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Reforms to Enhance Gender Equality in the Democratic Republic of Congo: From Advocacy to Implementation

Julia Constanze Braunmiller and Marie Dry

This Brief examines two successful gender equality reforms in the Democratic Republic of Congo: the introduction of the Law on Parity in 2015 and an amendment to the Family Code in 2016. These two examples highlight three success factors: gender champions across local civil society groups; government and international actors making the economic case for reforming discriminatory provisions; and international obligations that allowed the reforms to pass. These legal reforms have had demonstrably positive effects on the lives of Congolese women and society. Yet, challenges remain for the Democratic Republic of Congo to achieve full gender equality in law and practice.

For women in the Democratic Republic of Congo, starting a job or running a business was, for decades, a very different proposition than for men. The process was regulated by the Congolese Family Code of 1987, which was based on Belgian colonial legislation mixed with prevailing customs. This Family Code required a married woman to obtain explicit permission from her husband to register her business and to complete any affiliated legal task, such as opening a bank account or applying for a loan. A husband could also withdraw his permission for his wife's work at any point. Such withdrawals were taken seriously by employers; for example, one women's rights organization reported the story of a female employee who worked at a local bank before her husband suddenly decided that he did not like her long work hours. After the husband called her employer explaining that he wanted his wife back at home, the bank let her go. This was not an isolated incident, as employers throughout the country commonly asked for a husband's permission to hire his wife. Further, most lenders required a husband's co-signature when opening a bank account for women or granting them loans. Thus, women who owned formalized businesses and informal shops alike encountered an array of hurdles when starting and developing their businesses (Hyland, Islam, and Muzi 2020).

A series of reforms undertaken in the 2010s, however, made it easier for Congolese women to participate in economic life. In 2015 the Law on Parity granted women in the Democratic Republic of Congo more rights to economic and social participation, bringing the country closer to formal gender equality in the law. In addition, an amendment to the Family Code in 2016 established that women in the Democratic Republic of Congo no longer need to obtain their husband's

Box 1 **The impact of family law reform on the lives of Congolese women and society**

La Dynamique des Femmes Juristes is a civil society organization in the eastern part of the Democratic Republic of Congo working to enhance women's access to their rights and justice. Lawyers working for the organization witness how powerfully the law is changing women's lives:

"Recently, a woman came to our law clinic in Goma [a city in the eastern part of the country] for advice. She had secured a job, but her husband was opposed to it as he did not think that it was important that his wife worked. In his mind, work for women was dangerous and of no benefit for the family. She came to the legal clinic in the hope that lawyers could reason with her husband. Our staff explained to him what the new Family Code entails and that he no longer had the right to prevent his wife from working. We stressed that her going to work would bring real benefits, notably financially, to the household. After giving it much thought, the husband came back a few weeks later to the law clinic to say that he now understood how important it was for his wife to leave the house and have an income. She currently is working outside the home and there are no more problems in their household."

Affiliations: *World Bank, Development Economics, Women, Business and the Law. For correspondence: jbraunmiller@worldbank.org; mdry@worldbank.org.*
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Objective and disclaimer: *This series of Global Indicators Briefs synthesizes existing research and data to shed light on a useful and interesting question for policy debate. Data for this Brief are extracted from the WBL database and supplemented by interviews conducted over the spring and summer of 2021 with women's rights experts from local civil society organizations, the public and private sectors, and international organizations in the Democratic Republic of Congo. This Brief builds on the information collected during these interviews to reconstruct the development of the legal reforms and the success factors that allowed the reforms to pass. These Briefs carry the names of the authors and should be cited accordingly. The findings, interpretations, and conclusions are entirely those of the authors. They do not necessarily represent the views of the World Bank Group, its Executive Directors, or the governments they represent. All Briefs in the series can be accessed via: https://www.worldbank.org/en/research/brief/global-indicators-briefs-series.*

WOMEN, BUSINESS AND THE LAW

authorization to sign a legally binding contract or to provide a formal letter of permission when starting a job or registering a business (Box 1). As the head of a microfinance organization operating in the Democratic Republic of Congo, puts it: "The change in the law has lifted a real barrier for women."

Despite such positive steps, women in the Democratic Republic of Congo remain underrepresented in the political sphere and in the private sector. Only 12.8 percent of parliamentarians in the National Assembly are female (IPU Parline—Global Data on National Parliaments). While women make up 48.5 per cent of the total labor force, they work disproportionately in agriculture, vulnerable (non-wage and non-salary) jobs, and self-employment compared to men (World Development Indicators).

The World Bank Group's *Women, Business and the Law* (WBL) project examines laws and regulations affecting women's prospects as entrepreneurs and employees across 190 economies. Its goal is to inform discussions on the importance of removing legal restrictions and to inspire policy makers to pursue legal reforms that promote women's economic inclusion.

The Democratic Republic of Congo scores 78.8 out of 100 on the WBL 2022 index. In 1971, the first year covered by the WBL index, the Democratic Republic of Congo's score was only 23.1. The improvement in score is due to several reforms increasing women's rights that the country has enacted since 1971, most notably the adoption of its first Family Code in 1987 and the first Labor Code in 2002.

The country experienced two internal armed conflicts between 1996 and 2003, with devastating consequences that continue to shape Congolese politics. Following the official end of the second Congo War in July 2003, the country embarked on new democratic processes for peacebuilding and reconstructing the country. Weakened political institutions were given the task of building a stable peace, including efforts to combat the widespread use of gender-based violence. As part of these efforts, a new Constitution was adopted in 2006 that enshrines the principles of gender equality and equal representation. Furthermore, several local and international civil society organizations (CSOs) worked together to bring the government's attention to the unpunished crimes of sexual violence committed during the armed conflicts (De Vos 2017). As a result of their advocacy on behalf of survivors of sexual violence, a law was passed on July 20, 2006 that criminalizes acts of sexual violence and protects victims (Breton-Le Goff 2013). This law also strengthened existing legislation prohibiting sexual harassment in the Democratic Republic of Congo.

This Brief focuses on deconstructing successful gender equality reforms in the Democratic Republic of Congo in the areas of equal participation and family law. Both reforms constitute necessary steppingstones for women to enter the formal workforce and the political arena. Family law forms the fundamental basis of any society, shaping women's roles and behaviors with a far-reaching impact on their freedom to take on a profession or trade. While labor rights are extremely important to strengthen women's roles as employees and can help dismantle barriers to equal pay, fewer women are subject to these laws in the Democratic Republic of Congo, as only 10.5 percent of women work in wage and salaried employment (World Development Indicators). Accordingly, reforms of family law play an important role in empowering women in the household. Congolese women are often regarded as entrepreneurial, but they remain in informal and low-productivity sectors such as agriculture, informal trade and services, and small-scale mining (Hyland, Islam, and Muzi 2020). Thus, reforms in family law are fundamental to empowering women throughout the country.

This Brief describes how these reforms were carried out and provides insights on this process for other economies that may wish to implement similar reforms in the future. The Brief highlights three success factors that together enabled the successful passage of the legal reforms studied here.

First, gender champions who worked across different groups of actors proved instrumental in the reform process. Local women's groups and women entrepreneurs' associations had been pushing for reforms for many years. The support of the international community and gender champions in the political leadership helped transform the demands into a reality. Partnerships were formed within the government, beyond the Ministry of Gender, and across different ministries to get their buy-in. Gender champions were instrumental in explaining the benefits of the reform to more hesitant ministries, while the international community provided logistical support and helped amplify the message. Gender activists stayed engaged and ensured continuity of lobbying during a politically unstable period with high turnover among government officials and international partners.

Second, making the economic case for gender equality gathered positive support for the passing of the reforms. Women's groups stressed the link between legal and actual constraints on female entrepreneurs and made a strong economic case for changing the law to convince sceptics that the legal reform did not symbolize a cultural shift but rather stemmed from an economic necessity.

Third, international commitments that the Democratic Republic of Congo had made by signing international agreements, such as the Convention on the Elimination of All Forms of Discrimination against Women, moved women's rights to the top of the reform agenda and pointed out the discriminatory provisions to be abolished.

Gender champions, collaboration, and persistence in the face of setbacks

The legal reform of the Family Code gained momentum from a collaborative effort between local women's groups that had been pushing for reform since the adoption of the first version of the Code; champions within the Democratic Republic of Congo's political leadership; and the international community, which supported this agenda by facilitating the dialogue. Resilience and continued efforts by CSOs over almost 20 years and gender champions among political decision makers—female leaders within the government and male supporters in government and civil society—were key to creating this successful coalition. International partners provided key support, in the form of financial and technical assistance for intergovernmental meetings and workshops.

International actors that supported the reform include UN Women, the United Nations Children's Fund (UNICEF), the United Nations Population Fund (UNFPA), the United Nations Development Programme (UNDP), and the World Bank Group (WBG), as well as bilateral aid organizations from countries including Canada, France, Sweden, and the United Kingdom. In particular, when preparing an Investment Climate Strategy for the Democratic Republic of Congo in 2012, World Bank Group staff noticed that the restrictive law requiring marital authorization hindered women's work (Simavi, Manuel, and Blackden 2011; World Bank 2011).

To address this obstacle, international partners collaborated with local advocates to organize workshops, while also bringing key political decision-makers into these discussions. Gender champions who pushed the discussion forward included the President of the Senate, Léon Kengo wa Dondo, a strong male supporter of women's rights, as well as church and community leaders. Notable champions in the government included the Minister of Justice (Wivine Mumba Matipa, 2012–16) and the Minister of Gender, Family and Children (Geneviève Inagosi, 2012–14)—both female politicians who supported the cause of gender equality. The Ministry of Gender, Family and Children coordinated the reform process across the various sectors of government and the territory (JICA 2017).

The 2015 Law on Parity emerged from the demands of local civil society activists for better representation of women in political spheres in adherence to national obligations. The 2006 Constitution of the Democratic Republic of Congo establishes equality before the law for all citizens and contains several mandates to promote women's rights, one of them being the "right to an equitable representation within the national, provincial and local institutions." To fulfil this constitutional mandate, the country embarked on a nine-year legislative process to increase public representation of women (Rien sans les femmes 2017). The first bill of the Law on Parity was drafted in 2011 but was held unconstitutional by the Constitutional Court in 2013. The debate largely revolved around the definition of "parity" and whether or not the Constitution required strict 50 percent numerical gender representation. The Law on Parity was finally enacted in 2015 and opted for an "equitable" female representation in public institutions instead of a strict parity requirement. It contains an ambitious agenda on the promotion of women's economic, social, and political participation. Besides political rights, the Law on Parity also addresses social rights, women's health, education, and economic participation. In particular, it mandates nondiscrimination in access to credit, setting the Democratic Republic of Congo apart from its neighboring countries. Less than 20 percent of economies in Sub-Saharan Africa prohibit gender discrimination when accessing finance.

The economic case for gender equality

Advocates for reforms to the laws of the Democratic Republic of Congo had to face strong opposition from within parliament. Both parliamentary chambers of the National Assembly had overwhelmingly male representation, and men from rural areas were particularly likely to hold views opposed to several of the suggested changes. To convince parliamentarians, advocates focused on the economic case for gender equality, and used examples of neighboring countries.

First, local groups identified key arguments, with the support of data provided by the international community, to convince political decision-makers. They presented evidence on how the Democratic Republic of Congo lagged other countries in the region that had reformed their laws and had seen beneficial outcomes for the community without negative repercussions on family life and social cohesion. For example, Togo's 1980 Code of Persons and the Family removed the marital authorization requirement by stipulating that marriage does not undermine the legal capacity of spouses. Burkina Faso's Family Law of 1989 mandated that each spouse has the right to open a bank account without the consent of the other. Benin's 2004 Code of Persons and the Family granted both spouses equal rights to work in a profession of their choice and to direct the family together. Advocates focused on the economic benefits and cost of no action for the government and Congolese people.

Second, local civil society advocates explained the need to abolish the marital authorization requirement by showing how it limited women's economic participation in practice. The power that a husband had over his wife could lead to difficulties in situations of separation, as a woman would lose financial stability without being able to work if the husband refused to give his permission.

Third, advocates outlined the economic benefits for families and children when women contributed financially to the household and participated in household decision-making. They argued that the country's competitiveness would improve by giving economic opportunities to women, who would start gaining an income and paying taxes. This economic argument helped convince traditionalists as it showed that the legal reform was not predicated on a cultural shift toward gender equality but on economic necessity. Local CSOs also made the point that the prevailing Family Code was imported from Belgium and not an authentic local law.

The use of economic arguments proved successful, but the debate eventually led to dropping certain provisions and going forward with others. Advocates found that they could win support for removing the marital authorization, but opposition was strong when it came to equalizing who could be designated head of household. The understanding of the man as leader of the family is deeply engrained in Congolese society and advocates of this idea supported it with religious arguments. Thus, women's groups and gender champions decided not to push for this reform to avoid jeopardizing other hard-fought gains on women's equality.

On the other hand, a strong victory for women's rights was raising the legal age of marriage to 18 for both girls and boys, despite some parliamentarians expressing fears that such change would be detrimental to girls' chances of getting married. This meant overcoming some lawmakers' reluctance to change long-standing practices of allowing earlier marriage—which was not a particularly easy task. As one local official noted: "The culture is ingrained in the minds of the parliamentarians themselves. Legal reforms are being done first at the level of parliament, so if the men there aren't ready to change, then the law will not change."

International obligations to reform discriminatory laws

The first Family Code of the Democratic Republic of Congo was enacted in 1987. It aimed to harmonize Belgian colonial law and customary laws and reflect the Congolese reality—which was assessed in preparation of the drafting of a new Code in a sociological study conducted across all of the country's provinces. On the one hand, this first Code granted some important rights to women: inheritance rights for surviving spouses and children regardless of gender became equal under the 1987 Family Code. This was not necessarily the case in neighboring countries at the time. Indeed, it was only in 1999 that Rwanda equalized inheritance rights for both sons and daughters and male and female surviving spouses, while Burundi has yet to enact a law on the matter to grant women and girls equal rights in inheritance.

On the other hand, the 1987 Family Code largely kept traditional restrictions on a married woman's freedom of movement. Notably, the Code upheld the concept of "marital

Box 2 **Legal restrictions on married women in the 1987 Family Code**

- A married woman is obliged to live with her husband where he chooses to reside (Art. 454).*
- The wife must obtain the authorization of her husband for all legal acts in which she commits herself to a service that she performs in person (Art. 448).*
- The husband is the head of household (Art. 444).
- The husband administers all marital property, including the wife's (Art. 490).
- A wife is obliged to obey her husband (Art. 444).*

* Restriction was removed with the 2016 reform of the Family Code.

power," which designates married women as legal minors (Box 2). This meant that a woman needed a "marital authorization" (her husband's permission) to sign any legally binding contract, including to work, register a business, or open a bank account.

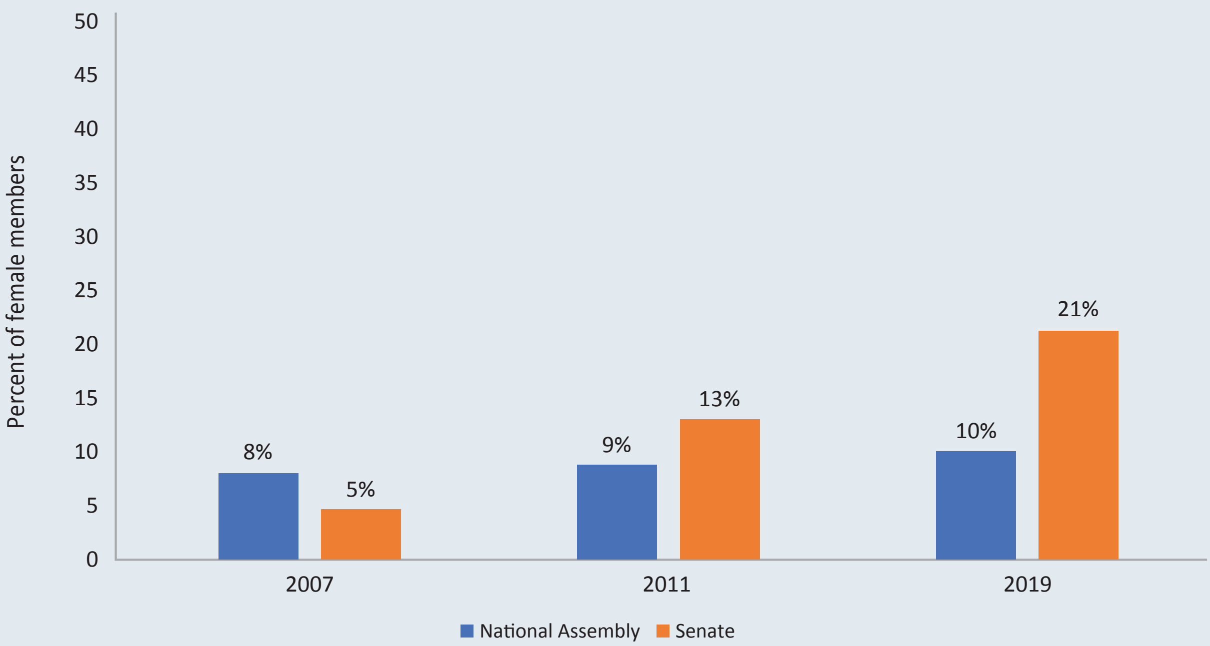
The Democratic Republic of Congo government had ratified the Convention on the Elimination of All Forms of Discrimination against Women on October 6, 1985, without reservations. And the Committee on the Elimination of Discrimination Against Women noted in each review of the Democratic Republic of Congo's obligations under the Convention that the Family Code needed to be amended, "particularly the requirement of the husband's authorization of a wife's paid employment" (CEDAW Committee 2000, 2006, 2013).

The first reform bill was drafted in 2013 and presented for parliamentary debates. While the Senate was mostly supportive, conservative deputies in the National Assembly put up more resistance. Broad support among government officials, local CSOs, and legal experts led to carefully crafted arguments that ultimately convinced the parliament to pass the draft law. The process was firmly backed by development partners led by the World Bank, in the form of legal reviews and advocacy workshops. This long-awaited amendment to the Family Code came into effect on July 15, 2016.

Positive impact on women's economic participation and remaining challenges

A key result of the Family Code reform was the elimination of the marital authorization for women to access bank accounts and loans and to enter the workforce in general. Changes in the law prompted private actors to adjust. For example, following the enactment of the law, the Federation of Enterprises of Congo, through its legal monitoring publication of March 2017, advised all employers in the Democratic Republic of Congo to adapt their human resources policies to take into account the new legal status of married women granting them full legal capacity without spousal authorization (FEC 2017). Banks and financial institutions changed their bylaws to conform to the new law as well. For example, the microfinance organization FINCA made it clear that the husband's permission was no longer needed for female clients to obtain a loan and to hire women as agents. For all FINCA loans, before the legal change, the husband had to sign the loan agreement,

Figure 1 **Women's representation in parliament has increased slowly since a quota was established with the 2015 Parity Law**



Source: IPU Parline—Global Data on National Parliaments, Democratic Republic of Congo, 2021, Geneva, https://data.ipu.org/node/47/basic-information?chamber_id=13569.

even for an individual loan issued to his wife. With these new benefits, women—particularly in urban areas—are more empowered to ask for a civil, registered marriage, which gives them more rights than a customary marriage would.

Problems remain regarding compliance with the law. For example, even though it is now illegal to ask for a marital authorization, banks sometimes find their way around this prohibition and ask for a husband's countersignature when opening an account for a woman.

Women's representation after the establishment of the quota with the 2015 Parity Law has barely increased (figure 1). Labor force participation in the country has been declining overall since 2006, dropping 8.2 percentage points for women compared to 5.8 percentage points for men (World Development Indicators). Women's work continues to be concentrated in the informal and agricultural sectors. Nonetheless, female employment in wage and salaried work has doubled within a decade to reach 10.5 percent of female employment in 2019. The legal change offers new opportunities for women and is key to integrating them into formal employment as the private sector in the country is being developed (World Bank Group 2017; Hyland, Islam, and Muzi 2020).

A number of challenges remain on the road for women to fully enjoy their rights granted by the two reforms from 2015 and 2016 (figure 2). First, the new laws are still being disseminated. Laws in the Democratic Republic of Congo are made available through publication in the Official Gazette, but are only published in the official language, French, without being translated into the other four recognized national languages (Kikongo, Lingala, Swahili, and Tshiluba). Due to lack of resources, very little training of civil servants or private organizations has been conducted to make sure the law is implemented across sectors and across the breadth of the national territory. It usually has been left to CSOs to educate their own staff and beneficiaries of the new law. Such training can be highly effective to disseminate the law. For example, marriage registrars who are at the forefront of the application of the provisions of the new Family Code can educate newlywed couples on their mutual rights and duties. Employees of financial institutions can emphasize to prospective female clients that there is no longer a need for the marital authorization. An ongoing WBG project on small and medium enterprise (SME) development and growth is supporting the dissemination of the new law as the need is evident for more resources to increase knowledge and build capacity in both rural and urban areas of the Democratic Republic of Congo (World Bank 2018).

Second, challenges remain in the letter of the laws themselves. Enforcement mechanisms that would make the rights actionable are lacking. While the Law on Parity establishes that political parties should consider gender parity on candidate lists presented for elections, it fails to establish concrete measures when this objective is not obtained. As such, this law continues to be heavily critiqued by women's rights organizations, particularly for its failure to achieve political parity (Rien sans les femmes 2017). Similarly, no redress mechanism is available when a woman's right to equal access to credit is violated. Moreover, the law does not address the prevalence of informal credit. Most women access finance through cooperatives instead of the formal credit system. Only 24 percent of women own an account at a financial institution or with a mobile-money-service provider (Global Findex Database). In order to effectively guarantee women's access to credit, an institutional shift is needed, expanding the formal credit sector, shifting away from traditional collateral requirements that rely on the husband's co-signature, and overcoming a negative bias toward women lenders (MADRE and SOFEPADI 2018). Potential solutions are the expansion of agent banking with a large rural network and employment of female agents, as well as the establishment of gender desks that can address women's claims.

Third, the lack of female representation in all areas of society hinders women's economic participation through a lack of role models, insufficient support for policy changes, and limited financial and other de facto support measures for female business owners. Low literacy and education levels create tremendous barriers to entry into formal jobs (World Development Indicators). The gender gap in literacy is 22 percent. Only 49.9 percent for women have completed primary school and 36.7 percent have completed secondary school, compared to 78.4 percent and 65.8 percent of men. Furthermore, for women to participate more in the public and professional spheres, a redistribution of domestic work needs to take place to free up some time for women to allow them to pursue other economic interests (Box 3).

Fourth, the slippage between the law on the books and the lived experiences of women is in part explained by social and cultural norms. Gendered norms appear to still be deeply ingrained in Congolese society, assigning men the role of the primary breadwinner, while women are expected to earn less and take on all care-giving tasks. An interviewee commented on the pervasiveness of such attitudes, saying "I am from the western region where we have the matrilineal system, and even there the role of the leader is assigned to a man: the maternal uncle." A 2018 study also found that an overwhelming majority of young women and men interviewed agreed with the statements "A woman's most important role is to take care of her home and cook for her family" and "A man should have the final word about decisions in his home" (Lusey et al. 2018). This can affect women's economic participation in a myriad of ways. Most women-led businesses remain informal and in low-productivity sectors such as services and commerce. Anecdotal evidence suggests that female business owners surrender their shops to their husband when the businesses start growing and thriving. This pattern illustrates how both men and women often continue to view entrepreneurial activities as the domain of men.

Last, women and men often lack awareness of the passage of the two new laws and their consequences for women's rights, particularly in rural areas of the country. Communication and

Box 3 **The importance of awareness raising to implement change**

A male beneficiary of an awareness-raising program questioning gender norms on masculinity to end gender-based violence testified:

"We have been trained and made aware that household chores can be done by the man or the woman. Today I drew water at home, I arranged the house, I lit the fire, I prepared porridge for the children before they went to school. I want all men everywhere to be like me. I do the housework at home without fear of anyone."

Figure 2 Remaining challenges

Lack of resources for dissemination of the law:
The new law is only available in French but not the other four national languages. More resources are needed to disseminate the law and build capacity among rights holders and public officials.

Limited awareness of the law:
Practitioners, public officials (e. g. civil registrars), and beneficiaries alike are not aware of the new rights granted to women, particularly in rural areas.

Weak implementation of the law:
Institutions are needed to implement the law, such as focal points and gender desks that can address women's claims.

Lack of female representation in all areas of society:
There is a need to encourage girls and young women to participate more in the public and professional sphere. High illiteracy rate and gender education gaps contribute to low participation.

Prevailing gendered norms:
While the law is progressive, society still sees men as the primary breadwinner and does not approve of women working outside the home.

training around these laws is concentrated within urban centers and fails to reach more remote areas. And even within urban centers, it is only educated individuals who are aware of their new rights and obligations under the 2016 amendment of the Family Code. A striking example of the lack of awareness on the new laws is the persistent belief that the now abolished marital authorization is still in force. The director of a Bukavu-based CSO recalls one incident: "We met a man only a few years ago who told us: 'My wife needs my permission to work'—that is when we had to tell him that this time is over."

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