women and girls. Gender stereotypes remain strong in Rwandan society to an extent that quite often they influence the interpretation and application of legal rules, to the detriment of women and girls as well as the realization of justice. This point is well-evidenced within the institution of both nuclear and extended families.

This course on gender and domestic relations is not intended to teach substantive law, but rather, is designed to help judges, lawyers, and prosecutors acquire interpretative skills and apply them with positive purpose to restore and preserve the rights of both sexes as equal beings before the law. The course covers four main chapters on gender, marriage, divorce and judicial separation, and succession.

It is important to note that this course does not assume that women are solely victims of domestic abuse or that only men are the violators of women's rights. The approach acknowledges that the patriarchal structure of Rwandan society has resulted in discrimination against women and girls, treating them as second category of human beings in their families and in Rwandan society as whole. One of the objectives of this course is to show the unfairness of gender blindness in legal institutions, and to encourage informed legal gender analysis.

“...including the previously excluded means more than adding new content to the old curriculum . . . It means challenging the methodologies that produced the exclusions. In classics, for example, including the lives of women means studying the economy of the household, not just famous battles”<sup>1</sup>.

Martha C. Nussbaum

## 1. HISTORICAL OVERVIEW

In most African societies, Rwanda in particular, differences between men and women have been based on differing responsibilities. A woman was prepared from an early age to assume her future role as wife and mother. The woman's place remained largely domestic or working in the fields for those from rural communities. A woman learned from her mother about all household tasks performed by the women of her social class. As head of the family, a man was in charge of earning the livelihood for his entire family by working outside the home.

In traditional Rwanda, a woman had no right to succession as a daughter and as a wife. The patriarchal system in Rwanda privileged males over females. This system gave women a subordinate status, rendered them docile and, dependent; created a large economic gap between men and women.

Taboos and social restrictions have permitted and strengthened inequalities between girls and boys, women and men, in part because a wife is perceived as belonging to another family lineage than that of her husband. As a consequence, she is deprived of a right to property ownership earned from her income.

The traditional principles of masculinity and of *patrilinearity* kept women in the state of permanently assisted persons. The succession of family property was absolutely passed on to male children. This situation put women in a vulnerable state of dependence and often resulted in the underdevelopment of their capabilities. In a woman's education, emphasis was placed on the need to respect her husband, her father, and her brothers, and to be bound by their rules.

Failure to include women has been detrimental not only to individual women themselves, but also to women's families and the country at large. Today, there has been a drastic change in much of the Rwandan population in how it perceives the promotion and status of women. It is

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<sup>1</sup> M.C. NUSSBAUM and J. GLOVER (Eds.), (1995), Women, Culture, and Development : A study of Human Capabilities, Clarendon Press. OXFORD.

beginning to be understood as a development of mind and a human rights concern, rather than an “overthrow” of male power. This is evidenced by the many mechanisms, policies and laws that have been put in place<sup>2</sup>.

## **2. COURSE OBJECTIVES:**

This course aims to provide the requisite knowledge and skills to make gender-sensitive decisions in domestic relations cases. At the end of the course, participants will have learned:

- what gender means
- how domestic relations laws affect women and men differently
- the basic international obligations relating to gender equity and the equality of women and men
- how new domestic relations laws differ from custom and practice
- how domestic violence interferes with the Rule of Law in Rwandan society

## **3. COURSE DESCRIPTION**

The course is divided into four parts. Part one is about gender, showing the intersection of gender and law. Part two is about marriage and its formalities, age and matrimonial regimes. Part three is about divorce and judicial separation. Part four is about succession. These four sections will explore how specific laws in domestic relations impact men and women differently.

## **4. METHODS OF INSTRUCTION**

The teacher is free to suggest his/her own techniques on how to present this material, but the suggested methodology is a participatory approach. A relaxed environment that will allow students to participate freely will encourage insight and thoughtful analysis that can change attitudes towards gender roles and sex stereotypes in the field of law. The teacher is encouraged to use brief role plays or a case study to demonstrate the gender dimensions of relationships in a family or courtroom. However, the teacher also should be in position to control the interventions by participants due to time constraints. Gender-related trainings are always interesting and contentious. If not carefully managed, long discussions may prevent the teacher from covering all the topics, and the course may not achieve its objectives.

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<sup>2</sup> Refer to Republic of Rwanda, Ministry of Gender and Family Promotion, (2004), National Gender Policy.

## **5. TEACHING METHODOLOGY**

### ***One hour***

- Find out how much the students know about the concepts of gender, and domestic relations
- Ask about students' expectations of the course
- Use students' knowledge and expectations to help them define gender, and difference between gender and sex

### ***One hour***

- Talk about the gender dimensions of domestic relations law by giving examples of eye-opening laws, and the relationship between legislation and customary/religious norms

### ***One hour***

- Using a flipchart and/or a case study, let the students determine the relationship between law and customary or religious practices focusing on gender and domestic relations laws

### ***Last forty-five minutes***

- Summarize by highlighting and emphasizing key issues of the course

## **6. DEFINITIONS OF MAJOR CONCEPTS**

### **Law**

Is defined as “a binding custom or practice of a community: a rule of conduct or action prescribed or formally recognized as binding or enforced by controlling authority”<sup>3</sup>. In this context, law is any traditional, religious, or written rules that are acceptable and applied in the community. In the case of Rwanda, laws and practices will be analyzed to demonstrate how they impact men and women, girls and boys differently, and how traditional and religious beliefs can impede the application of laws and rendering of gender justice.

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<sup>3</sup> <http://www.webster.com/dictionary/equity>, 08/08/06

## **Human Rights**

Human rights are the rights people have because they are human beings; the basic standards without which people cannot live in dignity. Every individual human being, without discrimination, is entitled to certain fundamental freedoms. There are civil and political rights (freedom of speech, the right to vote, protection from violence, equality before the law) and social and economic rights (right to food, health/healthcare, access to education), but human rights are generally held to be interconnected and indivisible. All states (countries) have an obligation to promote human rights without discrimination.

### **Human rights in relation to women's rights**

Women's rights are human rights specifically for women. Women make up more than half the world's human population. The United Nations and many of its agencies' reports show that women's rights are violated because of their sex, gender roles, and status in society. This is why it is necessary to address women's rights separately and in addition to human rights in general.

### **Violence against women**

Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering of women. It includes threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life, for example, health and reproductive rights, education rights, economic and labor rights, parental and marital rights, and civic and political rights. It is believed that violence against women is prevalent in a family often perpetrated by relatives or people known to them than in a public sphere and strangers<sup>4</sup>. Women often experience cruel, inhuman or degrading treatment in the form of gender-based violence perpetrated against women, although gender-based violence can exist against men.

### **Domestic Relations**

A polite name for what happens in the home, specifically, the legal field of marriage, separation and divorce, dissolution of marriage, annulment of marriage, child custody, child support, succession and other family-related legal issues. While in most countries there is a special domestic

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<sup>4</sup> Republic of Rwanda, Ministry of Gender and Family Promotion; Violence against Women (2004)

relations law, in Rwanda they are commonly found in the Civil Code, particularly Book 1, commonly known as “Family Law”, and Part Five regarding Matrimonial Regimes, Liberalities and Succession. Legislation against gender-based violence, if passed in Parliament, will in the future be another law which regulates domestic relations. This legislation, at this writing, has passed the first reading in Parliament.

## **Part one: GENDER**

### **1. Gender and Related Concepts**

The concept of bringing gender issues into the mainstream of society was clearly established as a global strategy for promoting gender equality in the Platform for Action adopted at the United Nations Fourth World Conference on Women, held in Beijing (China) in 1995<sup>5</sup>. The Conference highlighted the necessity of ensuring that gender equality is a primary goal in all areas of social and economic development.

The Gender section introduces students to the concept of gender, gender equality guarantees in international law and constitution, and its manifestation in domestic laws. At the end of the course, students must be able to relate the social context of women’s legal status into judicial interpretation of the law, especially in relation to gender-based violence and bias. However, it is important to define gender concepts, so that students get a clear picture of the relationship between gender and domestic relations.

#### **a) Gender**

Gender refers to those characteristics of women and men that are socially determined. Those characteristic are based on cultural, legal, social, economic, and political relations, and are anchored in family relationships”<sup>6</sup>. However, many people confuse “gender” to mean “women”, and use the term incorrectly. To not conflate gender and sex, the table below shows the difference between gender and sex.

<b>SEX</b>	<b>GENDER</b>
Biologically Determined	Socially constructed
Given through birth	Learned through socialisation

<sup>5</sup> Repubulika y’u Rwanda, Minisiteri y’Uburinganire n’Iterambere ry’Umuryango, Infashanyigisho y’Abahugura kuri Gende: Amavu n’Amavuko ya Gender, Werurwe, 2005, page 6

<sup>6</sup> Annet Lingen, Ria B, Marianne N, Dorine P. and Zuidberg L, (1997), Gender Assessment Studies a manual for gender consultants, Institute of Social Studies Advisory Service.

Universal	Different from place to place
Cannot be changed	Changes with circumstances

Quite often, clarifications for the difference between gender and sex is exemplified in the ability of women to bear children as a sex, or biologically determined, trait different from men. In an example of a gender trait, both women and men can prepare food and do household chores, but socially these roles are attributed to women so it is a socially constructed, gender difference. One aspect of gender is the relationship between men and women in terms of access to and control over resources. It is a measurement for allocation of opportunities for the full utilization of one's abilities. Since women and men are equals, boys and girls, men and women should live in an environment that can enable them to determine their lives and make choices irrespective of their sex.

In Rwandan Society, gender violence has existed since time immemorial. This violence shows up in local proverbs such as “*Umukobwa n'ibiryobihiye*”, meaning that a girl is ready food to be eaten any time<sup>7</sup>. No one would say that about a young man. The unequal gender roles of females and males are also portrayed by different names attributed to women and men. Some names depict the inferior status of femininity, where a woman's success was/is prospected in a man she will marry. An example here would be the name “*mukamugabo*” for a female, meaning that she belongs to or will marry a strong man. Then there is a male name “*mugabo*” meaning a bright and strong person<sup>8</sup>. This illustrates a societal patriarchy that has trivialized girls' and women's ambitions and discouraged their efforts at self development and public participation. This negative gender perception of women as weak and dependent has affected all sectors of Rwandan economy, including the legal sector. This teaching module is careful not to conflate the terms “gender” and “women” as illustrated above.

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<sup>7</sup> Cited by Hon. Abajeni Mpumuro, 02/08/06, in the Chamber of Deputies when the Forum for Rwandan Women Parliamentarians tabled the Gender-Based Violence Bill. He cited the proverb emphasizing the necessity for parents to restrict their daughters from movement late at night. He stated that girls should not be out of their homes past 8:00 pm, because it indices sexual violence against women. However, his idea seems problematic on several levels: since the cause is men who are violent, why should women's freedom of movement be restricted? This would affect women who attend educational evening classes and those from work late at night. There is a need to protect them from violence and the state must ensure their security.

<sup>8</sup> Court witnesses are also referred to as *Abagabo* or when a woman does something good is referred to as *Umugabo*, complimenting her with the best attributions of a man (translated and interpreted by the authors)

## **b) Gender roles**

This refers to the roles given by society and individuals to male and female on the basis of their biological characteristics; for example, men are all ambitious, and strong, but can't learn how to run a household, and women are all docile, love children, but are not leaders. Gender roles are assigned to men and women in their early socialization. They cut across public and private spheres; are specific to a given culture at a given time; are affected by other forms of differentiation such as age, race, ethnicity, religion and class; and can change in different socio-political and economic contexts within a society. World Bank literature notes that in any given society, gender shapes the definitions of acceptable responsibilities and functions for men and women in terms of "social and economic activities, access to resources, and decision-making authority"<sup>9</sup>.

## **c) Gender mainstreaming**

The United Nations Economic and Social Council defined gender mainstreaming as:

*"... the process of assessing the implications for women and men of any planned action, including legislation, policies or programs, in any area and at all levels. It is a strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring and evaluation of policies and programs in all political, economic and societal spheres, so that women and men benefit equally, and inequality is not perpetuated. The ultimate goal of mainstreaming is to achieve gender equality"<sup>10</sup>.*

In the context of gender and domestic relations, it is necessary to consider how the law in books and the law in action impacts and affects men and women differently. The legal system and the judiciary should be able to identify gender-related barriers, that is, gender expectations that hinder women from full access to and utilization of the legal system.

## **d) Gender analysis**

"This is the variety of methods used to understand the relationships between men and women, their access to resources, their activities, and the constraints they face relative to each other. Gender analysis provides

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<sup>9</sup> "Measuring the Quality of Governance"

<sup>10</sup> The United Nations Economic and Social Council (ECOSOC) definition, July 1997

information that recognizes that gender and its relationship with race, ethnicity, culture, class, age, disability, and/or other status. It is very important in understanding different patterns of involvement, behavior and activities that women and men have in economic, social and legal structures”<sup>11</sup>.

Gender analysis is a very important tool, because it brings diversity and inclusion into the areas of human rights, social and economic development. Gender analysis can give an accurate picture of differing conditions that women and men face, and the different effects that policies and programs may have on people because of their sex and their circumstances. Properly done, gender analysis does not assume women and men to be homogenous categories, or the individuals in these categories to be in identical situations. Analyzing such information is essential to ensure that different needs of both women and men are met.

#### **e) Gender Equality**

Gender equality means treating men and women the same. It may also mean gender neutrality. For example, the Rwanda constitution of 2003 guarantees gender equality. This means that men and women have equal rights before the law and must be accorded the same treatment by law. However, women have continued to be discriminated against by the specific laws such as the “family law” that makes a man the “boss of the family” .This will be discussed below. The legal provisions that accord a man “the head of the family” is a gender construct.

Gender equality is a good general principle for human rights, but it does not accommodate significant differences which may affect the outcomes of equal treatment. In Chalmers’ words, “Simple 'equality' as a concept does not recognize the very different conditions under which people attempt to live and work in society, the prejudices, the failures to take into account the obstacles which others face, the subtle and gross ways in which people are rendered invisible, silent or outsiders”<sup>12</sup>. Where laws do not take into account the differences in people, equal treatment tends to default to the unequal status quo and thus the necessity for equity. It is important that constitutional guarantees of equality should be reinforced by enactment of explicit laws that provides modalities of application of constitutional guarantees to the benefit of men and women.

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<sup>11</sup> [http://acda-cida.gc.ca/cida\\_nsf,10/08/06](http://acda-cida.gc.ca/cida_nsf,10/08/06)

<sup>12</sup> Avril Chalmers ([avril\\_chalmers@sfu.ca](mailto:avril_chalmers@sfu.ca)) 1996, 08, 08,06

## **f) Gender Equity**

Based on natural law, equity emphasizes fairness in processes and outcomes. According to Webster's Dictionary, equity is "a body of legal doctrines and rules developed to enlarge, supplement, or override a narrow rigid system of law"<sup>13</sup>. Gender equity recognizes differences between the social and economic status of women and men, and tries to accommodate them in order to prevent the continuation of inequitable status quo. For example, the Rwandan constitution provides for a minimum of 30% women in positions at all levels of decision-making (Article 9-4). This provision is necessary to equitably correct the historical and ongoing cultural imbalance that attributed leadership roles only to men. It is not enough to enact a legal guarantee that both men and women are equal before the law; other rules must be implemented to achieve equal results and opportunities.

It may be that there can never be gender equality without gender equity. It is only through fairness and mutual respect that women can achieve and enjoy their human rights as men do. For example, it is not simply enough to guarantee the equality of both boys and girls to education, there should be an implementing law to realize that constitutional guarantee of equal rights to education. It is important to consider that due to gender roles and social discrimination, girls have obstacles that boys do not: girls are expected to help with household chores, and are expected to take care of younger brothers and sisters. The impact is that girls are not expected to do well at school and to have other priorities, which thwart their right to education.

Legal professionals must learn to analyze how laws affects boys and girls differently, as in the example of education, and find solutions to socially constructed legal provisions that have remained obstacles to gender equity. Solutions might include encouraging gender awareness training for all teachers and parents to awaken them to the benefits of providing equal education to boys and girls. Possibly laws making it a crime or a civil liability for a parent to intentionally fail or remove his/her daughter from school. This discussion will be elaborated on in the next section.

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<sup>13</sup> <http://www.webster.com/dictionary/equity>, 08/08/06

## 2. Gender and Law

### a) Gender and Culture/Custom

In most African societies and in Rwanda in particular, the patriarchal structure has generally marginalized and denied women opportunities outside the home. Women in domestic circles are defined by their role to procreate. This is evidenced by the saying “*Umukobwa n’ibiryo bihiye*”<sup>14</sup>, which is not for their intrinsic value as human beings. Regrettably, when a woman did play a production or economic role, she was not appreciated, but rather considered to be simply fulfilling her primary role as wife and mother. This explains why women were confined to the gardens around the home.

In ancient Rwanda, a woman was valued and respected compared to other women across the region<sup>15</sup>. However, in some ways that value kept her within the confinement of her home as *Umutima w’urugo*, meaning that she is the central figure or “*heart*” in the family. This complements the legal provision under family law that a man is the “*head*” of the family. As the heart of the family, her role was to procreate, nurse and nurture children for the sake of the husband and his lineage. A woman was also expected to play a role in public relations with the neighbors.

On the other hand, a man is traditionally the boss in the home and the community. He has the veto power over a woman economically, socially and politically. This is depicted in Rwandan proverbs such as “*ntankokokazi ibika aho isake iri*” meaning that a chicken cannot crow in the presence of a rooster, or “*uruvuze umugore ruvuga umuhoro* meaning that a woman’s word is also a spear’s word (a spear being a sign of danger)”.<sup>16</sup> These two proverbs, and others, portray the status of women in the Rwandan society. The culture inculcates subordination of women to men from their childhood. The colonial structure exacerbated and widened gender imbalance and discrimination through sex-specific education, introduction of written laws, and intrusion on customary practices.

The gendered cultural acts have become customary norms that guide the Rwandan community. Such acts and beliefs reflect and cultivate gendered understanding, expectations, and relationships at all levels of the society. When the era of civil legislation was ushered in, customary norms

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<sup>14</sup> Meaning a girl is a ready food

<sup>15</sup> Ministry of Gender and Family Promotion, Gender n’Umuko, supra note iii, pg 39

<sup>16</sup> Author’s translation

became an important source of legislation. Thus, the gendered expectations and imbalances became the law of the country. Most abuses of women's rights have been the result of culture rather than a deliberate, predetermined policy of discrimination and opposition to equality. As a result of customary perceptions and behavior around gender roles, gender-based discrimination was normalized by men and women embraced it as socially accepted norms

Although there were positive aspects to women's traditional roles, like the recognition of the importance of a woman in the home and her advisory and managerial roles, women were never equal to men. Two factors greatly affected women's status in a negative way: first, most of the women's lifestyles were restricted to the private spheres of family and were restricted to participate in public or community environment. Secondly, the culture was has not been quick enough to recognize the need for and advantages to women's rights and women's economic contributions as globalization occurred and Rwanda struggled with economic development.

## **b) Gender and Law**

The topic of gender and law explores how legal rules and practices make classifications based on an individual's sex and gender roles. Gender and law analysis can open the eyes of legal professionals to critically think about law and its underlying values of fairness and justice, and to consider the relationship between law and the social context in which it is made and implemented. It illustrates the existing gender equality guarantees provided by international law and the Rwandan constitution, and examines whether such guarantees are reflected in domestic laws and in practice

The introduction of international human rights law and the transition from customary and traditional norms to written laws created an awareness of gender inequality as a form of human rights abuse prevailing in our society. Rwanda has ratified many international treaties which create state legal obligations, and as a result, successive Rwandan constitutions (1978, 1991 and 2003) guaranteed equality of men and women<sup>17</sup>.

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<sup>17</sup> Articles 16, 16 and 17 of the Constitutions of 1978, 1991, and 2003, respectively, guarantee gender equality.

## 1. NATIONAL LAWS

### a) Discriminatory Legal Provisions

Customary norms have always influenced the law-making process, perhaps because Rwandan legislators are part of society and may view and write laws in accord with customary considerations. They do not understand or fail to foresee the negative affects of the law on women. A law may on its face guarantee equality, but in fact will disproportionately affect women in a negative way. It is important to note that some provisions of Rwandan law recognize traditional, cultural, and social discrimination against women while others are silent about it.

Blatant discrimination against women is expressed in Article 206 of the Civil Code Book 1<sup>18</sup>, which stipulates that the husband is the head of the household, which is composed of a man, a woman, and their children. The foundation of the law is based on traditional gender roles which have assumed that men are the bosses in the family. This is not equality.

Another discriminatory provision is the more severe punishment for a woman guilty of adultery than that imposed on a man guilty of the same offence. A woman found guilty of adultery may be sentenced to a maximum of 12 months, while a man is sentenced to imprisonment of six months maximum<sup>19</sup>. Analysts argue that the discriminatory sentence is based on societal expectations that married women should remain faithful to their spouses. Unfortunately, these expectations are not applicable to married men<sup>20</sup>.

This legal provision reinforces the idea of the woman as a possession of her husband, rather than wife and husband as equal partners. It also represents a power relationship that characterize gender relations in the institution of the family as sometimes expressed in the proverb *Impfizi ntiyimirwa*, meaning a bull cannot be prevented from sexual advances towards a female cow. This is insulting to men (implying they are beasts with no self-control) and to women, and based on nothing but tradition and cultural gender expectations. There are no logical and or legal justifications of discrimination against women by men.

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<sup>18</sup> Civil Code Book 1, 18 Aug. 1988, O.G., 1989.

<sup>19</sup> Article 354 of the Penal Code, 18 Aug. 1977, Official Gazette 1978.

<sup>20</sup> It is shameful to mention that while a man can only pay a fine of 1000 Rwandan Francs, a woman's minimum punishment for the same crime in the same conditions is six months. This is not only discrimination, but could also be considered gender-violence.

In Rwanda today, research has shown that concubinage has been a norm rooted in a traditional culture of polygamy. As the head of the family, a husband believes that he has the liberty to commit the crime of adultery. This deprives an economically dependent wife of confidence, self-esteem and efforts to pursue her legal rights against the abusive husband, as well as other consequences of adultery such as transmission of HIV/AIDS, a waste of resources that could lead to poverty, and physical abuse.

#### **a. Positive legal provisions**

Rwanda has adopted new laws to deal with both sex-based discrimination and violence. The successive Rwandan constitutions of 1978, 1991, and 2003 guaranteed equality of the sexes. In particular, the 1962 Constitution abolished polygamy and ruled that customs shall only apply in cases where they are not contrary to the constitution, laws, regulations, public order and the rule of good conduct<sup>21</sup>. However, as we have seen above, discriminatory laws and practices continue to be applied in Rwanda today.

Specific laws such as Law No. 22/99 of 12/11/1999, to Supplement Book One of the Civil Code and to Institute Part Five regarding Matrimonial Regimes, Liberalities and Successions (hereafter the law on succession), and Law N<sup>o</sup> 27/2001 of 28 /04/2001 on Rights of Child and Protection from Violence (hereafter the law on children's rights) have been adopted. At the time of this writing, a law against gender-based violence has been presented to Parliament and is under scrutiny by the parliamentary legal commission. Other laws, such as the Family Law, are also under review. In addition, Rwanda has also signed and ratified almost all the international and regional instruments that promote human rights in general and women's rights in particular. This means that Rwanda has accepted international obligations to improve the legal framework by passing laws to protect women's rights, thereby implementing those international instruments.

## **2. INTERNATIONAL LAW**

Specific laws to augment women's rights and gender equality and general conventions with specific reference to gender equality are cited in this section, because judges and other legal professionals must interpret

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<sup>21</sup> The Constitution of the Republic of Rwanda, 1962, Arts. 3 for gender equality and 28-30 for monogamous marriage whether religious or civil, The Constitution of the Republic of Rwanda, 1978, Article 16 for gender equality and 25 for monogamous marriage.

domestic laws to comply with both the national constitution and the international instruments that Rwanda has ratified

CEDAW<sup>22</sup> which is often referred to as the Women's Convention, is an international bill of rights for women, defining what constitutes discrimination against women and setting an agenda for national action to foster greater equality between women and men. All human rights, ranging from civil, political, social, economic, and legal rights are protected by this convention. CEDAW complements all other human rights conventions and domestic laws to implement and apply guarantees of sexual non-discrimination. CEDAW sets legally-binding principles and standards for realizing women's rights.

*The Beijing Declaration and Platform of Action* was adopted in the Fourth World Conference on Women by representatives from 189 countries in 1995. The Platform reinforces the international commitment to gender equality and development. Like the preceding meetings of the United Nations Decade for Women (1975-1985), this conference strengthened the commitments made by participating States. At the Fourth World Conference on Women, member States highlighted twelve critical areas of concern regarding women. Though the Platform of Action is not a treaty and therefore is not a binding document, signatory States made a commitment in an important international forum to fulfill their obligations to guarantee and promote women's rights and equality.

In recent years, some human rights activists brought attention to the fact that the United Nations and other international bodies have ignored the role of women in the peace sector. United Nations Security Council Resolution 1325, passed in 2000, is recognized as a landmark resolution on women, peace and security. It stresses the important role of women in the prevention and resolution of conflicts, peace-building, and peace-keeping in post-conflict reconstruction. It reaffirms the importance of gender equality in the struggle for maintaining and promoting peace and security.

Resolution 1325 urges all actors to increase the participation of women and incorporate gender perspectives into all United Nations peace and security efforts. The Resolution also calls on all parties to conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, in situations of armed

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<sup>22</sup>U.N Convention on the Elimination of all Forms of Discrimination against Women of 1979, ratified by Rwanda in 1981

conflict. The resolution provides a number of important operational mandates, with implications for Member States and the entities of the United Nations system.

The *Declaration on the Elimination of Violence Against Women 1993*<sup>23</sup> recognizes that violence against women is a manifestation of historically unequal power relations between men and women which has led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.

A number of regional conventions and declarations guarantee sexual and gender equality, such as the *African Charter on Human and People's Rights on the Rights of Women and its Protocol (Maputo Protocol) (2000)*, which entered into force November, 25, 2005. Most of these guarantees have been incorporated domestically, and others are in the process of being incorporated; for example, the Family Law is under review for this purpose. African regional instruments reinforce international obligations, but with some regional specificity. For example, the Maputo Protocol accepts polygamy, but recognizing that this issue is being debated in many African countries, may be ratified by States with reservations on certain elements that contradict that State's norms.

*The Millennium Development Goals (MDGs)*, set out in the Millennium Declaration (2000) were unanimously adopted by the United Nations General Assembly, all present committed themselves to poverty eradication; safeguarding human dignity, the promotion of equality; the achievement of peace and democracy; and environmental sustainability<sup>24</sup>. At the heart of the eight MDGs is the commitment to "promote gender and empower women". Inequalities are not only a violation of women's basic human rights, but are also inimical to long-term socio-economic development. Gender inequalities retard economic growth, sustainable development, and poverty reduction, which is why it is so important to avoid "gender blindness" in legislating and applying laws.

It is important to note that the relationship between gender and law is not only the number of laws that are either discriminatory or gender-sensitive, but rather the analysis of gender perspectives in law-making and implementation. The law must go beyond surface equality in terms of

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<sup>23</sup> Declaration on the Elimination of Violence Against Women, at <http://www.ohchr.org/english/law/eliminationvaw.htm>, 12/08/06

<sup>24</sup> UNDP, Human Development Report (2003), *Millennium Development Goals: A Compact among nations to end human poverty*, ECONOMICA 49, rue Héricart, 75015 Paris.

legislation and publication. It should supersede the principle of “*ignorance of law is no defense*” and educate and mobilize men and women about their rights for the purpose of achieving gender justice. Article 1 of Universal Declaration of Human Rights (UDHR) guarantees natural equality of men and women<sup>25</sup>. This is very important in this context. It brings in the idea of equality in dignity and a spirit of brotherhood.

## **Part two: MARRIAGE**

All legal professionals should understand how the laws related to marriage, divorce, and effects of divorce affect men and women differently in Rwandan society. The teacher and students must be able to analyze, understand, and explain gender concerns that manifest in daily civil litigations. The primary considerations are the skills to interpret and apply legal rules with gender awareness and sensitivity.

Under Rwandan law, marriage is defined as a voluntary union of a man and a woman in accordance with rules established by law<sup>26</sup>. Only monogamous civil marriage is recognized by the law, and consensual unions are not legally recognized. The Webster Dictionary defines marriage as the state of being united to a person of the opposite sex as husband or wife in a consensual and contractual relationship recognized by law.

Before marriage is contracted, there are other ceremonies that legally must take place. To understand the social-legal effects of marriage, it is pertinent to look at these ceremonies, who is involved, and the relationships between the participants.

### **1. PROMISE TO MARRY AND CONSEQUENCES OF BREACH**

#### **a. Courtship**

Courtship is the time when a man and a woman have a romantic relationship before they get married<sup>27</sup>. This period is not recognized or protected in any way under Rwandan law. In Rwanda today, courtship is popular and many people go through this stage before deciding on

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<sup>25</sup> General Assembly Resolution 217(III) A, U.N. Doc A/810 (1948)

<sup>26</sup> Civil Code Book 1 Articles 169 and 170; and Article 26 of the Rwandan Constitution

<sup>27</sup> Oxford Advanced Learner’s Dictionary 6<sup>th</sup> edition page 266.

engagement. During courtship, if the relationship fails and a woman is pregnant, there is no legal recourse available to her, because the relationship is not recognized by the law. But if a child is born in such circumstances, both parents have a legal obligation to raise him/her<sup>28</sup>.

During courtship, a man and a woman may agree on consensual union. There are many cases of consensual unions in Rwanda and are of great concern because of their effects on the family. Consensual unions do not create legal obligations or protections by the law as in the case of civil marriages. The government is tirelessly encouraging registration of such unions so that they become legally-recognized marriages. However, it is unknown if community registration will end consensual unions, or encourage more people to cohabit.

Despite their non-legal status, consensual unions are traditionally recognized as binding marriages creating marriage obligations. Some of these couples perform traditional marriage practices aiming at legitimizing their new family unit in their community. Unfortunately, when there is a family breakdown or death of one of the couples, the brunt of the union's illegal status largely falls on women and children. An expert has noted that 99% of family disputes are paternity problems related to cohabitation and concubinage<sup>29</sup>. In consensual unions, cohabitation, and concubinage, women have fewer legal rights than if they were married under civil law. Whatever rights women do have in those circumstances are dependent on the existence of children from the union<sup>30</sup>.

## **b. Engagement**

Engagement is defined in Article 159 of the Civil Code Book 1 as an agreement between the members of two families to effect marriage between the groom and bride to be. It also involves the commitment of both families to assist and support the union of the intending spouses.

Traditionally, marriage extends beyond matrimonial contacts and the parties in marriage. It is a ceremony that creates relationships to the families of the groom and the bride, and that relationship often results into social rights and obligations, which in most cases impact negatively

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<sup>28</sup> Article 7 of the Law on the Rights of a Child

<sup>29</sup>Public statement: Christine Tuyisenge; the executive secretary for Haguruka; a Local Association for the Defense of the Rights of the Woman and the Children , July 2006

<sup>30</sup> Jennifer Brown and Me. Justine Uvuza, (2006), Women's Land Rights in Rwanda: How can they be protected and strengthened, for more information on consensual unions and their effects.

on women. For example, regardless of the individual expectations of the bride and groom, a woman is generally perceived by society and the families involved as being a source of labor. She is expected to serve her husband and her in-laws. In Rwandan society, particularly in more traditional rural areas, a failure to meet this gender expectation may lead to family conflicts that could amount to traditional separation or divorce.

The final day for engagement is the introduction day, known as *Gusaba Umugeni*. The groom's family, in a ceremony, gives the bride's family dowry (*Inkwano*) as a sign of alliance between the two families (Article 162 Civil Code Book 1). Despite its legality, dowry is a contentious issue today. Its proponents argue that it is a traditional gift and ceremony intending to bring two families together, a symbol of appreciation to the girl's family for having raised her. Assuming those arguments are valid, one would wonder why the man's family is not equally appreciated for having raised the groom. Critics of dowry say the custom emphasizes the traditional perspective of men's sexual possessiveness of women, and also implies that the biological family of the girl raises her for the marital family. The custom of dowry affirms the transfer of a woman to her husband's family. It is also reflected in traditional proverbs that *Umukobwa ni gira uve aha*<sup>31</sup>, literally meaning that "a girl is getting ready to go".

Opponents of dowry also point out that the engagement ceremony in Rwanda has been commercialized. Different regions and families charge dowry according to the 'value' attached to their daughter, based on gender expectations (she will be a good helper to her husband, she will have many children, she can cook well, etc.). It is a big problem for youths today because it has made getting married very expensive. This ceremony can be interpreted as perpetuating male superiority, possessiveness, ownership of female children, and power over female human beings as property.

In some Rwandan societies, dowry is interpreted to mean "bride price". For example, in Mutara, if the engaged girl defaults and cannot or will not marry the fiancé, the family replaces her with another potential bride, as if girls are interchangeable. For example, the author of this module is aware of a case where a woman was replaced by her 14-year-old sister after the man who had married her traditionally discovered that his "wife" had been made pregnant by a different man. Bride price or dowry must be legally analyzed in relation to gender implications as the debate on

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<sup>31</sup> Unlike boys, after 21 years of age, girls are traditionally put under pressure by her parents and relatives to get married. Consequently, girls are concerned with aging and failing to find husbands.

whether to maintain it or remove it from the law, as the family code is being reviewed.

A couple can terminate an engagement. The party to terminate it is liable to pay compensation if a case is filed in courts of law. Usually the man will claim the dowry he paid to the woman's family; the woman usually will not have any monetary claim, and if she filed a case for compensation for other contributions to the relationship (labor, for example), it would not be taken seriously (although there is no legal basis for dismissing such a claim) and she would be ridiculed by her family and society.

Contrary to the common belief by the most of Rwandans, dowry is not a legal condition of marriage. The belief that dowry is mandatory for a marriage has created two major problems: 1. it has hindered or delayed civil marriages for those who cannot afford to pay dowry, 2. the family may set very high dowry to discourage or get rid of a man they do not want their daughter to marry. But the process and ceremonies builds trust among the intending couples. Due to unpredicted situations that may make it hard for the couple to celebrate civil marriage, some move in together and agree to live as married couple. Regrettably, when conflicts arise and the two separate, the law does not validate their consent and commitments they made in public. As a consequence of discriminatory laws and custom, a woman can be left with nothing -- no property after years of hard work and commitment as a wife. This is not justice to the woman who has contributed economically and socially to the development of that family.

In Rwanda, some religions do not value civil marriage. An example to mention is the case of polygamy condoned among the Moslems. As a consequence civil marriage may not have any value to those intending to marry more than one woman. Sometimes, Christians and Moslems today go through three stages of marriage, which are: traditional, then civil, and then religious. This implies that civil marriage is a legal imposition rather than a choice. This can be evidenced by the fact that the abolition of religious marriage as legally binding in 1978 did not stop both religious and traditional marriages.

Religious celebrated marriages of pre-1978 are in no doubt legal<sup>32</sup>. However, it is not clear whether in practice they are treated as legal marriages in some courts of law. Anecdotal evidence shows that some

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<sup>32</sup> Article 25 of the 1978 Rwandan Constitution

courts and other legal institutions hearing family disputes tend to take all consensual unions as illegal. Because the 1962 Rwandan Constitution recognized religious marriages and abolished polygamy<sup>33</sup>, it is unfair, particularly for women, for courts to fail to recognize a marriage contracted in the church at the time the church was a legally accepted institution with the powers to celebrate valid and lawful marriages. Men are not as negatively affected by these rulings, because in most cases the husbands are the ones who initiate divorce and who keep the family property.

While there many discriminatory legal provisions, the family law, particularly on marriage, has greatly affected women and has failed to protect them in consensual unions. Regrettably, this happens even when women have tangibly contributed to the family's assets. In most circumstances, "family" property is presumed to belong to the husband, even where it has been contributed or specifically earned by the wife.

What is commonly known and believed in Rwanda is that family property in consensual unions is not registered and if it is, the property is automatically registered to the man (boss). In some situations, at the time of marriage, some women have little or no property and take nothing at the time of separation. This is rudely based on the fact that she brought nothing into the marriage and so should leave with nothing. Perhaps one may suggest that the woman's work and income should be valued by the court (for example, the combined income of an accountant, housekeeper, gardener/farmer, nanny, teacher, nurse, counselor, cook, social secretary, plus outside income) to determine her share to take with her at the time of separation. This may be fairer, because it is a more accurate measure of a wife's labor, and facilitates the woman's transition to a new, single life. The courts of law should not always interpret the law in a manner that will systematically send a woman away empty-handed – this is not justice. Judges and lawyers should consider and value a wife's many contributions throughout her consensual marriage, not only a husband's financial ones.

## **2. Contract of Marriage**

### **a. Formalities and Conditions of Marriage**

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<sup>33</sup> 1962 Rwandan Constitution, Articles 28-29.

There are different conditions and formalities for the conclusion of marriage that are provided for by the law. However, this course will only look at those that are gender related, such as the legal age of marriage, matrimonial property regimes, and extended family relationships.

### **i. Age of Marriage**

The minimum legal age for marriage as stipulated in the Civil Code is 21 years. However, the Minister of Justice or his/her delegate can authorize marriage below that age for serious reasons (Article 171). The serious reason here may be pregnancy of an under age and want to be emancipated to enable her get married.

There has been much discussion about whether the legal age to marry should be reduced to 18. In practice, it is often Rwandan women who marry at an early age probably caused by school dropout, poverty and/or early pregnancy. The idea to reduce the age of marriage seems contradictory to the government's strategy to empower women through formal education. Rwandan women are still assuming household chores and the government is doing little to improve this situation through mass education to enable increased number of women in education, Unequal economic opportunities and status of women in marriage relationships have forced them (including the underage) to succumb to violence and abuse against her becomes an accepted culture.

The other argument worth mentioning here is that the procedures to recognize exceptional age of marriage is almost impossible for an average Rwandan. The gender implications of the laws and the way they are usually interpreted burden women: the laws seem to perpetuate consensual unions once the girl is either pregnant or out of school, and the only practical alternative is cohabitation, which leaves women without the legal protections of marriage<sup>34</sup>.

The gender concerns related to the age of marriage is that some of the girls may want to marry even before and after they become pregnant. The strictness of the law denies them alternative to life. In such situations, a man offering marriage is considered a savior to the girl. Since the man knows that she is not allowed to marry at that age, he will either convince her to move in with him and marry at later date or he will make her pregnant to make her beg to move in. It is a risky situation for women, because most consensual unions start with an intention of later

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<sup>34</sup> What is not clear today is whether, in the community massive marriages encouraged by government, under age cohabiters are allowed to register their marriage

registration under cover of “readiness”. In due course, the man may be tempted to change his mind for a young and better-looking girl or for a woman who has better economic status.

## ii. Matrimonial regimes

Marital property and inheritance rights are governed by Law No. 22/99 (12/11/1999) “Law to Supplement Book One of the Civil Code and to Institute Part Five Regarding Matrimonial Regimes, Liberalities and Successions (Law of succession).”

Under the Inheritance and Marital Property Law, couples have the option of choosing one of three marital property regimes<sup>35</sup>. Under the *community property* regime, spouses jointly own property (movable and immovable). Couples may also choose a *limited community of acquests* whereby they make an inventory of their property and decide on which property shall be jointly owned and which shall be separately owned. The third type of matrimonial regime is that of *separate property* under which each spouse retains separate ownership of his or her property throughout their marriage relationship.

Regardless of the marital property regime chosen, both spouses must contribute to supporting the household in accordance with their ability and must administer their property for the benefit of the family<sup>36</sup>. The consent of both spouses is needed for certain transactions, such as the sale, donation, exchange, mortgage, or long-term lease of land property<sup>37</sup>. Succession law is considered very good as it offers a variety of choices for managing and owning property to a married couples. However, practice shows that the law has not changed much in marital property ownership. The woman feels more secure under legal marriage than in traditional or consensual unions because under legal marriage, she can a bit little of access to, but not necessarily have control over family resources

As said earlier, it is commonly believed that marital property is usually registered under the husband’s name. This belief perpetuates the traditional culture of understanding and perception that everything in a

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<sup>35</sup> Couples can change their marital property regime by making a joint declaration to the district registrar, Law of Succession Article 19.

<sup>36</sup> Law on Succession, Articles 11, 12, and 13.

<sup>37</sup> Id. Article 21, Land Law Articles. 35-38. under the provisions of the Land Law, consent of some adult family members, is required as well.

family belongs to the husband. This is much common under the communal ownership of property regime. In this situation, the husband continue feel that he has more powers of control over the family property than his wife. The wife believes so and cannot raise any complaints. Although the Law on Succession, under the community regime offers both the husband and wife equal rights on the access to and control over resources, practically it has failed<sup>38</sup>.

### **PART THREE: DIVORCE AND JUDICIAL SEPARATION**

The trainer must understand how laws on divorce and judicial separation affect men and women differently in Rwandan society. He/she must explore the practical grounds, proceedings, and effects of implementing these laws. Together with students he/she should determine how women should be protected from abuse throughout the process that seems to favor men than women. At the end of the discussion, students must be able to identify legal factors that affect and prevent either party from achieving justice. Legal factors of interest here include legal considerations by the judge to grant *decree nisi* which one of them provides that a wife shall not request the husband to leave the house when he has some business activities carried out at the house of residence<sup>39</sup>. In this part, we learn that couples may wish to dissolve their relationships for different reasons and the consequences will vary between men and women. Students should discuss at length whether the existing tight rules of divorce are acceptable and justified to render justice to the Rwandan women. Discussions should provide answers to questions of whether those rules of divorce should be amended or not to render justice in shortest time possible. In practice, most of the divorce petitions are rendered on first judgment in a period not less than one year.

Objectively, divorce procedures should be made easier for the couples seeking divorce to provide justice to both parties. The gender implication here is that most women may give-up pursuing the rights due to the delay in divorce procedures and concentrate on providing for the children. Traditionally Rwandan women face the stigma in the society each time they attempt to file law suits against their husbands. Those women are considered rude, unruly and unfriendly. As result, some are forced to withdraw their cases against their husbands from court.

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<sup>38</sup> Jennifer Brown and Me. Justine Uvuza, *supra* note 30.

<sup>39</sup> Article 250 of Civil Code Book 1

### a. Judicial Separation

Judicial separation “is a state of releasing the ties of marriage characterized by the disappearance of life in common and the separation of property”<sup>40</sup>. There are two forms of judicial separation under the Rwandan law namely; judicial separation for a specific cause, and separation by mutual consent<sup>41</sup>.

In Legal sense, separation does not mean the termination of a marriage contract. The couple remains bound in marriage as a husband and a wife with all marriage rights and obligations except cohabitation and marital relations. Judicial separation is granted during the process of divorce hearing. Provisional measures are granted by the judge at his/her own appreciation. It should not be conflated with the traditional separation known as *Ukwahukana*. Traditionally, a woman who cannot bear any more domestic violence of battering, abandonment, harassment, verbal and physical abuse, adultery, departs from her husband and returns to her parents or relatives as a sign of protest against the mistreatment perpetrated against her. This kind of separation has as its intentions to allow the husband reform before the entire family completely breaks down beyond repair<sup>42</sup>. It is a short-term separation where the wife is not considering filing a case of divorce.

In view of the preceding paragraph, a woman risks getting divorced if she stays away for more than 12 months<sup>43</sup>. The gender analysis in this situation is that while her intention to depart from her husband is to allow him to reform so that they can live together happily, the husband may use this as an opportunity to divorce her. During that period of *ukwahukana*, there are negotiations between a husband and the family of a wife trying to mend their differences for possible re-unification of the two. The problem of this situation is that there is no regulated time for this *Ukwahukana*. What should be minded here is that the whole process is dependent on the efforts of the parties invested to resolve their differences in short time possible. In most of the situations it is possible that these negotiations may take longer than the legal requirement period which a married partner has to stay away (12 months). This situation of *ukwahukana* offers the husband a lawful ground to seek divorce and a

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<sup>40</sup> For more details, see Ministry of Gender and Family Promotion (2002), Family Law and Matrimonial Property, Divorce and Judicial Separation.

<sup>41</sup> Articles 287-292 of the Civil Code Book 1

<sup>42</sup> Republic of Rwanda, Ministry of Gender and Women in Development, (2002), A Study on Beliefs, Attitudes and Social-Cultural Practices Related to Gender in Rwanda.

<sup>43</sup> Article 237 of the Civil Code Book 1

wife stands a high risk of being divorced which she tried to avoid at the beginning.

It has been mentioned above that during judicial separation, Article 250 provides that only a wife will leave the home unless it is proven that the house legally belongs to her. It is very express that the provision is discriminatory against women. It does not put into considerations her economic abilities to set new life. This provision is primarily based on patriarchal norms that the house to the man belongs to the man. The provision further contradicts the Law on Succession under the regime of community property ownership. It is a serious flagrant contradiction of the constitutional guarantees of equality between women and men. A relevant suggestion that may be pointed here is that the law should consider each spouse's capacity to afford a different accommodation and expenses or individual's ability contribute to the costs of separate home and other associated bills and safety.

#### **b. Divorce**

Divorce is a legal civil suit filed by one or both parties to the legal marriage contract under Civil Code. The parties intend to end marriage contract and its obligations. Article 237 of the Civil Code outlines the grounds for divorce as follows:

- I. Having been found guilty of a very shameful criminal offence
- II. Adultery
- III. Cruelty, physical mistreatment, serious abuse against the other partner
- IV. Continuous refusal to contribute essentials for the household costs for at least 12 months
- V. Mutual separation for a period for at least three years
- VI. Home abandonment for at least 12 months

Each of these grounds can stand on its own or many may be invoked at the same time for divorce civil case. The challenge to the fairness of the law is that these terms are not defined. The judge interprets the law and appreciates the evidence and circumstances presented by the parties and render the judgment. At the beginning, it was mentioned that culture influences the interpretation of the law by the conservative judges who often rule on the judgment against women. For example, it may not be quite often for the judge to grant divorce filed by a wife on grounds of "very shameful criminal offence". In Rwanda, certain unacceptable behaviors committed by men are tolerable by the society including judges

while the same behaviors committed by women are not tolerable. This is a serious gender issue which needs to be addressed by the lawyers at the institute through discussions

#### **i. Divorce Procedure (Article. 238-247 of Civil Code)**

There are five steps for the divorce to be granted which makes it difficult for most Rwandans in terms of length period to pursue divorce. Conciliation procedure under which judicial separation is administered is not less than nine months. As will be discussed below, this process affects women more than men. The steps are as follows

1. Filing the case by the affected spouse
2. Attempts at conciliation
3. Cross demands
4. Peremptory pleas
5. Administration of proofs

Women have various blockades that hinder them from pursuing their legal rights. They include limited financial access to pay the lawyers and the ignorance of their rights. In case of the *decree nisi* sometimes when it's a woman who is ordered by the court to leave the home, she may have to depart with her little ones who are still under special mother care. This is a great burden to the mother who has to ensure their daily bread, school going, health etc and she also has to follow court proceedings. Sometimes it is very cumbersome for her and because of that, one may objectively argue that the law is not fair to the women at all.

As said earlier that abuse is in different forms and has many causes, some times it may not be possible for a woman to prove it in court when the cause of abuse is rape or un consented sexual acts by the husband. In Rwandan society, it may not be possible to prove or even narrate the whole process of rape in public audience. As result, the husband exploits that weakest link and wins the case of divorce. Abuse of the nature of verbal abuse, psychological torture, etc may also be difficult for a Rwandan woman to prove that before the court. It is worth noting that in some situations, women may not be able to articulate their real problems while filing cases against their husbands. They indeed need legal personnel to understand their gender dimensions in domestic relations cases and assist both parties to keep their dignity and exercise their rights.

It is for the purpose of justice be determined that the duration for a divorce case should be rational not long enough to delay justice. While

conciliation is important to help safeguard the family, it is also critical to analyze the gravity of the conflict, and analyze how the process of conciliation will affect men and women differently. As noted earlier the rights and interests of the children should come first during the process of divorce. The two parties at divorce should contribute financially or otherwise, to preserve interests of the children to the best of their ability. While the court is considering who should leave home during the *decree nisi*, it should consider the spouse who has greater capacity to afford another rent and self maintenance. It should be remembered that the law does not address the issues of whether the two parties contribute equally to the maintenance of one moved out of the house during the judicial separation.

How property is handled during a divorce also affects men and women differently. During divorce procedures, affixing the property seal should not wait for a request from the spouses but instead be initiated by public prosecutor. This will protect a husband or wife who may not be aware of his/her rights as regards their property. Research has shown that women don't pursue their property rights after their husbands dispose off because of their ignorance and due to societal stigma<sup>44</sup>. Due to these social factors, it should be the judiciary's burden to protect each spouse's rights until a divorce judgment is finalized.

## **ii. Effects of Divorce, Articles 247,277 (Family Law)**

Divorce affects couples, their children, and their property. Spouses are free to remarry but they cannot marry their concubines. Concubinage is itself adultery. It is a situation where a husband has another woman who they have together sexual intercourse and love out side his marriage. It is violence against women and it is a ground of divorce. This affects the woman psychologically and physically and economically. Physical abuse includes communicable diseases like Sexual Transmitted Diseases and HIV/AIDS. There is also economic abuse which drains the family's resources in support of the other concubine. Essentially, the family breaks down children are separated from one of their parents and they suffer emotional loss and loose parental care. As result of divorce, property is divided and the whole purpose of marriage (building and strengthening a family unit) is not achieved. The state which is the main protector and guarantor of the family institution has failed to its duties.

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<sup>44</sup> Jennifer Brown and Me. Justine Uvuza, supra note 30

Child custody is another important issue as children's best interests must be considered in divorce proceedings. The court grants the custody of the children to the winning party. As a suggestion mothers be granted the custody of children under 18 years of age unless there is proof that she lacks moral and mental capacity to raise them pursuant to the law. It is widely believed that a woman's affiliation with her children has kept her in abusive relationships. However, a woman should not necessarily be granted the custody of children. Reasons for the divorce should be considered seriously while determining the custody of the children.

### **iii. Relationship between dissolution of marriage and family property as per the Law on Succession**

In the case of a divorce or separation, community property is dissolved and shared equally between the spouses<sup>45</sup>. This is true for the couples under the community of property regime and limited community of acquests. In the case of separate property regime, each spouse has the rights over his or her separate property. However, regardless of the marital property regime chosen, both spouses must use their property to benefit the household. This means that they must use their separate property to help maintain the household, for example, to feed, cloth, and educate their children.

In practice however, this is not yet translated in the daily lives in all Rwandan families. Even those who are aware of the law find ways to evade its application. For example the author is aware of the case of a couple married under common property regime and the husband left the country early 2006 and manipulated his wife at the notary public to transfer their house into the name of his mother. The notary was a friend to the husband and never advised the couple on the breach of the law to transfer the property to a third party which violated the rights of the children under the law on succession The husband passed over the house to his mother with intention to abandon the wife .<sup>46</sup> When a situation like that arises, one feels that legal personnel should always be available to advise and protect women who are vulnerable.

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<sup>45</sup> Law on Succession Article.24

<sup>46</sup> The victim who does not want her case to be published now is leaving in Remera, Kigali. The wife is currently receiving legal advice, and author is looking into ways of filing that case to courts because both the woman and children are starving and are soon being sent out the house.

## **Part Four: SUCCESSION**

### **LAW N<sup>o</sup> 22/99 OF 12/11/1999 ON MATRIMONIAL REGIMES, LIBERALITIES AND SUCCESSIONS**

Article 49 of the Law on Succession defines succession as an act by which rights and obligations regarding the patrimony of the *de cujus*<sup>47</sup> are transferred to the heir. In Black's Law Dictionary (5<sup>th</sup> Edition), succession or inheritance can be defined as "the devolution of title of property under the law of descent and distribution." In other words it is the passing of a property from one owner to another, which may occur on death which may occur on death or sale as a gift, by operation of law, or in any other way. This section examines how succession under Rwandan law affects men and women differently. It covers the following: intestate and testate successions; hierarchy of succession; types of wills/testaments; procedures for probate, execution of wills and management of estates; rights of spouses and children; strategies to protect spouses and children's rights; how custom and laws differ; implementation issues; and whether national laws and practice comply with international obligations.

### **Intestate and Testate Successions**

#### **Intestate succession**

Rwandan law defines intestate succession as a will which is legally made in absence of a testament (Article. 65 of the Law on Succession). In the past, sons in the family were only considered the rightful heirs of the property of the *de cujus*. But the new development enshrined in the present law on succession is formal legal equality between women and men. The current law has been drafted and promulgated in accordance with international human rights conventions and the constitution of Rwanda. According to Article 21 of the present law on succession, both spouses have equal power of decision in determining the destination of a part or a whole of the marital property, regardless of the type of matrimonial regime they were married under.

Intestate succession will be examined against three types of matrimonial regimes: separate property, community of property and limited community of acquests.

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<sup>47</sup> *De cujus* is a legal terminology used in Rwandan law on succession meaning the deceased.

## **Intestate under the regime of separation of property**

Under customary law, rules regarding succession violated justice and equity for women, because property was only passed to males. But if analyzed in view of international human rights conventions, it may be argued that the present law on succession has respected the principle of gender neutrality with regard to the right of succession of property of the *de cuius*. Under the legal regime of succession, the law replaced the power to devolve property to only male heirs with the possibility of property going to both sexes<sup>48</sup>. By tradition, the son or male heir would administer the estate of the deceased on behalf of his younger male brothers and the surviving spouse.<sup>49</sup> Now in Rwanda, following national policy to promote gender equality and the empowerment of women, the present law on succession respects the rights of men and women, boys and girls, as far as the succession of property is concerned.

## **Intestate under the regime of community property**

Under the matrimonial regime of community property, the law has forbidden discrimination against women or girls. The law avoided any references to the sex of the heir to the patrimony of the *de cuius* and also explicitly mentions the “surviving spouse” as the next administrator of the estate of the *de cuius*, rather than the husband or widower. It leaves no room for possible misinterpretation of the provision to mean one sex over the other. The surviving spouse takes over the administration and control of the estate of the *de cuius* while assuming responsibilities for raising the children and giving assistance to the needy parents of the *de cuius* (Article 70, 1-2).

The law on succession is most recent and little or no research on its application in courts of law has been done. In most cases, the newly instituted mediation committees<sup>50</sup> at decentralized level have played an important role in preventing family disputes from reaching courts of law. Research at mediation council conducted during this consult, found a summary of records of mediated family cases which does not include facts of the case. The summary does not include the identities of parties to the dispute, nature of the dispute and resolution taken over the dispute. It was not possible to establish whether the law is applied as it is in the

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<sup>48</sup> Article 50 of the law on succession

<sup>49</sup> Pastor Ezra Mpyisi *op cit*

<sup>50</sup> Mediation committees are established by the law to resolve civil disputes before parties take them to court. They also admit criminal complaints of offences of assault, theft and any other misdemeanor crimes.

books of law. However, where the civil matter has been brought to court of law, it has been applied by the court as it is. Where there were reflections of gender discriminatory, it was out of insufficient evidence and skills presented to court by a party particularly a woman or her lawyer and the court has to rule based on the submissions and oral presentations by the parties<sup>51</sup>.

Legal aid in Rwanda is still a project under development. It is not possible that poor Rwandans in rural areas especially women can afford to hire lawyers in their civil matters. Where one party has a lawyer, it is possible that cases of discrimination application of law may surface due to the lack of legal knowledge and skills of the other party particularly a woman to represent her case.

One may also mention a point that the new law on succession has come as a great challenge to the Rwandan custom on the status of women. Little or no sensitization of the population about the rational and the human rights needs to uplift the status of Rwandan society. Most of the population including some judges particularly in rural areas still hold on the customs and sometimes in complex cases where they cannot interpret the applicable legal rule, they apply the custom which is entirely prejudicial to women.

As said earlier that most of the civil disputes are resolved by the mediation committees, it is not easily possible to establish the process of family dispute mediation as it is in most cases done between parties and their chosen few relatives. Contrary to court hearings, in the mediation of family cases parties have the right to demand the hearing of their disputes in camera and this is encouraged by the mediation committees. It is therefore not easy to access correct information of a particular case that may be used at this time.

The imposed legal obligation of the administrator to assisting the needy parents of the *de cuius* may cause problems in determining the extent of their need. If the conditions of need are in relation to the value of the estate of the heir, this becomes problematic. For example, suppose Mr. X died leaving behind a widow with the responsibility to administer an estate worth 50 Million Rwf on behalf of the children. The parents of Mr. X manage their own estate worth 10 Million Rwf. The parents never complained before about their son's failure to support them. After the

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<sup>51</sup> Interview with Kaliwabo Charles, a High Court Judge at Nyanza High Court branch and former president of the higher court of Nyarugenge, city of Kigali, 27<sup>th</sup> October 2006

death of Mr. X, his parents complain that the widow failed her legal responsibility to support them in their needy situation because she manages an estate of 40 Million Rwf more than the value of her own estate. Is the complaint valid? Is the complaint gender-based?

“We have on several occasions received complaints from widows who come to police that their lives are threatened by the relatives of their late husbands based on the wealth managed by the widow on behalf of the children. What we do is that we investigate and warn those people (relatives of the husband) and we assure security of the widow”<sup>52</sup> The police spokesperson affirms that widows are vulnerable and some people tend to exploit their situation and threaten them to succumb to their demands. No one who may refute argument that rural woman may be falling victims of such situations. Students should share their different experiences encountered during their legal practice in view of establishing whether in practice the law on succession protects the rights of widows or makes them more unsafe. They should try to come up with practical legal solutions to this problem.

It should also be acknowledged that the existence of positive, codified law doesn't immediately preclude respecting some cultural norms which are still deep rooted in Rwandan social relations. Based on the historical status of women in Rwanda, and during the period of transition to total gender equality, if the surviving spouse is a woman, she may be manipulated to succumb to the wishes of the relatives of the *de cuius* to avoid the social stigma of being branded an unruly woman. An unintended discriminatory consequence to a non-discriminatory law is that in some families in Rwanda today relatives of the deceased husband may claim from the surviving wife a share of the estate each time there is an increase in the estate's value. Under the present law on succession, the definitional concept and scope of the family under Rwandan customary law has remained unchanged from the definitions and gender expectations of customary law. The fact that the law on succession has considered the definition scope of family as determined in *Hyde and Hyde*, as seen above, shows that cultural norms in Rwanda strongly influence legal systems. Hyde and Hyde is a famous family law case in which the judge defined the institution of marriage in above definition.

The law on succession, particularly Article 70, protects the rights of children regardless of their status. The protection is extended to children

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<sup>52</sup> Interview with Inspector of Police, Marcel Higiyo, the Police Spokesperson, 30<sup>th</sup> October 2006,

born out of wedlock during the distribution of patrimony. It resolves possible problems that would come up in the process. However, it is possible that gender concerns may raise situations based on historical prejudice against the girl child. It is likely that girls may be manipulated when they are young<sup>53</sup>.

### **Intestate under the regime of limited community of acquests**

Under this patrimonial regime, the heirs succeed the estate of the *de cujus* under the rules governing succession in a regime of community of property strictly based on that part of property pooled together on and after the day of civil marriage. For property not shared at the time of marriage, succession is governed by the rules on succession under the regime of separate property. The law is very clear and it does not in any way prejudice either party or the rights of children. However research has shown that in practice the law has not uprooted cultural conduct and perception of the society on women in succession<sup>54</sup> In other words there seems to be no discrimination in the way that this gender-neutral law is applied, or in the consequences of the implementation of this law.

### **TESTAMENTARY SUCCESSION**

A testament is an act by which a person decides on the destination of his/her patrimony after death and makes final provisions regarding his/her last will (Article 56 of the law on succession). A testament can be oral, written (holographic), or authentic (notified) and cannot be effective before the testator dies (Article 49). While Article 56 gives the testator a right to determine the destination of his/her patrimony, that destination should be within the interpretation of the “heir” mentioned in Article 49, 66 and 50 of the same law on succession.

It is important to clarify here that the testator has no absolute power to determine the destination of his/her property to the extent that the power may abuse the rights of rightful heirs considered under Article 66 of the law on succession, and consistent rules of common law. This has reinforced the protection of the women’s rights on succession. . However, in practice, parents continue to write wills and legacies to male

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<sup>53</sup> The assumption is not based on precedence of court decision but rather based on historical treatment of girls under Rwandan customary law

<sup>54</sup> Haguruka : Etude sur l’application et l’impact de la loi N0 22/99 Relative aux regimes matrimoniaux, liberalities et successions sur les droits de la femme au Rwanda ; October 2005 page 126-127

children. The problem is exacerbated by the fact that women and girls are not informed about their legal rights.

### **Hierarchy of succession**

The hierarchy of succession is only determined under intestate succession. Children of the *de cuius* are the only rightful successors regardless of their sex. The hierarchy of succession is only expressed in Article 66, 70 (1-9) and 72) and should not be understood as only a legal rule but as means of ensuring fairness and recognizing the equal value of both men and women in their households and communities.

In all types of matrimonial regimes, children of the *de cuius*, regardless of their sex, inherit the patrimony of the deceased. Where there are no children, the parents of the *de cuius* inherit his/her property. Under the regime of separation of property, the law bans the surviving spouse from inheriting the property of the *de cuius* in a situation of intestate death. This provision ignores the possibility that a stronger relationship may have developed between the *de cuius* during the time of their marriage than with the parents of the deceased.

### **Execution of wills and management of estates**

#### **Execution of wills**

Acceptance of a will by the heir is not an obligation but it is irrevocable once acceptance is made (Article 86). The heir has three months to decide, in writing, whether or not to take the offer (Article 87). After three months, if no reply has been received, the heir is presumed to have accepted the succession and is bound by the obligations attached to the estate.

Execution of a will is a process. First, there is liquidation (*iyegeranya ryibizungurwa*) and partition (*igabagabanya ryibizungurwa*) of the patrimony. The Kinyarwanda and English versions of the law covering this process contradict each other. The Kinyarwanda version states that liquidation shall be made by the heir and testator, while the English version states that the liquidation shall be executed by the executor appointed by the *de cuius*. But as stated earlier, the Kinyarwanda version prevails over other versions as interpreted under Article 5 of the Constitution. Consequently, liquidation is executed by the heir with the help of the succession council. Legal authorities concerned are expected

to intervene to protect the rights of the weaker parties involved in the succession and the state of the entire patrimony of the *de cujus*.

In view of the above, and analyzing how execution affects men and women differently, one can conclude that the law offers women the opportunity to take legal actions of succession. The law on execution of wills does not reflect an explicit effect against men and women differently. But given the societal doctrines about the status of women<sup>55</sup>, objectively women are and should be presumed weak in execution of will and thus requires state interventions to protect a woman from any possible abuse.

The above argument is based on historical status of women under the customary law on succession. She never had a right to inherit her parents and that was a culture and custom which cannot simply fade from people's minds in just seven years (since 1999 when the law on succession came into force). Men have held the right to succeed since the Rwandan history. This means that men have been economically powerful than women and it is that economic power that empowers men to put women in a state of domination in decision making and influence in taking actions. Concerned legal institutions should therefore be ready to intervene on the women's behalf than on men who are traditionally and economically powerful<sup>56</sup>.

### **The management of estates**

Article 17 of the law on succession creates responsibilities, including, in the case of intestate succession, raising children under his/her custody, as well as ensuring support to the parents of the deceased in need (Article 70(1- 2) of the law on succession. Paragraph 6 of the same Article sanctions the heir who fails to respect his/her obligations with regard to raising children<sup>57</sup>. In general terms, spouses have the duty to respect rights and responsibilities regarding the administration of patrimony for their children (Article 14 of the succession law). Under the patrimonial regime of community property, each spouse has the right to administer their estate, but the two decide between themselves who shall be responsible for administering the patrimony (Article 17 (2) of the succession law. The legal rules on the management of the estates, has

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<sup>55</sup> Weak, dependent and without a binding decision at home and in society. (Pastor Ezra Mpyisi *op cite*)

<sup>56</sup> Haguruka : Etude sur l'application et l'impact de la loi N0 22/99 Relative aux regimes matrimoniaux, liberalities et successions sur les droits de la femme au Rwanda ; October 2005 page 127-128

<sup>57</sup> The heir is deprived of the responsibility to raise children and the estate under his/her administration is cut off by  $\frac{3}{4}$  and given to the children.

treated both men and women equally and gives them the power to choose amongst themselves. But in practice the exercise to choose the administrator is hardly exercised but rather assumed by a man. This has its roots from the historical superiority and inferiority complexes of man and woman respectively. The gender issues in this case continue to affect a woman than a man

The other big point at law is that in any circumstances and regardless of any patrimonial regime chosen at the time of marriage and management of property, both parties need the consent of each other for one of them to donate immovable property. This implies that there is no absolute authority of the spouse over his/her property managed under whatever regime. This provision protects the rights of the other spouse who may be financially burdened when the other has depreciated their estate. In Rwanda, on both moral and legal grounds, one has to take care of his/her relatives. In this situation, the spouse is the most immediate relative that one must support. Also, Article 23 (2) provides that in case of higher liabilities arising from the common property regime, the balance will be paid from the separate property of each spouse. To prevent any possible reduction of the property of the non-donating spouse, it is important that spouse be consulted when a married individual considers donating immovable property.

The gender issue here arises from the legal status of a man as the head of family. This status is sometimes accompanied by the assumed powers of taking decisions unilaterally that sometimes include unnecessary and excessive financial expenditures, taking out loans as well as other financial adventures that may culminate into serious financial loss. As seen above in the law, in case of losses, recovery process will have to affect the private property of the wife. There is no doubt that the law in this case will practically affect women than men.

### **How customs and new laws differ on succession**

Rwandan customary law is still strong and practiced widely in Rwanda. Efforts to abolish customary law, particularly laws or traditions that marginalize and undervalue women, are a top-down effort. In cities and town centers and among the Rwandan elite and the formally educated. This message has been delivered and understood. But the large percentage of Rwandans who live in the countryside will require more time to understand the need to change the culture that gives husbands domination over their wives. Customary and formal, legislated laws can

contradict and even oppose each other, and the two systems are in force in Rwanda at the same time. Customary law upholds certain Rwandan cultural norms, but is contrary to international and constitutional human rights law, including the International Covenant on Economic, Social and Cultural Rights, particularly Article 1.

Scholars from the customary law school of thought believe that equality of men and women stems from a western and colonial culture aimed at destroying Rwanda's culture and traditions. On the other hand, scholars from the human rights school of thought argue that cultural values that marginalize the social and economic status of women reflect an outdated culture that needs to be abolished as soon as possible. They contend that equality of men and women is a natural and inherent right that stems from the humanity of both male and female individuals, that cannot be given or taken away by anyone (except sometimes in certain circumstances by law). Furthermore, many human rights advocates from many cultures around the world believe that the equality of men and women is a universal right, and not one imposed by a western culture. In Rwanda, the government has come to respect and integrate the human rights school of thought into Rwandan politics and economic globalization strategies. International human rights law is incorporated into the Rwandan constitution and laws, and customary law will have to evolve or become irrelevant.

### **Do national laws and practice comply with international obligation?**

Questions about whether national laws and practices comply with international obligations can not be discussed exhaustively in this module. It can take volumes of books. But what can be said here is that the law on succession has been examined and found to be compliant with state international obligations to treat men and women equally in the field of law on succession. It has uplifted the status of a woman from zero right to succession to full right of succession and control of her own property as well as enabling her right to choose which property regime she wishes to maintain throughout her marriage union. One may argue that the enactment of the law on succession of 1999 was a step forward by the Rwandan government towards complete compliance with its international obligations arising from CEDAW, ICCPR, UDHR, ICESCR, etc.

This section comments about some of the attendant sections on successions. Indeed the law has uplifted the social and economic status of women and girl children, something that corrects traditional and colonial practices that discriminates against women. Rwanda's succession law,

because of its non-discriminatory language and application, seems to conform with international state obligations to guarantee equality to women and men, found in CEDAW (Article 3 of the Convention on the Elimination of all forms of Discrimination against Women).

Since 1962, the Rwandan constitutions have upheld the principle of equality of men and women and prohibited any form of discrimination based on sex, race, and religion (Article, 3, 16 and 11 of Constitutions of, 1962, 1978 and 2003, respectively). Paradoxically, discriminatory laws and practices in Rwanda have remained in force and even applicable in courts of law despite those constitutional guarantees. CEDAW Article 2(a-b), which was ratified by Rwanda on September 3, 1981, requires that the constitutional principle of equality of men and women be implemented through the legislation and implementation of laws that respect this principle. The Rwandan government has taken 37 years to implement a law on succession that elevates the status of women and abolishes the discriminatory practices of customary law. It has been 18 years since our country's ratification of CEDAW and eight years since ratification of the Convention on the Rights of Child, but many Rwandan laws continue to discriminate against women and girls.

In light of this, one can argue that since 1962 when the republic got its independence, there has been little progress to recognize women's equality with men both in the eyes of the law and in society. While there is legal recognition of the equality of women in some areas of the law, there is still little recognition of the deep-seated gender stereotypes of women in Rwandan society, and the negative consequences of discrimination against women. It may take quite a while longer to realize a complete culture of equality between men and women in Rwanda.

## **CONCLUSION**

This course has covered four main areas in domestic relations laws in Rwanda: gender, marriage, divorce and judicial separation, and succession. Each section has been discussed within the context of gender in Rwandan laws. In Rwandan culture, traditional gender roles and stereotypes favor men and discriminate against women. Both men and women have taken the inferior status of women as a societal norm not subject to change. Patriarchy has perpetuated domination, discrimination and abuse against women. Abuse and discrimination against women has become institutionalized and legal throughout our legal system -- through family law, criminal law, and civil laws.

The 1995 Fourth United Nations World Conference on Women in Beijing ushered in a new social revolution that advocated the emancipation of women and called on the Rwandan government to institute laws and other mechanisms to achieve this objective. This advocacy produced great results in social, political, economic and positive laws where a woman's status was elevated to that of man's and was recognized as an inherent human right. The most outstanding legal achievement on gender issues is the law on succession of 1999, which was promulgated in the spirit of equality between men and women. In Rwanda, there is strong political will to balance gender identities and roles, to uproot discriminatory cultural and legal rules, and to protect women and children from gender-based violence. Great efforts are required, however, to harmonize existing laws and traditional practices that appear repugnant to international human rights standards. One hopes that this problem will be resolved when laws are reformed and attitudes change.

## **ANNEX: CASE STUDIES**

*The annexes are case studies which are intended to remind the trainer that case studies are necessary during training. He is free to prepare his/her own case studies he/she thinks will act as tools to make students understand deeper the practical life of the Rwanda families under different sections tackled in this module.*

### **Marriage Contract and the principle of Justice/fairness**

A couple has been illegally married (cohabitating but not civilly married) for the past 15 years. They have been living as husband and wife in one home and have five children. The husband has decided to marry another wife under Civil Code rules. His former partner has spent her time raising the children, growing and harvesting crops, and generally taking care of the household. She has come to you for advice, and wants to know if there are any provisions of law that can help her or any justice available for her. What do you tell her? Will she get to stay in the house? Who is likely to get custody of the children? What are the rights of the woman, the man, and the new wife-to-be, the children? How would the situation be different if the situation was reversed and the wife decided to legally marry some other man?

### **Divorce**

A woman has been undergoing all types of domestic violence and abuse from her husband for nearly a year. She decides to go back to her parents to allow the husband time to reform. The husband continues abusing his wife when he sees her, which discourages her from returning home. After 12 months, the husband files a legal suit for divorce on the grounds of home abandonment. In this case, should the judge be able to interpret home abandonment as a situation in which one spouse deliberately leaves a home without any serious cause from the other party? Will a judge accept the argument that when abandonment resulted from violence and abuse, the victim's attempts to leave home should not be interpreted as negligence and failure to meet family legal obligations but rather due to safety reasons beyond her control? Students should explore the validity and application of this ground for divorce with a gender perspective, and whether the outcome is just.

### **Separation**

A couple married under the community property regime, but now are in the process of civil litigation of divorce. The court has granted a provisional measure for separation, and determined that the wife should leave the family home and find a place to go during the period of separation. The wife has no other home, no nearby relatives, and no finances to support her during the separation. Analyze this court provisional measure and be sensitive to the gender issues.

### **Succession**

Review the example under "Separation" and consider the example of Mr. Jack, who had four children, all girls. They had all completed university and were well employed. Mr. Jack had amassed wealth estimated at 30 Million Rwf. He often sought financial support from his children who were reluctant to support him because they felt that he did not need additional help. At the time of his death, he made a will and devolved his 30 million worth patrimony to people who were not related to him. His decision was based on his interpretation of Article 56 in which the testator determines the destination of his patrimony, and on the traditional belief that girls have no right to succession. Examine the credibility of his Mr. Jack's will and the possible gender issues. Is Mr. Jack's will valid? Why or why not? What are the gender and discrimination issues here?

Mr. William died leaving behind two expensive houses in *Nyarutarama* (Kigali's posh residential estate) worth 400 Million Rwandan Francs each. He also left other two cheap houses in *Gakinjira* (Kigali's poorest suburb) worth 50 million Rwandan Francs each. According to the will, the widow owns the two expensive (posh) houses in *Nyarutarama* and the two cheap ones belong to the family of the deceased. During execution of the will, the relatives of the deceased protest that the will was unfair and that they think they can influence the widow to surrender at least one expensive house and be compensated with one cheaper house in *Gacinjira*. Would that execution influence valid? Don't you think that the prosecutor's intervention is best required at this very point? Discuss this and try to share your similar or related experience.