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# WOMEN AND VULNERABLE GROUPS IN LAND DISPUTE MANAGEMENT:

A PLAN TO ENSURE THAT THEY FULLY PARTICIPATE  
AND BENEFIT



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# PREFACE

The purpose of the Rwanda Land Dispute Management Project (LDMP) is to support and strengthen local resolution of land disputes. This effort is particularly appropriate right now because the Government of Rwanda (GoR) is piloting a process for formalizing land rights, with the goal of eventually formalizing land rights nation-wide.

The LDMP is being implemented in two pilot areas with four main activities:

1. Assessing land disputes and existing resolution processes in the pilot areas;
2. Developing/refining land-related dispute resolution processes;
3. Building local capacity for land dispute resolution; and
4. Conducting a public information and awareness campaign in the pilot areas on land rights and mechanisms that support peaceful reconciliation of land-related disputes.

This report is an outcome of Activity 1 of the LDMP. It provides recommendations for ensuring that women and vulnerable groups participate in, and benefit from, any follow-on assistance related to the resolution of land disputes. This activity was primarily undertaken by the Rural Development Institute, in cooperation with ARD, Inc.

ARD of Burlington, Vermont, USA is implementing the LDMP, with a grant from USAID's Office of Conflict Management and Mitigation, Contract No. 696-A-00-07-00006-00. ARD's partners are the Rwandan Initiative for Sustainable Development (RISD), the Rural Development Institute (RDI), and the Center for Justice and Peacebuilding (CJP) at Eastern Mennonite University. ARD and its partners work hand-in-hand with the Rwandan Ministry of Natural Resources (MINIRENA) (formerly, the Ministry of Lands, Environment, Forestry, Water, and Mines (MINITERE)).

**Authors:** Rural Development Institute (RDI)

## **ARD Contact:**

Olga Segars, Project Manager  
159 Bank Street, Suite 300  
Burlington, VT 05401  
Tel: (802) 658-3890  
Fax: (802) 658-4247  
Email: osegars@ardinc.com

**Photo credit:** Deborah Espinosa, RDI

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## **DISCLAIMER**

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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# ACRONYMS AND GLOSSARY

<i>Abunzi</i>	Mediation committee: An elected dispute resolution body at the cell level with initial jurisdiction over most local disputes
Cell	Administrative level between <i>umudugudu</i> and Sector
CJP	Center for Justice and Peace Building
CMM	Conflict Management and Mitigation
DFID	UK Department for International Development
District	Rwanda’s key regional administrative unit. There are 30 country-wide. Districts are divided into sectors.
<i>Gacaca</i>	This is the traditional reconciliatory justice system at the local level which has been adopted by the GoR to handle some categories of genocide prosecutions.
GoR	Government of Rwanda
<i>Imidugudu</i>	Plural of <i>umudugudu</i>
LDMP	Land Dispute Management Project
MINIRENA	Rwandan Ministry of Natural Resources (formerly MINITERE)
MINIJUST	Rwandan Ministry of Justice
NGO	Non-governmental organization
NWC	National Women’s Council
<i>Nyumba Kumi</i>	Before 2006, the <i>nyumba kumi</i> were non-salaried community leaders elected to represent a group of ten households, including their own.
RISD	Rwanda Initiative for Sustainable Development
RDI	Rural Development Institute
Sector	Administrative until between Cell and District
<i>Umudugudu</i>	Village. The boundaries of <i>umudugudu</i> have been administratively defined and do not necessarily correspond to “traditional” villages. This is the smallest administrative unit in Rwanda.
USAID	United States Agency for International Development



# INTRODUCTION

This plan is an activity for the Rwanda Land Dispute Management Project (LDMP), a USAID funded effort under the Office of Conflict Management and Mitigation. ARD, Inc. is implementing the LDMP with the Rwanda Ministry of Natural Resources (MINIRENA), the Rwanda Initiative for Sustainable Development (RISD), the Center for Justice and Peace Building at Eastern Mennonite University (CJP), and the Rural Development Institute (RDI).

The LDMP Project Work Plan (September 2007) requires that the project ensure that women and disadvantaged groups obtain information and equal access to all land law and land dispute resolution processes. This participation and beneficiary plan serves that purpose by recommending concrete steps that any follow-on assistance aimed at supporting and strengthening the process for resolving land disputes should include if there is going to be national implementation.

The LDMP is premised on the notion that disputes and conflict are an inherent and legitimate aspect of daily life. The goal of this plan is to ensure that women, and those who may be vulnerable to exclusion, bias, or injustice in land dispute resolution benefit from the LDMP's strengthening of land dispute resolution mechanisms.

The plan derives from qualitative field consultations conducted in Nyamugali cell (Gatsata Sector, Gasabo District) and Kabushinge cell (Rwaza Sector, Musanze District) in January 2008. The findings from these field consultations were captured in the LDMP document entitled "*An Assessment of Local Resolution of Land Disputes in Two Pilot Areas: Kabushinge and Nyamugali Cells, Rwanda*" (June 2008), hereinafter "*Assessment*"), and a discussion of field consultation methodology is contained therein. In addition, for a description of the roles of each of the formal dispute resolution bodies that exist in Rwanda, refer to "*Desk Study on Formal Dispute Resolution in Rwanda*," Annex One to the *Assessment*.

The Assessment field consultations identified a number of key barriers to women and vulnerable groups gaining information and access to land law and land dispute resolution processes. These include: (1) ignorance of the law; (2) fear of physical retaliation; (3) fear of community mistreatment; (4) perception of bias; (5) lack of time; (6) lack of advocates. Different groups identified as vulnerable in the Assessment experienced each of these barriers to different degrees.

The recommendations that follow are intended to address these barriers. For the sake of clarity, the recommendations are organized under the following "needs" subheadings: (1) the need to share information widely, (2) the need for skills training for those who come into contact with disputes, (3) the need to make use of existing support structures, and (4) the need to solidify the role of the *abunzi*. The next section summarizes the plan, which is then followed by the Plan itself, including justification for those recommendations.

# I.0 SUMMARY OF PLAN RECOMMENDATIONS

## Information sharing

- Strengthen general public's awareness of rights.
- Use existing community information structures to disseminate information.
- Develop practice of "publicizing" case outcomes.
- Repeat important information and provide it in context, perhaps by training a quorum of local experts or opinion leaders.
- Publicize the fact of training of dispute resolution actors to the whole community.

## Skills and technical training

- Provide legal training and reference materials for all those who are involved in dispute resolution on some level.
- Provide on-going training in alternative dispute resolution, conflicts of interest, mediation, and impartiality.

## Existing support structures

- Collaborate with NGOs, churches, schools, hospitals, and other support providers and make them "resource centers" for options in land dispute resolution.

## Support for local dispute resolution

- Find a way to compensate the *abunzi*.
- Develop process improvements that make pursuing cases less time consuming.

# 2.0 PARTICIPATION AND BENEFICIARY PLAN

The following plan outlines concrete steps that any project which aims to strengthen the capacity of land dispute resolution actors can use to ensure that women and vulnerable groups benefit from and participate in the activities.

## 2.1 INFORMATION SHARING

*Strengthen general public's awareness of their rights.* The importance of strengthening general awareness of rights cannot be overstated. Many different community actors are involved in resolving disputes over land. Disputants may take their claim to four other community institutions: the family council<sup>1</sup>, *nyumba kumi*<sup>2</sup>, *umudugudu*<sup>3</sup> leaders, and the cell executive committee, before the *abunzi*, which is the only pre-court mediation required by law. Also, in land registration, neighbors become involved in the adjudication process, verifying the accuracy of claims. For instance, all of these groups crucially need information about property rights if they are to determine them in accordance with the law.

In addition, women and vulnerable groups interviewed reported ignorance of the law was a barrier to their filing disputes. If these groups know their rights, they may be more likely to take pursue them, anticipating that if they file a dispute, it may be resolved favorably. Furthermore, evidence from field consultations suggests that when neighbors were knowledgeable about rights, they could prevent false claims to land. Also, disputes have been resolved when it became clear that claimants had a mistaken understanding of what their rights are.

For instance, in Nyamugali, a man and a woman who were not married and had no children together, worked together to purchase some property. The woman did not know that he had previously been legally married in another town. One day, his legal wife arrived with her teenage children and they pressured the woman who had purchased the property off of her land. When the woman who had purchased the property learned that land was being registered, she returned to state her claim to that land as an owner, and her neighbors verified her claim. Also in Gatsata, a man and woman had been married under a separate property regime (each spouse can hold their own property separately). The husband filed a dispute, claiming rights to this wife's property, but then when the provisions of the separate property regime were explained to him, he recognized that he had misunderstood his rights, and retracted his claim.

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<sup>1</sup> The Family Council consists of wise and well-behaved persons chosen from members of the extended family. Members of the council are not permanent. The council meets whenever there is a problem to be solved, and it does not require a quorum. The Family Council meetings must be convened and presided over by the Head of the Family.

This customary institution was codified in Article 455 of the Family Code, however, the law did not define the Family Council, whose composition and functioning mechanisms vary from region to region. The law recognizes that under normal circumstances, composition and functioning of the Family Council follows common practice and custom. See generally, August Cyiza, "Family Law and Matrimonial Property: Natural Persons, Family, Matrimonial Property Regimes, Liberalities, and Successions," Kigali, 2002.

<sup>2</sup> *Nyumba Kumi* : ten households (lit.). Up until January 2006, the *Nyumba Kumi* were the lowest administrative level in Rwanda, elected to represent 10 households, including their own. Although they were replaced officially by the *imidugudu* leaders (see footnote 3), *Nyumba Kumi* are still active as leaders in some areas.

<sup>3</sup> *Umudugudu*, (pl. *imidugudu*): Village. *Imidugudu* leaders were elected for the first time in January 2006, they represent a larger number of households than the *Nyumba Kumi* and are intended to replace them as the lowest administrative unit.



Taking all of these things into consideration, broad-based awareness of property rights may assist those who may otherwise be vulnerable to exclusion, bias or injustice in the land dispute resolution by reducing ignorance of the law, which prevents women and vulnerable groups from filing disputes, and it could help reduce the risk of family or community retaliation by legitimating the filing of disputes. Furthermore, broad community awareness may also reduce the number of claims based on mistaken understanding of the law, thereby reducing the amount of time spent by local dispute resolution actors on frivolous claims, leaving them more time for legitimate claims. It may also help those involved in dispute resolution or claims adjudication to protect the rights of a person who may hold less power than others in the community.

***Use existing community information structures to disseminate information.*** In both of the pilot areas, local authorities and beneficiary groups alike recounted that selection of the time and mode of delivering information to certain vulnerable groups can be critical because some of those who are most vulnerable are hardest to reach. For instance, Nyamugali is a peri-urban area where many women have out of the home employment and also where there are many tenants, meaning that many landowners live in other cells. Similarly, children of child-headed households may be in school during the day and then engaged in after-school activities in the afternoons and may only be available on weekends.

Groups interviewed there stated that the best time to reach them with information was on Saturdays, or during obligatory *umuganda*<sup>4</sup> (community) meetings, at school, or in church. Similarly, in Kabushinge, certain groups of women reported that they never listen to the radio and do not read newspapers, so the best way to get information to them was through the community meetings.

In addition, Rwanda has pre-existing support structures for women and youth by way of the National Women's Council and the National Youth Council, each of whom have representatives at the cell level. Projects can make use of this pre-existing support and information structure to disseminate important information about rights and avenues for protection of those rights, and to provide other dispute-related support to their constituents.

***Develop a practice of “publicizing” case outcomes.*** Members of the *abunzi* and local authorities in Gatsata and Kabushinge reported that many cases had similar facts and when one case was resolved, if others with similar cases learned about them, they may retract their disputes, or resolve them among themselves. Publicizing case results can achieve two ends in the pursuit of increased accessibility of dispute resolution mechanisms to women and vulnerable groups. On the one hand, those who feel that filing a dispute would be futile may be encouraged to think otherwise if they learn that others have experienced similar circumstances, and the case was resolved fairly. On the other hand, those who filed a dispute on the basis of a mistake of law, or a misunderstanding of their rights, may be encouraged to retract their claim and thereby leave more time for dispute resolution actors to work on legitimate or more complicated disputes. Presuming that confidentiality issues are addressed, the outcomes of cases that have common facts might be publicized via *umuganda* meetings.

***Repeat important information and provide it in context, perhaps by training a quorum of local experts or opinion leaders.*** Generally, people retain – and believe – information that they have heard more than once, and people also tend to retain information that is provided at a time that is pertinent to them. This means that one-touch awareness-raising may not be sufficient; rather, to effectively ensure that certain messages about land rights ‘stick’ in a community, messages may need to be repeated. However, because of the large number of people who may at some time be involved in a dispute on property rights or who may be involved in determining the property rights of another, it may be impossible to “touch” everyone at the same time.

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<sup>4</sup> *Umuganda* is a five hour obligatory “community work day” for every Rwandan. It occurs all over the country every last Saturday of the month, and is normally a time where information is disseminated to the community

For example, the LDMP had a significant public information and awareness campaign, which included community theatre, held once in each cell. If a person did not attend that community theatre production, however, then that person missed the message. The theatre was then broadcast on national radio, but if, as was learned, women in certain areas do not have radios, and even if their husbands do, they do not have time to listen to the radio, they may have missed that message as well. Or, if a person did attend, and then had a land dispute at a future date, enough time may have passed that they may have forgotten the message of the theatre.

One way to repeat information about rights to the community is via a quorum of “experts” who are available for advice on land rights, and who are known as the “go-to” people for land-related issues. The quorum could come from an existing group, like the cell land committee, but crucially, it should be representative of the community as a whole, i.e., it should include men, women, young people, genocide survivors, persons living with HIV/AIDs, etc. These people could be selected specifically because they are “opinion leaders” in the community or because they are known to be a resource to others.

***Publicize the fact of training of dispute resolution actors to the whole community.*** As reported in the *Assessment*, some women and other groups perceive the dispute resolution actors as biased. Whether the perception is based on actual bias or impartiality is not as important in the long term as finding ways to ensure that the perceptions are addressed.

The LDMP PIA campaign focused on community awareness of the goals and activities of the project. The main activities of the public information and awareness campaign were community theatre and a poster competition. The theatre was highly attended by both pilot communities, and in Kabushinge, a woman stood up during the question and answer portion of the production and stated that she now understood that as a woman she could pursue her land rights.

Whatever public information and awareness activities are chosen, specific effort should be made to encourage the participation of girls, women, and vulnerable groups.

## **2.2 SKILLS AND TECHNICAL TRAINING**

***Provide legal training and reference materials for all involved in local dispute resolution.*** There can be at least three steps that a dispute may need to take before it reaches the *abunzi*. The *abunzi*, as well as these other actors (family council, *nyumba kumi*, *umudugudu* leaders, and cell executive committee) all reported a lack of knowledge of property rights and other legal rights. This lack of knowledge was also evidenced in the varied and inconsistent responses given by different dispute resolution actors to the question of whether they applied law or custom to resolve disputes.

There are many laws that exist to protect and promote the rights of some of the more vulnerable members of society (e.g., laws to protect children’s rights, the matrimonial property and succession law, disabled rights law, anti-discrimination provisions of the Constitution, and the Organic Land Law). Many dispute resolution actors are called upon by the community to make decisions about these rights, and this may be the only contact that those who the laws are intended to protect have with the laws designed to protect them. The dispute resolution actors should have readily-accessible technical information available to them at all times.

An effective way to maintain this information is to produce pocket-sized pamphlets that cover the most important aspects of the relevant laws, which dispute resolution actors can refer to when needed. (Such pamphlets exist on certain legal topics and should be utilized, rather than duplicating efforts.) The pamphlets would explain the law in plain language and provide real-world examples of cases as guidance.

***Provide on-going training in alternative dispute resolution, conflicts of interest, mediation, and impartiality.*** All levels of dispute resolution that exist before the formal court system practice some form of consensus-based alternative dispute resolution. The *abunzi* are required to be mediators by law. The family

council, *nyumba kumi*, *umudugudu* leaders, and members of the cell executive committee necessarily make decisions by consensus, because they themselves have to live with the results. These consensus-based methods are effective in the community setting; however there is a chance that those whose voices are weakest in the community setting, including orphans and the landless, will not be heard.

International practice in the areas of mediation, conflict resolution, and alternative dispute resolution emphasize methods and skills development to ensure that everyone involved in the process walks away feeling that their voice was heard and concerns addressed. During field consultation, many dispute resolution actors requested training on methods of conflict resolution. One way to ensure that the disadvantaged members of society feel that they have a voice, and a stake in the outcome of a dispute, is to ensure that the dispute resolution actors develop these same alternative dispute resolution skills.

## 2.3 EXISTING SUPPORT STRUCTURES

***Collaborate with NGOs, churches, schools, hospitals, and other support providers and make them “resource centers” for options in land dispute resolution.*** To some degree, some of the groups who might be vulnerable to exclusion, bias or injustice before dispute resolution mechanisms are generally the least powerful members of society. If, for some reason, some groups feel that they cannot go to the usual sources (e.g., local authorities, family council) for information or guidance when they have a land dispute, they may seek advice from other pre-existing support structures or institutions. For instance, in Kabushinge there are associations of those who are infected or affected by HIV/AIDS who work together on particular issues they face as a group. In Nyamugali, there is an NGO that serves the HIV/AIDS community. Orphans in Nyamugali reported that they tend to get advice and guidance from their teachers in school and from a local youth center. The representative of the women’s council in Rwaza sector (the sector where Nyamugali is located) reported that local women often come to her first when they have questions that they do not think they can take elsewhere.

Recognizing that different groups of people might get information in different ways, one way to ensure that all those who might already be disenfranchised do not continue to be is to create mini-resource centers in all the places that “touch” these groups. These centers could have posters and pamphlets of information that summarize property rights and where to go for help. Using these resources to refer to a legal aid service could also be a strong way to ensure that the more complicated cases have the added value of an advocate.

***Work with existing support institutions.*** There are a number of pre-existing NGOs in Rwandan that work with women or vulnerable groups. In addition, national government support structures, like the women’s council and the youth council, have representatives at every level of administration.

For many of the same reasons listed in the points above, projects that aim to strengthen the capacity of local dispute resolution actors, while also making communities aware of their rights, could also make use of these existing support structures for women and vulnerable groups to get this message to them.

## 2.4 SUPPORT FOR LOCAL DISPUTE RESOLUTION

***Find a way to compensate the *abunzi* and others responsible for resolving disputes locally.*** At present, no group involved in dispute resolution before the court system is compensated (except the cell executive secretary). Not even the *abunzi*, whose mediation services are a legally required step before court in most cases. Although informal, these dispute resolution actors play a critical role in the determination of property rights.

At the same time, during field consultations, orphans, widows with children in their care, sufferers of HIV/AIDS, and genocide survivors, all reported that they are discouraged from pursuing disputes because of the time involved in following up on cases. Time commitment can be a significant barrier to someone who is ill or who is running a household single-handedly.

It may be that because dispute resolution actors are volunteers, the onus rests too heavily on the disputants to undertake the administration of cases. There is a chance that if the actors were compensated in some way, with refreshments during hearings or reimbursement for phone calls, for example, they may spend more time on the cases and relieve some of the burden on the disputants. If this were the case, those who are disenfranchised because of the time constraints may be more likely to attempt to resolve their property-related disputes.

*Develop process improvements that make pursuing cases less time consuming.* For the same reasons discussed above, it may be necessary to focus on the administrative processes of filing a dispute, with particular attention on whether there are any practical constraints that might discourage those who are already disenfranchised from filing legitimate disputes.

**U.S. Agency for International Development**

1300 Pennsylvania Avenue, NW

Washington, DC 20523

Tel: (202) 712-0000

Fax: (202) 216-3524

[www.usaid.gov](http://www.usaid.gov)