



**Impact of the Land Reform on the Land Rights
And
Economic Poverty Reduction of the Majority Rural
Especially
Women Who Depend on Land for their Livelihood**

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RWANDA CASE STUDY
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I. LIST OF ABBREVIATIONS AND ACRONYMS

EDPRS	Economic Development and Poverty Reduction Strategy
FAO	Food and Agriculture Organization
FGDs	Focus group discussions
IFAD	International Fund for Agricultural Development
IMF	International Monetary Fund
LDMP	Land Dispute Management Project
LTRP	Land Tenure Regularisation Process
MDGs	Millennium Development Goals
MINALOC	Ministry of Local Government
MINELA	Ministry of Environment and Lands
NISR	National Institute of Statistics of Rwanda
NLC	National Land Centre
OLL	Organic Land Law
RISD	Rwanda Initiative for Sustainable Development
RNLP	Rwanda National Land Policy
UNDP	United Nations Development Programme
%	Percentage

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Figure 1: Women's access to land determined by husbands (Responses by Sector)

Figure 2: Women's access to land determined by husbands (Responses by Sex)

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Annie Kairaba (MA)

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1. Introduction

Good land governance today is one of the current global debates because of its centrality in managing diverging interests, competing claims, and processes of inclusion and exclusion related to land rights¹ as a key resource of majority of developing countries. The importance of good land governance in strengthening women's land rights as a major source of their livelihood cannot be over emphasised. However, major challenges remain posed by recent global pressure on land due to urbanization as part of land reform² like the recent strategy of promoting land expropriation in the name of economic development planning which threatens the land rights of women even further as women have no resources to participate in such complicated programs that are both highly political and heavy financially demanding, since women especially the rural do not have such a capacity and space. Therefore, the recent move of putting in place common guideline for good land governance for Africa, the **'Africa Land Policy Framework and Guidelines'** (ALPFG) signed by the heads of states of the continent in 2009, as a strategy with a vision to promote good land governance that will strike a balance between protecting rights of the poor and marginalised groups like women, while providing the path to economic progress and social justice, is very timely.

Indeed such debate is very relevant to Rwanda where land is believed to be a key good governance area, since land is the most important asset for production and livelihoods in the country³, especially for the majority rural poor, in particular rural women who mainly depend on land for their livelihood. Land also remains the foundation of the country's economy, hence, an important link to the politics of the country⁴. Good land governance debate is also very relevant to Rwanda given that the country is implementing land reform for the first time in its history, stating its own main objective⁵ as that of **'achieving sustainable development strategy towards poverty reduction, by providing equal land rights to women as that of men'**. The implementation of land reform in Rwanda is implemented through a program known as "Land Tenure Regularisation Process (LTRP), which is done through systematic land registration". The process is discussed in more under section 4 below. Although debate on the impact of systematic land registration in relation to land rights in general is still live, Rwanda opted for the systematic registration strategy with a belief that it presents more opportunities to protect women's rights.

The post-genocide regime has put in place various legal reforms towards good governance framework, especially geared towards the protection of the rights of women⁶. However, Rwandan women still face challenges related to unequal land rights emanating from patriarchal structures due to strong traditional influences that still see female's land rights dependant on male as husband or relatives⁷, despite the existing of the 1999 family law that provides for equal inheritance for both women and men. In addition, rural and urban women have some peculiar challenges in that, most of rural women face extra challenges of high illiteracy levels while those of urban and peri-urban mainly have a particular challenge of displacement through expropriation due to City Master Plans, since women have no means both technically and financially to engage in the expropriation process, and experience has shown that fair compensation that is provided for by law is very rare because of competing interests.

¹ IS-Academy land study 2010

² World Bank 2010

³ Major causes of poverty identified, EDPRS 2007, ranking the highest at 49.5%

⁴ Kairaba, A. (2004); Musahara, H. and Huggins, C. (2004)

⁵ MINELA, 2004; National Land Policy 2004; Organic Land Law 2005

⁶ Since 2008, Rwanda holds a No.1 World Records of the highest no. of women in Parliament (56%)

⁷ Over 90% of land related issues reaching the Ombudsman office are related to women inheritance (Ombudsman, 2010, RISD, 2009)

Hence, it is against this introduction that RISD in partnership with IS Academy have commissioned this study entitled the **‘impact of the land reform on the land rights and economic poverty reduction of the majority rural, especially women who depend on land for their livelihood’**, as a contribution to the land reform process in Rwanda, and to the current global debate related to good land governance.

The study was administered in two Districts, covering one Sector in each. Rwaza Sector in Musanze District, based in the Northern Province of the country, is exclusively rural, and was one of the very first pilot areas where LTRP was implemented. The second Sector covered was Kinyinya in Gasabo District, which is peri-urban, with no LTRP experience⁸. Both Sectors were identified as good representative of the study objective in terms of comparison, with one sector having experienced the implementation of LTRP and the other one having no experience at all. The study focused on four areas for data collection and analysis which were: **land ownership** – to establish the level of women’s land ownership before and after LTRP; **land registration** – aimed at understanding the process specifically in relation to the involvement of women and its impact on women; **gender equity** – to understand what LTRP provides for practically in terms of gender equity; and **expropriation** – to understand the impact of expropriation and its link with LTRP.

The primary objective of the study is to contribute to the knowledge of LTRP in Rwanda as a way of expanding the existing information for policy makers in Rwanda related to LTRP. Secondary, the information will contribute to the current global debate on the link between land good governance and poverty reduction. The study hypothesis is that, ***“Rwanda Land Reform is the engine for poverty alleviation of the majority rural poor in the country who live on land as their main livelihood, and a catalyst for sustainable peace in the country, hence a key incentive for foreign investors”***. The study is one of the few pieces on Rwanda that specifically focus on the impact of land reform on women, especially the rural who depend only on land for livelihood.

The study shows that, because the implementation of Rwanda LTRP just started only in 2008 under a pilot phase, it is still too early to make concrete conclusions on the impact of the process on women. However, there are, some policy issues that need to be addressed if the process is to realise full positive impact on women, the study reveals. Some of the critical policy related issues to women are, the issue related to inheritance, despite the existence of family law that provides for equal inheritance for both women and men and a gendered Organic Land Law, majority of the issues that come about during the land reform over 80% are related to inheritance⁹. The study reveals that, unless there is clear strategies to enable rural women have access to bank credit, it is unlikely that the LTRP will make a tangible impact on rural women in relation to poverty reduction. However, the study also reveals that, LTRP has advanced women’s empowerment to a positive step in Rwandan history, by providing a condition of the existing of the name of both woman and man on the land registration certificate, and finally on the land title for a family.

The study is structured in eight sections: The **first section is the Introduction**, which gives the general study background and also gives highlights of the study findings. The **second section** is the **methodology** which describes how and where the study was conducted. The **third** section is the brief **Rwanda land question in context**, describing the background and status of the land situation in the country in terms of tenure and evolution of systems; followed by **section four** which presents the situation of **land rights of Rwandan women**. **Section five** is the discussion of the current **Land Tenure Regularisation Process (LTRP)**, which is the process used to implement the new land reform in the country. **Section six** presents the **land dispute** process used in the LTRP. Then **Section seven** presents **specific information on observations and data from**

⁸ At the time of project identification, and most of implementation, LTRP had not yet started in the area, although by end of the field work, information was already circulating that the program would soon start in the area.

⁹ 1st National land dialogue meeting, Ombudsman & RISD; 2010

the ground during the study process. The last section is **Section eight**, with **conclusion and recommendations**.

2. Methodology

2.1. Scope of the study

The study aimed at analysing the impact of LTRP especially on women. This was done through comparing Rwaza Sector in Musanze District, where LTRP has been implemented and Kinyinya Sector in Gasabo District, where LTRP had not yet started. Recognising and being sensitive to the socio-economic differences between the selected sectors, an interview guide was used paying particular attention to four main areas of enquiry, based on proposed key areas of the LTRP: **land ownership, land registration, gender equity and expropriation**.

Table 1: Distribution of Sampled households.

Sector	Cell	Total households	Sampled households
			Total
Rwaza	<i>Kabushinge</i>	1,051	23
	<i>Nturo</i>	1,028	22
	<i>Nyarubuye</i>	961	21
	<i>Musezero</i>	939	20
	<i>Bumara</i>	645	14
Total		4,624	100
Kinyinya	Kagugu	4,537	56
	Gacuriro,	1,864	23
	Murama	927	11
	Gasharu	801	10
Total		8129	100

2.2 Primary research methods

Quantitative data was collected through semi-structured interviews where questionnaires were administered to 100 households selected by random sampling from each Sector. An interview guide was used to collect data from Focus Group Discussions (FGDs). Two FGD meetings each with 15 to 20 participants and with priority given to women were conducted in each Sector. These interviews targeted local leaders' committees at cell level who included members of land committees, mediators, youth committee, women's council and village leaders. The focus group interviews were found very important because each of the identified focus group has specific information and experience in relation to the impact of the LTRP and in particular in relation to land rights of women and knowledge of land related issues including the understanding of land related disputes in the area and the existing management mechanism. Focus groups for Religious Leaders and Opinion Leaders were also organised and interviewed, because Church in Rwanda own the biggest land in the country, while the word of Opinion Leaders is well respected in the society and consulted very often on land related issues in the community. Field data was also collected through observation by the field team.

2.3 Defining the Research areas

2.3.1 Rwaza Sector

Rwaza sector located in Musanze District in the Northern Province has an area of 27.75km² is divided into 5 Cells, and completely rural. The sector has a total number of 4,624 households, with a population of 20,599 of whom 11,080 (54 %) are female while 9,519 (46%) are male. Rwaza was chosen as one of the first rural sectors in the country where LTRP was piloted in 2008, and by end of June 2010 land registration process was completed in all the five Cells. According to Rwaza Sector officials, over 90% of the population in the Sector depend on agriculture for their livelihood of which 72% are women. Rwaza sector also became a special area of interest to RISD, because RISD has been implementing a Land Dispute Management Project (LDMP) in the area since 2008 accompanying the LTRP in the area.

2.3.2 Kinyinya Sector

Kinyinya Sector located in Gasabo District in Kigali City Province is peri-urban with an area of 26.3km² divided in 4 cells. The sector has a total number of 8,129 households with a total population of 30,963 of whom 13,624 (44%) are female while 17,339 (56%) are male. At the field research time the LTRP had not started in the area. However, the Sector experienced expropriation than most other parts in the country.

3. Rwanda land issue in context

Rwanda faces various challenges related to land, but the key ones are the issue of land scarcity, combined with the high population growth, the patriarchal structures that remain strong due to cultural setting, disputes over land rights emanating from multiple land rights claims due to different waves of refugees¹⁰ caused by conflicts that have characterised the country for decades. At the local level most of land related disputes arise from unequal inheritance of land especially for women, illegal marriages and children born out of these, border disputes, and disputes over land transactions.

Rwanda is one of the poorest countries in Africa, with the highest population density in the world at a very high annual growth rate of 3.3%. The current population of Rwanda is over 10 million of which 58%¹¹ are women, and is expected to increase to about 13 million by 2020¹². Over 90% of the current population depend on Agriculture for their livelihood, majority being rural women. The population density ranges on average from 321 inhabitants to 433 inhabitants per km² making it experience the most serious land shortage for her population. Some Districts have a population density of over 600 inhabitants per km². The seriousness of the land scarcity in Rwanda is seen from the fact that over 70% of Rwandans own less than 1 ha¹³, and majority of these are in the rural areas who depends on agriculture for their livelihood.

Land is not only central to the livelihoods of the great majority of the rural Rwandan women who mainly depend on land – and thus a major factor in poverty reduction – but also a potential source of conflict among the people, which makes it a governance.

¹⁰ 1959, 1973, and 1994

¹¹ Republic of Rwanda: National Institute of Statistics (2010).

¹² Republic of Rwanda: Vision 2020.

¹³ LandNet Rwanda (2001); MINIRENA (2004)

Land is Rwanda's most important asset for production and livelihoods, and is the foundation of the country's economy, hence, an important link to the politics of the country. From the social and cultural viewpoint, Rwandans are very attached to their land. It is believed¹⁴ that a major driving interest of all previous regimes in Rwanda, starting with the colonizers, was being in control of the main resource of the country, the land. Further, it is observed that, the political economy of land in Rwanda contributed to socio-political tensions, leading to the 1994 genocide, due to the effects of resource capture by elite groups and landlessness in the economic collapse prior to 1994 genocide, in the context of structural land scarcity¹⁵. This argument is strongly qualified by the fact that, during all waves of conflict in Rwanda, leading to the genocide, population was mobilized to kill neighbours with a promise of taking over the land of the dead¹⁶. In pre-genocide Rwanda, it became the norm that 'state control meant special privilege rights to the access and control of land', hence making land a highly political issue, and closely linked to State power control. Since because of the patriarchal structure in the Rwandan society women had no position in decision making, automatically, a woman had no say in relation to decisions pertaining to land. Issues related to land rights of a Rwandan woman specifically are discussed in more detail in the next section. The impact of 1994 genocide in Rwanda made the land rights issues in the country even more complicated because of the multiple land rights claims by the old-case loads and the new-case loads¹⁷ in a situation of a country where land reform had never been implemented, hence lack of good land governance framework, mainly due to lack of appropriate land related legal provisions. However, although genocide has made the Rwanda land question more complicated, land related disputes and conflicts have characterised the country for decades mainly due to poor governance.

The post-genocide regime remains with a big challenge of putting in place good land governance systems that will address the existing issue of land rights question and the deep level of poverty especially for rural women who only depend on land for livelihood. Securing land tenure that is equitable is a very critical requirement if poverty eradication and MDG goals are to be achieved by 2015. Hence, it is important to monitor and document the implementation process of the LTRP in Rwanda, as the most effective way to support the policy makers in the country towards the achievement of the goal for the strategy that has been proposed by the present government to address the existing land related gaps.

4. General situation of Rwanda women's Land Rights

The status of Rwandan women today is better understood in the context of effects of the 1994 war and genocide on women that created extra new challenges to Rwandan women, including higher numbers of women headed households, due to increased numbers of widows and orphans, and women having new roles, which were traditionally known to be those of men, like provision of shelter for the family. Land being the most important asset in Rwanda that affects all Rwandans, economically, socially and culturally, Rwandan women status is also well understood through the mirror of 'land' combined with the effects of the 1994 war and genocide. After the genocide, women became very vulnerable, because many women were left completely destitute, as widows and orphans with no place to live, a situation that became very difficult for the women to care for their survived children and other relatives, yet, legal constraints hampered efforts to obtain access to property and land belonging to their deceased husbands or other relatives¹⁸.

¹⁴ Storey, A. (1999); African Rights (1994); Kairaba, A. (2002); Kairaba, A. (2004); Mushara, H. and Huggins, C. (2004).

¹⁵ Storey, A. (1999);

¹⁶ African Rights (1994); Uvin, P. (1998); Pottier, J. (2002).

¹⁷ 1959 & 1973 (Old-case loads) & 1994 (New-case loads)

¹⁸ Newbury & Baldwin (2000)

In terms of ownership, currently and legally, women should own land through different means, like any other Rwandan. Either through inheritance, land purchase, or through official government land allocation or public land sale programmes. However, until 1994, land was only inherited based on patriarchal, that is from father to sons¹⁹, and this is why today disputes related to inheritance are on increase, as women try to ask for their rights over land. Like in many other parts of the World, women in Rwanda still face everyday challenge of poverty and violence, which hampers their equal rights as men, especially in relation to land rights, which is the main source of livelihood for most women as already mentioned above, in particular the rural women. The importance of land to rural population, including women is well illustrated in the following statement, that:

“ Access to land and land tenure security are at the heart of all rural societies and agricultural economies...controlling it and using it are critical dimensions of rural livelihoods, and determine rural wealth and rural poverty...Land is not simply an economic resource..It is an important factor in the formation of social and cultural identity. It is also an enormous political resource, defining power relations between and among individuals, families and communities under established systems of governance”²⁰ .

Although as already stated in earlier chapters, women constitute the majority of the Rwandan population and labour force, particularly in agriculture they continue to face some discrimination especially in economic activities which is mainly based on land, as the basis of the country's economy. Discrimination against women originates from the Rwandan culture and tradition which considered the girl child inferior to the boy, physically, intellectually and socially and subjected her to man²¹. Women benefited from the male protection which tended to alienate them from the possession of immovable assets and reduce their role in the management of the society²². The division of labour exempted them from tasks that were considered as heavy and rough, like shelter provision, casual labour for income, to mention a few, although this has become the new roles of a Rwanda women after genocide, when most male are either dead or in prison, yet, women found themselves unprepared because no legal provision provided for a 'women to make decisions and have rights over land and property', as main determinant of source of livelihood in Rwanda. Further, due to cultural impact, where the girl child was not given equal education opportunities as the boy child, resulting in higher number of rural women with very low literacy level, which impacts on social welfare and their economic development, as they have to depend on men in terms of information. Even now, with the existence of the inheritance law and the organic land law that provide for equal land rights for both women and men, where there is a male children in family a girl child cannot be the heir, however young the boy child might be, according to Rwandan culture the heir will always be a man.

Until recently after 1994, in many instances, statutory law specifically limited women's rights. For example, the 1913 law on commerce stated that women could not engage in commercial activities or in paid labour or enter into a contract without the express consent of their spouses or male relative (article 4 of Law No. 2/08/1913.) In 1998, this law was modified slightly (No42/1998) to allow women to open a bank account without their husbands' consent²³ but women still did not have the right to enter into contractual agreement or work without her husband's consent. While these statutory limitations to women's rights to own property or control financial resources were technically eliminated by the 1999 inheritance law, cultural influence are still strongly at play, especially in rural areas where the literacy level of women is very low, and cultural beliefs still

¹⁹ Gasasira 1995

²⁰ (IFAD, 2003)

²¹ Gasasira 1995

²² Rwanda National Gender Policy, 2009

²³ UNICEF, 1988

strong. In fact, until 1994, even urban women were not allowed to open bank accounts without an approval from a male relative (husband, brother, father, in-law, etc)

Nevertheless, in the recent years, Rwanda has also made good progress in terms of empowering women in decision making, which is in line with the Millennium Development Goals (MDGs), in particular the MDG3, on “Gender equality”, which is central to the achievement of other MDGs. The post-genocide government has made commendable progress towards empowering women in decision making. Rwanda holds the number one world record of highest number of women in parliament, reaching 56% of all parliament seats since 2008. Historically and culturally, Rwandan women are not supposed to participate in the public arena. However, since impact of genocide presented new and numerous challenges to a Rwandan woman, including becoming the household head, including shelter provision. Women were left with no alternative but, to engage in public national policies, so that their concerns can be heard. Unlike most of other areas, even rural women with very low literacy level are able to participate in decision making structures through the women council and other grassroots local leaders structures, Rwanda being a signatory to the Beijing declaration that provide for the 30% quota of women.

The post-genocide government has also put in place various legal provisions in an effort to promote equal land rights for both women and men. The first one and most important was law no 22/99 of 12/11/1999 on Matrimonial Regimes, Liberalities and Successions or the “Inheritance Law”, in particular Article 50 providing that all children recognized by civil law, male and female, would inherit property without any discrimination. This was followed by Rwanda 2003 constitution recognizing equal rights of women and men in particular Articles 26, 27 and 28, which provides for equal property rights. Then national land policy passed in February 2004, followed by enacting of the Organic Land Law (OLL) No.08/2005, of 14/07/2005, determining the use and management of land in Rwanda.

All these laws provide for equal land rights of both women and men. Both the National Land Policy and the Organic Land Law, states that²⁴, “the main objective of the policy and law is to promote a good management of land resource and to ensure security of land tenure system for all with no gender discrimination.”

The post-genocide government has also taken a bold and positive step in addressing the problem of an increasing gap between the rural majority and the urban elites. Just before 1994, 6.6 per cent of households in Rwanda controlled roughly one third of all arable land²⁵, while by 2001, only 6 per cent of rural Rwandans owned land in excess of 2 ha, contrasted with 16.4 per cent in 1984²⁶. The bold stand taken by the post-genocide government has been that, since 2008 the government introduced a special ‘Presidential Commission’ which authorized redistribution of the huge amount of land that was mainly in the hands of the elites and politicians, and shared it equally with the landless. Although the report of the commission is not yet released, information gathered during the field work of this study indicated that, the majority beneficiaries of this commission are women, who were the majority rural landless.

Nevertheless, there is still imbalance between rural and urban women, because of class differentiation mainly due to education levels, where rural women are still not able to have access to bank credit facilities. Hence, rural women are also not able to fully understand legal implications related to land and other rights, including inheritance, which hampers their rights over land as already seen elsewhere, that over 80% of land related issues in the country are related to land, especially for rural women. Yet, understanding and securing women’s land rights has a direct impact on their ability to participate in market economy and have access to finance, which

²⁴ Ministry of Lands, 2004

²⁵ Newbury, 1998

²⁶ Musahara and Huggins, 2005

has an important multiplier effect towards women empowerment. Achievement of gender equality reform required constant and commitment to wide public consultation. For example, although the government set a good record in the land reform information sharing, the recent change on setting a fee for transfer of property from 6% of the value of property to a general fee of Frw20, 000 for any property transfer may be a big constraint to the majority rural especially women as they assert themselves to claim for their inheritance rights, since this new figure of Frw20, 000 apply also for the transfer of inherited property.

5. Land Tenure Regularisation Process (LTRP)

Land Tenure Regularisation Process (LTRP) is a highly technical process that puts into implementation the Rwanda National Land Policy (RNLP) of 2004 and the Rwanda Organic Land Law (OLL) No.08/2005. In Rwandan context, LTRP is viewed as a breakthrough answer to the existing land rights inequality between women and men, as the process is built on the premise to provide for full equal rights to both wife and husband and to all children, through the systematic land registration process. As already mentioned elsewhere above, the LTRP is designed as the national strategy for economic growth. Article 3 of the OLL provides for security of tenure for all, hence a strategy for management of land disputes, if applied appropriately. Article 30 of the OLL states that, land registration is statutory and affects both customary and formal land holdings, hence, abolishing the customary land holding system. Land registration through the LTRP is done in two ways, through the Systematic Land Registration, which means a process of regularizing the ownership of existing land for the existing land owners and the Sporadic Registration, which is done on demand. Most of land registration process in rural areas is through systematic land registration, because most of the rural do not have both financial and technical resources to request for sporadic registration which is more costly.

Before the 2004 RNLP, land ownership and rights in Rwanda were managed under a dual system of both written and customary law, with customary making up more than 90%. Until 1999 when the family law N^o. 22/99 of 15/11/1999 regarding matrimonial regimes, liberalities and successions was put in place, women were not allowed to inherit land as men.

Rwanda opted for the systematic land registration system, with a belief that it presents more opportunities to protect women's rights, instead of continuing with the customary land management which is believed to have marginalised women for decades.

The LTRP process is also developed on the premise of decentralisation, transparency and equality to guide the rights to acquire land and property, with land administration system that will guarantee security of tenure. Of most importance in the history of Rwanda is the practical recognition of a 'woman', whereby, when a couple is registering land today in Rwanda, both husband and wife have full equal rights, and the names of both wife and husband appears on the registration certificate and the title deed with no conditions in terms of equality. The government is working on the principle that, 'as long as land remains the basis for the sustainable development of the country, the proposed land reform will be the engine of the development and should play an important role in enhancing peace, equity, unity and reconciliation, that it will play a big role in the process of poverty reduction in the Country'²⁷.

'tenure security means different things to different people [...] what peasant farmers want is security from land disputes [...] what Government has in mind is security through land registration and what women want is equal rights for both women and men'

Because of the existing competing interests and different expectations of different stakeholders in the process of the LTRP in the country, it remains interesting to continue monitoring and understand the impact of LTRP

²⁷ Rwanda EDPRS, 2007; Rwanda Vision 2020, 2004

on different stakeholders, especially women who are the most disadvantaged, as observed by Musahara and Huggins in relation to the Rwanda LTRP that, ‘tenure security means different things to different people’²⁸.

A recent FAO study also reveals that, ‘[...] land rights of women within customary context underline the complex challenge facing policy makers [...] using customary systems as the basis for collective or pre-emptive registration of local rights may help prevent land grabbing by outsiders, but it then leaves women exposed to customary practices that are clearly inimical to their best interests’²⁹.

Accordingly, the identified main advantages of the land registration are³⁰: guarantee of ownership of land; Increase of security of tenure to land holders; increase of investment on land; reduce land related disputes; establishment of a reliable and transparent land registry across the country; improving access to credit/loan – where land is used as collateral; improvement of land market in relation to transactions; and improvement of planning and development of infrastructures.

Land registration started on a pilot scale in 2008 and was rolled out in 2009. It is estimated that 10 million parcels in the whole country will be registered through the systematic registration process. It is also planned that, the adjudication and demarcation for the whole process will be completed by June 2012 while issuance of the land certificates and land title which marks the end of the registration is estimated to be complete by December 2013.

6. Land disputes in relation to land reform

The history of land disputes and land based conflicts in Rwanda goes back a long time even before the Genocide of 1994, although the effects of genocide has made the situation worse with the increased multiple claims over land rights and a situation where women have to claim more their land rights due to increased family responsibility of providing for the family and of claiming the land rights of their dead male relatives and husbands. A major cause of land disputes in Rwanda is linked to insecurity of land rights, as observed by the National Unity and Reconciliation Commission that land disputes has become “the greatest factor hindering sustainable peace” in Rwanda³¹. Other general disputes include border disputes, and disputes over land transactions.

Experience from elsewhere, Mozambique being a good example, where a successful land reform was implemented in post-conflict, has shown that, land reform process in a post-conflict set-up is the most challenging program towards peace building initiatives, as it can intensify land related disputes if not properly managed. Common major challenges include, inability to involve the population in the process; lack of open and decentralised expropriation process, where the community to be expropriated is not given sufficient information and involvement by being denied direct contact with the expropriator, as the law provides, rather the project become handled as a directive rather than a dialogue on ‘willing buyer’ and ‘willing seller’; violation of the land rights of the marginalized groups; and failure to bring on board civil society, treating the process as only a ‘Government Issue’. Hence, building an effective partnership is critical to the success of land reform implementation in particular in relation to the protection of marginalised groups and the management of land related disputes, particularly in a post-conflict setting.

²⁸ Mushara, H. and Huggins, C. (2004).

²⁹ FAO (2009).

³⁰ NLC, 2011

³¹ Rwanda National Unity & Reconciliation Commission, 2001

Most of existing land dispute in Rwandan communities are within inter and intra family, this is why most land disputes that affect women arise from unequal inheritance of land, polygamy and children born out of these.

The success of Rwanda LTRP is based efforts by the government to develop an open, inclusive and decentralised process, which has been achieved to a large extent. The LTRP is implemented through the National Land Center (NLC), which is a new institution that was put in place in 2007, as the process of LTRP was almost starting.

Therefore, the institution is still faced with a capacity issue both in terms of human and financial, leaving some gaps that affect the effective implementation of the process. A most critical gap is the fact that, land dispute management is indicated in LTRP as an important component, it has not been properly institutionalised, only until recently has the NLC entered into a Memorandum of Understanding (MOU) with RISD to specifically focus on the component. Since 2008 at the pilot phase, RISD has been involved in the project of building the capacity of local leaders in dealing with land related disputes in preparation to engage in during the LTRP. However, the intervention has been on a very limited scale, and no structured, that the overall impact on the process has been minimal. The existing opportunity is that, relevant institutions to deal with land related disputes have been put in place, although there is a need to build their capacity for effective delivery. It is the understanding of the current government that, most of the existing land related disputes can be managed out of court through mediation with the support of the Mediators and other local leaders that have been mandated to do so. These institutions include, Land Committee (at Cell and Sector levels), the Abunzi / Mediators (at Cell and Sector levels), and Land Commission (at District Level). These institutions are put in place with anticipation that, during the land registration process, land disputes increase. This hypothesis proved to be true from the pilot program implemented in Rwanda during the pilot phase of the LTRP that included land registration, that disputes tend to increase during the land regularization process, and that disputes are effectively managed if identified and addressed before the actual land registration can begin, rather than dealing with the disputes after the registration is complete. This was a lesson learnt from a pilot project³² implemented by RISD during the land LTRP pilot program of 2008, mentioned above. Another important lesson learnt from the project was that, 'for land related disputes to be managed in a sustainable way, it is done at the grassroots, through mediation, without going to court'. Although the capacity building project is known as 'Land Dispute Management Project' (LDMP), dispute management skills learnt can be applied to resolve other disputes in community, outside land related. Effectiveness of the LDMP by RISD is noted from the following community voices:

A voice of a Sector Leader,

'as a result of the general community awareness of land rights, and the skills and knowledge in land dispute management gained through the Land Dispute Management Program (LDMP), not only had all the disputes arising from the pilot land registration been resolved without having recourse to higher authorities or courts, but the few land disputes that still arise are resolved at the lowest levels of the local dispute resolution system' giving an example of the family level, umudugudu or Cell level.

A voice of another Sector Leader,

'my local leaders now have no excuse anymore of not resolving land disputes fairly and timely, since they have been equipped with all relevant laws and skills to mediate....I was there, I also witnessed the potential impact of the training....I just wish this training can reach all local leaders in the country'.

³² A Land Dispute Management Project implemented by RISD in 2008 during the LTRP pilot phase, that was funded by USAID

A voice of a women council representative after the training,

'this will help us resolve the family disputes that are common in this area, between husbands and wives....it is very good for us women to understand that the new land law allows us to have the same rights as men in Kinyarwanda saying that 'ayamahugurwa azatuma dukemura ibibazo byiganje ino hagati y'abagore n'abagabo....kandi nishimiye nk'umudamu nishimiye kumenya ko itegeko rishya riduha uburenganzira bungana n'ubw'abagabo'.

Before the colonial period, most land related disputes were resolved at family level through 'Gacaca' meaning 'Mediation'. Most of land related disputes were in connection with cattle crossing over a neighbour's field; encroaching on a neighbour's field by a few inches; inheritance among sons; etc. These are issues that did not need to reach the King or the Chief, and were in most cases resolved by elders through Gacaca, fairly and peacefully.

After the 1994, most cases in the 1st instant court were related to land at a rate of more than 80% of all cases³³. Hence, as the government of national unity that assumed power after the genocide was faced with multiple problems related to land, and anticipated the land related issues would increase given the expected multiple claims over land rights from the different waves of refugees coming back to the same land. The government made a decision to borrow from the experience of the past, the 'Gacaca', and set-up 'Abunzi', since 'Gacaca system' was already identified from the same experience of resolving some of the genocide cases based at family level, 'Gacaca' was dropped as idea to mediate in land related disputes. Hence, the idea of 'Abunzi' meaning 'Mediators' was introduced to assist mediate among neighbours on other issues, especially land related, but not genocide cases. One of the interesting lessons learnt from LDMP is that when women are well represented, like the case of the mediators where women cannot be less than 30% represented, and the same with land committee, their voices is more heard.

7. Observations from the ground

7.1 Land ownership

As already seen throughout the study, traditionally women in Rwanda did not own land but used it or held it in trust of their male children. Girls too did not have inheritance rights to the family land. Currently, there is high level awareness on equal rights for both men and women referring to the new OLL (in Kinyarwanda, Itegeko rishya). More often both local leaders and community refer to the 'Itegeko ry'umuryango rya Leta' mean 'Family Law put in place by the government' as a good provision for equal land rights of women and men. However, on the ground, statements are also made which reflects strong cultural/customary influence, for example: a brother referring to a bigger sister 'mushiki wange, ababyeyi baraphyuye none nawe ngo arashaka ko tugabana, kandi yarashatse' meaning, 'my sister is now demanding family property share since our parents are dead, yet she is married'. This statement means that, when a girl is married, she should have no right to claim any property rights from her parent, yet the law provides that a girl has a right to inherit from both her parents and her husband. Another common statement is that, 'it is a pity thatfamily have no son, yet they are getting too old, who will inherit' meaning that, even if a Rwandan family has many daughters, with no son, inheritance is not possible or is useless.

Since both husband and wife's names have to appear on the land registration certificate and the title deed, the biggest impact LTRP has brought to a Rwanda woman, is for a woman to confidently say that "I own land with my husband, he can't sale it without my approval"

³³ RISD 2000

However, the fact that in the recent years, there are more cases involving women related to inheritance, it means that, good awareness has been created in the community, and more women understand their rights.

Although in both Kinyinya and Rwaza, women understand that they have equal rights as men legal, apart from the fact that culture is still at play in both communities. Women in Rwaza where LTRP has been implemented are more clear on where to redress their land rights problem, through the Mediators and Land Committees, unlike in Kinyinya where women and other members of the community still refer only to court, yet, women do not have the capacity to go to court both financially and technically, so they opt to remain silent.

Women's land rights awareness is rising and it is interesting to see a Rwandan married woman confidently saying that 'I own land'. Before the current legal reform provisions like the Inheritance law or the OLL, only customary system was at play under which it was like 'taboo' for a woman to own land, or even to feel that she has a say on her husband's land.

7.2 Land Registration

Land registration is seen as a major component of the LTRP, because it leads to acquisition of a registration certificate followed by a land title deed. Today these are the only legally recognised documents that confirm one's claim of ownership to a particular piece of land.

During the research a woman in Rwaza Sector lamented "Nubwo ubu napfa maze kubona ikarita y'ubutaka iriho amazina yanjye nay' a Rwivanga, nzi ko najya mw'ijuru" meaning that, "even if I die now when I have my land certificate with my names and that of Rwivanga (husband). I know I will go to heaven". The Kinyinya community was anxiously waiting for the land registration process which they said would be assuring them of land ownership.

Local leaders from both Rwaza and Kinyinya sectors see the main advantage of the LTRP as a tool to end frequent disputes in the community, as one member of Mediators' Committee reported that: 'ntako nasobanura ukuntu kwandikisha ubutaka bigiye kutuzanira eterambere rirambye, kuko ibibazo byose tugira bituruka k'ubutaka' 'ntako nasobanura ukuntu kwandikisha ubutaka bugiye kutuzanira amahoro ahoraho, ko ibibazo byose tugira bituruka k'ubutaka' meaning that 'I have not enough words to explain how the land registration presents an opportunity for sustainable development, since almost all community disputes are related to land'.

The Executive Secretary of Rwaza Sector reported that, 'since LTRP started in Rwaza we have increased our performance by 88%, because we do not spend any more time on resolving land related disputes which used to take over 80% of our time'.

However, despite this level of awareness and the government commitment as observed from the local leaders, there still exist inequalities between women and men in relation to land and property rights. Mainly because of the persistence existence of inherent patriarchal structures that do not allow women to have equal land rights with men.

The gap between Kinyinya and Rwaza is very big in terms of awareness and understanding land related legal provisions. Rwaza being a pilot area of the land registration process benefited a lot from the pilot activities, in particular the skills in resolving land related disputes out of court through the LDMP. A major component of LDMP include the understanding of main land related laws like the OLL, the Inheritance law, the land registration provision, land and property expropriation, to mention a few. Understanding these law as part of the LTRP was seen as a big contribution

to the community closely linked to poverty reduction, as community and local leaders spend limited time in resolving land related disputes, unlike in Kinyinya where 80% of time of local leaders and community is still being spend on resolving land related disputes.

Figure 1: Women access to land determined by husbands (Responses by Sector)

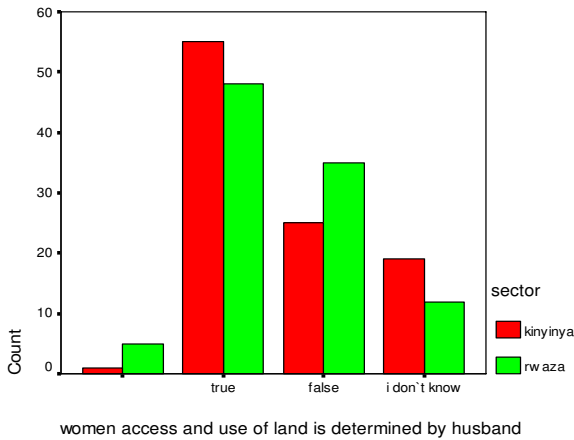
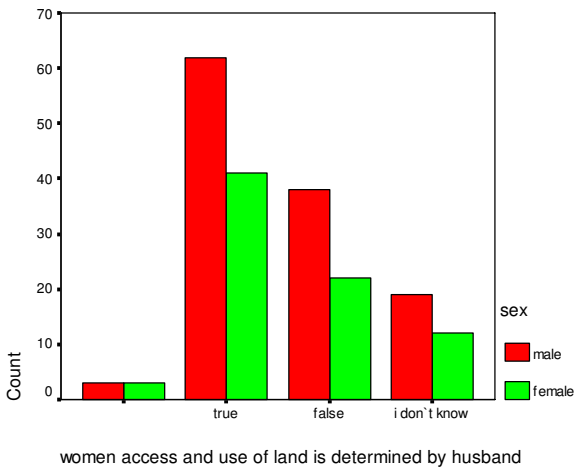


Figure 2: Women access to land determined by husbands (Responses by Sex)



7.3 Expropriation

Expropriation was seen more common in Kinyinya than in Rwaza, and most of projects implemented and planned for expropriation are related to property development involving foreign investors or government institutions. What the field information reveals in this area is that, expropriation is mainly done in urban and peri-urban than in rural because of market driven in the area of property investment, since there is no much interest in using a housing property in rural areas. Another observation is that, there is no more public land for such investment and the city plans give guidelines that are too expensive for an individual, which requires applying of bank credit and loans. Such a process eliminates almost all women, since they do not have the capacity to engage either technically or financially. Almost everybody interviewed in Kinyinya supports the

government strategy of expropriation for better city planning, although there is a strong concern with the unfair approach towards compensation as most people expropriated do not have sufficient information to understand who is expropriating and for how much!

Kinyinya Sector has experienced a high level of expropriation cases with at least 32% of those interviewed directly affected. Expropriation in Kinyinya is twofold some of the affected have been expropriated out of the area while others have come into the Sector after being expropriated elsewhere. Although expropriation procedures are provided for and clearly stated in the Law N^o.18/2007 of 19/04/2007, Kinyinya experience has shown that if the implementation procedures are not well respected, it can generate a lot of disputes³⁴. The ground information also indicate that, in Kinyinya, majority affected population are women and children who had no money to put up modern building needed by the City of Kigali. In Kinyinya, 18% of the respondents reported to have been direct victims of expropriation and 62% responded they knew of people who had been affected in the area. Also 92.3% in Kinyinya, responded that, although expropriation is a good program to make the city clean, it requires improvement in the implementation, in particular to be sensitive to women's rights and other marginalised people in terms of fair compensation and general respect of the written procedure.

8. Conclusions & Recommendations

The study results have generated interesting data around the study topic: **'Impact of the land reform on the land rights and economic poverty reduction of the majority rural, especially women who depend on land for their livelihood'**.

Policy wise, the field findings agree with the hypothesis that, **'Rwanda Land Reform is the engine for the achievement of the poverty eradication for the majority rural poor who live on land as their main livelihood, and sustainable peace in the country, hence a key incentive for foreign investors'**. In both Sectors of the study, community members and leaders talk about 'itegeko rishya' meaning 'new law' as a sure way of resolving all land related issues, and links land clearly to 'ubukene' meaning 'poverty' and 'amakimbirane' meaning 'disputes'.

However, practically, it is still too early to judge how the Rwanda Land Reform will off-set the poverty levels of a Rwandan women, since its yet unclear whether women will be able to have access to bank credit using the security of their land since servicing the credit may be the most tricky part. The new transfer fee of Frw20, 000 for any land and property transfer despite the value may also constrain more the position of women, as they welcome the women inheritance legal provision. Most of land given to women through inheritance is normally a very small piece and in most cases less productive of not more than even 0.5ha, given the land scarcity situation in rural areas. Hence, women are may likely not afford the Frw20, 000 for the land inheritance transfer.

Nevertheless, the provision of the Rwanda Land Reform through LTRP presents a very important opportunity for empowering the position of a Rwandan woman in terms of land rights, as **for the first time in Rwandan history a wife has equal rights of their land and property as that of her husband**. The new land registration process through LTRP is definitely a big contribution for Rwanda towards the achievement MDGs especially goal No.3 on gender equality³⁵.

³⁴ Kairaba, A. (2008).

³⁵ UNDP Rwanda (2010)

Responses from field interviews indicate that LDMP can play a very important role in preparing the implementation of LTRP by addressing any existing land related disputes and equipping the local leaders including the Mediators with the skills and knowledge in addressing land related disputes that may come up during the implementation of LTRP, since LDMP also equips the local leaders with the understanding of legal provisions of key land related laws including the expropriation law. The bitter experiences of expropriation in Kinyinya are partly due to ignorance of the legal provisions of those being expropriated and the local leaders who facilitate the process.

However, if LTRP is to contribute effectively to poverty reduction for women, strategies in this area that specifically target women will have to be sought, as having a registered land alone is not enough to better improve the economic position of a Rwandan woman. This gap of lack of strategic approach to economic empowerment of women in rural Rwanda may force women to sale off their land due to poverty, especially widows, to speculative investors through expropriation and other arrangements, since after registering the land, the owners have full right to either keep it or sale it. In both Sectors of the study, it was found out that 55.1% of the women own less than 1 hectare of land and use it for activities that are not highly productive. In most cases they are growing food for subsistence and sell just a part of the produce to provide other domestic essential needs.

The majority of women have little or no education at all. This limits their ability to access information on current market trends and to identify a more market oriented produce. The low level of education also limits their ability to acquire bank credit facilities using land as the surety.

Given the fact that LTRP is new in the country, and it has just started to be implemented, it would be important to continue monitoring the implementation process and documenting the impacts of the process in general, but in particular in relation to women, whose land rights are always under threat and can easily be affected by the global market through speculative investors.

This Rwanda case study confirms a stronger link between land good governance, sustainable development and poverty reduction, in that, given various competing interests in the country, there is a need for good and pro-poor policies to govern the land as the main resource of the country, and for sustainability to be achieved, the only main resource of the country must be well governed, and good governance cannot be achieved without addressing the issue of poverty.

Rwanda's good progress in the land reform for the first time in the history of the country in a post-conflict situation, must be appreciated, and documented for learning lessons by policy makers and as a contribution to the current global debate on land good governance.

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