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Rwanda land registration is complete – now what? the view of an NGO

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ABSTRACT

Land Reform is one of the global challenging programs to implement, as it involves identification and regularizing the rightful owners of land. The process is globally understood as a trigger to raising the silent family and administrative issues, particularly in a post-conflict setting where the society is prone to disputes. Given its sensitivity and competing interests, the process is normally understood as government agenda exclusive. However, the case of Rwanda demonstrates that “the success of land reform is rooted at political will and commitment to an inclusive and transparency process that embraces ‘**engaging**’ with Community and Civil Society”, and the importance of prioritising the disputes management component in the process. Reliable data is key civil society contribution to success of land reform. ‘Abunzi’ the Rwanda home grown initiative, was effective because of RISD’s support in their capacity strengthening. Rwanda experience is replicable in other countries struggling with land reform processes.



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KEY WORDS:

Abunzi;

Civil Society;

Dispute-management;

Land Regularization;

Partnership – engagement



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ACCRONYMS

CoK	: City of Kigali
CS	: Civil Society
DRC	: Democratic Republic of Congo
RPF	: Rwanda Patriotic Front
LTRP	: Land Tenure Regularization Process
NGO	: Non-Governmental Organization
RISD-ICT4D	: Rwanda Initiative for Sustainable Development, Information & Communication Technology for Development
RISD	: Rwanda Initiative for sustainable Development
SDGs	: Sustainable Development Goals
SLRP	: Securing Land Rights Program



1. INTRODUCTION

This paper presents the experience of Rwanda Land Reform, through the Land Tenure Regularization Process, with the eye of NGO, discussed in four sections. **First**, is the background on land in Rwanda. **Second**, the general discussion on Rwanda Land Tenure Regularization Process. **Third**, the section discusses land disputes in relation to land reform. The section presents the important role of Abunzi, the home-grown mediation initiative and Rwanda Initiative for sustainable Development (RISD), a Policy Research and Advocacy National Non-Governmental Organization (NGO-civil society). **Fourth**, is lesson learned, challenges and recommendations.

Drawing from RISD perspective, a leading Rwandan NGO that has been actively involved in the process of land tenure regularization in Rwanda since its inception and related land rights initiatives, this paper offers insights into the Land Tenure Regularization Process (LTRP), and lessons learned. Globally¹, land reform triggers land related disputes of varying nature, because of its centrality in managing diverging interests, competing claims, and processes of inclusion and exclusion related to land rights as a key resource of majority of developing countries. The paper presents the steps taken by the Rwanda government in managing land related disputes during the land reform process. In particular, presenting the role of Abunzi as mediators established in the context of home-grown initiative, to manage community disputes through mediation without going to court. Hence, this paper discusses the Rwanda Land Reform process from the perspective of RISD, as a key national NGO that has been involved in the process since its inception. Furthermore, it offers lessons for possible replication in other countries struggling with the implementation of land reform process.

Rwanda Initiative for sustainable development started engaging in land reform process in 1999, at the time of land policy formulation, leading to the 2004 Land Policy and the organic land law of 2005 (revised in 2013). RISD was the only National NGO that was involved in the Land Tenure Regularization Process during the pilot process (2008-2010), when RISD assessing and monitoring the level of community engagement and understanding of the process and the trend of land related disputes. RISD continued to be engaged in the process until today, when the focus is shifting to the land use and related challenges and opportunities, including the assessment and monitoring of the urbanization process in the country. RISD played an important role in contributing to the Land Tenure Regularization Process (LTRP), a framework that implements the Rwanda land reform. RISD has been operating at a scale of 11 districts strategically identified from the 5 Provinces of Rwanda: Gasabo, Nyarugenge and Kicukiro (City of Kigali - CoK); Kamonyi, Muhanga and Nyaruguru

¹ World Bank 2010



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(Southern Province); Musanze and Gakenke (Northern Province); Rubavu and Karongi (Western Province); and Kirehe in (Eastern Province). The program covers a total of 144 Sectors and 747 cells. However, with the use of RISD-ICT4D, the organization has started strategic plans of engaging in all the 30 districts of the country.

2. RWANDAN LAND IN CONTEXT

Rwanda is 26,338 km² with a population on agriculture rate of 90% and physical density of 321 in hab'km², which make it one of the most populated country in the world. And 15% of rural households do not own land and 60% of households own less than 1 ha of land². Together, the dependence on agriculture and the scarcity of land make land a precious resource and source of ample conflict. Fueled by rapid population growth, climate degradation, conflict-driven migration, land fragmentation, and decreasing agricultural productivity, land is the most frequent cause of disputes among rural Rwandans ([file:///Users/raniduff/Downloads/case-study-on-rwanda%20\(1\).pdf](file:///Users/raniduff/Downloads/case-study-on-rwanda%20(1).pdf)).

In Africa, in general, and Rwanda in particular, land is one of the most important asset, a family can have. When land is not justly distributed; when land issues related to disputes are not rightly addressed and resolved, land can be one of the highest causes of disputes and conflict, both at family, national and cross-board levels.

Disputes occurs when there are incompatible goals or interests, within a person or between two or more people. A dispute can also start from just a perception or a stereotype. But whatever cause of conflict, it can be latent, open and dynamic, it can change overtime and with great consequences, if it is not properly and timely managed. In case of land related disputes, parties in dispute are also victims of direct and indirect, formal and informal, of big pressure from other stakeholders. They could be children or other related families and friends. For example, Rwanda has been confronted with land related disputes for decades. However, the situation was exuberated by the fact that land became politicized, as reflected in the following statement:

² Challenges related to land in the context of agriculture life based in post-conflict peace and security peacbuilding process, if not well managed, could erupt into new cause of conflict, while the new government led by Rwanda Patriotic Front (RPF), aimed to transcend ethnical discrimination and division which could jeopardize a vision of unity and reconciliation, lasting peace and security, gender equality, fighting against corruption, return of refugees and economic stability.



“Under the post-independence rule of the Hutu-led government, in post-independence until April 1994, the Tutsi refugees were not allowed to return back home and the land they left behind was often arbitrarily distributed by local authorities among Hutu peasants....it is only in the current government of Rwanda Patriotic Front (RPF) that assumed power in July 1994, that all Rwandan are able to claim their land rights without considering ethnicity. Origin. Throughout Rwandan history, in which political exclusion has often led to serious conflict, macro-level politics have repeatedly influenced land holding”. (Takeuchi Akeuchi Shinichi and Marara Jean. 2009).

Implementation of land reform is a world wide challenge. But, when it comes to a conflict or post-conflict setting situation, with multiple claims of land ownership because of population movement due to conflict, the situation becomes even more complex, requiring strong political commitment and strong partnership in nature for intervention.

In discussing the land situation in Rwanda, three elements are important for consideration: (1) The 1993 Arusha Accords provisions that prioritized land reform in the negotiations and has formed a big influence in the governance framework of the post-1994 genocide government; (2) The process and strategies established by the current government of Rwanda Patriotic Front (RPF) in post-1994 genocide against Tutsi; (3) The nature of land related disputes and their management strategies.

In Rwandan situation, land was identified as key conflict area that had to be included in The Arusha Peace Accords of 1993 between the Rwanda Patriotic Front (RPF) and the then Habyarimana regime. Negotiation put emphasis on peace and justice and right of citizens, “considering that the Rule of Law implies that nobody, including the authorities, is above the law and that-the laws must respect the fundamental rights of the citizens”.

Several scholars who studied the 1994 genocide have highlighted the crucial role that land played in that sad event. While it is not the intention of this paper to reduce the 1994 violence to a question of land, it is important to highlight the role of land scarcity and how it was politicized in fueling the genocide. Economic conditions like lack of access to land is believed to have influenced the mobilization of many young Rwandans to join the *Interahamwe* militias (Fletcher 2007). Many rural Rwandans found an opportunity to settle old land disputes, or to gain access to resources by murdering Tutsi landholders (André and Platteau 1997; Pottier 2006).



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In particular, the Arusha Peace Accord provided for repatriation of Rwandese refugees and the Resettlement of Displaced Persons. **Article-1** provides that, The return of Rwandese refugees to their country is an inalienable right and constitutes a factor of peace, national unity, and reconciliation; **Article-2** provides that, The return is an act of free will on the part of each refugee. Any Rwandese refugee who wants to go back to his country will do so without any precondition whatsoever. Each person who returns shall be free to settle down in any place of their choice inside the country, so long as they do not encroach upon the rights of other people". **Article-3** provides that, for purposes of settling returnees, the Rwandese Government shall make lands available, upon their identification by the "Commission for Repatriation" so long as they are not currently occupied by individuals. The Commission shall be at liberty to explore and choose, without any restriction, resettlement sites throughout the national territory. The selection of sites, their occupation and farming shall take due consideration of the protection of endangered animal species, especially the mountain gorilla. Depending on the protection requirements and the planned farming development activities, the transfer of those species into compatible ecosystems is recommended. **Article-4** provides that, The right to property is a fundamental right for all the people of Rwanda. All refugees shall therefore have the right to repossess their property on return. However, importantly, the protocol adds that, **"in order to promote social harmony and national reconciliation, refugees who left the country more than 10 years ago should not reclaim their properties, which might have been occupied by other people....the Government shall compensate them by putting land at their disposal and shall help them to resettle"**. The provision continues that, **"as for estates which have been occupied by the Government, the returnee shall have the right for an equitable compensation by the Government"**. The protocol has provided for both the old case-loads of the 1959 and the new case-loads of the 1994.

It should be reminded that, the inclusion of the repatriation, land and property right, was an important element of the Arusha Accords, because the regime of Habyalimana had refused the return of Rwandan refugees of the 1959, with the excuse that "Rwanda land was too small to accommodate any more population". However, the reality was that, this decision was of Habyaliman regime based on the ethnic exclusion politics. Yet, since the Arusha Accords were guided by Peace & Reconciliation, the return of refugees, free movement and equal property right, were important elements of the protocol. Although the protocol was not fully successful, the protocol remained the main leadership framework of the post-1994 genocide against Tutsi government. The main principles of the RPF government are: Unity, reconciliation, peace, security, justice, gender equality, and respect of human rights.



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The 1994 genocide created a complex conflict situation in Rwanda, related to land rights. The government was faced with the challenge of settling over 800.000 hundred thousand old- case-loads³ and almost 2.000.000 of⁴new-case-loads returning mainly from DRC and Tanzania . There were also internally displaced refugees that had to be settled back to their homes. Most of these people were returning to the same peace of land, presenting a complex situation where the government is managing a peace of land with multiple claimants. Under fragile security, the government had to deal with a complex settlement situation.

One of the immediate solution initiated by the Government to manage the situation, was to introduce the villagisation kind of settlement program. Villagisation raised various concerns among the population and development partners on land use issues including access to land, distance between home and farmland and availability of grazing land (RISD, 1999). Like elsewhere in developing countries, land is the principal source of livelihood and security in Rwanda, therefore it is an issue of great importance. As Pottier quotes Larbi, that, “Before the war and genocide many aspects of land ownership were not regulated by statute. Where regulations did exist, there was confusion either because of the provisional character of the law or because of non-implementation” (Pottier 1997:5). John W. Bruce described the situation:

“The post-genocide refugees resettlement situation confronted both the international community and the new government with urgent and difficult choices in an environment of continuing ethnic tensions. Refugees return and land access in Rwanda have been extraordinary complex matters, with some refugees leaving just in time for those returning to take up their home and lands. Tensions can emerge between international standards protecting the right of refugees and displaced persons to return to their land and the compromises that needed to be struck and honored to obtain and maintain peace.” (John W. Bruce. 2013).

And, in the same arena, Gahigana adds that:

“The Rwandan Patriotic front “RPF” and the government have repeatedly emphasized their obligation to provide for those who had lost land and other property when they fled the country in 1959. Every Rwandan who happens to

³ Old-case loads are returning Rwandans who left the country in 1959, 70s

⁴ New-case loads are returning Rwandans who left the country in 1994



return home has a right to own a plot of land in any part of the country”.
(Gahigana, I. 2006).

In 1997, the entry point of RISD program in Rwanda, was to assess community priority needs so as to engage guided by the community needs as the insiders rather than the external driven (funding/donor or political). The assessment was conducted in 5 Provinces (almost a size of a District today). At the end of the assessment in early 1999, the conclusion was that, land is the most important commodity for Rwandans: Socially, Culturally, Economically. From the assessment, RISD also understood how land was politicized, as stated in Uvin that, ‘The return of old-case refugees was deeply political and emotional to poor rural Hutu who were concerned with the security of their own land rights, because the politicians (Habyarimana’s regime) popularised that ‘the returning refugees are Tutsi who are coming for their land their left behind’. Secondly, Hutus are known to have participated in the genocide in the belief that land belonging to the murdered Tutsi and moderate Hutu would become theirs (Uvin,1998); Pottier,2002).

Hence, this is how RISD as a Policy Research and Advocacy National NGO made a choice to focus on land as the focus program of the organization influenced by the community priority needs; and this how RISD made a choice to focus on dispute management component as a key area of land issues challenges in post-1994 genocide Rwanda. RISD believes that, with secured land rights, peace and security will be achieved and economic use of land will also be achieved.

3. LAND REFORMS THROUGH LAND TENURE REGULARIZATION PROGRAM (LTRP)

After the 1994 genocide against Tutsi, The RPF Government established an ambitious vision for development, outlining a series of bold measures in its Economic Development and Poverty Reduction Strategy (EDPRS). This strategy identifies land regularization as a critical element in improving productivity of land use, functioning of land markets, reducing land related disputes, empowering women and vulnerable groups, a strategy for food security and improving overall governance. A priority area of the post-genocide Rwanda, is ‘Equal Land Rights’, through land



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reform, implemented through a highly technical program, the ‘Land Tenure Regularization Program’ (⁵LTRP), built within the legal framework of the land reform guided by the Land Policy of 2004 and the Organic Land Law of 2005 (amended in 2013). The main target of the program is to regularize the land ownership, indicating clear boundaries so as to reduce intra & enter family land related disputes, while presenting more opportunities for economic investment. Indeed, LTRP has registered great achievements, in particular, “highly impressive in terms of scale and efficiency” (RISD 2013; LTRP independent annual evaluation (2016) indicates success in registering 10.3 million land parcels in a shortest period of time, compared to experiences from elsewhere. The country is also a promising story of one emerging from conflict and yet in a short time able to move from humanitarian emergency to long term development. However, what remains to be seen is link between LTRP and vulnerability. This is one of the main inputs of RISD, to monitor the impact of LRTP from the NGO perspective.

For Rwandans, land is the most important asset. In addition to treasuring land as the main source of food production, livelihood or a store of value, land is also culturally sense of belonging and a symbolic relationship between people. The disruption of this relationship, is an interference to the family and community coexistence. This is one of the major impacts of the genocide destruction and this is what has to be rebuilt and maintained, if poverty reduction and sustainable peace is to be achieved in the country. Majority of Rwandans (60%) own 0.5 ha, yet this is the source of livelihood for majority rural (70%) and it is upon which they hope to get out of poverty (Musahara 2006, LandNet Rwanda 2003; and, as stated in Moore, that “Access to land is an issue of food security” (Moore J.B, 2009). Moreover, UN observes that, **“farmers and rural food producers’ lives are closely bound up with their lands, which is their source of food and livelihood as well as their vest chance of escaping poverty”** (UN Food Security Strategy, 2009). The UN food security strategy warns that, across many countries, improving access to land is key to solving many social problems including: rural unemployment, poverty, food insecurity, rural-urban migration, and political instability..... Increasingly, the land access issue is seen as a major reason behind armed conflict, domestic violence, corruption, internal displacement, structural violence and other social ills (UN Food Security Strategy Paper, 2009).

⁵ LTRP initiated in 2009, its main aim was to issue a registered title to every landholder in Rwanda through a one-off, low-cost community-based process of land tenure regularization that would contribute to poverty reduction, increased investment, optimization of land use, gender equality in access to land, and social harmony throughout Rwanda.



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“Access to land and land tenure security are at the heart of Rwanda society, particularly, in rural area. It is critical dimension of rural livelihood. 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. Guided by the 2004 land policy and the organic land policy of 2005 (revised in 2013), LTRP promotes land rights equality and subsequently, women’s rights, who have been marginalized for decades. The new land registration process through LTRP is definitely a big contribution for Rwanda towards the achievement of Sustainable Development Goals (SDGs) in particular Goal 5: Women Empowerment. Rwanda Land Reform is understood as the engine to achieve the poverty eradication for the majority rural poor who live on land as their main livelihood, and is understood as the path to sustainable peace and development in the country.”⁶

Although the Rwandan population growth is slowing down, land scarcity remains a big challenge to Rwandans, given that, over 70% of Rwandans depend on Agriculture for livelihood. Rwanda aims at achieving 40% of urban population by 2030 in accordance to the Sustainable goals. The biggest challenge is that; land is already scarce enough where 60% of rural population own 0.5 or less ha. Hence, whereas urbanization has positive potential on population especially the rural, it also presents challenges regarding the threat on encroaching on agriculture land and also the land use plans that might exclude the poor. **As the title of this paper states ‘...after land registration in Rwanda, what next...’ ‘Land registration and the establishment of the land disputes framework is a big success for Rwanda, but the biggest challenges are ahead: how to achieve and sustain the equality of land rights in the program of urbanization and land use master plan’.** Rwanda has developed various laws and policies with a high potential to reduce poverty and move Rwanda to middle-income, especially through progressive land use strategies. However, if not effectively monitored and managed, urbanization is likely to have a negative impact on poverty reduction initiatives and advancement, food security, particularly on the vulnerable including youth and women.

4. GENDER AND LAND

Rwanda is known as one of the most progressive states in Africa in terms of gender equality and women’s rights. After the 1994 genocide against the Tutsi, the current government of the Rwanda Patriotic Front (RPF) prudently decided to make this a priority during the rebuilding process by

⁶ 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. Rwanda, a Case Study edited by Annie Kairaba & James D. Simons.



establishing laws that protect the rights of women and emphasize the importance of gender equality in social and economic development. Rwanda National Constitution of 2003 (amended in 2015), the 2004 National Land Policy, and Law N° 43/2013 of 16/06/2013 governing land in Rwanda, which guarantees equal rights regarding land access, ownership, and utilization, are key legal and policy frameworks that guarantees and confirms the high level political commitment to gender equality in the country.

Rwanda was the among the first countries to enact a law that provides for equal inheritance rights for both the girl and boy child, law N° 22/99 of 12/11/1999, that institute matrimonial regimes, liberalities and successions. However, because of the patriarchal tendencies, some authors argue that *“Some men believe that the law is unjust, and will allow women to benefit from land from two sources: their parents and their husbands”* (Musahara, 2006). Some studies also claim that this provision has been a source of recently increasing land disputes, especially intra-family⁷ disputes, given the land scarcity and increased market combined with land rights increased awareness level for women after land registration (RISD, 2014).

Until the implementation of the LTRP, women’s property rights and land ownership was not recognized, nor guaranteed by the state, this was mainly through their male husband or brother (RISD & Jennie Burnet, 2003). Yet, in post-genocide, women have been forced to assume new roles as the house heads, as either widows or orphans as genocide mainly targeted men more than women. In post-genocide Rwanda, women are empowered to claim land rights on their own behalf and that of their children or siblings as the family heads for the survivors.

Official statistics show that women account for 53% of the current population in Rwanda (10,762,085), and that more than a quarter (27.7%) of all Rwandan households are headed by women (GoR 2012). There are also more women (81.9%) than men (61.3%) who are agricultural and fishery workers. These figures underscore the crucial role women play in economic development considering the fact that agriculture is the primary industry in Rwanda. The LTRP is not just concerned with the titling process, but is explicit in its intention to also transform women’s access to land. Women now have the right to own land at 100% individually or at 50%, in case of official marriage, as equal shareholders with their husbands. Under LRTRP 10.3 million parcels of land were demarcated between 2009 and 2013, with 81% of land registered owned jointly by men and women; 11% owned by women only; 6% by men and 2% by non-individualized institutions. (LTRP Review, 2014).

⁷ Land related disputes that occur between family members or relatives.



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However, gender gaps do remain in legal frameworks. For example, in line with the national constitution of 2003 (amended 2015), the current written legal framework in Rwanda only recognizes women's rights of officially married women. Women in informal marriage, no matter for how stable and for how long, there are not recognized. Unlike the customary framework, these laws do not recognize property rights of women in unofficial or polygamous partnerships with men (RISD 2013). Since these relations existed before the recent legal frameworks (land policy 2004, land law 2013 & LTRP) and continue to exist because of cultural influence, the situation impacts on the increase of family disputes. Despite the legal framework that provides for equality, women's rights and decision-making power are severely hindered by land scarcity and the pervasive patriarchal structures that often dictate land ownership on the ground.

5. RISD'S CONTRIBUTION (CIVIL SOCIETY – NATIONAL NGO) IN LTRP

RISD's Vision: A world, in which poor people have equitable access to, and control over their natural resources for sustainable development. **Mission:** RISD will contribute to sustainable development for poor people by advocating for equitable access to and use of land, through action research, networking and empowerment of the grassroots.

The main driving interest behind RISD's land disputes intervention comes from the understanding that the majority of Rwandans (60%) own 0.5 ha, yet this is the source of livelihood for majority rural (70%) and it is upon which they hope to get out of poverty (Musahara 2006, LandNet Rwanda 2003; World Bank 2011) and, as stated in Moore, that "Access to land is an issue of food security" (Moore J.B, 2009).

RISD first engaged in the area of land and disputes in Rwanda in 1999, when a contentious issue was identified between government and some donors regarding the divergent understanding of the Umudugudu (resettlement program) introduced by government to address the issue of land scarcity and forward looking to urbanization strategies, as provided for in Arusha Accords. Findings pointed on the lack of land legal framework that clearly guided the land users, as observed in Pottier:

"Before the war and genocide many aspects of land ownership were not regulated by statute. Where regulations did exist, there was confusion either because of the provisional character of the law or because of non-implementation" (Pottier 1997:5).



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As an intervention to this dispute between donors and government, in 1999, RISD in partnership with Oxfam launched a rapid study on ‘Land Use and Villagisation (Umudugudu)’. Key result from this study was in three-fold: a) Umudugudu program is welcomed by the affected people (population), but the challenge is implementation in particular on the part of lack of compensation provisions for people whose land is used for Umudugudu; b) The settlement scheme was being implemented with no legal framework to guide the process: no land policy and land law existed; c) Government was embarking on establishing a land law before a land policy. With these findings, the meeting recommended that, the development of the land law should be put on hold, and embark on the development of the policy instead which should be the basis for the land law. This was the beginning of RISD’s engagement in the land reform process. The study created confidence for open partnership between the government and civil society, unlike the uncertainties noticed during the negotiation of the study clearance from government institutions. For example, ahead of the study, the then Minister of Lands had warned that, ‘...the study to analyse the Umudugudu program can be cleared as long as the study cannot touch on land...’. Definitely, for clearing purposes, ‘RISD said yes to honourable minister’ but it was not going to be possible to talk about villagisation without talking about land, as villages are established on land...but at the end of the study, all parties were happy as RISD’s approach is dialogue, engagement, participation and network, and NOT ABOUT naming and shaming. This first study was funded by the Embassy of Sweden in Kigali, Rwanda.

In the same year, because of the global trend of land policy discussions on how to make implementation a more inclusive and open process, DFID launched the LandNet program at the Africa Regional level. Given the position of RISD as the civil society taking a lead in land sector, was identified lead LandNet in Rwanda, to be known as LandNet Rwanda Chapter⁸, which until today exists. Since then, under the leadership of RISD, LandNet Rwanda chapter has played an important role in influencing the government for pro-poor land related legal framework.

RISD’s engagement and strategic options around land continuously evolve, is not static same as community priorities that depend on land use priority. RISD being a policy research and advocacy organization, its influence is deep rooted in the action research that link the organization with the community. In 2000 – 2005, RISD worked in one District, one Sector (Mugina; Gitarama district (now Kamonyi; Mugina Sector). During this period, the focus was mainly on understanding the community needs for inclusion in the land policy and land law and to deepen the understanding of the

⁸ LandNet Rwanda is part of the Africa wide network of civil society with 35 members in Rwanda that engage in land policy issues to influence the government on pro-poor land policies



Umudugudu (villagisation) settlement program. In 2006 - 2010, the organization introduced a long journey project known as ‘Securing Land Rights Program (SLRP)’, which was to become the organization’s long-term land program, till to-date. The SLRP is intended ***“To contribute to the effectiveness and inclusiveness of the Rwanda Land Reform implementation process for Poverty Reduction and Sustainable Peace as a basis for Food Security of Rwandans who depend on land for their livelihood”***.

The main purpose of the SLRP is to support the effectiveness of the land reform implementation process, by monitoring the land related disputes and their trend during the LTRP implementation, as a way of contributing to reduction of backlog. RISD accompanied the LTRP pilot phase in 2008 – 2009, with specific attention on the pending and new disputes that come about during the process. Indeed, the pilot phase in 4 districts revealed tendency of more land related disputes in numbers during the LTRP implementation. It is from this understanding that RISD has embarking on accompanying the implementation of LTRP by strengthening monitoring tools for land disputes and that of institutions responsible for managing disputes, in particular Abunzi who have a formal responsibility of managing community disputes through mediation. Todate, RISD is working in 11 districts, strategically spread in all 5 Provinces of Rwanda: Gasabo, Nyarugenge and Kicukiro (City of Kigali - CoK); Kamonyi, Muhanga and Nyaruguru (Southern Province); Musanze and Gakenke (Northern Province); Rubavu and Karongi (Western Province); and Kirehe in (Eastern Province). The program covers a total of 144 Sectors and 747 cells.

Given that, the trend of land related disputes continue to change, influenced by different variables including, the level of awareness on the rights, the market, and land use, this is why RISD strategy in managing disputes, is that of continuous monitoring the trend through gathering real data for timely analysis and policy information. It is with this search for effective mechanism, that RISD identified Abunzi as a key institution to target for capacity building and partnership since over 90% of issues that reach Abunzi are land related. Yet, although most of land related issues are legal in nature, Abunzi are not legal, as discussed in the next section. The effectiveness of the Abunzi in community disputes mediation is what makes the ‘Home-Grown Abunzi Mediation Process unique’. RISD trained Abunzi on how to record and analyze claims for effective mediation and also provided on-job and continuous training in Mediation skills. In the same line, in 2016 RISD developed an ICT application to improve on data, both in terms of quality and timeliness (chances for data manipulation



is minimized). The application specifically targets the data management of Abunzi and ⁹Community Disputes Monitoring Focal Persons, although it also generally supports RISD's research and data management. The ICT driven tool is also a motivation to the voluntary Abunzi to be part of the country's ICT driven initiatives. Part of the ICT application is the Toll Free Line 1516 for legal aid support.

Some community testimonies in appreciation of Abunzi support in mediation:

“I do mediation very well for our Christians whether those related to land or others, even though I am not an elected Umwunzi.....what is most important is trust, honesty, interest and paying attention to the people and the details of the issues.”¹⁰

This is the same process described by a Sector Executive Secretary and a District Good Governance Officer in both Musanze and Kamonyi. Both stressed their belief in the following statement:

“Mediation at the grassroots is the answer to reducing land related cases and most of other disputes in families and neighbours, because disputes are resolved with evidence and witnesses and the process is faster, than going to court which takes a long time.”¹¹

6. MONITORING NATURE AND TREND OF LAND DISPUTES DURING LTRP

RISD has programmatic monitored and documented trend of land related disputes fore the periods, 2010-2014; 2016-2018. The first set of 2010-2014, data was managed manually. 2016-2018, data was managed through RISD-ICT4D.

From the data that was gathered in the first set 2010-2014: Data was monitored in 10 districts through Abunzi records and a total of 6,767 land related disputes were identified, majority of cases related to: inheritance at 21%, followed by land transactions at 15%, while 59% of disputes were reported by men and 41% reported by women. It is important mentioned that, although higher numbers were reported by men, on further analysis, RISD learned that most disputes concerned women, but because culturally, women have stigma of talking publically, men report disputes on their behalf. In some

⁹ Community Disputes Monitoring Focal Persons are based at the Sector level and are identified by communities in coordination with the Sector Officials

¹⁰ Priest in Musanze, 2014

¹¹ Executive Secretary and Good Governance Officer, Musanze District, 2014.



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cases, data showed that, even young boys who are neighbors of concerned women, would report for them on the toll free line. This would mean that the entered record will indicate a claim from a boy, when in reality it's a woman's claim. In this first period of monitoring, boundary related disputes were almost at ZERO as an impact of regularizing all land. Most disputes related either to inheritance or land transactions happening during land registration process.

In 2016 RISD started using RISD-ICT4D, and a total of 5,024 disputes were identified in 11 districts. The trend of disputes started changing, where boundary related disputes starting appearing, and even higher than other nature of disputes. by the end of the year the trend of disputes showed this status: Boundary related at 39%, Family related at 20%, Inheritance related at 14%. Female reported cases also became higher than those of men at 58% for women at at 42% those reported by men. Although there is a need for further research, it is assumed that, number of disputes reported by women became higher than those reported by men, because of the awareness level.

In 2017 a total of 3,558 disputes were recorded from 11 districts. The total disputes reported, were considerably low, compared to two previous periods. Although there is a need for further research/assessment, it is assumed that, the decrease of disputes is due to two main reasons, the stabilization of the LTRP combined with awareness level. The trend of disputes showed the following status: Boundary remained the highest at 43% and Inheritance at 17% where in terms of gender, male reported more disputes at 54% while women at 46%.

In 2018 a total of 1,562 total disputes were reported, and boundary related disputes remained higher at 38% while a new nature of dispute was identified, the land transactions at 30%. Inheritance remained one of the common disputes at 20%. Very surprisingly, the number of women who reported went very low at 20%, while that men went very high at 80%. The assumed explanation of the 2018 disputes trend is that, the nature of disputes are becoming more market oriented including sales and secondary registration. The reason for total number of disputes lowering; the boundary disputes remaining higher and the trend of transactions also evolves. The explanation of the trend especially as regards the gender gap in reporting disputes, as it is men who engage more in land transactions and market than women. The hypothesis is that, as more land will adjust to the regularized owners, and fully registered, family related disputes will reduce, market and urbanization related disputes may surface more.

Despite its ambitious aims and holistic approach to land tenure regularization, the LTRP program did not have an internal component to address the rising number of land-related disputes. (Kairaba and Simmons 2010). However, the hypothesis, is that, the increase of disputes during the LTRP



implementation, is a positive indicator impact for the effectiveness of the LTRP in terms of rights awareness, but requires an immediate intervention to manage the disputes as they surface. This is where civil society like RISD has made significant a contribution. Officials responsible for the implementation of LTRP note that, **'if LTRP was to be redesigned, dispute management component would be key'**.

7. UNDERSTANDING THE BOUNDARY RELATED DISPUTES AFTER THE LTRP

Although various nature of disputes are identified through RISD data, for the purpose of this paper and in discussion of the title of this paper 'Rwanda land registration is complete what next'. The boundary related dispute is singled out for discussion, as an example of disputes that come about as a result of the LTRP implementation, with some recommendations.

Implementation of Land Use plan and Master plan combined with urbanization and the need to upgrade the informal settlements, in the presence of multiple stakeholders with varying interests, is the most challenging components of the land reform implementation and related disputes.

One of the issue discussed here, that was revealed through the disputes monitoring data, is the issue of boundary related disputes, which by end of 2014 was not picked, until the end of regularizing land and the start of the transactions (secondary registration). The analysis is based on data generated by RISD during 2010-2013 and 2016-2018.

RISD's report of 2014 that covered the data of 2010-2013 indicated almost Zero boundary land related disputes. However, the report covering the period 2016-2018, revealed increase of boundary land related disputes. Analysis shows that, the contrast of data in two periods is related to land use and land transaction. The initial period concerned with only identification of ownership, ie. who should appear on the lease certificate as the rightful owner of the land. While data from second period is mainly concerned with secondary transaction ie. transfer of ownership from the owner to and ¹²investor.

7.1 STATEMENT OF BACKGROUND

Unlike other property, land is unmovable. This fact in itself makes boundaries a very important physical and psychological element to demarcate one's property and protect it from being encroached. Since boundaries create and define the territorial space in which people live or which people own, they also determine the area of influence that one can have and impact directly on the lives of the

¹² In this case, investor can be local or foreign. Almost 90% are local.



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people. Boundaries, in history, are frequently associated with political, social or emotional tension arising from the meanings that people have attached to them as well as the impact they have on material conditions.

Rwanda Initiative for Sustainable Development (RISD) has sampled data during 2010-2013 and 2016-2017 from 8,582 respondents to monitor land related disputes as a support to the LTRP. The analysis of data that was generated suggests that disputes around plot boundaries are a component in the land reform implementation framework that has not yet been resolved for complete clarity. Their occurrence of all disputes is 28% of all disputes recorded and analyzed by RISD.

The analysis of data generated by RISD through consultation of affected persons allows a clustering of such types of disputes that arise and relate to the boundary determination of plots. Interpretative approach to classify the land boundary related disputes is used.

7.2 DISPUTE ABOUT ACCURATE BOUNDARIES (LAWFUL VS. UNLAWFUL POSSESSION OF LAND)

The larger cluster of disputes relating to plot boundaries concerns general disagreement about boundaries, whether or not a plot has provable delineation. The dispute is usually between neighbors and mainly based at the time on secondary transaction (after the LTRP). Boundary confirmation becomes necessary when the owner intends to do something with the plot, such as exploit, develop, otherwise alter or transfer. Boundary may be brought to Abunzi and even court.

Whereas boundaries were originally physical and the visible elements such as fences, hedges, a river, stones, marshes defined them, the possession or feeling of the same may stand out stronger as evidence for ownership. For the creation of the modern cadastre, land surveyors are engaged in this process, and the surveyed boundaries are more precise and formal resulting from a process of placing an exact virtual line on the ground. It is this step of agreeing on the exact boundary in the last step required as a result of land reform, where the dispute surfaces.

7.3 TECHNICAL AND PROCEDURAL FACTORS

While the LTRP was able to adjudicate a large number of plots to claimants in a record time, the process may have compromised the accuracy of boundary information. It seems that, the inaccuracy during registration process was a decision taken knowingly and with a good intention. However, no



provision had unfortunately been made for such foreseeable time, when accuracy would become demanded.

It is here assumed that a large portion of disputes arise during surveying, when preparing for valuation and transfer. After this process of establishing accuracy, there may be no more boundary disputes for the particular cases, which also allows for the assumption that boundary disputes will eventually decline and phase out. However, this question should be further researched and the hypothesis tested.

7.4 CULTURAL FACTORS

Historically, a cadastral system is not part of the local culture. The introduction of the same with the Land Reform was therefore likely to be accompanied by socio-legal challenges, and consequently an interrogation of whether its introduction was sufficiently explained to citizens.

7.5 TOOLS TO RESOLVING BOUNDARY RELATED DISPUTES

Looking at the causes and nature of disputes discussed, RISD offers some suggestions to either prevent boundary disputes or to make it easier to resolve boundary- related disputes:

- (1) A subsidizing the surveying costs should be considered as an incentive to have land registered. This calls for professional advice and engagement of land surveyors and the use of equipment needed for accurate surveying, which poses a financial challenge besides the social;
- (2) The dispute mediation and resolution mechanism should be promoted and financially budgeted for. Moreover, the follow-up mechanisms on disputes should be treated as extremely important component of the program and included in the intervention and continuous monitoring of disputes. This could go hand in hand with offering incentives to citizens who are proactive in dispute resolution processes, to reduce backlogs both at the local leader's levels and the Abunzi;
- (3) As a strategy, for deeper analysis of the boundary related disputes, combining RISD's tools with the GIS tools of UR that provides the mapping facility, is a potential approach to minimizing the escalation of disputes related to boundaries. This will apply to both rural and urban land and to both agriculture and residential land.
- (4) In effort to deepen the understanding of the subject, it would be good to assess more on how informal transactions are monitored and entered in the formal system.



8. ABUNZI (JUSTICE AT THE GRASSROOTS)

After the 1994 genocide against the Tutsis, the justice sector faced one of the biggest challenges in the country: the high number of genocide-related crimes was beyond court capacity, yet, there was an urgent need to rebuild the nation through national reconciliation. It is in search of getting out of this dilemma, that the government turned to the plausibility of using ‘traditional methods of justice’.

Traditionally, family and neighbor’s disputes were resolved through ‘Gacaca’ (justice with a social face). There were two other main drivers for setting up Gacaca courts: (1) to end impunity by conducting public trials and judgements before the families and neighbors; and (2) to demonstrate the role of the community in justice system or ‘Community Justice’.

Hence, drawing from lessons learned from recent Gacaca experience, the Government introduced the Abunzi (Mediation) Committee as mandated by the Organic Law No. 17/2004 of 20/06/2004, modified under Organic Law No. 02/2015/OL. of 16/07/. Like Gacaca members, Abunzi Committee is elected from within their communities to serve the people who elected them. Abunzi Committee is under the Ministry of Justice, so is not part of the local leadership.

Between 2012 – 2014, RISD undertook a study to monitor land related disputes in 10 districts in five sectors of each district: Gasabo, Nyarugenge and Kicukiro (City of Kigali - CoK); Kamonyi, Muhanga and Nyaruguru (Southern Province); Musanze (Northern Province); Rubavu and Karongi (Western Province); and Kirehe in (Eastern Province). The aim was to use the sectors as pilot study on the disputes that come about after the land registration through LTRP, and also to understand existing mechanism for managing land related disputes and to devise new options, where necessary. Over a period of 16 months, Abunzi received a total of 6,767 cases: out of these 5,404 were resolved through mediation; 1,184 were sent to court, and only 179 remained pending for further investigation. The effectiveness of Abunzi, was supported by strengthening their capacity both in terms of materials and imparting them with technical mediation skills. Although Abunzi are very committed and motivation in their voluntary mediation role, from RISD’s study, it was concluded that Abunzi need to be accompanied with continuous performance monitoring and on-job training in mediation and data management.

RISD also conducted a study in two districts of Musanze in Kamonyi to identify institutions responsible for land issues mediation and rank them in terms of community appreciation. Abunzi were ranked higher than on all in the two districts, as shown in Figures 1 & 2 below. Other institutions were



also identified as possible mediators, viz.: local government institutions, family and neighbors, civil society and churches, and MAJ¹³.

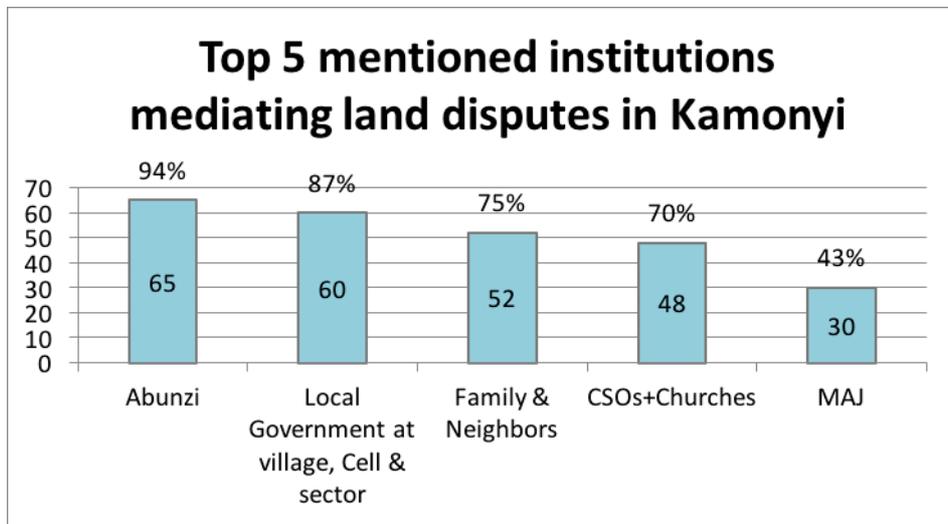


Figure 1: Kamonyi District Ranking of Mediation Institutions.

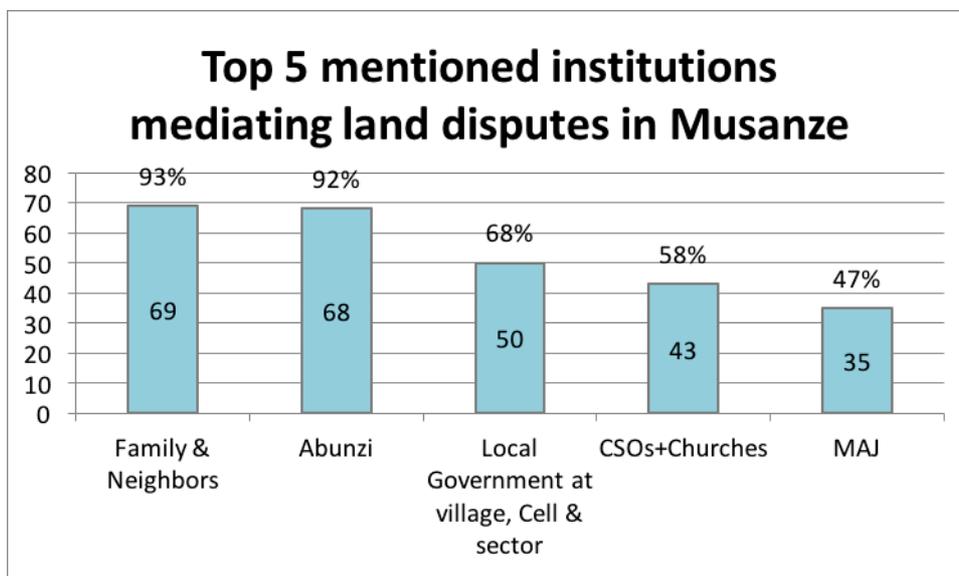


Figure 2: Musanze District: Ranking of Mediation Institutions.

¹³ MAJ are lawyers that represent the Ministry of Justice at the district level. They are ranked the least important in mediation because the level is viewed as just support to go to court. Although this is not the case, as they support Abunzi on legal guidance since Abunzi are not lawyers. MAJ is put in place intentionally by the Ministry of Justice to deal with legal technical issues in support of Abunzi. They have even been allowed to represent community members in court where necessary. But because lawyers are always viewed in the eyes of court, this is why MAJ is ranked lowest by community members in terms of mediation support.



9. CHALLENGES, LESSON LEARNED

9.1 CHALLENGES

The density and continuous growth of Rwanda population does not equally match with the small land of the country. That mismatch between available land and the demand for agriculture and farming in rural area, and the one of lack of descent housing and speed growth of population in urban zone, has great implications to the life quality of people, increases poverty, generates land disputes, undermine peace and security, and delays the overall development of the country.

Although land related disputes are the highest, at 90%, as seen through out the paper, moreover not a recent case, but for decades, although with different faces, very minimal resources is invested in the disputes management initiatives. An NGO like RISD the only one that has committed to monitoring land related disputes, and support local institutions to manage the disputes, should be government funded with some % of justice and land budget. Abunzi should also be better funded for logistical support, although they offer their services on voluntary basis. Such an activity that contribute to the sustainable peace and poverty reduction, should not target external funding, but rather part of government budget. “Ikimuhana kanza invura ihise’, managing disputes should be owned by the Rwandans, so that the external funding can only contribute to locally committed initiatives, like that of Abunzi.

Although the government demonstrated high level commitment to open space to remain engaged with civil society. Relevant institutions have been challenged with the lack of human capacity for effective engagement. More often, technical staff under pressure for both delivery and learning from their part, lacked the capacity to engage and understand the importance of engaging civil society.

9.2 LESSONS LEARNED

Monitoring and timely management of land related disputes that come about during the LRTP is an important component of LRTP success. Dispute component and strategy should be part of the LRTP design, including budgeting for it. Effective management of land related disputes during the LRTP, requires high level of political commitment and transparency from all key actors involved. The component of land disputes management during LRTP is best achieved and sustained when managed



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by an agency outside government, as it involves monitoring and evaluation of work done by government or consultants on behalf of the government, that request a ‘watch-dog’ type of an eye. In case of Rwanda, it was successful because the activity became a responsibility of RISD, the civil society, with reputable engagement both at the local and central levels.

Another critical lesson learned from Rwanda experience is that smooth partnership between government and civil society is key. RISD invested a lot time and strategies in maintaining a good relationship with government, to avoid the confrontational situational characterized land reform globally. Rwanda presented an open space engagement in the process, only that at times the limited capacity within the relevant ministries affected the continuation of open process. Whatever the challenges and weakness identified in the Rwanda Land Reform Process, success far out weight the weakness. Rwanda’s experience can add a lot of value to successful land reform experiences for replication, especially in Africa.

Last but not least, experience gained from the LTRP process, especially the land registration process, should be replicated in Rwanda in the next steps of the land reform. As the title of this paper states that, **‘Rwanda land registration is complete – now what? the view of an NGO’**. It is the view of RISD that, participatory and open engagement process witnessed in first phase of the Rwanda land reform, the registration process, should be replicated in the next levels. In particular, as Rwanda moves into the national urbanization process, considering the secondary cities and the national urbanization target at 40% by 2030, the inclusive process should be applied in this rather more challenging phase, with a potential to trigger more community disputes if not managed the process well.

As part of urbanization, government has a big challenge ahead of reducing the informal housing and slums through upgrading strategies and programs, including provision of the badly needed low cost houses for a big population in need of affordable houses. The biggest challenge is the ability to strike a balance to satisfy the interests of all stakeholders, considering that, the private sector targeted to construct the affordable houses, and not willing to compromise their targeted high financial interest for the poor. Like else where, private sector is targeting doing high cost business in real estate projects, which the opposite of the government and majority population interest of affordable houses. Such competing interests is already bringing about disputes between land owners and investors as given the land scarcity situation in the country, the government doesn’t have exclusive reserved land for investors, other than linking to land owners. Learning from the land registration experience,



government should strengthen the dispute management framework to confront potential disputes during the urbanization and affordable houses projects implementation.

10. CONCLUSION

Rwanda's home-grown innovation of "*people centred justice – Abunzi Committee*" has proved instrumental in the national reconciliation of Rwanda after the 1994 genocide of the Tutsis. This conclusion part of the paper, attempts to summaries assumptions and hypothesis of the question raised by the paper, "**Rwanda land registration is complete – now what? the view of an NGO**". In the absence of land dispute management framework to accompany the LTRP, Abunzi committee in collaboration with local leaders and civil society, have played an important part. The tripartite relations between government, civil society, and donors demonstrated a potential instrument to the success of LTRP. However, for the impact achievement and sustainability to be realized, there is a need for more commitments from the part of the government, and that of the donors, to support the local and civil society contributions to land reform. Sustaining the dispute management process, requires specific financial budget that is not even small in nature, given the scope. The strength of RISD's contribution, was her ability to combine action research for real data, and advocacy in influencing policy makers. However, in the case of Rwanda, although good successes have been registered, land related disputes remain a challenge mainly because of no or very limited funding in support of land related dispute management initiatives. As replication of Rwanda lessons is considered, these two elements should be be priorities under considerations: making the land disputes management a priority and well financing the component to be considered. Monitoring the trend of land related disputes is a critical part of land disputes management framework as disputes that come about during the land reform process are not static, they change according to different levels of the land reform implementation process. The case study of 'Boundary related disputes' discussed above, presents a good experience of the importance of monitoring the trend of land related disputes during the implementation of land reform to avoid any possible escalation, as disputes do not remain static and it is hard to put in place a uniform strategy.

Effective community engagement is key. Since these are the land owners, and the ones with answers on how to resolve land related disputes and they understand better what and how to invest in their land. Good lessons learned from the LTRP implementation process, should be applied in the urbanization process, and addressing the problem of competing interests in the constructions of



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affordable houses that are badly needed by majority in the informal settlement that remain a threat to the lives of residents especially women and children who spent their time health threat environment.



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FIGURES

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