

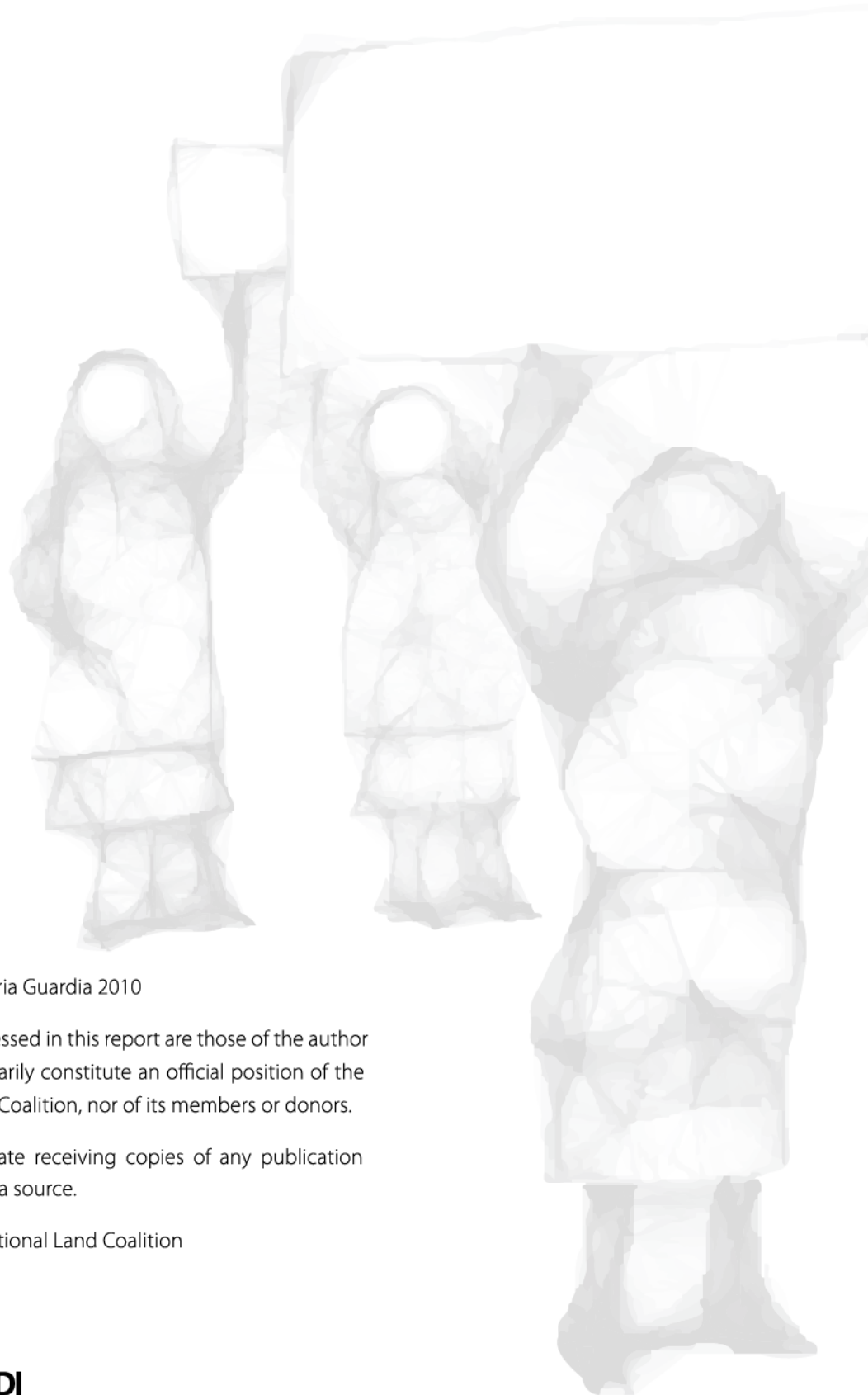
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RESEARCH REPORT

Experiences of women in asserting their land rights:
the case of the Bugesera District, Rwanda



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Experiences of women in asserting their land rights: the case of Bugesera District, Rwanda

By the
Rwanda's Women Network (RWN)

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Mary BALIKUNGERI
Director and Founder
Rwanda Women’s Network

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Executive summary

The report presents the results of a study titled 'Experiences of Women in asserting their Land Rights: the case of Bugesera District, Rwanda.' The objectives of this study were: to identify women experiencing challenges in securing access and control over land, to document their experiences in fighting for these rights, to identify impediments to fair settlements of land disputes involving women, and, to work with the women to devise strategies to enforce and protect women's rights to land ownership. The research was conducted in two Sectors in Bugesera district in the Eastern Province of Rwanda. Participants were mostly women involved in various land disputes, mediators (*Abunzi*), members from the courts, and local leaders from the study area.

The study employed both qualitative and quantitative methods. A total of 147 women had reported cases to the court (77) and *Abunzi* (70) since 2005, and were identified from records of these respective institutions using a standard extraction form. Of these, 50 women were traced and interviewed using structured questionnaires and four women had their narratives recorded. Land administrators supplemented this information through participation in Key Informant Interviews and Focus Group Discussion Meetings.

The findings indicate that customary practices regarding inheritance are still widely practiced in Rwanda alongside the new legislation that gives equal land rights to men and women. Also, most of the disputes involving women are resolved by the *Abunzi* because women view the Family Council and the Umudugudu as biased and highly susceptible to prejudice.

While women are increasingly aware of their land rights, they face a number of challenges when asserting them, including a lack of necessary assistance. Advocacy focused on those areas that have the greatest capacity to affect women's land rights is needed, including adequate support of facilitating institutions and the foundation of community land information systems to check unlawful land transactions.

Introduction

Since 1999, a progressive statutory regime recognizes and protects women's rights to own and inherit land in Rwanda. However, there are gaps between laws and policies and actual practices (IDRC: 2007). In addition, policy-makers and institutions that are supposed to reinforce the implementation of the law do not recognize customary practices despite the fact that communities continue to use these to address land access, control, and ownership.

Rwanda Women's Network (RWN) carried out a study to assess the women's experiences in the implementation of laws that protect women's rights in Bugesera District. The study was funded under a small grants program titled "Securing Women's Access to Land: Linking Research to Action" under the auspices of the International Development Research Centre (IDRC) and coordinated by the International Land Coalition (ILC) and Makerere Institute for Social Research (MISR).

Background

Rwanda Women Network (RWN) began its program on women's rights to land, housing, and inheritance through its outreach program to victims of rape and other violent crimes. RWN provides training on new laws that affect women's rights to ownership and control of property through a network of community paralegals. Nationally, RWN belongs to different advocacy networks, such as Profemmes/Twesehamwe (an umbrella organization for women's organizations), Landnet-Rwanda, and Rwanda Women Legal Policy Task Force.

Bugesera was hit hard by the 1994 genocide and its effects continue to this day with more refugees returning and resettling within the District. RWN established a center for women survivors of sexual and gender-based violence in the area in 2007. Women in this area have limited awareness of their rights, and the laws and structures intended to protect

them. Furthermore, court decisions favouring women tend never to be implemented.

The strategy of this study was to review records of formal land administration institutions in Rwanda, including the Court and *Abunzi*,¹ to identify land-related cases that had been reported by women and to document their experiences. This study was limited by parameters of time, resources (financial and personnel), and traceability. Information from members of the institutions involved was solicited to give greater insight into the challenges women face.

The context of women's land rights in Rwanda

Land scarcity in Rwanda is a huge problem due to population density and the fact that the country is more than 80% dependant on agriculture. To make matters worse, the 1994 genocide had profound repercussions on the demographic structure of the country. Today, women constitute approximately 53% percent of the adult population and 50% of these are widows. Women continue to face the impact of genocide; for example, 34% of all households in Rwanda today are headed by women. Of the Rwandan population infected with HIV, over 50% are women. The long and protracted conflict since 1959 also caused mass movements of people creating two generations of refugees i.e. those from 1959 and those from 1994. In addition, 36% of the population aged 15 years and over are illiterate, and only 4% of women can read (RGPH: 2002).

The discourse and, indeed, the advocacy agenda on women's land rights in Rwanda has been greatly affected by a history of conflict and the post-genocide reforms that have followed. These include allocation of land and resettlement, and legal and policy reforms.²

1 A dispute mediation body that has its roots in tradition, but was formalized by the enactment of Organic Law No. 31 in 2006 which sets out its organization, jurisdiction, competence, and functioning. There is a debate about whether the *Abunzi* is a formal or informal institution, given that its rulings, to be binding, must be endorsed by a formal court.

2 The Matrimonial Act of 1999, the Organic Law 2005, inheritance, land policy etc.

Women's land rights under the legal framework

In recent years, Rwanda's major land reforms have affected women and gender relations in significant ways. For example, in 1999, Rwanda passed the Inheritance and Succession Law that complements the 1960 Civil Code regarding "matrimonial regimes, liberalities and successions." The code explicitly grants equal inheritance rights to male and female children, and allows a wife to inherit her deceased husband's property. The law defines three different property regimes that are possible in marriage i.e. community of property, limited community of property, and separation of property.

While the code has greatly enhanced property rights for women, it has limitations. It protects monogamous civil marriages without recognizing that the majority of women are engaged in cohabitation or polygamous relationships. In addition, while the law sees men and women as equals, traditional beliefs secure land to men, and they have the power to interpret laws and make decisions about inheritance.³

Since 1976, land ownership rights have been recognized for only a very small proportion of land registered formally under written law.⁴ In practice, however, the majority of land in Rwanda has always been managed in accordance with local land tenure practices even though practices have changed over time, and particularly since the 1994 genocide.⁵

Following a long period of public consultation on land issues after the genocide, Rwanda passed the National Land Policy in 2004 and the new Organic Land Law in 2005. The law greatly enhances the tenure security of ordinary Rwandans, giving them rights of long-term lease (99 years, renewable) and stipulating that all land in Rwanda must be formally registered.⁶

The Land Law states that women and men have equal rights to land. Land can be transferred by succession, lease, sale, and mortgage, but final land rights cannot be transferred without the prior consent of all family members including legally married spouses and adult children. Consent is provided by submitting a document signed by the family members which has been witnessed before a registrar of civil status or the registrar of land. Registration of land is obligatory and decentralized.

In November 2005, the National Land Tenure Reform Program based in the former Ministry of Land and Settlement (MINITERE), was charged with the overall strategic preparations for the implementation of the national Land Policy and the Organic Land Law, including the conduct of extensive fieldwork through consultations and subsequent land registration field trials. The office of the Registrar of Land Titles was established in 2006,⁷ and a Registrar of Land Titles and five Deputy Registrars were appointed the following year. The National Land Center opened at the start of 2008.

Other laws and policies that are relevant to women's land and inheritance rights include the Constitution of 2003, the National Policy on Gender, (updated regularly since 2001), and the National Policy on Environment of 2005.

Institutional framework for land administration

Rwanda is moving towards decentralization and a number of functions have been devolved to provincial administration of districts, sectors, cells, and villages. The center is mainly charged with policy formulation while the lower levels of government are responsible for management and administration of land.

The land administration institutions provided for under the law include:

3 IDRC Scoping Study for East Africa on Women's Access and Rights to Land and Gender Relations in Tenure 2007; see Chapter on Rwanda (27).

4 Decree-Law on the purchase and sale of customary rights over land or rights of occupation No 09/76 of 04/03/76, National Land Policy; Jones 2000, "The Evolution of Property use in Rwanda."

5 Musahara and Huggins 2005, "Land reform, land scarcity and post-conflict reconstruction: a case study of Rwanda."

6 Articles 5, 24, 25, 27, and 30 in the Organic Law No 08/2005 of 14/07/2005 Determining Use and Management of Land in Rwanda, and Presidential Order

No 30/01 of 29/06/2007 Determining the Exact Number of Years of Land Lease. Note that the latter is one of over twenty pieces of secondary legislation required for the full implementation of the Organic Land law, most of which have not yet been gazetted or drafted.

7 Presidential order No 53/01 of 12/10/2006- Determining the Structure, the Powers and the Functioning of the Office of the Registrar of Land Titles.

- **Family Council:** Varies by region and follows common practice and custom.⁸ It is recognized by the Civil Code and the Succession Law.⁹
- **Umudugudu (Village) Executive Committee:** An appeal court where interfamily and other disputes outside of the family are also first reported. A USAID study conducted in Kabushinge and Nyamugali found that “[t] here is a general perception among the population that the Umudugudu decisions can be biased and influenced by personal relationships with one of the parties or their relatives.”
- **Cell executive committee:** A multi-purpose local governmental body that works closely with the district and sector levels to resolve disputes¹⁰ once provided with the village committee’s (*Umudugudu*) report detailing the dispute and its decision.¹¹
- **Abunzi (Mediation) Committee:** The only local dispute-resolution mechanism whose formal, statutory mandate¹² is resolution through mediation.¹³ In Bugesera, a party must first seek relief from the Umudugudu and cell authorities before bringing his or her claim to the Abunzi. The Abunzi can exercise jurisdiction related to land and other immovable property whose value does not exceed three million Rwandese Francs. It also has jurisdiction over family disputes of an un-civil nature.
- **Courts:** Beyond local dispute-resolution mechanisms and the *Abunzi*, parties may access formal courts for resolution of land disputes, including: Lower (First) Instance Courts, Higher Instance Courts, the High Court of the Republic, and the Supreme Court.¹⁴

This study builds on the scoping study by IDRC which focused on women’s land rights in Rwanda in relation to three other countries.¹⁵

8 Cyzia at 4 cited in USAID Rwanda at 7.

9 Cyzia at 4; Law No. 22/1999 of 11/22/99 to Supplement Book I of the Civil Code and to Institute Part 5 regarding Matrimonial Regimes, Liberalities, and Successions, art. 51 (“Succession Law”), “At the time of succession between the children, the family council shall determine the part of the patrimony to be earmarked for the raising of minors and the part to be shared between all of the children of the *de cuius* [the deceased]” cited in USAID Rwanda at 7.

10 Order on Village, Cell and Sector, art. 31(7) cited in USAID Rwanda at 8-9.

11 USAID Rwanda at 9.

12 See CONST. OF THE REPUBLIC OF RWANDA, art. 159; Amend. No. 02 of 08/12/2005 of the Const. of the Republic of Rwanda of June 4, 2003, as amended to date, art. 17; See also *Abunzi Law*, art. 3 cited in USAID Rwanda at 9.

13 While the Organic Land Law provides for mediation committees at the sector level, not the cell level, the *Abunzi Law*, mandating mediation committees at the cell level, abrogates all legal provisions contrary to it. Compare Organic Law No. 08/2005 of 14/07/2005 Determining the Use and Management of Land in Rwanda, art. 53 with Organic Law No. 31/2006 of 14/08/2006 on Organization, Jurisdiction, Competence, and Functioning of the Mediation Committee, arts. 2 & 32 (hereinafter “*Abunzi Law*”) cited in USAID Rwanda at 9, note 27.

14 See *Abunzi Law*, art. 3 describing the *Abunzi* as “an organ meant for providing a framework of obligatory mediation prior to submission of a case before the first degree courts hearing cases referred to in articles 8 and 9 of the organic law.” Cited in USAID Rwanda, 9.

15 Ethiopia, Kenya, and Uganda.

1. Research methodology

This study applied both quantitative and qualitative methods. It was conducted in two sectors of Bugesera district, namely, Nyamata and Gashora. Bugesera is located 40 kilometers from Kigali, the capital of Rwanda, in the Eastern Province close to the Burundian boarder. It is comprised of 15 sectors and has an estimated population of 58, 313 people (Rwanda National Census Commission: 2002).

The sectors of Nyamata and Gashora have recently seen an unprecedented appreciation in the value of land due to improved infrastructure. The two sectors also registered relatively high incidence rates of land disputes. However, it is not clear whether the two phenomena are related.

Bugesera is classified as a rural agricultural area though it has the potential to become more urbanized with the recently constructed national highway and planned regional airport. Nyamata is the main urban center in Bugesera district.

Scope of coverage

The study targeted women who had been involved in land disputes in the two sectors of Gashora and Nyamata in Bugesera District.

A sampling frame was constructed from the records of land-related cases at the Nyamata District court and *Abunzi* courts in Nyamata, Mwendo, and Maranyundo cells in Nyamata Sector, and Biryogo, Kayumba, and Kabuye cells in Gashora. This frame yielded a total of 147 women.

A total of 50¹⁶ women were traced in 15 villages. Survey coverage was determined by ease of traceability of women in Gashora and Nyamata Sectors¹⁷ and in proceeding sectors. Furthermore, four women were selected for in-depth interviews based on their cases. Members of the *Abunzi* in 10 Cells were specifically targeted for data because of their experiences in dealing with land disputes involving women.

Table 1: Scope of coverage

Method of Data Collection	Target	Number of persons covered
Data Extraction	Abunzi and Court Records	147 Women
Survey	Women who had reported cases to the Abunzi and/or court between 2005 and 2007	50 Women
Narratives	Cases that epitomize the circumstances under which women's rights are violated	4 women
In-depth Interviews	Land Administrators at national level	4 women and 2 men
Focus Group Discussions	Members of the Abunzi in 10 Cells	18 women and 12 men

Source: RWN study 2009 (Court and Abunzi Records, Survey and FGD register)

¹⁶ 34% of women identified from the Abunzi and Court records cases

¹⁷ These sectors recorded the highest number of women from extraction

Data collection methods and tools

Data extraction

Information on the particulars of land-related cases reported to the *Abunzi* and the Court was extracted from their records through a pre-designed form. Of the 147 women identified, 70 were from the *Abunzi*,¹⁸ and 77, from the court.

Household survey

Fifty women¹⁹ were traced and interviewed using a semi-structured questionnaire. The questionnaire focused on: personal information of the respondent, ownership of land in dispute, type of land disputes, challenges faced in resolving disputes, knowledge of the existing laws, as well as strategies and recommendations.

Narratives

In order to supplement the information gleaned from the questionnaire, eight women were selected for narratives in relation to both land disputes and their experiences with land administration institutions; however, only four women agreed to give their testimonies.

Focus group discussion (FGD) meetings

A total of 30 participants, or half of the membership of the *Abunzi*, including 18 women, participated in the two FGDs. Discussions followed a theme guide which included the following: types of land-related cases handled by the informal mediation committees, parties involved, tools available to the committees, challenges faced by women and how they can be overcome, challenges faced by the committees and how they can be overcome, and rating of the fairness of the arbitration institutions.

In-depth interviews

In-depth interviews with eight land administrators at the national level were carried out. The administrators included: the Registrar of Land Titles (Office of the Registrar of Land

Titles), an Attorney working with Rural Development Institute, a Land Commission Representative in Bugesera District, the President of the Nyamata Lower Instance Court, a National Women's Council Representative in Bugesera District, Agronome, and the Executive Secretaries of Nyamata and Gashora Sectors. Their insights and knowledge assisted the research team to decide which of the 15 sectors in the district were suitable for the study.

Limitations of the study

The limitations of this study are threefold: Firstly, the time frame of the study was too short for adequate data collection. For instance, researchers had to abandon the plan to observe *Abunzi* proceedings or court sessions involving women because no such cases were handled during the period of the study.

Secondly, there were problems tracing the women involved in land disputes as some had moved or died, and some who were traced were unwilling to share their experiences because of fears that local authorities were implicated in their cases.

Thirdly, the limited geographical and population coverage of the study does not provide a representative picture of the country as a whole.

¹⁸ From Nyamata, Mwendo and Maranyundo cells in Nyamata Sector and Biryogo, Kayumba and Kabuye cells in Gashora Sector

¹⁹ From Gashora, Kabuye, Mayange, Mwogo, Ntarama and Nyamata

2. Presentation and discussion of results

The findings of the surveys and narratives are synthesized under three broad themes, namely: the nature of land disputes in which women are involved, women's experiences in the resolution of these disputes, and views on how women's rights can be reinforced.

In addition to the information from the women, the views of members of the land administration institutions were also captured in FGD meetings. They articulated both their own challenges with land-related disputes and the challenges they, as implementers, believed women faced.

Nature of land disputes in which women are involved

The most common disputes involving women are inheritance disputes (34%)²⁰ with males (71%) who are usually brothers or in-laws. The second most common type of dispute reported by women is *umunani* (inheritance in waiting or birth right) (22%). The table below presents details of the cases reported to the two institutions.

²⁰ This is not far from *Umunani* which is allocation of land by parents when one comes of age, marked by the taking of a wife for males. It is not clear what the rites of passage are for females.

Table 2: Nature of land disputes involving women

Aspect of Disputes	Institution		Overall
	Court	Abunzi	
Dispute about			
Inheritance	39 (51%)	11 (16%)	50 (34%)
<i>Umunani</i>	16 (21%)	16 (23%)	32 (22%)
Ownership	7 (9%)	7 (10%)	14 (10%)
Transaction without consent	5 (7%)	12 (17%)	17 (12%)
Land transaction	4 (5%)	11 (16%)	15 (10%)
Other	6 (7%)	13 (18%)	20 (12%)
Relationship with other disputants			
Not clear	27 (35%)	33 (47%)	60 (41%)
Spouse	7 (9%)	12 (17%)	19 (13%)
Siblings	13 (17%)	10 (14%)	23 (16%)
Other relatives	10 (13%)	5 (7%)	15 (10%)
In-laws	9 (12%)	2 (3%)	11 (7%)
Other	11 (14%)	8 (12%)	19 (13%)
Status of the case			
Pending	14(18%)	15(21%)	29 (20%)
Concluded	63 (82%)	48(69%)	111 (76%)
Not clear	1(2%)	7(10%)	10 (8%)

Source: RWN study 2009 (Court and Abunzi Records)

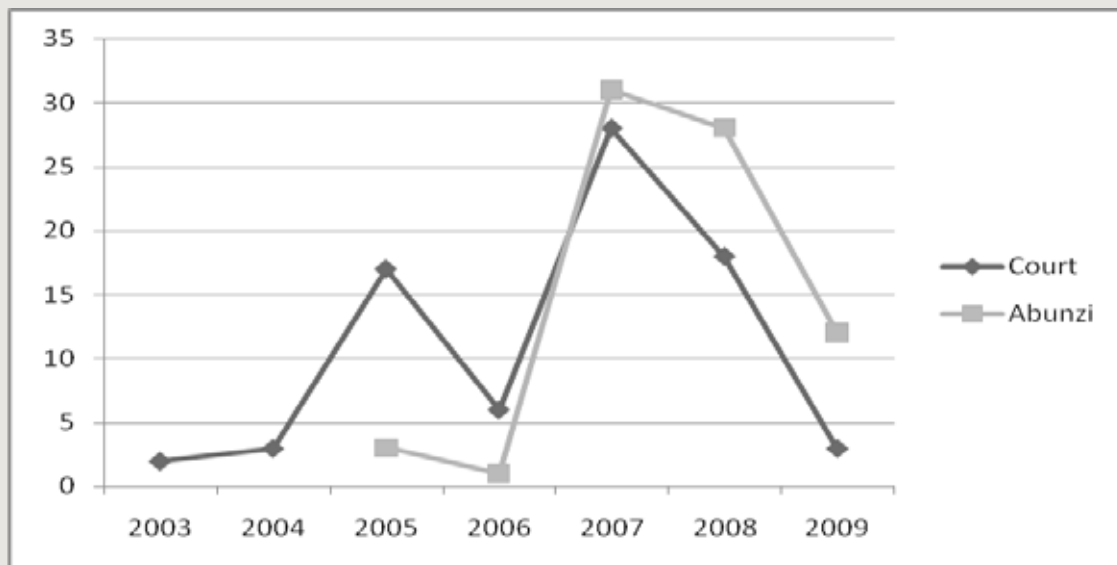
The parties in disputes range from siblings, to parents²¹ and in-laws. However, most cases did not disclose the nature of the relationship with the woman complainant. The fact that close to 70% of the disputes had been concluded by the two institutions is a good indicator that the institutions are working. Results show that rulings were in favour of the women (complainants) in over 40% of the cases.

These findings are congruent with those of a similar study by USAID (2008) that identified inheritance as the most common type of land dispute in Rwanda. Arguably, the new Land law (2005) and Succession law (1999) as well as the sensitization campaign that followed have greatly encouraged women to report instances of violation of their rights (USAID: 2008); a trend indicated in Figure 1 below. The role of *Abunzi* in resolving land disputes was first formalized in 2005 by the

Land law (Organic Law No. 08/2005), when the *Abunzi* Law (Organic Law No. 31 of 2006) required that all reported cases be recorded. This requirement may explain why few cases were registered earlier than 2005.

²¹ Largely related to *umunani*

Figure 1: Trend of reporting cases by women



Source: RWN study 2009 (Court and Abunzi Records)

Women's experiences in the resolution of land disputes

Profile of respondents

The age of the 50 women interviewed ranged from 24 to 78 years with a mean and median of 48 years. Of the respondents, 27 indicated that they were married, 20 were widows, and 3 were single.

Table 3: Marital status and education level of respondents

Characteristic	Count
Age	
Mean	48
Median	48
Maximum	78
Marital status	
Married-Civil	17
Widowed-Traditional/Customary	13
Married-Traditional	10
Widowed-Civil	7
Not married/Separated/Divorced	3
Total	50
Education Level	
None/did not finish primary school	39
Primary/did not finish secondary school	10
Finished secondary schooling	1
Total	50

Source: RWN study 2009 (Household interviews)

About 46% (23)²² of the women in the study were in traditional marriages, a fact which contradicts the view that customary practices have been replaced by those governed by statutory law. This statistic may be based on marriages created before the institution of the law, or it may indicate the endurance of traditional practices in relation to land rights that will take time to change. Twenty women (40%) confessed their inability to read in either of the official languages of French or Kinyarwanda, a statistic that is suggestive of the need for audio-based communication.

Particulars of disputes in which the women were involved

Land disputes are largely about inheritance (16), ownership (13) and trespass (12). The parties to the disputes include neighbors (15), spouses (10), siblings (9), and in-laws (6) among others. The fact that the majority of the perpetrators were related to the woman complainant is an indication

of the continuities of customary practices and perceptions regarding women's land rights.

Sixteen women claimed to own the land, 10 reported to be joint owners with their spouses, while 8 were joint owners with someone else. Another 16 were claiming rights over land owned by spouses (8), parents (6), or other relatives (2).

The nature of claims²³ to the land mentioned include: marriage (21), inheritance²⁴ (20), purchase (5), and allocation by government (4). This information indicates awareness by women of their rights to inherit land (both as children and widows) as well as their claims to marital land.²⁵ The table below presents information on the nature of the dispute and the parties involved.

22. Including widows and those still married at the time of the interviews.

23 This was meant to connote the derivation of rights to the land in dispute.

24 Includes *umunani* and inheritance.

25 As indicted by contestation of land sales without spousal consent.

Table 4: Profile of cases followed up

Aspect	Count	Aspect	Count
Dispute about		Derivation of claim	
Inheritance	4(8%)	Marriage	21(47%)
<i>Umunani</i> (inheritance in waiting or birth right)	12(24%)	<i>Umunani</i>	11(22%)
Boundary	1(2%)	Inheritance	9(18%)
Illegal sale (without consent)	6(12%)	Purchase	5(10%)
Ownership	13(26%)	Allocated	4(8%)
Trespass	12(24%)	Total	50(100%)
Land given away without consent	2(4%)		
Total	50(100%)		
Dispute with		Contribution to the land	
Siblings (sister/brother)	9(18%)	Work/Labour	48(96%)
In-laws	6(12%)	Money	22(44%)
Spouse	10(20%)	Nothing	7(14%)
Neighbor	15(30%)		
Children	3(6%)		
Other relatives	7(14%)		
Total	50(100%)		

Source: RWN study 2009 (Household interviews)

The women's rights to the land in dispute were mostly derived from marriage (47%), *umunani* (22%), and inheritance (18%). The derivation of rights is further augmented by the contributions of work/labour (96%) and money (44%) made by women in relation to the land in dispute. Fourteen percent of the women confessed to having contributed nothing to the land in dispute.

The FGD's with key stakeholders further clarified what type of land disputes were reported. Members of the *Abunzi* attributed higher rates of reporting of cases by women to the enactment of the statutory laws giving equal rights to women and men which is reflected in the nature of their claims. The *umunani* cases arose out of unfair allocation to male beneficiaries. Cases involving couples arose out of land sales without spousal consent. It was further established that 40% of the women complainants did not live on the disputed land. The main use of the land under dispute was for agriculture (82%), which accentuates the importance of this land to the livelihoods of these women.

Handling of disputes

Reporting of dispute

Most of the women (33) first reported their land disputes to the Cell leaders/committee (*Umudugudu*), 13 reported to the family council, while 4 went straight to the *Abunzi*/Cell executive committee.

Women chose to report to specific institution on the basis of trust (21), proximity (19), and rejection of the family court (1). Family court is deemed to be untrustworthy which may indicate the domination of those customary practices that are unfair to women.

Table 5: Reasons for reporting first to institution

Reason	Institution			Total
	Family council	Village committee (Umudugudu)	Cell committee/ Abunzi	
It was the nearest authority	6	12	1	19
Belief in the body (trust)	7	11	3	21
Rejection of the family court/council by disputant(s)	-	10	-	10
Total	13	33	4	50

Source: RWN study 2009 (Household Interviews)

Other institutions to which the disputes were reported include: Abunzi (47), village leaders/committee-Umudugudu (25), and court (24). However, of the cases that had been resolved (32), 22 were reportedly resolved by the Cell executive committee/Abunzi while 10 were resolved by courts. These figures highlight the importance of the Abunzi in the resolution of land disputes.

Ratings of the different institutions revealed mixed feelings; 18 women felt that the outcome was satisfactory (of these, 6 felt it was very satisfactory), 8 were indifferent, while 15 felt the outcome was unsatisfactory (of these, 11 felt it was very unsatisfactory). Ratings were based on the ruling outcome, the duration of the case, and compliance with the ruling.

Table 6: Reasons for rating outcome

Rating	Case delayed	Favourable ruling (retained/ regained land)	Ruling not just lost case	Defendant not complaint to the ruling	Total
Very unsatisfactory	2		7	2	11
Somewhat unsatisfactory	1		2	1	4
Neutral	1		5	2	8
Satisfactory		12			12
Very satisfactory		6			6
Total	4	18	14	5	41

Source: RWN study report 2009 (Household interview)

A total of 18 women won and retained the land, while the 14 women that lost were largely unsatisfied with the outcome. Another reason for dissatisfaction was non-enforcement of rulings which is of particular concern in relation to women's land rights. Non-compliance not only negates the dispute-resolution processes, but undermines the legal provisions of the law. Delays in the resolution of disputes were another source of dissatisfaction as the average time taken to resolve disputes was over a year.²⁶ The responses indicate that the Umudugudu, while easily accessible for women, had inadequate legal knowledge to handle disputes.²⁷ While the *Abunzi* resolved most of the disputes, 21 women felt it was biased as opposed to 17 who thought it was just. The courts were targeted for taking too long to reach resolutions. Collectively, these views suggest that women have limited confidence in these institutions.

²⁶ It is important to note that there was a lag of up to 11 years between the on set of disputes and reporting.

²⁷ It was deemed to be lacking in capacity.

Table 7: Perceptions of the dispute resolution institutions

Reason	Institution			
	Family council	Village committee (Umudugudu)	Cell committee/ Abunzi	Court
Biased and sentimental	6	9	21	3
Were just	5	9	17	8
Lacked legal capacity to handle the case	2	23	4	
Case delayed/ Case still pending	1	1	1	13
Play their role	2	5	4	1
Ruling not complied with	1	1	3	1

Source: RWN study report 2009 (Household interview)

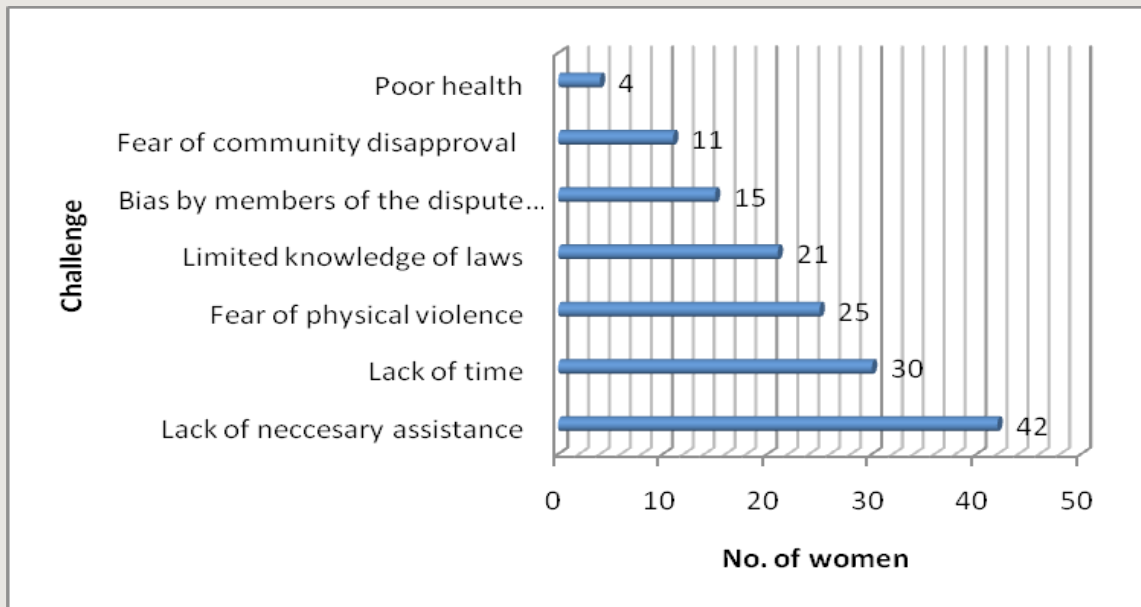
Challenges faced by women in asserting their land rights

Women face a range of obstacles when asserting their rights to access and control of land within the existing legal framework. These can occur at individual, family, community or social levels. The most common challenge faced by women was lack of necessary assistance (42). This challenge is noteworthy given that women represent themselves in court where proceedings are highly formal²⁸ yet their literacy levels are low. Given their many responsibilities, women were also challenged for time when pursuing land arbitration, and many abandoned their cases as a result. As one woman put it: *"I have spent 8 years following up this case; it seems the court has neglected it."* The other challenges for women include fear of physical violence or hostility (25) and limited knowledge of the law (21). In fact, 24 women indicated that they knew no specific aspect of the most relevant laws.²⁹

²⁸ Use documents and follow specific procedure.

²⁹ In the context of this study these were limited to the Organic Law, Family Law and Marital Property and Succession Law.

Figure 2: Challenges that would be faced in resolving disputes



Source: RWN study report 2009 (Household interview)

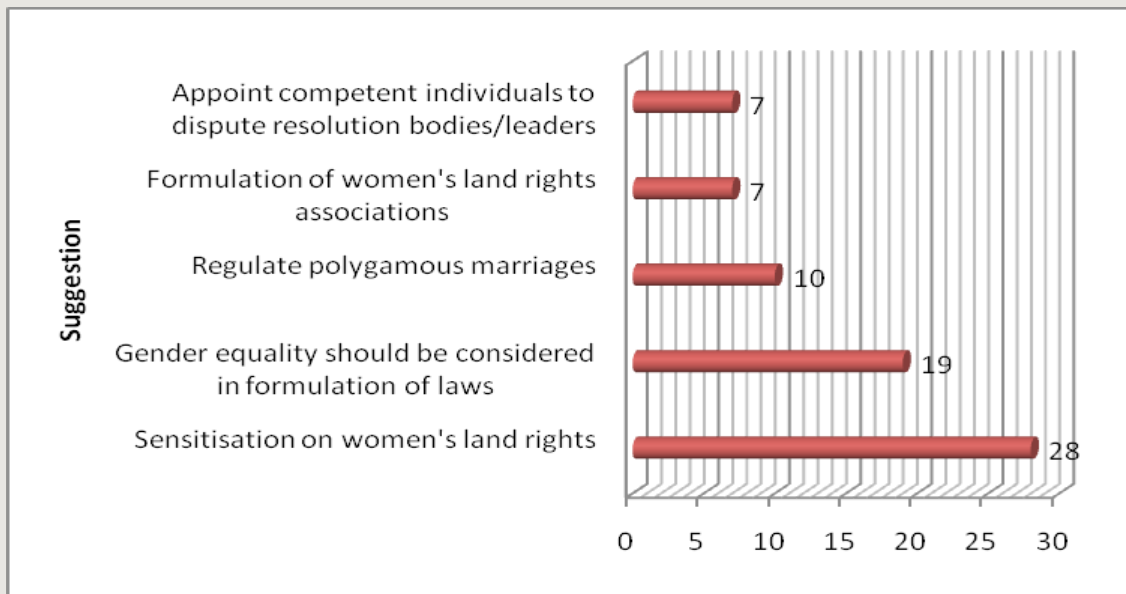
Focus Group discussions highlighted the complexity of the situation for women:

- Lack of confidence to fight for their rights because of limited education and capacity to represent themselves, poverty, etc.
- A legal framework that does not protect women in other types of marriages apart from civil marriages.
- Interference and favouritism especially among local leaders. „As one respondent said: *“What I have observed is the relationship between the executive secretary and the other party who moved my case to another Cell yet the piece of land is not located there, I notice that my rights are being violated.”*
- Prohibitive distance to the formal courts.

Strategies to protect women’s land rights

The study aimed to identify strategies to deal with the challenges faced by women. Most of the women’s (28) suggestions were geared towards changing community attitudes towards women’s land rights through sensitization on the subject. Women and institutions would also benefit from such improved levels of knowledge on legal provisions. The other suggestions focused on gender equality in the law, which suggests that women appreciate laws as tools for the promotion of their rights and well-being.

Figure 3: Suggestions on how to enforce women's land rights



Source: RWN study report 2009 (Household interview)

The suggestions on the subject from members of the *Abunzi* include:

- Organize sensitization and awareness-raising sessions on the existing laws for all of the population, so that women, especially, are aware of the laws that protect them
- Sensitize youths to marry legally and to avoid having children outside of wedlock given that the legal provisions only protect those in civil marriages
- Sensitize society towards gender equity by organizing training sessions on gender issues for men who retain discriminatory traditional beliefs and values. One of the respondents from the focus group discussions pointed out that *"As men, we should also value women as we value ourselves."*
- Encourage rule of law in society
- Advocate for facilitation of *Abunzi* committees
- Organize training of *Abunzi* committees on the existing laws.

Capacity and challenges faced by Abunzi (mediators) committees

The study identified the tools used by *Abunzi* in order to assess their capacity for dealing with land cases involving women. They include:

- Laws and by-laws (mainly the booklet on the operations of *Abunzi* committees)
- Case statement/documents from the family councils/village leaders
- Case outcomes from the above-mentioned levels
- Registers where they record the parties and the cases
- Convening forms

In their daily activities, *Abunzi* face challenges that affect their work negatively. Some of the obstacles they encounter in the process of solving disputes include:

- Time Constraints: Though they are volunteers and are supposed to meet only once a week they often have to visit sites in order to reach a decision.
- Lack of facilitation: The mediation process is voluntary work and members are not facilitated in terms of transport provision and communication fees, yet most of them are not gainfully employed; hence, there are delays and poor service.
- Lack of office supplies and materials: *Abunzi* committees are expected to document their proceedings, but lack of supplies affects their service delivery.
- Length of the dispute to be solved: Many cases take too long to be solved due to challenges in reaching committee quorum requirements.
- Lack of copies of laws and by-laws leading to limited knowledge on the existing laws and policies: As one of the *Abunzi* members testified: *"The Abunzi booklet indicates that the law is supposed to be complemented by by-laws or regulations to be released soon but up to now these by-laws have not been passed or they are there but*

we have not been given the copies meaning that we might even be working illegally."

- Interference from local leaders: One member of the *Abunzi* committee said that, *"Sometimes local leaders interfere with our work and order for certain cases to be reheard when we have already concluded."*

3. Conclusions and recommendations

The study revealed that customary practices regarding inheritance are still widely practiced in Rwanda alongside the new legislation that gives equal land rights to men and women.

Family Councils and Umudugudu are not trusted, are perceived to be prejudiced, and lack the capacity to enforce decisions favourable to women. Most disputes are resolved, instead, by the *Abunzi* that plays a key role in the protection of women's land rights in Rwanda.

Because Rwanda is the only country that has explicitly legislated for equal ownership of property between husband and wife, women are encouraged to pursue these rights. Despite an increasing awareness of land rights, women face a number of challenges in asserting and pursuing these rights. They also fear societal repercussion, such as disapproval by the family or community, loss of dignity, and, at worst, the threat of physical violence.

Community activists at the grassroots level can both deepen awareness of land rights among women and hold land administration institutions accountable for their actions.

Advocacy should focus on facilitating the work of institutions such as the *Abunzi*. Rwanda's size, its favourable law of joint marital property, and a strong political will, all make it pertinent to set up community land information systems. These will record both primary and secondary rights over land to forestall false transactions and claims over land.

Lastly, awareness-raising campaigns on women's land rights need to go beyond the provisions of the law to communicate the intent of those provisions with the objective of changing negative attitudes towards women's land rights.

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Annexes

Annex I: Data extraction form

Date of Extraction:

Data Extracted From:

Case Identification	Names of Complainant(s) and Address (Sector, cell & village)	Names of defendant(s) and relationship to the complainant (Specify if Owner, spouse or child)	Particulars of the Case (the information required here is on the marital status of couples, a summary of the issue, the date of reporting of the case, classification of the case by the court/Abunzi, the status of the case and ruling if it was concluded)
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Name of Extractor:

Contact:

Annex II: Survey questionnaire

RWANDA WOMEN'S NETWORK

Assessing Gender Gaps in the Implementation of Existing Laws

Serial No.

Name of interviewer:

Date:

Sector:

Cell:

Village:

A. Personal information of respondent:

Name?

Age (record in complete years)

Marital status?

- Not married
- Married
 - Civil
 - Traditional only
- Widowed

Number of children

Age

Male

Female

Below 5

5 -18

Above 18

Members in the household? (tick appropriate option(s) Multiple response

- Husband
- Parents
- Parents-in-law
- Children
- Children's spouse
- Grandchildren
- Other _____

Education level (choose one)

- None
- Started but did not finish primary schooling
- Finished primary but did not go to secondary schooling
- Started but did not finish secondary schooling
- Finished secondary schooling
- Continued with tertiary schooling (tertiary schooling includes vocational training, university)

Language (spoken) (tick appropriate option(s)) Multiple response

- Kinyarwanda
- French
- Swahili
- English

Language (reading) (tick appropriate option(s)) Multiple response

- Kinyarwanda
- French
- Swahili
- English

Language (written) (tick appropriate option(s))

- Kinyarwanda
- French
- Swahili
- English

B. Ownership of land in dispute:

1. Who owns the land?

- Yourself
 - Spouse
 - Jointly owned
 - With who?
-

- Parent(s)
- Other

2. Nature of claim to the land

- Inheritance
- From
-

- Umunani*
- From
-

- By way of marriage
- Acquired (bought)
- Allocated
- Other

3. Do you live on the land?

- Yes
- No

4. Is/was the land used for other purposes, please provide

Multiple response

- Agriculture
- Commercial
- Other

a. What is/was your contribution to the land

Multiple response

- Money
 - Work/labor
 - Other
-

5. Is ownership documented?

Yes

Describe the type of documentation

If ownership of land is shared, how is the shared ownership documented?

No

Reason it is not documented:

6. Have you tried to register the land under the new registered land system?

Yes

Which office? (Sector, District)

Why did you try to get the land registered?

Please provide a brief description of experience in having the land registered

Is the land registration completed?

Yes

Yes but conditional / provisional

No

Why?

No

Why?

C. Land disputes:

1. Details of dispute reported to Abunzi/court

When did the dispute arise (year)

When did you report the dispute (year)

Nature of dispute / What was the dispute about

Who was the dispute with

Where was the dispute first reported

- Family Council
- Village leaders (Umutugudu leader/executive committee)
- Cell executive committee/Abunzi

Why was it first reported there?

Where else was the dispute reported (click as many as appropriate) Multiple response

- Family Council
- Village leaders (Umutugudu leader/executive committee)
- Cell executive committee/Abunzi
- Court
- Lower instance court
- Higher instance court
- High court
- Supreme Court
- Specialized institutions

Other

Has the dispute been resolved?

Yes

No

When the dispute was resolved (year)?

Who finally resolved the dispute

Cell executive committee/Abunzi

Court

Lower instance court

Higher instance court

High court

Supreme Court

Specialized institutions

Other

What was the ruling (details of outcome of dispute resolution)?

How would you rate the outcome?

Very unsatisfactory

Somewhat unsatisfactory

Neutral

Satisfactory

Very satisfactory

Please give reasons for the rating above?

For those who reported to court, who represented you?

- Lawyer
- Myself
- Other

What are your thoughts on each of the dispute resolution institutions you used:

Family Council

Village leaders (Umutugudu leader/executive committee)

Cell executive committee/Abunzi

Court

Lower instance court

Higher instance court

High court

Supreme Court

Specialized institutions

Other

2. Tick the challenges that you feel you would face /challenges you did face while you were resolving dispute regarding land Multiple response

- Lack of knowledge / capacity
- Fear of family / community disapproval
- Fear of physical violence
- Perception of bias
- Lack of help
- Lack of time
- Communication / presenting their case
- Others

3. How much did it cost you to resolve the dispute (monetary terms)?

4. Have you ever been involved in any other land dispute?

Yes

With whom?

Brief description of dispute

No

5. Are you able to access independent external advice / help?

Yes

From whom?

No

D. Knowledge of laws

1. Do you know about the Family Law and if so, how well

2. Do you know about Organic Land Law and if so, how well

3. Do you know about the Marital Property and Succession Law and if so, how well

4. Do you know about the new land registration system?

5. What is the most common means by which you obtain general information?

Please provide any thoughts or recommendations on how (a) the law could better provide woman with legal rights to own land and enforce such rights and (b) how woman can better be made aware of such rights.

Please provide some thoughts and feedback on the interview and any suggestions you may have for improvements.

Annex III: FGD guide

Name of Moderator:

Note taker:

Venue:

Date:

Check list:

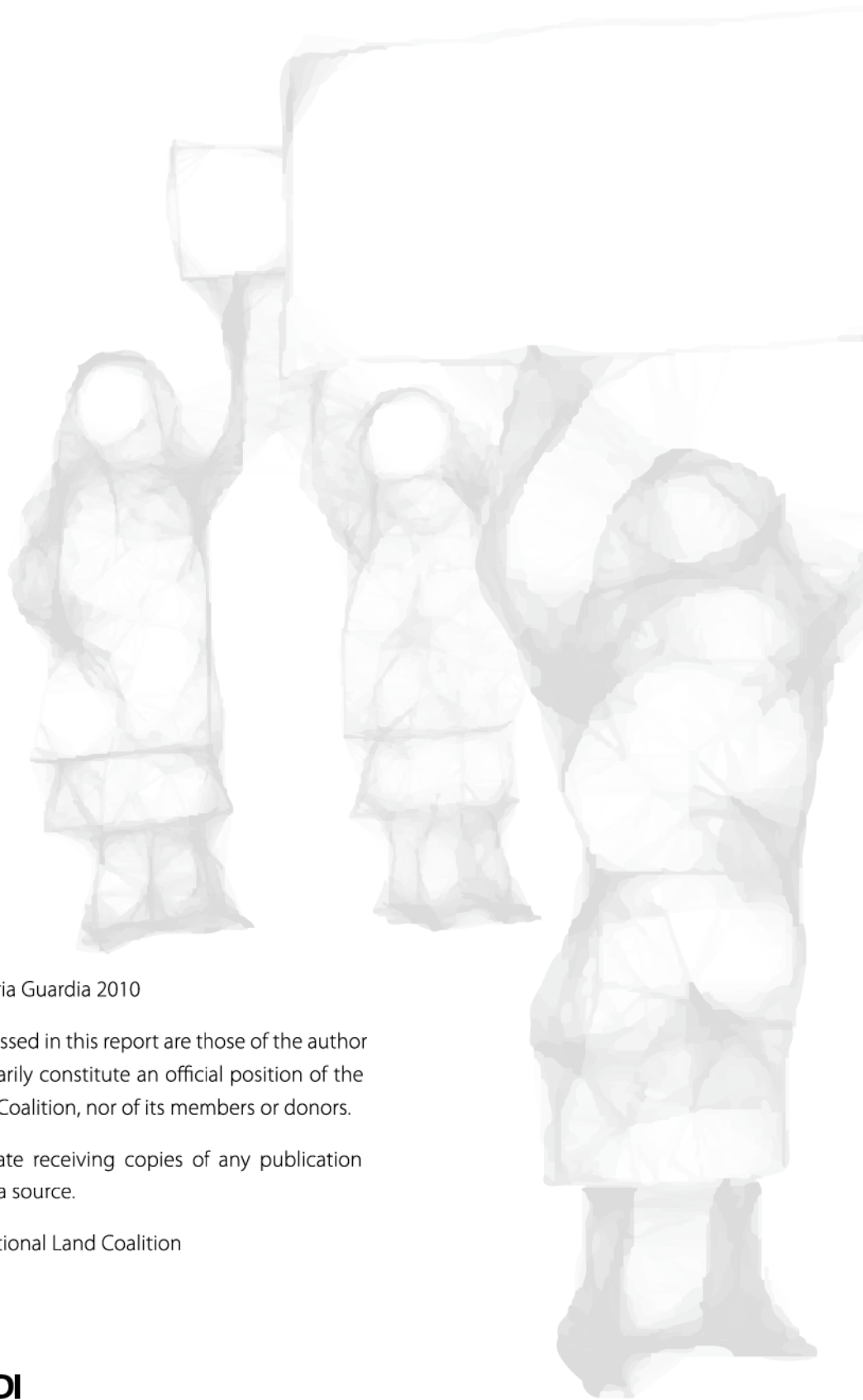
- List of participants
- Ensuring the recorder is OK
- Tape recording the whole conversation
- Note taker to be in position
- The entire session could be taped or audio transcribed and translated for future reference

Introduction

- Introduce yourself and create a conducive environment to conduct the interview (physically, emotionally etc)
 - Let everybody introduce themselves
 - State the objects of the research/why we are doing the research
 - Explain the duration of the interview.
 - Define/explain key words/concepts in local language so that the participants understand
1. What types of land-related cases are usually handled by the Abunzi and who are the parties involved?
 2. Which tools are available to (used by) the Abunzi to guide them in their day-to-day activities [such as copies of the laws, policies, and other relevant documents]?
 3. What are the challenges faced by women in asserting their land rights?
 4. How can the challenges faced by women be overcome?

5. What are the challenges faced by the Abunzi while intervening in land-related cases particularly those reported by women?
6. How can the challenges faced by the Abunzi be overcome?
7. How would you rate the fairness of the following institutions while handling land related cases reported by women;
 - The family courts
 - The Umudugudu
8. How can the biases and their impact on women's land rights be alleviated?

THANK THE PARTICIPANTS



Illustrations: © Maria Guardia 2010

The opinions expressed in this report are those of the author and do not necessarily constitute an official position of the International Land Coalition, nor of its members or donors.

ILC would appreciate receiving copies of any publication using this study as a source.

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IDRC  **CRDI**

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Its overarching aim was to learn from women and respond to their needs through action-oriented research. The purpose of the research carried out under this project was not only to provide an evidence-base for advocacy on women's rights, but also to strengthen the research and advocacy capacity of civil society organizations, and to build a platform to advocate for a transformative agenda that supports rural poor women to improve their access to and control over land and other natural resources, including the building of linkages with the wider advocacy relationships and programmes of the ILC.

This report is part of a wider initiative on Women's Land Rights (WLR). If you would like further information on the initiative and on the collaborating partners, please feel free to contact the International Land Coalition.