



ABUNZI CAPACITY ASSESSMENT

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ACCRONYMS AND ABBREVIATIONS

ADL:	Association pour la Defense des Droits des Personnes et Libertes Publiques.
ADR:	Alternative Dispute Resolution
AJEPRODHO:	Association de la Jeunesse pour la Promotion des Droit de L'Homme et le Developpement
ARDHO:	Association Rwandaise pour la Défense des Droits de l'Homme
ILPD:	Institute of Legal Practice and Development
JRLOS:	Justice, Reconciliation, Law and Order Sector
LAF:	Legal Aid Forum
MAJ:	Maison d'Acces a la Justice
MINIJUST:	Ministry of Justice
NGO:	Non-Governmental Organization
RCN:	Reseau des Citoyens
RGB:	Rwanda Governance Board
RISD:	Rwanda Initiative for Sustainable Development
TI:	Transparency International

EXECUTIVE SUMMARY

I. Background and Objectives

Since the Abunzi system became effective in 2006, local mediation committees have been operating with little support and coordination. Limited information existed about their needs in terms of capacity and materials. A survey by Transparency International Rwanda on the performance of Abunzi and reports of some NGOs that conducted Abunzi trainings highlighted some of these needs. However, with the creation of the Abunzi Secretariat in 2010, its mandate to coordinate and support the Abunzi called for more comprehensive understanding of the capacity challenges Abunzi face and recommendations for addressing those in a holistic manner. This assessment sought to respond to this need by:

- Assessing the extent that the Abunzi are: 1) drawing on Rwandan laws and regulations in resolving land disputes; 2) exercising mediation to resolve disputes as mandated by law; 3) applying legal reasoning in framing their decisions, 4) recording their decisions in a manner that is logical and coherent; 5) effectively communicating their decisions to disputing parties; and 6) able to enforce their decisions;
- Establishing enabling factors that contribute to Abunzi effectively carrying out their dispute resolution role, particularly as it relates to land; and
- Identifying constraints that are hindering the ability of Abunzi to effectively exercise their mission.

In light of these challenges, the assessment proposes a strategy for comprehensively addressing the current and future capacity building needs of Abunzi and the potential roles of different institutions in supporting this strategy.

II. Approach

The assessment combined a desk review and analysis of pertinent literature and documents together with administration of questionnaires, semi-structured interviews, focus group discussions and observation. Interviews gathered information from government officials both at the central and local levels, technical staff of NGOs and institutions involved in capacity building of Abunzi. A questionnaire was distributed to organizations reported to have engaged in capacity building efforts targeting the Abunzi in order to map what capacity building had been done, where, how and by which organization. This was followed by a meeting of those same partners organized by the Abunzi Secretariat to share this information and elaborate more on their work. Field work involved focus group discussions with members of the Abunzi at the cell

and sector levels as well as interviews with cell and sector Executive Secretaries, staff of the *Maison d'Access a la Justice* (MAJ), judges registrars of the primary courts, and citizens involved in Abunzi cases. The Assessment team also observed a number of Abunzi proceedings and collected and analyzed minutes of Abunzi proceedings, registries and reports.

III. Assessment Findings

The assessment findings reveal that Abunzi have the advantage of being more affordable, accessible, participatory, and restorative compared to the ordinary court system. They are also reported to process cases faster than the judiciary. However, Abunzi also face numerous challenges resulting from: 1) the Abunzi organic law; 2) insufficient knowledge, skills and training; and 3) lack of materials and infrastructure. Among these are:

- The fact that the Organic Law on Abunzi provides that Abunzi cannot mediate cases in which one of the parties resides outside their jurisdiction, a common occurrence with land disputes and especially affecting women who marry outside their cell when it comes to disputes with their members of their natal family;
- Engagement of multiple administrative officials and institutions in mediating disputes, contributing to a situation of forum shopping and sometimes issuing of competing decisions;
- Lack of knowledge and/or poor application of formal laws and regulations by mediators in situations where they are empowered to render decisions that must comply with formal law;
- Failure to follow procedures for Abunzi prescribed the Organic Law on Abunzi, for example, Abunzi committees not allowing parties to select their own mediators;
- Poor knowledge and/or application of mediation to resolve disputes, with Abunzi reverting instead to adjudicating disputes as judges in a court of law would;
- Biases against laws protecting women's rights, e.g. succession and inheritance;
- Deficiencies in the recording of Abunzi decisions, effectively communicating those to the parties and effectively enforcing those decisions; and

- Budgetary support to acquire space for conducting mediation and essential stationery materials (pens, papers, forms, etc.) and to cover expenses related to their field transportation, meals and incidentals on the day of hearing.

In terms of mapping the Abunzi capacity building efforts of different organizations, the assessment revealed that efforts are scattered and tend to be limited in their coverage.

1.0 INTRODUCTION

1.1. BACKGROUND

To promote universal access to justice, Rwanda adopted in 2006 the Organic Law No. 31/2006 establishing the Organization, Jurisdiction, Competence and Functioning of the Mediation Committee-Abunzi, hereafter, Abunzi organic law.¹ This organic law was amended in 2010 by the Organic Law No 02/2010. Under the 2006 law, Abunzi were organized only at the cell level. With the 2010 amendments, however, another layer of Abunzi was included at the sector level to serve as the appellate for cases from the Abunzi at the cell level. The same amendment created an Abunzi Secretariat in charge of coordinating activities of Abunzi. Before the creation of this secretariat, Abunzi were operating with very little coordination. Limited information existed about their needs in terms of capacity and materials other than anecdotal information reported by a few NGOs. The government and NGOs organized trainings for Abunzi but in the absence of a comprehensive assessment of their capacity needs, these trainings have often been based on assumptions of their needs. No assessment of infrastructure and material needs of mediation committees had been conducted.

Although studies have been undertaken on citizen perceptions of Abunzi performance, there has remained a need for a comprehensive assessment to identify: 1) the knowledge, abilities and skills Abunzi need in order to fulfill their mandate, particularly resolution of conflicts over land-related matters that comprise the majority of the cases they handle, and 2) what type of capacity building interventions are best poised to enable them to acquire these knowledge, abilities and skills. Likewise, there has yet to be a systematic effort to determine the landscape of ongoing capacity building efforts targeting the Abunzi to enable the Government of Rwanda to streamline these efforts

¹ The first law creating mediation committees (Abunzi) was adopted in 2004 (Organic Law no 17/2004 of 20/06/2004). The Abunzi process was, however, discontinued in 2005 and 2006 as the law was being revised. The new law was launched in August 2006, and proceedings were launched in August 2006.

and ensure greater consistency of capacity building, better coverage and less duplication. This assessment responds to this need.

1.2 OBJECTIVE OF THE ASSESSMENT

The general objective of this assessment is to identify capacity constraints faced by Abunzi and guide future efforts to overcome these.

Specifically this Assessment aims to:

- Assess the extent the Abunzi are: 1) drawing on Rwandan laws and regulations in resolving land disputes; 2) exercising mediation to resolve disputes as mandated by law; 3) applying legal reasoning in framing their decisions, 4) recording their decisions in a manner that is logical and coherent; 5) effectively communicating their decisions to disputing parties; and 6) able to enforce their decisions;
- Establish enabling factors that contribute to Abunzi effectively carrying out their dispute resolution role, particularly as it relates to land;
- Identify constraints that are hindering the ability of Abunzi to effectively exercise their role, including the potential for Abunzi's current legal knowledge and mediation skills to constrain their performance;
- Consider the measures necessary to enable the Abunzi to adequately fulfill these roles and their mission overall, including measures for increasing their knowledge and skills;
- Identify past, existing and planned capacity building efforts targeting the Abunzi, pinpointing the institutions delivering the support, their geographic target, number of Abunzi trained, timing of the support, the capacity building approach undertaken, and the content of their training curricula.
- Propose a strategy for comprehensively addressing the current and future capacity building needs of Abunzi and the potential roles of different institutions in supporting this strategy.

1.3 METHODOLOGY

The assessment was led by a consultant, Professor Jean Marie Kamatali, a lawyer of Rwandan origin and former dean of the law school at the National University of Rwanda. He was assisted by two members of the LAND Project Staff, Christine Murekatete and Fidele Mutoni.

The research methodology combined a desk review and analysis, individual interviews, questionnaires, focus group discussions and observation.

A comprehensive review and analysis of pertinent literature and documents focused on laws, regulations and policies particularly those governing the Abunzi and those on land tenure in Rwanda; reports, studies and assessments conducted so far on the capacity and performance of Abunzi; materials used in training Abunzi; Abunzi activity reports, registries and evaluations; and decisions rendered by Abunzi at both the cell and sector levels.

In order to ensure completion of the assessment in the timeframe afforded to the consultant, interviews with government officials were confined to those most involved in capacity building of Abunzi, particularly the members of the Abunzi Coordination Secretariat, Maison d'Access a la Justice (MAJ) and the Institute of Legal Practice and Development (ILPD). Interviews with technical staff of non-governmental organizations and institutions engaged in designing and delivering capacity building measures targeting the Abunzi were also conducted in order to map the landscape of capacity building efforts, gain from their experience and reflections on Abunzi capacity building needs, and elicit their proposals for a comprehensive nationwide approach to Abunzi capacity building. Annex F contains the list of interviewees. We also utilized a questionnaire to gather this information from such organizations and held a meeting hosted by the Abunzi Secretariat during which organizations reported on the capacity building efforts targeting the Abunzi that they had engaged in (see Annex DT). The meeting also provided a venue to exchange ideas on the role of each partner in the implementation of the Abunzi activities and create a framework for a better coordination and follow up of these activities by the Abunzi Coordination Secretariat.

Field work consisted of visiting with members of the Abunzi at cell and sector level and also primary court judges at the district level. Due to time and resource constraints, we visited only one district in each of Rwanda's five provinces: Rulindo (Northern Province), Nyanza (Southern Province), Rwamagana (Eastern Province), Karongi (Western Province), and Kicukiro (City of Kigali). We sought to balance information gathered from cell and sector level Abunzi by consulting with three Abunzi committees at the cell level and two Abunzi committees at the sector level (see Table 1).

Table 1: Cell and Sector Abunzi committees visited

<i>District</i>	<i>Cell</i>	<i>Sector</i>
Kicukiro		Masaka
Karongi	Birambo	
Rulindo		Murambi
Nyanza	Butantsinda	
Rwamagana	Nyarusange	

In each district visited, we interviewed the president and the registrar of the primary court where the sector visited is located.² We also interviewed the MAJ in each of the visited districts. MAJ staff accompanied us during our other visits and interviews in their district. During the visit to the Abunzi of the sector of Masaka, we were accompanied by the Coordinator of the Abunzi Secretariat.

Information from Abunzi at the cell and sector levels was collected through group discussions and observations. Discussions focused on their understanding of laws, their application of mediation techniques, and their training and material needs. (Annex B) During these meetings, we collected copies of their decisions and reports, after which we photocopied and returned them. We also read their registries and other documents they use such as summons and files. We observed two sessions of Abunzi hearings, one in the cell of Butantsinda (district of Nyanza) and another in the sector of Murambi (district of Rulindo). We also interviewed parties whose disputes were mediated by the Abunzi, as well as citizens who attended Abunzi proceedings. Emphasis was put on gender balance in the selection of subjects for interviewing, while a number of our questions sought to assess gender issues in the Abunzi activities and needs.

² Although we did not visit the Abunzi in Musanze, we had the opportunity to visit the Muhoza Primary Court and meet the head of MAJ in Musanze.

2.0 OVERVIEW OF THE ABUNZI SYSTEM

2.1 NATURE AND ORGANIZATION OF ABUNZI

Mediation Committees, known as “Abunzi” in Kinyarwanda, are mandated by law to mediate minor civil and criminal cases. Parties are required to seek resolution of their disputes through the Abunzi prior to filing cases in the primary courts, which represent the first instance of the judiciary. Mediation Committees are established at the cell and sector, the lowest levels of the Rwandan local administration after the village. Sector-level Abunzi serve as appellate for cases originating from the cell-level Abunzi. Every Mediation Committee is made up of 12 members who are residents of the particular cell or sector they serve and are considered by their constituencies to be persons of integrity and skilled in mediation. They are elected for a renewable term of 5 years. Abunzi take an oath before entering their function, promising, among others, to uphold the constitution and other laws that safeguard the basic human rights and the interests of the Rwandan people, work for the consolidation of national unity, and to diligently fulfill the responsibilities entrusted to them. Each committee must be comprised of at least 30% women. Each mediation committee elects and is governed by a bureau comprised of a Chairperson and a Vice Chairperson. Activities of Mediation Committees are coordinated at the national level by a Secretariat established within the Ministry of Justice. This secretariat has a representative in each province, including Kigali City.

2.2 COMPETENCE OF ABUNZI

According to Article 8 of the Abunzi organic law, mediation committees are competent to examine any civil case relating to:

1. lands and other immovable assets whose value does not exceed three million Rwandan francs (Rwf 3,000,000);
2. cattle and other movable assets whose value does not exceed one million Rwandan Francs (Rwf 1,000,000);
3. breach of contractual obligations in case the subject matter does not exceed the value of one million Rwandan francs (Rwf 1,000,000), with the exception of central government, insurance and commercial contractual obligations;
4. Breach of employment obligations concluded between individuals if they have a value of less than one hundred thousand Rwandan francs (Rwf 100,000);
5. Family cases other than those related to civil status;

6. Successions when the matter at issue does not exceed three million Rwandan francs (Rwf 3,000,000).

Article 9 provides that in criminal matters, mediation committees are competent to examine cases based on following offences:

1. Removing or displacing land and plot boundaries;
2. any kind of destruction or damage to crops in any manner if the value of crops destroyed or damaged does not exceed three million Rwandan francs (Rwf 3, 000, 000);
3. Insults;
4. Defamation, except in cases where it is done by the media;
5. Stealing crops or standing crops where the value of such crops does not exceed three million Rwandan francs (Rwf 3,000, 000);
6. larceny where the value of the stolen good does not exceed three million Rwandan francs (Rwf 3,000,000);
7. concealment of goods stolen during larceny where the value of such goods does not exceed three million Rwandan francs (Rwf 3,000,000);
8. thefts or extortion committed by one spouse against the other, by a widower or a widow as regards assets which belonged to the deceased spouse, by descendants to the detriment of their ascendants, by ascendants to the detriment of their descendants or by allies at the same degree;
9. breach of trust in case the value of the subject matter does not exceed three million Rwandan francs (Rwf 3,000, 000);
10. discovering a movable asset belonging to another person or getting it unexpectedly and keep it or fraudulently giving it to a person other than the owner, where the value of such an asset does not exceed three million Rwandan francs (Rwf 3,000, 000);
11. killing or wounding without intent domestic or wild animals belonging to another person, where the value of such animals does not exceed three million Rwandan francs (Rwf 3,000, 000);
12. destroying or damaging without intent, assets belonging to another person where the value of such assets does not exceed three million Rwandan francs (Rwf 3,000,000);
13. Any type of assault to a person or intentionally throwing at him/her rubbish or any other thing of a dirtying nature without causing injury or physical harm.

The services of Mediators may only be sought only if the plaintiff and offender reside or are domiciled within the territorial jurisdiction of the Mediation Committee. For matters where one or both parties reside or domicile in separate jurisdictions, such claims must be submitted to competent courts. Mediation Committees are not also competent to receive complaints involving the State, State-owned structures or associations or companies with legal personality whether private or public.

2.3 SUBMISSION OF CASES AND HEARING

When disputing parties wish their cases to be heard by Abunzi, they must submit a request verbally or in writing to the Executive Secretary of the cell or sector. Cases being brought for the first time are submitted to the cell Executive Secretary; those being appealed are brought to the sector Executive Secretary. The Executive Secretary registers the case on the cause list held by the Mediation Committee and drafts a brief description of the case on a form that is submitted to the Mediation Committee. Once done, the committee may summon the parties and decide on the venue, day and time to hear the case. Mediators have to settle cases within one month of their being registered on the cause list.

On the day of appearance before the Abunzi, the parties must select three out of the 12 mediators to hear their case. Where parties fail to agree on mediators, each party choose one mediator, and the two chosen Mediators then choose the third one. Where parties agree on one mediator only, she/he then chooses the two others from within the Mediation Committee to assist her/him. Parties have no right to refuse a mediator or mediators chosen following this procedure. When the case under consideration involves a police officer or a soldier, the nearest commander of the police force or army may assist the seat of mediators in mediation.

When settling a case, mediators hear claims from each of the parties in conflict and from witnesses if any. They may seek advice from any person who can shed light on the matter. Parties are entitled to be assisted by an advocate, but the advocate cannot represent or plead on their behalf.

The mediation hearing is public, save for the hearing in camera (hearing in closed doors) decided on by mediators at their own initiative or upon request, following the nature of the case. Other members of the Mediation Committee that were not chosen to settle the matter may participate in any mediation session but without the right to decide on the case.

To settle the dispute submitted to them, mediators by law must first attempt to conciliate the two parties. In case of where conciliation, mediators are empowered to take decisions in accordance with Rwandan law and local customary practices, provided the latter are not contrary to the written law. In criminal matters, mediators are not allowed to pronounce penalties provided by penal law.

Cell level committee decisions may be appealed to Mediation Committee at the sector level. Decisions at the sector level are appealable before the Primary Court, but only if the appeal is submitted to the court within one month of the parties being notified of the Abunzi decision.

When cases are appealed, the Sector Mediation Committee or Primary Court may consider only those points on which the plaintiff has raised objections.

3.0 BENEFITS OF THE ABUNZI SYSTEM

Compared to ordinary courts, the Abunzi system has the advantage of being more **affordable, accessible, timely, participatory, restorative**, and has contributed to making justice in Rwanda **more effective**.

3.1 AFFORDABLE

A survey conducted by Transparency International Rwanda on behalf of the Rwanda Governance Board found that Mediation Committees are a cheaper form of justice compared to ordinary courts.³ Citizens who bring cases before the Abunzi are not required to pay court fees. With 44.9% of the Rwandan population below the poverty line,⁴ this implies that Abunzi enable greater economic access to justice. Second, because Abunzi committees are highly decentralized, citizens are saved from having to pay transportation or accommodation costs in order to plead their cases. Abunzi also represent cost-savings for the government because Abunzi are volunteers, and, unlike

³ Rwanda Governance Board, Survey on the Performance of Mediation Committees, conducted by Transparency International Rwanda Final Report, Kigali, Feb. 2012, p. 53. (hereafter, TI Rwanda Survey)

⁴World Bank, One million more out of poverty in Rwanda, <http://blogs.worldbank.org/african/one-million-more-out-of-poverty-in-rwanda>. Accessed on September 10th, 2012.

judges, do not receive salaries or expensive benefits. Moreover, Abunzi do not require sophisticated infrastructure and materials to conduct proceedings.

3.2 ACCESSIBLE

Rwanda is comprised of 14,842 villages, 2,148 cells (Utugari), 416 sectors (Imirenge), 30 districts (Uturere) and 4 provinces (Intara) and Kigali City.⁵ Considering that every cell and every sector in Rwanda has its own mediation committee made of 12 people, this means that there should be 2,564 mediation committees made of 30,768 individual Abunzi members.⁶ With a population estimated at 11,689,696,⁷ there is approximately one mediator per 379 individuals. Given that half of the Rwandan population is under 18 years old, this translates to an average of one mediator per 190 adults, a ratio that suggests notably good access to justice. If access is considered in terms of distance a person needs to travel to access a mediator, the numbers also look satisfactory. For example, the Northern Province has 89 sectors and 414 cells inhabited by 1.6 million people. The average cell in the Northern Province is 7.9 square kilometers.⁸ This means that citizens travel less than 5 kilometers to access the Abunzi. These numbers, which come in addition to the presence of the ordinary courts at district level, suggest that Abunzi have significantly contributed to making justice accessible to the majority of Rwandans.

3.3 PROCESS CASES IN A TIMELY MANNER

Transparency International Rwanda found that one of the key benefits of the Abunzi system was the reduction of time spent to settle cases with the average time being 11 days.⁹ This is less than half the time required by law, which requires settlement of cases within one month of being registered on the cause list.¹⁰ The law also stipulates that Abunzi decisions have to be written and available within 10 days of the decision being made.¹¹

Among the mediation committees visited by the study team, cases are reported to be settled on average in two or three sessions over two to three

⁵ See Commonwealth Local Government Forum, Local Government System in Rwanda, p. 161, available at <http://www.clgf.org.uk/userfiles/1/files/Rwanda.pdf>

⁶ According to the 2012-2013 Rwanda Budget, the number of Abunzi during this budgetary period was 30,066. See Ministry of Finance and Economic Planning, 2012-2013 Districts' Earmarked transfers Guidelines, September 2012, p.2, available at http://www.minecofin.gov.rw/webfm_send/2505

⁷ CIA, The World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/geos/rw.html>

⁸ See Northern Province website at <http://www.northernprovince.gov.rw/index.php?id=21> accessed on October 3rd, 2012.

⁹ TI Rwanda Survey, Supra note 2, p. 51.

¹⁰ Article 20, Organic Law No 02/2010.

¹¹ Article 22, Organic Law No. 02/2010.

weeks, and decisions are made available the same day they are made or the following day. Compared to the formal court system in Rwanda where cases may take several months to settle, this is a significant achievement.

3.4 EFFECTIVE

According to the Justice, Reconciliation, Law and Order Sector (JRLOS) data, the Abunzi system has reduced the number of cases going to the formal court system, thereby alleviating case backlog.¹² This was also observed by a study conducted by Search for Common Ground which concluded that Abunzi responsiveness to cases has resulted in fewer disputes and with those that arise handled more often at the local level.¹³ According to this same study, Abunzi have significantly contributed in assisting vulnerable groups and people with little means. Also the TI Rwanda survey showed that among a sample of 3549 respondents, 75.4% declared that the services rendered by Mediators Committees are overall effective and that public confidence in mediation committees is high (75.9%).

Their effectiveness is also illustrated in the number and quality of cases they handle: Of 863 cases received between September 2010 and September 2011 by cell mediation committees, only 39 ended up before the primary courts and of those, 22 were confirmed and 17 were reversed.¹⁴ These trends were largely confirmed by reports from three primary courts during our assessment, though our figures suggest a somewhat higher rate of appeal. In Muhoza Primary Court, judges informed us that from 2010 to 2012 only 30 % of Abunzi cases were appealed before the court. In Busasamana Primary Court, out of 340 decisions rendered by Abunzi, only 96 were appealed before the primary court. In Nyarugunga Primary Court, out of 35 decisions of Abunzi in 2012, 15 were appealed before the primary court.

There is little doubt that Abunzi have contributed to reducing the number of cases which otherwise would have been handled by the primary courts. Moreover, the fact that the majority of cases from Abunzi appealed to primary courts are confirmed (see Table 2) suggests that the quality of the outcomes

¹² Republic of Rwanda, Justice, Reconciliation, Law & Order Sector Strategic Plan, July 2013 to June 2018 (Draft)p. 25.(hereafter JRLOS)

¹³Search for Common Ground (SFCG), Project Funding from the European Commission and USAID, final report, December 2010. p. 16

¹⁴TI Rwanda Survey, supra note 3.

is largely good despite the fact that Abunzi have had little training in dispute resolution.

Table 2: Abunzi cases before primary courts

Primary court	Decisions appealed before the primary court	Decisions overturned by the court	Cases confirmed by the court	Cases related to land
Kigabiro (2010)	58	24	34	42
Nyarugunga (2012)	15	8	7	9
Busasamana (2012)	96	0	96	90
Gashali (Jan-Aug 2012)	102	0	102	88
Total	271	32	239	229

3.5 PARTICIPATORY

The Abunzi system embodies several democratic principles. Mediation Committee members are elected by the residents of the cells or sectors they serve. Disputing parties are the ones who select the mediators they want to handle their case. During a hearing, any person who can shed light on the matter before the Abunzi is allowed to present information.

3.6 RESTORATIVE

Unlike judges whose mandate is to adjudicate cases, Abunzi are mediators. Their duty is to assist parties to reach a consensual agreement on means to resolve a dispute. The focus on mediation has the potential to resolve conflicts and improve relationships, which the more formal court system is less suited to do.¹⁵ The restorative objective of Abunzi is also reflected in their lack of power to pronounce punitive sentences. Although their primary role is to serve as mediators, Abunzi are empowered to make legal determinations when they are unable to mediate a settlement between the parties.¹⁶

4.0 CHALLENGES OF ABUNZI COMMITTEES AND THEIR SECRETARIAT

¹⁵ JRLOS, supra note 12.

¹⁶ Article 21 Organic Law No 02/2010.

Challenges faced by Abunzi can be categorized into those related to the competence and procedure of the Abunzi system, those related to the capacity of Abunzi, and those related to lack of materials and infrastructure.

4.1. CHALLENGES RESULTING FROM THE LAW AND PROCEDURE ON ABUNZI

During our assessment, Article 10 of the Abunzi Organic Law was highlighted by Abunzi, primary courts presidents and citizens in general as the most challenging provision in this law. Paragraph 2 of this article provides that, “the Mediation Committee shall not be competent to examine matters where both parties do not reside or domicile in the jurisdiction where it operates. Such claims shall be submitted to competent organs.” This provision did not exist under the 2006 Abunzi Organic Law. It was introduced with the 2010 Amendment of the law to make sure that Abunzi mediate only individuals from their jurisdiction. This limitation has, however, negatively affected the two key objectives of the Abunzi system: reduce the primary courts’ case dockets and offer disputing parties the opportunity for mediation. Presidents of primary courts visited informed us that the majority of cases they have in their dockets are those that should have been handled by Abunzi, but because of changes introduced by Article 10 are brought before the court because parties are from different cells. The president of the Primary Court of Kigabiro in the District of Rwamagana informed us that this change contributed to a 70% increase in cases brought before the court since 2010. Once in court, such cases are adjudicated following the court procedure which is more adversarial, depriving parties of the restorative and conciliatory approaches offered by mediation committees.

The limitations of Article 10 have mainly impacted land cases. It is not uncommon that one family has a plot that extends in two or three bordering cells. Considering that the majority of land cases are about conflicts on intra-family matters (e.g. succession and inheritance) and plot boundaries, sending such cases before the court just because parties are from different cells suggests an unnecessary expenditure of resources by both the parties and the government. Article 10 also affects women, who, once married leave the cells where their parents or siblings reside or are domiciled. Article 83 of the Civil Code provides that a married woman has as domicile the domicile of her

husband. Cases of women engaging in disputes with their families over their right to inherit land therefore end up before the primary court instead of Abunzi committees solely because they do not reside or are not domiciled in the same cell as their parents or siblings. This can deprive women of the less costly and more participatory and restorative venue to seek justice that is offered by the Abunzi system.

The Abunzi Organic Law authorizes Executive Secretaries of cells or sectors to receive cases (Art. 5, 17), keep the minutes of Abunzi decisions (Art. 22) and issue copies of Abunzi decisions to the parties (Art.22). On the one hand, this seems justified given that executive secretaries are full time, paid government employees and therefore have more time available to perform these duties than volunteer Abunzi members. However, assigning these duties to the Executive Secretaries also has some limitations. During the assessment, we learned that a number of Executive Secretaries find this additional responsibility cumbersome given their multiple other responsibilities. In some sectors, Executive Secretaries have handed this responsibility to registrars in charge of birth, death and marriages or to Abunzi themselves. Also, some citizens prefer not to take their cases to the Executive Secretary because the latter sometimes tries to solve them or sends the applicant back to seek other mediation solutions such as “Ilyamukuru”¹⁷ or have their case heard by administrative forums such as “Inteko y’abaturage,”¹⁸ This makes sometimes Executive Secretaries stand in the way of a citizen, offering administrative solutions to issues for which parties may prefer a judiciary intervention. Sometimes citizens pursue the path proposed by the Executive Secretary because they are not aware of their rights or because they do not want to create conflict with a powerful authority they may need again in the future.

The involvement of administrative institutions in Abunzi activities comes not only from the Executive Secretaries. In most cases, it is the result of different layers of administrative and political recourse created by different laws and regulations to protect the interest of citizens. This includes the office of the Ombudsman, the services of the Assistant Attorney General in charge of Community Programs, Human Rights and Legal Aid, and the Services of the National Human Rights Commission, all of which are legally empowered to receive complaints from citizens and sometimes intervene in dispute resolution. During our assessment we learned about cases in which the Office

¹⁷“ Ilyamukuru” means “the elder’s word”. Although not formalized nationally, these are mostly councils of elders who informally conduct mediations in some communities

¹⁸ “inteko y’abaturage“ means the “peoples’ assembly”. This is usually a public meeting of citizens of a specific cell or sector that gather to receive instructions or information from administrative authorities and in which people can ask questions on their individual or community problems.

of the Ombudsman and Abunzi were handling the same cases and ended up issuing different decisions. While having multiple forums for dispute resolution can serve to enhance access to justice, it can also result in forum shopping whereby parties turn to multiple forums to seek the outcome most favorable to them, impeding resolution.

The fact that parties cannot refuse a mediator chosen for them can also present procedural challenges. Article 18 of the Abunzi Organic Law provides that, “Where parties fail to agree on Mediators, each party shall choose one Mediator, and the two so chosen Mediators shall choose the third one. Where parties agree on one Mediator, the latter shall choose the two (2) others from within the Mediation Committee to assist him / her. Parties shall not have the right to refuse a Mediator or Mediators chosen following this procedure”. As the survey of the Transparency International Rwanda concluded, denying parties the opportunity to object to mediators selected for them contradicts the principle of mediation that parties should be involved in selecting their mediators and goes against their constitutional right to a fair hearing.¹⁹

Finally, the fact the Abunzi Organic Law has made mediation mandatory and public rather than voluntary and confidential is likely to present a number of challenges on mediation techniques and outcomes. A number of studies in countries that have been using mediation long before Rwanda show that voluntary and confidential mediation presents more benefits and less challenges than public and mandatory mediation. For instance, a recent comparative history of mandatory versus voluntary mediation in Canada shows that settlement rates for mandatory mediations were barely above 40%, while for voluntary mediations, the rates typically ran between 70 and 75%.²⁰ The study’s author concludes that if mediation is forced upon unwilling parties, the process is more likely to lack legitimacy and fail.²¹ Another study cites confidentiality as one of the most powerful and attractive feature of mediation, particularly because it protects parties’ reputation and

¹⁹ TI survey, supra note 3.

²⁰ See Paul Jacobs, A Recent Comparative history of mandatory vs. voluntary mediation in Ontario, Canada, international Bar Association Mediation Newsletter, April 2005.

²¹ See Gary Smith, unwilling Actors: Why voluntary mediation works, and why mandatory mediation might not, Osgoode Hall Law Journal, Vol. 36, No. 4. P. 879

fosters compromise and creativity.²² The public nature of Abunzi proceedings may therefore inhibit their effectiveness in reconciling the parties.

In the Rwandan case, the lack of confidentiality may particularly have perverse outcomes when it comes to criminal matters. Article 21 of Abunzi organic law provides that “where Mediators have managed to conciliate the perpetrator of the offence and the victim, mediation shall put an end to prosecution.” This seems to suggest that if the parties fail to reach a mediated solution, the suspect may still be subject to prosecution. In the absence of confidentiality, the suspect may therefore be afraid to be open in public Abunzi hearing because the information provided during the Abunzi proceedings could be used against him in criminal court if the conciliation fails. Neither the Abunzi nor the citizens we talked to indicated awareness of these consequences of a public mediation.

4.2. CHALLENGES RESULTING FROM THE LACK OF CAPACITY

- **Knowledge and application of Rwandan laws and regulations**

Ignorance of certain provisions of some laws and regulations by mediators, and poor application of some aspects of the law by mediators was identified by the Transparency International survey as the major challenge of the mediation committees.²³ As noted earlier, when mediation committees fail to conciliate the parties, they are empowered to render judgments that draw on formal law. Given the nature of cases that they are authorized to handle, this involves mainly the application of property law, contract law, land law, labor law, family law, inheritance and succession law, human rights, criminal law and criminal procedure. Yet, they typically have incomplete knowledge of these laws and lack the necessary training to apply them effectively. The majority of Abunzi has only finished primary school, and has received no training in formal law.

In the specific case of land law, a recent report by Search for Common Ground shows that the knowledge of land law among Abunzi is still low. This report shows that when asked about the provisions they are aware of regarding the new Organic Land Law, most Abunzi were able to mention only an average of 1.9 provisions each.²⁴ Many Abunzi we talked to during our assessment informed us that they are familiar with the Organic Land Law. However, when we asked them about specifics of the law, we realized that the

²² Lisa Banks and Richard Saundry, *Mediation-a Panacea for the ills of workplace dispute resolution? A comprehensive review of the literature examining workplace mediation*, iRowe Research Paper No 1, Institute for research into organizations, work and employment, University of Central Lancashire, P. 14

²³ TI Rwanda survey, supra note 3.

²⁴ SFCG supra note 13 p. 24.

majority of Abunzi have critical gaps in their awareness of it. Discussions about the process of land transfer, land leasing as well as the rights and obligations of landlords revealed that Abunzi know very little about these key provisions of the land law. Abunzi, indicated, however, that the Land Tenure Regularization has significantly contributed to reduction of land-related conflicts. From our assessment we realized that this reduction affected mainly conflicts related to land border disputes and encroachment. Because most of the time such disputes do not require knowledge of land law to solve them, we could not draw a definitive conclusion on the extent to which Abunzi apply land law in resolving such cases. Nevertheless, given the knowledge gaps we observed, it seems safe to assume that Abunzi capacity to apply provisions of the land law to resolve more complex land issues would be highly limited.

The Abunzi Organic Law is likewise poorly known or understood by citizens and officials. According to the TI report, only 30.4% of survey respondents know that the law required that the case first be reported to the Executive Secretary of the cell, who then transmits it to the Mediation Committee. In some cases, chairpersons of mediation committees receive claims instead, while in other cases summons are even delivered to defendants by the plaintiffs. Also, only 6% of respondents reported that the case should be brought before the competent court if the parties do not reside in the same cell.²⁵

The same survey found that in some cases litigants are not offered the opportunity to choose the panel mediators, and at the sector (appeal) level, some cases take more than a month to be examined. A number of Sector Abunzi interviewed by our study team attribute such delays to the fact that cases appealed to primary courts according to the old Abunzi Organic Law of 2006²⁶ were referred to Sector Abunzi when the latter were established by the 2010 Abunzi Organic Law. This created a backlog that the Sector Abunzi are still working through. During our interviews we also learned that a significant number of mediation committees did not draft reports because no one asked for them. Even those committees that did had no idea where to submit them, and therefore most sent them to the Executive Secretary of their cell or sector. Because no clear instructions are provided on how to prepare these reports, the majority just report case statistics.

²⁵TI Rwanda survey, supra note 3, p. 39.

²⁶ See Organic Law N° 31/2006 of 14/08/2006 on organization, jurisdiction, competence and functioning of the Mediation Committee.

- **Lack of mediation skills and understanding of the role of a mediator**

Article 3 of the Abunzi Organic Law defines mediation committees as organs meant for providing a framework for mandatory mediation. Defining mediation procedures, Article 21 limits itself to saying that “to settle the dispute submitted to them, mediators shall seek first to conciliate the two parties. In case of non-conciliation, they take decision consciousness in all honesty and in accordance with the Laws and local customary practices provided it is not contrary to the written Law.” This provision is not very clear to many Abunzi and provides insufficient guidance on how to “conciliate the two parties,” and “in case of non-conciliation...take decision consciousness in all honesty and in accordance with the laws and local customary practices...”.

In the absence of guidance on how to conduct mediation and take decisions in case of non-conciliation, Abunzi tend to draw from their experience with the Gacaca courts. Many Abunzi we interviewed think that their experience as judges in Gacaca or in observing Gacaca helps them to be good Abunzi. Abunzi often mimic Gacaca proceedings and behave like Gacaca judges because it is what they are familiar with. During our assessment we observed that Abunzi who are former Gacaca judges appeared more confident and knowledgeable about the law than others, but also contribute to making mediation proceedings look like courtroom hearings presided over by judges.

We observed also that the seating arrangements of Abunzi hearings mirror that of courtrooms rather than mediation settings. Abunzi members generally sit at a distance and up on a platform facing the parties as if they are in a courtroom. Instead of looking at each other to work out their conflict, parties stand facing Abunzi. Abunzi question disputing parties in an authoritative manner that usually characterizes a judge. Their line of questioning often appears to reinforce opposition between the parties rather than adopt a conciliatory approach.

In some cases we also found that mediation committees use the same forms as primary courts to summon a party or draft their decisions. In one case we observed in Busasamana, a sector mediation committee used a summons form that referred to the committee as the “Abunzi Court of Appeal” and invited a party to appear before the “court”. When we asked them why, they said that they never noticed because this document was prepared for them by the Executive Secretary.

The use of terms “Abunzi” in Kinyarwanda, “mediation” in English and “conciliation” in French to mean the same thing may contribute to confusion about the role and techniques of mediation committees. The term “Abunzi”

refers to a traditional dispute resolution method in Rwanda conducted mainly by elders in an informal and voluntary basis through which one or both parties were required to provide a reconciliation beer. The system proposed in the Abunzi Organic Law lacks this “informal”, “elder” and “beer” element. Also, whether they are in French or English, the terms “mediation” and “conciliation” do not have the same meaning.

Mediation and conciliation use different techniques. The key difference between the two techniques is the power of the third party. English speakers will see this third party – the mediator -- as a passive third party using non-binding dispute resolution method to help parties identify an agreeable solution to their dispute among themselves.²⁷ French speakers will see this third party – the *conciliateur* -- as a more active third party exploring with the parties and suggesting when necessary possible solutions to disputing parties on their dispute.²⁸ The above discussion should not be seen as just purely academic. Under the Abunzi Organic Law, Abunzi are formal and therefore different from the traditional informal Abunzi system. However, the law is not clear on whether Abunzi should propose solutions when parties cannot (making them conciliators) or refrain from doing so even when parties cannot identify their own solutions (making them mediators).

The mediation committees as designed by the law looks more like an alternative dispute resolution (ADR) system that combines the traditional Rwandan Abunzi system with mediation and conciliation techniques. However, most members of the mediation committees are not familiar with how the traditional Abunzi system functioned in the past and do not have the ADR skills required in mediation and conciliation.

Besides the fact that most mediation committees do not know their role as Abunzi, mediators or conciliators, the fact that the law allows them to render decisions if mediation fails, makes it easier for them to take the quicker, easier path of employing adversarial justice rather than investing time in finding a mediated solution. From the observation of Abunzi proceedings we visited and minutes of Abunzi proceedings we read, it appears a number of Abunzi

²⁷ See Black Law Dictionary, definition of “mediation”.

²⁸ See <http://www.medi-m.ch/frconciliationprojets/conciliationetmediation/index.php> (accessed on September 5th, 2012). See also De Alain Pekar Lempour, Jacques Salzer, Aurelien Colson, “ Methodes de Mediation Au Coeur de la conciliation, Dunod, Paris 2008. p.14.

make no effort to mediate between the parties. In one case we observed, the mediation committee sent parties outside to find an agreement on their conflict. When they came back without an agreement, the committee proceeded immediately to hear their argument, hear witnesses and making a decision in the case.

Issues of corruption in Abunzi proceedings, though very limited, were reported in the survey conducted by Transparency International Rwanda²⁹ and the study conducted by International Development Law Organization.³⁰ Accusations of conflicts of interest also arise. In one case we observed during this assessment, a party accused a member of the Abunzi panel of spending most of her time drinking with his opponent and therefore could not trust her impartiality as a mediator. After this confrontational exchange, the hearing went on and no consideration was given as to whether the accused mediator should be recused from the case.

- **Gender Considerations**

The Abunzi Organic Law requires mediation committees to have at least 30% female members. In the sectors and cell we visited this quota was respected with the exception of Masaka where female Abunzi are only 22% (see Annex C). Both male and female Abunzi interviewed said that female Abunzi are treated equally with their male colleagues.³¹ They also said that in general gender plays no role when parties select their mediators. In some cases gender balance is rendered by the fact that when parties select two mediators of the same gender, the latter tend to select a third mediator of opposite gender.

This assessment found, however, that there is still a gap between the way Abunzi understand and apply the 1999 Rwandan law on Matrimonial Regimes, Liberalities and Succession in cases involving women. A number of Abunzi interviewed revealed that although they know it is their duty to apply this law, they do not believe in it, particularly when it comes to women inheriting land on equal setting with their brothers. From the cases we

²⁹ According to this Survey, 13% of participants surveyed through focus group discussions believe that they lost their cases before Abunzi because Abunzi received a bribe from the other party. See p. 58

³⁰ Muriel Veldman and Marco Lankhorst, Legal Empowerment and customary Law in Rwanda: Report of a Pilot Project Concerning Community Level Dispute Resolution and Women's Land rights, International Development Law Organization, 2011 "...[disputants] mentioned that they had to pay between RWF 200 and RWF 500 frw for the summons or drawing up the plan of the land in question. A few mention bribery, for instance a man who was asked to pay RWF 4.000 "so that the *Abunzi* would help him to win the case"" see P. 33, footnote 127.

³¹ Given the fact that these interviews were conducted in groups that included men and women Abunzi, it is difficult to verify whether women would have provided this same answer if they were interviewed separately without the presence of their colleagues, male abunzi.

examined this seems not to affect their decisions when boys and girls are both legitimate children claiming inheritance from their parents. However, given the small sample of cases we collected, it is difficult to know the extent to which this conclusion can be generalized. On the other hand, we observed that women in informal polygamous marriages, those who are widows, and those from families with little land are most vulnerable in Abunzi cases.

The fact that the law that only regulates legal marriages in a society where informal marriages still exist, and the lack of training of Abunzi on these complex family issues constitute at least part of the reasons that Abunzi resort to customary rules that sometimes are prejudicial to women. This has been confirmed by a number of recent studies. Although, for instance a 2011 study on women and land law has concluded that current land laws and policy helped women, particularly female orphans to claim land that had been grabbed by their relative,³² a study conducted by Landesa and Care International in 2012 concluded that Land Tenure Regularization process appears to have worked against women who are not legally married.³³ Another study conducted by Rwanda Women Network in 2011 on the experience of women in asserting their land rights in Bugesera District revealed that out of 50 women interviewed on their perception of Abunzi, 21 see them as biased and sentimental.³⁴

Although more research is needed to understand the impact of gender biases on the application by Abunzi of laws affecting women, the existence of such bias suggests that trainings targeting Abunzi should not focus solely on understanding the law, but also address beliefs and attitudes that shape their views, particularly on inheritance and succession of women. Successful enforcement of gender equitable decisions requires that they also be acceptable among the population. This calls for interventions that go beyond

³²Ernest UWAYEZU and Theodimir MUGIRANEZA, Land Policy Reform in Rwanda and Land Tenure Security for all Citizens: Provision and Recognition of Women's Rights over Land, FIG Working Week 2011 Bridging the Gap between Cultures, Marrakech, Morocco, 18-22 May 2011, p. 9.

³³ Florence Santos, Diana Fletshner and Giuseppe Daconto, Enhancing Inclusiveness of Rwanda's Land Tenure Regularization Program: Initial Impacts of an Awareness Raising Pilot, a Paper prepared for the Annual World Bank Conference on Land and Poverty, April 2012, p. 33.

³⁴ Rwanda Women's Network, Experiences of Women in asserting their Land Rights: The case of Bugesera District Rwanda, Research Report, 2011, p. 9.

informing people about the content of the law to also foster dialogues that help reshape norms and values to embrace gender equity.

- **Applying logic and legal reasoning**

Mediation committees need skills in legal reasoning to interpret provisions and principles from the broad range of laws they are called on to apply. This includes understanding their different rules of interpretation and even rules of evidence. For instance, rules of interpretation and evidence in civil law cases are different from those in criminal law where acts need to be proven beyond reasonable doubt. In the specific case of the application of Abunzi law, Abunzi need to be able to assess if the case before them is within their competence. This includes being able to determine whether a disputed property has a value of less or more than Rwf 3 million. In proceedings we observed and cases we read, neither during the hearing nor in issuing their decision did Abunzi make reference to the value of the object that was the subject of dispute or assess if its value was more or less than that the amount authorized for them to hear under the Abunzi Organic Law. One member of a mediation committee interviewed said that in cases involving land they do not care about its value. Another member said that for other cases, if parties do not raise the issue of the value of the disputed property, Abunzi do not even think of considering it. The question is, however, even if they would want to make such an assessment, would they have the information and tools to make it?

Abunzi also grapple with understanding the difference between a criminal case and a civil case. It can be difficult for individuals not schooled in law to understand what constitutes a criminal act according to the law, what is necessary to prove an act beyond reasonable doubt, and the nuances that separate larceny from other kinds of theft or breach of trust in criminal law from other kinds of breach of trust that are not punishable. This situation is made more difficult by the fact that, unlike the Rwandan Penal Code which lists and provides the definition of specific offences punishable under this code, the Abunzi Organic Law only lists the offences but provides no definitions. For instance, while Article 322 of the new Rwandan Penal Code defines “breach of trust” as constituting an offence if a person “fraudulently obtains or squanders any property to the detriment of another person or any property entrusted to him/her meant for restitution to the owner or for intended use”, the Abunzi Organic Law only says that Abunzi are “competent to examine cases... of breach of trust.” The Abunzi Organic Law fails to specify if the definition of this and other offences are to be defined with reference to the Rwandan Penal Code or not. The same applies to cases of labor law, contract law and property law under Abunzi competence.

Language and the limits of translation add to these difficulties. For instance, the offense of “breach of trust” is translated to Kinyarwanda as “ubuhemu.” Yet, in Kinyarwanda “ubuhemu” could cover any failure to fulfill any obligation of civil, commercial or even moral nature. Without clarification in the Abunzi Organic Law and knowledge about criminal law, Abunzi risk punishing any kind of “ubuhemu.”

- **Recording Abunzi decisions**

Recordings of Abunzi decisions frequently lack the elements prescribed by law. Article 22 of Abunzi Organic Law lists elements that have to be contained in the minutes and decisions of Abunzi:

1. The parties’ identification;
2. The summary of the dispute;
3. Arguments put forward by the involved parties;
4. The mediation decision with which all parties agree;
5. The mediation decision with which one of the parties does not adhere, if any;
6. The date and the place where the mediation session has taken place
7. Signatures or fingerprints of parties in conflict;
8. The mediators’ names as well as their signatures or their fingerprints;
9. The rapporteur’s names as well as his/ her signature or fingerprint.

Most decisions of Abunzi examined during this assessment ignore points 3, 4 and 5 of this article. Yet, these points are the most important because that is where mediation committees report the arguments and the resolution or decision. Some case recordings only name the parties in the case, the issue and the ruling of the mediation committee. No reference is made on: 1) the mediation of parties involved; 2) the points the parties agreed upon and on which ones they failed to agree upon; 3) the reasoning or evidence the committee based their decision on; 4) the legal provision(s), if any, serving as a foundation for their decision; 5) and the legal reasoning motivating their decision. Sometimes, the minutes of a hearing are just a list of questions and answers between the mediators and the concerned parties that ends with a decision.

In most cases this decision is motivated neither by law nor by logic. Some Primary Courts judges interviewed said that because of the limited information contained in Abunzi decisions, once cases come to them for appeal, rather than just focusing on issues the parties did not agree upon, they have no choice but retry the entire case anew. Judges confessed that such a practice is unfair to the losing party because through this retrial by the primary court the losing party is denied the opportunity to appeal on issues and arguments brought for the first time before the Primary Court judge.

The Abunzi Organic Law requires that the Abunzi selected to hear a case choose among its three members a rapporteur. Although the rapporteur signs on the decision as both mediator and rapporteur, it was observed during this assessment that recordings of some cases failed to reference which mediator was the rapporteur. In other cases, two persons signed on the recording as mediators and the third signed as a rapporteur only, giving the impression that the case was handled by only two mediators instead of three.

- **Effectively communicating their decisions to disputing parties**

In a number of cells and sectors we visited mediation committees informed us that they meet once a week. Yet, we learned that in most cases, the public was not aware of which day of the week Abunzi meet. MAJ and judges we interviewed informed us also that not all mediation committees have a specific day of the week they meet.

Poorly drafted decisions and sometimes delays or failure to issue copies of their decisions to disputing parties are also key challenges. Most decisions examined during this assessment were not motivated. Some decisions identified a winning party but did not specify what that party won. Sometimes, the decision contained the winning party and what he/she won but lacked the necessary specificity and directives to facilitate execution of the decision. For instance, a decision might specify that a daughter has the right to inherit her father's land but provides no specifics on the location of the land, its measurements and how the distribution will be done. In cases like these, agents called on to enforce Abunzi decisions would find themselves in a difficult situation because decisions are not clear on what exactly the winning party should receive, when he/she should receive it and what would happen if the losing party does not fulfill his/her obligation within the specific time.

Presidents of primary courts informed us also that they have had cases in which Abunzi condemned the representative of a party in a case or a person who was not party in the case.

Although the law provides that “the mediation minutes shall be sealed with the seal of the Mediation Committee and it shall be kept by the Executive Secretary who submit it to the concerned parties” (Art. 22), we noticed that in practice, copies of decisions of mediation committees are most of the time kept by the chairperson or vice chairperson of Abunzi or even the secretary who drafted the decision. These same people usually are the ones who issue to parties in conflict the copies of Abunzi decisions.

We were informed that in a number of cases, Abunzi communicate their decisions verbally to concerned parties instead of giving them a copy of their decision. When written decisions are issued, some confuse the date of the decision and the date a copy was issued and the latter date is recorded incorrectly as the former date. Because parties have 30 days to appeal from the date the copy of the decision was issued to them, recording the earlier date that the decision was rendered reduces the time they have to seek an appeal. This confusion has led the primary courts to reject appeals based on the argument that they were submitted late although in reality it was the fault of the Abunzi rapporteur who misstated the date of issuance as the date the decision was rendered.

In most cells and sector visited Abunzi lack the necessary equipment or access to photocopiers to make copies of their decisions. Abunzi are therefore obliged to handwrite the copies of their decisions which sometimes produces errors and contradictions with the original. Other times, Abunzi issue the handwritten original, which has led to manipulation of the written decision by the parties.

The above-mentioned practices have sometimes led to confusion in the execution and appeal of Abunzi decisions. This was the case for example in the Primary Court of Busasamana where parties received copies of their Abunzi decision on different dates. When the losing party appealed it, the winning party had already received from the same court an enforcement order. The winning party, having received the decision earlier than the losing party, took it to the Primary Court to receive an enforcement order 30 days after the date on his copy of the decision. Meanwhile, the losing party, having received the document later, submitted it for appeal within the 30 day window corresponding to the date the copy of the decision was issued to him. The Primary Court was therefore in a dilemma on whether it should refuse to

accept the appeal or annul the enforcement order already issued to the winning party. In such cases, there are consequences affecting parties involved in the conflict and courts often cannot find solution to such dilemmas.

Article 25 of the Abunzi Organic Law provides that “any dispute regarding the execution of Mediation Committee’s decisions shall be brought before the Mediation Committee that took the decision in the first degree.” During the assessment we learned that in some cases where mediation committees were called to hear disputes regarding the execution of their decision, they have instead reexamined the case in its substance, which has sometimes led them to change their initial decision.

- **Ability to enforce Abunzi decisions**

While Abunzi are not responsible for enforcing their decisions, if their decisions are not clear, precise and detailed, the ability of the administrative authority to enforce it can be handicapped. Vaguely drafted decisions with no precision on the awards to and obligations of the parties and on the timeframe to fulfill obligations open opportunities for delays in execution of the decision. A number of Primary Court presidents we interviewed informed us that they have often refused to issue enforcement order on a decision because it was not clear, instead sending it back to Abunzi for clarification.

The effectiveness of enforcement of Abunzi decisions also depends on the willingness of administrative authorities to assist the execution and on the perseverance of the “winning” party to push for the enforcement of the decision. We learned that in some cases parties have to wait very long or even give up on the execution of decisions favoring them. Cases of “losing” parties bribing an administrative authority to delay enforcement of a decision have been also reported.

Enforcement can also be hampered when a party lacks the necessary assets to fulfill obligations emanating from a decision or when they hide their assets. This happens too when a winning party does not have the means to pay transportation and other costs associated with encouraging officials to execute the Abunzi decision. Given their relatively weaker economic situation, higher dependence on family members and more chores and responsibilities at home, women tend to face greater difficulties in pushing for the execution of decisions they won. One woman we met at the Primary Court of Busasamana who sought the execution of her Abunzi decision said that she was exhausted by different trips and time spent pursuing the execution of her case and was giving up. The MAJ staff accompanying us to the court that day promised to help her pursue the execution.

Enforcement difficulties also underscore the fact that most cases are being adjudicated – resulting in a “winner” and a “loser”– rather than mediated. Mediation more often yields compromises, which are less likely to face resistance by one of the parties.

4.3. CHALLENGES RESULTING FROM LACK OF MATERIALS

Since their creation in 2006, mediation committees have been operating with no government budgetary support to acquire space to conduct their mediation; acquire essential materials such as pens, papers, forms, etc.; and cover expenses related to their field transportation, meals and incidentals on the day of hearing. During our assessment we learned that most mediation committees have been operating in rooms they borrow from cell and sector offices. When these rooms are not available, mediation committees often have to gather under a tree or even cancel their hearings during rainy periods. Some hearing venues are only large enough to accommodate the mediators and concerned parties, leaving no space for the public. In making Abunzi proceedings public, if the intention of the Rwandan law was to allow the community to intervene as witnesses and provide any needed information that could assist in resolving the dispute, then exclusion from the proceedings undermines this intent. In other places, mediation committees sit on the floor and use their laps to take notes: reports written in these conditions can end up being difficult to read and enforce.

Lack of materials such as pens, papers, registry and forms are serious problems. Without them, Abunzi are not able to summon parties, take minutes or draft decisions. So far, executive secretaries of cells or sectors and MAJ offices have been generous in giving papers and pens and even assisting in photocopying Abunzi decisions, but this has some limits. In one cell we visited, two groups of mediators were hearing cases and taking minutes on three sheets of paper they had received from the Executive Secretary, allocating two sheets of paper for one group of mediators and one sheet of paper for the other group. Fifteen minutes after the hearing had started, the two groups had to adjourn their hearing because the three sheets of papers were filled and they had no more paper left. The parties were sent home and requested to return the following week. In another case, a party who had won a case was asked if she had money to photocopy the decision she needed to take to the primary court in order to receive an enforcement order. Because

she did not have money and the Abunzi had no budget to pay for this photocopy, she left with no copy of the decision.

In most places visited we found that Abunzi have notebooks where they register cases and record their decisions. However, some of these notebooks are very old with loose papers and text which is not readable any more. We were told that because there is no place to keep these notebooks, the chairpersons of Abunzi keep them at home or in an unlocked cupboard or a plastic bag at the cell or sector office where it is exposed to theft, alteration and deterioration.

The lack of uniform registries and forms for Abunzi to use in their proceedings has had consequences on the performance of Abunzi. The information on a case registered in one cell or sector will be different from that in a neighboring cell or sector. This affects their reporting and contributes in making it difficult to collect common data on Abunzi cases.

Lack of resources for transportation is also problematic, particularly for Abunzi at the sector level. Most cell-level Abunzi are close enough to the hearing venues and to the fields where contested properties may be located that they can walk, though it can be difficult for some elderly members. Sectors, however, are much bigger, and most Abunzi need to walk long distances or pay transport costs out of their pocket to reach the places where their committee meets or to investigate a contested property. When mediation committees used to be at the cell level only, the Minister of Justice had provided each committee a bike. These bikes were, however, of little help because they could only be used by one person- the chairperson in most cases. Also because Rwanda is very hilly, there are places where bikes are not practical.

Communications are also a challenge for many Abunzi. Those members with cellphones, particularly the chairperson and vice chairperson, find themselves paying out of pocket for airtime to call members of their committees or to inform parties about their hearing. In one case we observed, the chair of a mediation committee called a witness to check on why he did not appear to submit his testimony and the latter said that he did not have transportation but was willing to testify on the phone. The phone testimony went on for more than 30 minutes, the cost of which was borne by the chair of the Abunzi panel hearing the case.

Mediation committees we visited said that it is important that when they are hearing cases that they wear something to distinguish themselves from the parties in the case or the public. When Abunzi started in 2006, the Ministry of Justice offered them scarves with the colors of the Rwandan flag and words

“Abunzi”. When the 2010 Abunzi Organic Law created the sector Abunzi level, the Ministry did not distribute the scarves to sector Abunzi. The latter, therefore hear cases without scarves or borrow them from the cell Abunzi. However, most scarves used by cell Abunzi are worn out and need to be replaced.

5.0 MEASURES NECESSARY FOR ABUNZI TO ADEQUATELY EXERCISE THEIR ROLE

For Abunzi to adequately exercise their role, they require training, adequate infrastructure and materials, incentives and better coordination.

5.1 TRAINING NEEDS

Although the Organic Law 02/2010 prescribed no education requirements for Abunzi, it gave them a broad and complex jurisdiction and competence that mirrors to some extent what a formal legal education typically prepares one for. This makes the training needs of Abunzi enormous. Abunzi have different levels of education: some are illiterate; others have just finished primary school while a very small number have some level of secondary education. Requiring Abunzi to interpret complex laws, legal language and complex procedures is a significant challenge. It is therefore important to develop materials that can explain the key elements of different laws and aspects of their roles and responsibilities in simple language and pictures. Likewise, training methodologies should communicate the essence of laws in ways that make them readily comprehensible, e.g. through use of skits that provide examples of situations and appropriate legal remedies for such cases. Abunzi also need to be equipped to understand different branches of the government and the difference between a law, an administrative order or decision, and a court decision. In a country where “itegeko” means both any “order from the authority” and “law,” such distinction is very important.

Abunzi would also benefit from:

- Understanding the difference between contracts and laws and the legal obligations resulting from them;

- Basic knowledge of criminal procedure and principles of criminal law;
- A simplified, but thorough introduction to Rwandan law;
- Understanding key principles of human rights as recognized in the Rwandan constitution; and
- Training in communication skills and respectful engagement with community members necessary for engendering their trust.

It is likewise important to train Abunzi in the law that governs them. Their mission, competence and the way their committee functions have to be well explained using methods that enable rapid comprehension and facilitate retention of the information. The booklet called “Inyigisho Zigenewe Abunzi” that the Ministry of Justice had developed for the Abunzi would benefit from further simplification and inclusion of illustrative pictures that facilitate comprehension and communicate effectively to those with limited literacy. Beyond elaboration of law, the booklets could be expanded to include issues such as ethics rules aimed at mitigating corruption, civic education, and guidelines for communications and customer service. Such booklets should be made available to each member of the mediation committee.

The importance of equipping Abunzi with robust skills in conflict resolution and mediation cannot be overemphasized. The better skilled Abunzi are in mediation, the less they have to resort to rendering decisions and therefore the less they will need to invoke law or ensure their decisions comply with law. Because mediation seeks to find solutions to satisfy both parties rather than determine a “winner” and “loser,” it can be a much more effective tool for conflict resolution than traditional adversarial justice. However, because the organic law places mediation proceedings in the public sphere and makes them mandatory, Abunzi need to possess especially strong mediation skills compared to mediators who work with parties that voluntarily opt for mediation and where mediations are confidential.

As said earlier, mediation committees as described in the law resemble an ADR system that combines the traditional Rwandan Abunzi system with mediation and conciliation techniques. Using ADR in mediation in the Abunzi context requires some knowledge and skills in law, communication, negotiation, conciliation and local culture and values. It is therefore important that Abunzi:

- know the law in order to frame the mediation, advise parties on possible solutions and options for resolving their dispute, and can articulate the advantages of an agreement reached through mediation over pursuing court proceedings;

- master verbal and non-verbal communications, active listening, and the art of engaging parties in amicable dialogue oriented to achieving compromise solutions;
- are encouraged to identify creative solutions to disputes that draw on local norms and values;
- acquire negotiation skills that move parties past impasses and help them focus on their long-term interests over winning and saving face;
- separate their personal bias from the problem they are trying to solve and take pride in their role as mediators; and
- value and incorporate Rwandan culture in their mediation since proposed solutions will only succeed if they are grounded in Rwandan values such as “kunga” (unite), “ubunyangamugayo”(integrity), “umulyango” (family), “ubusabane” (sharing), “ubwitange” (sacrifice), and “ubutwari” (to stand behind the truth even when you know that it may be dangerous).

In addition to getting training in mediation skills, Abunzi need also training in law. Training needs in law for Abunzi should not, however, aim at making them lawyers or judges, but rather impart the general principles needed to perform their responsibilities as defined in Articles 8 and 9 of the Organic Law on Abunzi. In civil cases, Abunzi need to be relatively well acquainted with elements of the land law, family law, succession law, contract law and employment law that are most pertinent to the cases they commonly handle. In criminal law, Abunzi should understand constitutive elements of crimes which Article 9 of the Abunzi Organic Law gives them the competence to examine (see Section 2.2). Training materials and methodology to be used in training Abunzi in civil or criminal matters should be presented in clear and simple language; be accompanied by illustrations; and mainly be conducted through interactive methods such as workshops, group discussions and role play.

In addition to training, Abunzi need a system that can support them longer-term. This includes provision of legal advice on an as-need basis and assistance in drafting decisions to ensure consistency, completeness and accuracy. MAJ has been a good source of legal advice for Abunzi. Most Abunzi we visited have phone numbers of MAJ staff in their district. Abunzi members informed us that they can call MAJ staff and receive advice on legal questions they are facing. However, there is still room to strengthen this

relationship with the MAJ. MINIJUST and ILPD could develop a continuous legal education program to allow MAJ staff to stay updated on existing laws, theories and precedents. Sharing examples of illustrative, good practice cases resolved by fellow Abunzi could also serve as a practical and effective means to strengthen the quality of Abunzi decisions. To enable this, provincial representatives of the Abunzi Secretariat could periodically review and compile such cases and then distribute them to all other Abunzi in the province to reference when solving similar cases. This could potentially be carried out in collaboration with law school students.

Table 3: Abunzi Needs and Skills as Reported by NGOs Engaged in Building Capacity of Abunzi

Name of the organisation	Skills that Abunzi have	Skills that Abunzi lack (gaps)	Factors beyond knowledge that inhibit the capacity of Abunzi
1.Search For Common Ground	SFCG has never conducted research to know what Abunzi have as skills	-Conflict resolution and mediation skills -Understand the law governing the Abunzi as mediator - Dialogue facilitation	Lack of incentives to fulfill their mandate
2. RCN Justice &Democratie	- How to summon parties -How to welcome parties	-Mediation techniques -Respect for procedures proposed by the law -How to take the minutes and to convince parties about the taken decision -Knowledge about legal instruments, including inheritance law, land law, Gender Based Violence Law - Reading and writing skills -Ability to analyze evidence -The customary law continues to influence Abunzi decision making	-insufficient equipment, office, furniture -Lack of independence -Volunteer work -Insufficient support from the executive Secretaries -Lack of self confidence -Lack of special protection of Abunzi -Lack of skills to learning things quickly
3. Legal Aid Forum		-Knowledge on the law related to their work - Mediation skills -Legal counseling skills -The law related to their work -Documentation skills -Civil and criminal law -Skills to monitor their work	-Some provisions related to their work which are not clear - Financial challenges which tempt them to be corrupted.
4. Rwanda Governance Board (RGB)	-Filing -Investigation skills -Courts proceeding -Arbitration skills	-Investigation skills Mediation methods -Conflict resolution	
5. HAGURUKA	Some of them have knowledge on the law regulating their work	-Mediation and conflict resolution -Compiling and writing the judgment /decisions held by their committees - Knowledge retro-activity of laws, scope of law, material and territorial competence - 3 years post primary education	-Lack of an official schedule for the convening Abunzi committees -Social environment creates high tendencies of bias and unfair decisions.

5.2 MATERIAL NEEDS

The contribution of Abunzi to the Rwandan justice system is substantial and the Government appears to be committed to their perpetuity. For these reasons, it is important that they be afforded a permanent place to meet and resolve cases. Parties should know where to go when they need the service of Abunzi or when the latter invite them for a hearing. It should also be a place where Abunzi can store their materials and be assured that they are safe. We recommend that the government and local administration consider budgeting for the construction of annexes at every cell and sector administrative office that would serve as rooms for Abunzi to meet and hear cases. Cell-level Abunzi should receive first priority. Unlike Abunzi at the sector level that can take advantage of sector office conference rooms, Abunzi at the cell level cannot because most cells do not even have administrative offices. Cells also tend to have a higher load of cases and therefore need to meet more regularly and file more paperwork. Utility of these rooms would be enhanced by equipping them with a table, chairs for mediators and the public, as well as a cupboard to store files and materials.

It is suggested that the government budget for materials needed by Abunzi, rather than expecting Abunzi to pay for their pens and paper to use in the work they do on a pro bono basis. This could be supplemented by duplicating and distributing to all Abunzi registries and forms developed by RCN and approved by the Ministry of Justice. Making available photocopiers with the capacity to scan documents to be shared by three bordering cells would also reduce the cost parties spend on photocopies. Scanning capacity would enable Abunzi to save the minutes of their mediation and decisions on memory sticks that would be kept by the executive secretary of the cell or sector and/or the representative of Abunzi Secretariat at the provincial level. Adequately meeting the materials needs of Abunzi will likely require assistance from NGOs and donors in addition to government budget, at least initially.

The government and local administration might also wish to consider whether Abunzi services should continue to be completely free to parties, or whether charging them a small fee could help finance material and infrastructure costs. Alternatively, levying a small amount on local businesses and higher income residents of the cell or sector might go toward supporting such expenses and also enable citizens to hold their local Abunzi more accountable.

5.3 INCENTIVES NEEDS

The majority of Abunzi we met agree that although they are not paid, they find their reward in the trust of the citizens who elected them; in the pride they get when contributing to solving problems in their cell or sector; and in the sense of patriotism they derive from carrying out their duties. Abunzi pay for their own transportation to and from their meetings and hearings and when they visit sites to collect evidence. When conducting their job, they also pay their own meals and drinks. The only material benefit they receive from the government is health insurance, known as “*mutuelles de santé*” in French, which is offered to 5 family members of each mediation committee member. 15,000 Rwf is provided for medical insurance for each conciliator and 4 other members of his/her family (the cost of health insurance is 3,000 Rwf per person)³⁵

In some sectors and cells we visited, however, some Abunzi complained that the government is slow in paying for this *mutuelle* and found it sometimes unfortunate that it limits the number of family members to be covered, pushing Abunzi with more than 5 members to select among their children which ones to cover and which ones to leave out.

Although Abunzi we spoke with did not complain about not being paid, they believe that it should be the responsibility of the government or local administration to cover the material, transport and communications expenses associated with their work and eventually also cover their meals and incidentals on the day they hear cases. Funds for transport could particularly help in resolving land cases because it is mostly in these cases that Abunzi need to go to the field to better appreciate the circumstances of the case.

Some Abunzi would also like the government to introduce an income-generating program for them, such as the “Girinka” livestock raising program. It was felt that offering a cow to each mediation committee would result in each member receiving at least one calf at the end of his/her term. Inviting

³⁵ See Ministry of Finance and Economic Planning, 2012-2013 Districts's Earmarked transfers Guidelines, September 2012, table 4, p.2, accessible at http://www.minecofin.gov.rw/webfm_send/2505

Abunzi to public events organized by the district as well as bestowing public recognition of the best performing mediation committee could also serve as good incentives.

5.4 BETTER COORDINATION NEEDS

Article 31 of the organic law on Abunzi creates a secretariat in charge of coordinating activities of mediation committees. This secretariat has the responsibility to:

- 1) Provide advice to the Ministry of Justice on the strategies and decisions that may be adopted in order to increase the efficiency of mediation committees;
- 2) ensure monitoring and evaluation of activities of mediation committees;
- 3) organize training for mediators and initiate other activities to assist in their capacity building;
- 4) cooperate with local authorities in order to ensure the effective functioning of mediation committees;
- 5) prepare the quarterly and annual activity reports on the mediation committees;
- 6) analyze the reports of the mediation committees and make recommendations to improve their efficiency; and
- 7) provide mediation committees with equipment and all materials needed to perform their duties.

It was not, however, until May 2012 that the government created this secretariat. Until then, Abunzi were operating with little support or coordination. There was no organ to which they could send their concerns, questions and reports. According to Abunzi, in some cases the Executive Secretary of their cell or sector and representative of MAJ were the only people to hear their concerns. However, this sufficed to address only a limited number of concerns since executive secretaries and MAJ representatives had their own concerns and budgetary constraints.

Now that the Abunzi Secretariat is in place, there is a hope that the coordination of Abunzi activities will be improved. So far though, the secretariat remains understaffed and lacks materials to fulfill its mission. Although the law says that the secretariat will have one Coordinator, a Deputy Coordinator, an Administrative and Financial Officer, a Research, Monitoring and Evaluation Officer, a Logistics Officer, plus one representative in each of the provinces and for Kigali City, at the time of this assessment it had only three staff -- the coordinator, a deputy and the logistic officer -- in place at the central level, plus one officer appointed in each province. Such a small staff would be highly challenged to review 2,600 mediation committee reports

every month and fulfill other responsibilities. Also, there are concerns that one Abunzi Secretariat representative at the provincial level is not enough. Abunzi are a decentralized system and this should be well reflected in the structure of their secretariat. Abunzi Secretariat responsibilities could be better managed by having one representative at the district level. In the meantime, district MAJ could be assigned as the liaison between the provincial representative and mediation committees. A channel of communication between the Abunzi Secretariat at the province level, MAJ offices at the district, and mediation committees would go a long way toward improving coordination and the ability of the Abunzi Secretariat to fulfill their mandate to support local mediation committee. The provincial representative of the Abunzi Secretariat should also regularly visit different mediation committees of his/her province to hear their concerns, monitor their performance and provide guidance on how they can improve their performance.

All the above needs require that the government revises the way it has been funding Abunzi activities. Currently, Abunzi are budgeted through an earmark program of the Ministry of Justice called “Promotion of the Community Program of Human Rights and Judiciary Support.” Abunzi are one of its sub-programs. This sub-program funds only health insurance (*mutuelle*) for the members of mediation committees in order to provide an incentive for the smooth-running of the committees.³⁶ This approach needs to change if Abunzi are to be effective and sustainable.

³⁶ . See Ministry of Finance and Economic Planning, 2012-2013 Districts’ Earmarked transfers Guidelines, September 2012, p.1-4, available at http://www.minecofin.gov.rw/webfm_send/2505

6.0 STRATEGIES TO ADDRESS ABUNZI CHALLENGES

6.1 PARTNERS INVOLVED IN THE CAPACITY BUILDING OF ABUNZI

Although mediation committees are now on their sixth year of operation, they have operated with insufficient training and coordination. A number of organizations have offered trainings to Abunzi but thus far there has been no coordination over which Abunzi are being trained, what they are being trained on and the quality of the training offered. On the one hand, the Ministry of Justice has lacked the necessary institutional and human capacity to coordinate different institutions involved in providing training of Abunzi and to monitor the quality of the training provided.

Although some organizations informed MINIJUST about their trainings and shared their materials with the Ministry, this information was not well documented and archived. Other organizations providing trainings and materials to Abunzi have done so without informing the Ministry on what kind of training they were offering, where and how. Abunzi have even complained that some organizations came and made promises of materials or per diems but never delivered on these.

In order to establish the foundations for improved coordination of Abunzi capacity building, the Ministry of Justice with the support of LAND Project organized a meeting of all partners known to have contributed to capacity building of Abunzi. This meeting was held on July 17, 2012 at the Ministry of Justice. To enable partners to participate more effectively in this meeting, a questionnaire was prepared and sent to them in advance (see Annex D). This questionnaire sought to identify which organizations have been involved in capacity building of Abunzi, where and when they provided trainings and how those trainings were administered. It also asked about their future plans to engage in training of the Abunzi. Finally, it sought to elicit partner perspectives on the capacity needs of Abunzi.

Of the 22 institutions invited to the partners meeting, only 11 attended. Of those 11 attending, only 5 filled out the questionnaire submitted to them. Questionnaire responses suggest that RCN, Search for Common Ground, Legal Aid Forum and Haguruka have made important contributions to Abunzi capacity building. (See Table 4). Other organizations that attended the meeting (see Annex E), including RISD, ADL, AJEPRODHO, and ARDHO, reported having trained Abunzi,. However, because they did not complete the questionnaire, we lack information on the extent and content of the training they provided.

Table 4: Abunzi trainings by NGOs between February 2010 and August 2012

Name of the organization	Period of the training	Where the training took place	Content of the training	Donor funding the training																					
1.Search For Common Ground	Between July and August 2010	In 8 Districts: Kamonyi, Nyanza, Rwamagana, Kirehe, Musanze, Burera, Karongi, Rutsiro	Targeted 260 Abunzi. Content of the training: -Conflict management approaches including conflict mediation -Active listening and dialogue facilitation.	USAID																					
2.RCN Justice et Democratie	<p>February-March 2010: Training of all 4 mediator committee members at Cell level</p> <p>February-November 2010: Workshop between mediator committees at cell level and Judges from primary courts</p> <p>July-September 2011: Training of all committee members at cell level in Bugesera, Gatsibo and Kirehe</p>	<p>For the training of mediators committees:</p> <table border="1" data-bbox="696 507 1391 1045"> <thead> <tr> <th>Province</th> <th>District</th> <th>Sector</th> <th>Cell</th> </tr> </thead> <tbody> <tr> <td rowspan="2">NORTH</td> <td rowspan="2">Rulindo</td> <td>Base</td> <td>Rwamahwa, Cyohoha, Gitare</td> </tr> <tr> <td>Kinihira</td> <td>Marembo</td> </tr> <tr> <td rowspan="4">EAST</td> <td rowspan="3">Bugesera</td> <td>Ntarama</td> <td>Cyugaro, Kanzenze, Kibungo</td> </tr> <tr> <td>Nyamata</td> <td>Nyamata, y'Umujyi, Kanazi, Kayumba</td> </tr> <tr> <td>Musenyi</td> <td>Musenyi, Kibungo, Gicaca, Nyagihunika</td> </tr> <tr> <td>Gatsibo</td> <td>Murambi</td> <td>Murambi, Rwankuba, Nyamiyaga, Rwimiterere</td> </tr> </tbody> </table>	Province	District	Sector	Cell	NORTH	Rulindo	Base	Rwamahwa, Cyohoha, Gitare	Kinihira	Marembo	EAST	Bugesera	Ntarama	Cyugaro, Kanzenze, Kibungo	Nyamata	Nyamata, y'Umujyi, Kanazi, Kayumba	Musenyi	Musenyi, Kibungo, Gicaca, Nyagihunika	Gatsibo	Murambi	Murambi, Rwankuba, Nyamiyaga, Rwimiterere	<p>-Mediation technics, procedures, -Organization, competence and functioning of the mediation committee -Abunzi decision making -Conflict management -Basic knowledge on family law, land , matrimonial regimes, liberalities and successions, gender based violence law, -Code of conduct of mediators</p>	<p>-Direction Generale de la cooperation au Developpement-Belgique</p> <p>-International Development Law Organisation (IDLO)</p> <p>-Ministere des Affaires Etrangeres-Royaume de Belgique(MIN AFET).</p>
Province	District	Sector	Cell																						
NORTH	Rulindo	Base	Rwamahwa, Cyohoha, Gitare																						
		Kinihira	Marembo																						
EAST	Bugesera	Ntarama	Cyugaro, Kanzenze, Kibungo																						
		Nyamata	Nyamata, y'Umujyi, Kanazi, Kayumba																						
		Musenyi	Musenyi, Kibungo, Gicaca, Nyagihunika																						
	Gatsibo	Murambi	Murambi, Rwankuba, Nyamiyaga, Rwimiterere																						

Name of the organization	Period of the training	Where the training took place				Content of the training	Donor funding the training
RCN	May 2012: Refresher training of all committee members at cell level in Bugesera, Gatsibo and Kirehe districts	Province	District	Sector	Cell	-Support tools of Abunzi (record minutes of the proposed settlement, notification)	
		EAST	Gatsibo	Remera	Kigabiro, Rurenge, Bushobora		
Gitoki	Mpondwa, Cyabusheshe, Nyamirama						
Kirehe	Gatore		Nyamiryango, Rwantonde, Cyunuzi, Rwabutazi et Curazo				
	Nyamugali		Kaziz, kagaza, Nyamugali, Bukora and Kiyanzi				
For the exchange workshop of Abunzi committees							
Province	District	Sector					
EAST	Gatsibo	Kiramuruzi					
	Rwamagana	Nzige					
		Kigabiro					
	Bugesera	Ruhuha					
KIGALI CITY		Nyamata					
	Gasabo	Rusororo					
SOUTH	Nyarugenge	Nyamirambo					
	Muhanga	Nyamabuye					
	Kamonyi	Gacurabwenge					
	Ruhango	Byimana					
	Gisagara	Ndora					
	Nyamagabe	Gasaka					
Kaduha							

Name of the organization	Period of the training	Where the training took place			Content of the training	Donor funding the training	
		Province	District	Sector			
RCN		NORTH	Rulindo	Mbogo			
				Kinihira			
			Gakenke	Gakenke			
		WEST	Nyabihu	Nyabihu			
				Mukamira			
			Rubavu	Nyakiriba			
			Karongi	Gihango			
3. Legal Forum	Aid	May 2012 to August 2012	Not specified			<p>Training focused on building capacities on practical skills by providing legal aid services such as:</p> <ul style="list-style-type: none"> -Receiving and interviewing beneficiaries -Investigation techniques -Orientation, accompaniment -Mediation, conciliation and negotiation -Legal advice, legal drafting and follow up -Documentation or record keeping -Civil and criminal procedures 	OXFAM NOVIB
4. HAGURUKA		Training did not target Abunzi. Rather training for paralegals included some mediators.	<p>Trained around 40 members of Abunzi Committee in the following zones :</p> <ul style="list-style-type: none"> -All cells in 4 sectors (Kaduha, Tare Kitabi, Musebeya) of Nyamagabe District, Southern Province All cells in 4 sectors (Kibeho, Ruramba, Busanze, Ruheru) of Nyaruguru Districts 			<ul style="list-style-type: none"> -Land law -Matrimonial regimes law -Women's rights to ownership of property. -Women's right to access, use and manage the family land property. 	TROCAIRE

The four organizations listed above that responded to our questionnaire together trained less than 100 out of 2564 mediation committees in Rwanda between February 2010 and August 2012. In the absence of data from other NGOs, it is not possible to know exactly how many mediation committees were trained by NGOs in this period. Given, however, that the responding organizations are widely perceived to be the most active in capacity building of Abunzi, it is reasonable to assume that the number of Abunzi trained by NGOs in Rwanda is quite small.

In addition to the limited number of Abunzi trained, there has not been any system of coordination between the organizations to:

- ensure they were not covering the same geographic areas and committees;
- harmonize the content of their trainings and reduce the probability of duplicative or conflicting information; or
- facilitate a consistent methodology based on lessons learned on the effectiveness of different approaches.

RCN and MAJ have been the most active stakeholders in the capacity building of Abunzi.

A review of RCN's training materials suggests that their trainings – though limited in geographic coverage -- have had the most depth and substance compared to other capacity building efforts targeting Abunzi. RCN employs high quality training materials that include:

- a compilation of laws such as the Abunzi law, the Organic Land Law, and the Succession Law, among others;
- a short video explaining the mission of Abunzi and how to conduct mediation;
- different forms Abunzi need in fulfilling their mission, and
- a well-developed training module.

RCN has used discussions, role plays, and visual support in its training and hired experienced judges, lawyers and mediators to deliver the training to Abunzi. Using data gathered from monitoring Abunzi performance, RCN was able to regularly adapt their trainings and also coach Abunzi in performing their activities. RCN was also one of the first NGOs to provide capacity building to Abunzi. RCN trainings have so far reached around 50 of Rwanda's 2,564 mediation committees. An anticipated grant from SIDA would expand their coverage to 1,075 cell mediation committees and 208 sector mediation committees.

MAJ which is a department of MINIJUST is the only entity providing capacity building of Abunzi which has covered all cells and sectors of the country. In collaboration with the ILPD, MINIJUST trained the MAJ on the Organic Law No. 31/2006 establishing the Organization, Jurisdiction, Competence and functioning of the Mediation Committee, the law no 59/2008 on prevention and punishment of gender based violence, the Law N° 22/99 of 12/11/1999 to supplement the Civil Code and to institute Part Five regarding matrimonial regimes, liberalities, and the Organic law N° 08/2005 of 14/07/2005 determining the use and management of land in Rwanda. MAJ were also trained in mediation. All MAJ were trained in a period of 5 days, after which they were sent to train all the Abunzi at both cell and sector levels for a period of one to two days each. Trainings were conducted at the sector level and were attended by both cell and sector Abunzi members. Although this training reached a wide audience, many Abunzi said that it was short and limited in content. Some Abunzi described it as more of a meeting than training.

6.2 STRATEGY FOR BUILDING THE CAPACITY OF ABUNZI

In this section, we propose a strategy for effectively and comprehensively addressing the capacity building needs of Abunzi and building on the high quality training materials and methods developed and employed by RCN and other NGOs together with the capacity of MAJ to reach a broad audience of Abunzi. The proposed strategy capitalizes on the Abunzi Secretariat's role to organize and coordinate "training for Mediators and initiating other activities with regard to their capacity building" and to "provide Mediation Committees with equipment and all materials needed to perform their duties." Implementation of the strategy comprises four phases: curriculum development, planning, training of trainers, and Abunzi training. To insure the sustainability of this capacity building, this strategy proposes also that the Abunzi Organic Law be amended to avoid an abrupt leave of all trained Abunzi.

The curriculum development phase could be led by a committee made up of volunteer representatives from organizations that have prior experience training Abunzi or other useful conflict resolution experience to offer, such as RCN, ILPD, Haguruka, and the Center for Conflict Management at the National University of Rwanda – together with the Abunzi Secretariat. The

tasks of this committee would include reviewing existing Abunzi training materials, drawing on the capacity building needs identified in this assessment, conducting any additional consultation as needed, and then developing a core **curriculum, teaching materials and methodology** that could be adopted by all organizations planning to train Abunzi. Financial and technical assistance to develop this curriculum, materials and methodology could be partially supported by LAND Project, with the Abunzi Secretariat in charge of distribution of the materials and coordination of the trainings. A realistic timeframe for this phase is 4-6 months.

After the development of the curriculum, teaching materials and methodology, the committee would work together with the Abunzi Secretariat and the LAND Project to develop a comprehensive **training plan**, identifying which entities would carry out trainings in the different cells and sectors, the timeframe for trainings, and plans for monitoring and follow-up trainings. The Abunzi Secretariat would coordinate and monitor the implementation of this plan.

As part of the planning phase, MINIJUST would convene donors and NGOs interested in providing capacity building to Abunzi. Led by the Abunzi Secretariat, this meeting would present the training plan and curriculum as well as sensitize donors about the unfunded material needs of Abunzi. Needs in this category should include duplicating and distributing materials developed by the committee in phase one. The timeframe for this phase would be 1-2 months.

In the third phase, **training of trainers**, all organizations intending and with funding to provide training to Abunzi would select a core cadre of the trainers who would train the Abunzi. These trainers together with MAJ would spend two weeks at ILPD being trained on adult training methodology, as well as the curriculum and materials to be used in their training of Abunzi. This group would constitute a pool of trainers the government and NGOs could use for their respective trainings of Abunzi. Donors involved in funding the capacity building of Abunzi such as the European Union, Swedish Embassy, Oxfam Novib and USAID (LAND Project) together with the Ministry of Justice might consider offering financial and technical support for the training of trainers phase. The time frame for preparing for and conducting the training of trainers would be around 1 month.

The last phase would be **training the Abunzi**. Each organization using the curriculum and materials developed in phase one and using trainers trained during phase three would conduct the training of Abunzi in the geographic areas designated by the Abunzi training plan developed in phase two. Areas not assigned to a specific organization would be covered by MAJ. The timeframe for this activity could be 6-10 months, depending on the number of

organizations that have been trained and the resources provided to them by donors to carry out training.

These phases would be accompanied by actions to strengthen collaboration between the Abunzi, MAJ and regional representatives of the Abunzi Secretariat to provide Abunzi with legal advice and exposure to best practices.

In order for this capacity building to be sustainable beyond the 5 years term of Abunzi, it is proposed that the Abunzi Organic Law be amended to avoid that all the 12 members of Abunzi Committee leave at the same time when their term ends. One of the solutions would be that at the end of the 5 years term of current Abunzi, the election of new Abunzi affects only 6 Abunzi and the term of 6 other Abunzi is extended for 2 ½ more years. During these 2 ½ years the new and old Abunzi would work together, the former learning from the latter. After this period a new election will be organized only for the 6 longest serving Abunzi. This will insure that Abunzi elections are held every 2½ years for Abunzi who completed their 5 years term and the new Abunzi can learn from the longer serving ones.

In addition the government will need to start budgeting Abunzi costs beyond the mere support of their health insurance.

Table 5. NGOs Anticipating Provision of Future Trainings of Abunzi

Name of the organization	Capacity building area to focus on	Where the capacity building/training will take place	Donor funding future capacity building/training)
1.Search For Common Ground	-conflict resolution and mediation including active listening and dialogue facilitation	They will train 678 Abunzi in 27 District outside Kigali city	The European Commission
2. RCN Justice &Democratie	-Training on mediation skills, decision making - Training on laws(Gender Based Violence , land law, matrimonial regimes) -Training on how to gether information and to analyze them.	<ul style="list-style-type: none"> • Nothern Province: Rulindo, Gakenke and Musanze Districts in all sectors and all cells • Western Province: Rubavu, Nyamasheke and Rusizi Districts in all sectors and all cells • Southern Province: Nyamagabe, Nyaruguru, Nyanza, Ruhango Dstricts in all sectors and all cells • Eastern Province: Rwamagana, Kirehe, Gatsibo and Bugesera Districts in all sectors and all cells • Kigali City: Gasabo District in all sectors and all cells 	Embassy of Sweden
3.Legal Forum	-Mediation -Legal counseling -Record keeping -Relevant laws related to must complaints received from beneficiaries	Country wide and train all mediation committees	Norway through OXFAM NOVIB

CONCLUSION

Given the important role mediation committees in resolving disputes and mitigating conflict in Rwanda, it makes sense to pursue strategies that will strengthen this role. This assessment has revealed that compared to the ordinary court system, Abunzi have the advantage of being more affordable, accessible, fast, participatory and restorative. Despite their significant contribution, however, Abunzi are struggling with challenges which, if not well dealt with, could undermine these benefits. Among the challenges identified in this assessment are those resulting from the Abunzi Organic Law, those resulting from weak capacity of Abunzi to mediate and draw on law, and those resulting from lack of materials and infrastructure. In order for mediation committees to adequately exercise their role as mediators, Abunzi need more trainings, adequate infrastructure and materials, and better incentives and coordination.

To achieve these aims, there is a need for all stakeholders involved in Abunzi system, particularly those involved in Abunzi capacity building, to work together through an effective and comprehensive strategy. The strategy proposed in this assessment seeks to build on the high quality training materials and methodologies developed and employed by RCN and other NGOs, the capacity of MAJ to reach a broad audience of Abunzi, and the Abunzi Secretariat's role to organize and coordinate Abunzi activities and trainings. It is structured in four phases: developing the curriculum, teaching materials and methodology for training Abunzi; developing a comprehensive training plan and funding sources; training of trainers; and finally training of Abunzi. These steps need to go hand in hand with building infrastructure and equipping Abunzi with needed materials and better incentives, better coordination for Abunzi, and access to legal advice and best practices for dispute resolution which can serve as a source for continuous guidance and help for Abunzi in their activities. The success of this strategy requires budgetary commitments from the government and coordinated financial support by institutions involved in funding the justice sector in Rwanda.

ANNEXES

ANNEX A : KEY FINDINGS AND RECOMMENDATIONS

<p>BENEFITS OF THE ABUNZI SYSTEM</p>	<ul style="list-style-type: none"> • Affordable: it is free for citizens and costs very little to the government. • Accessible: the ratio of Abunzi to the population of Rwandan adults is satisfactory and the distance people make to get their cases heard has significantly reduced. • Timely: hearings and decisions of Abunzi take less time compared to ordinary courts. • Participatory: Citizens elect their Abunzi; parties select their mediators and anybody can shade lights on any case before Abunzi • Restorative: the primary role of Abunzi is first and foremost to conciliate parties. In criminal matters, Abunzi are not allowed to pronounce punitive sentences. • Effective: Abunzi system has reduced the number of cases going to the formal court system; only a small number of cases appealed before the Primary Courts get overturned
<p>CHALLENGES OF ABUNZI COMMITTEES AND THEIR SECRETARIAT</p>	<ul style="list-style-type: none"> • Article 10 of the Abunzi Organic Law constitutes a handicap to goal of reducing primary court's case dockets and limits the opportunity for those seeking mediation including cases involving women and land; • Executive Secretaries of cells and sectors contribute to the work of Abunzi but their unavailability as well as their political and administrative role sometimes handicap the objective of Abunzi; • Multiple forums of conflict resolution (ilyamukuru, inama y'abaturange, Ombudsman, etc) sometimes lead to solutions that conflict with Abunzi decisions • Article 18 of Abunzi Organic Law is in contradiction with the principle that Abunzi should be allowed to choose their mediators • The fact that Mediation is public and mandatory means that Abunzi system cannot met the benefits of a confidential and voluntary mediation and in criminal law this can lead to violating the rights of defense; • The fact that a number of Abunzi cannot read and write makes it difficult to build their capacity in legal and mediation skills; • There are no clear guidance to assist Abunzi in conducting mediation and taking decisions in case of non-conciliation; • Some Abunzi tend to mimic Gacaca courts (sitting arrangement, questioning parties, drafting decisions etc.)and this handicaps their work as mediators; • The law is not clear on whether Abunzi are mediators or Conciliators, meaning if they should act as passive or active third party; • In most cases Abunzi rush into adjudicating the case before them

	<p>with no effort in mediating the parties before them;</p> <ul style="list-style-type: none"> • Although limited, there are still some cases of corruptions in the Abunzi; • Mediation committees still use customary laws that are sometimes prejudicial to women; • Some Abunzi do not know if the cases they take are of their material competence because they do not have the capacity or means to make such an assessment; (is a specific case of a value of 3 million or not?) • Abunzi have difficulties understanding key rules of interpretation and rules of evidence guiding the field of law they are called to apply (criminal law, labor law, etc.) • Abunzi have difficulties understanding constitutive elements of offences they are called to handle; • Because the Abunzi organic law did not define the offences to be handled by Abunzi and did not refer to Penal Code when listing them, Abunzi struggle to find guidance in understanding these offences; • Most decisions of Abunzi do not include key elements of Article 22 of the Abunzi Organic Law: arguments put forward by involved parties, the mediation decisions with which all parties agree, and mediation decision with which one of the parties does not adhere, if any; • Judges are sometimes obliged to try anew appeal cases from Abunzi because their decisions contain little information to guide the appeal; • Most Abunzi decisions are not motivated either in law or in logic; • In some cases Abunzi condemned individuals who are not party in the case or the representative of a party in a case rather than the party himself or herself; • In most cases Abunzi decisions are communicated to parties verbally instead of issuing copies of their decisions; • Some Abunzi still confuse the date the decision was issued on and the date the copy of the decision was delivered to the concerned party. This creates conflicts when one party requests an enforcement order at the court and another wants an appeal; • Because of lack of photocopier, Abunzi handwrite copies of their decisions to give to parties and this create errors and discrepancies with the original; • In some cases the enforcement of decisions become difficult because they are poorly drafted; • The execution of abunzi decisions still face some resistance and women and vulnerable groups are the most affected by this;
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	<ul style="list-style-type: none"> • Some mediation committees do not have a clear schedule on when they meet and others which have a schedule fails to communicate that to the public; • Abunzi have no rooms, they borrow rooms or they gather under a tree (problem when it rains) • Abunzi lack materials such as pens, papers, registries and forms; • MAJ and Executive Secretaries complains that they have to share their scarce resources with Abunzi; • Although Abunzi have notebooks where they register cases and decisions, these notebooks are too old with loose papers and content which is not readable anymore; • Because there is no standard on what kind of information to include Abunzi registries, each mediation committee registers the information it feels necessary. This has an impact on reporting and analysis of Abunzi data; • Some Abunzi use forms similar to those of the court, calling themselves court; • Abunzi notebooks or registries are kept at home or in an unlocked cupboard or a plastic bag at the cell's or sector's office where they are exposed to theft, alteration and deterioration; • Abunzi have no means of transportation, they walk to go to their hearing and meetings. This is more difficult for Abunzi of the sector because the latter is much bigger; • Abunzi (particularly the chair) use their own cellphone to convene meetings and sometimes call parties and hear witnesses on their phone and there are not reimbursed for their airtime; • Abunzi of the sector do not have scarfs to identify themselves as Abunzi when hearing cases; • In some cases MAJ and Executive secretaries act as supervisors of Abunzi;
<p>MEASURES NECESSARY FOR ABUNZI TO ADEQUATELY EXERCISE THEIR ROLE</p>	<ul style="list-style-type: none"> • Training needs <ul style="list-style-type: none"> - because the level of education of Abunzi is different, the level of their capacity needs is also different; There is therefore a need to start from the needed general knowledge and grow to cover specific skills needed: - General knowledge could include different branches of government; difference between law (itegeko) and order (itegeko); difference between legal and contract obligation;; basic human rights principles; basic customer service and other general topics; - Specific training could include: <ul style="list-style-type: none"> ○ The law that governs Abunzi. This will require simplifying (through illustrative pictures, etc.) more and expand the booklet “inyigisho zigenewe Abunzi” to include ethics rules, anticorruption, civic education, customer care required in Abunzi system; ○ Conflict resolution and mediation skills (Verbal and non-verbal communication skills; Developing creative solutions; Negotiation skills that move parties past impasses and focus on interests rather than people; Mediation skills; Rwandan culture and values as they

	<p>apply to mediation; etc.)</p> <ul style="list-style-type: none"> ○ Laws applicable in cases under Abunzi competence as defined in Articles 8 and 9 of the Abunzi Organic Law(Basic and simplified knowledge about contract law; property law; land law; labor law;family law; inheritance and succession; elements of offences defined in article 9; rules of evidence and interpretation in civil and criminal law. ○ Techniques of drafting <ul style="list-style-type: none"> ▪ Mediation decisions when parties reach agreement; ▪ Decisions when conciliation fails and Abunzi take decision on the case; ▪ Abunzi report. <ul style="list-style-type: none"> - training methodologies should communicate the essence of laws in ways that make them readily comprehensible, e.g. through use of skits that provide examples of situations and appropriate legal remedies for such cases; - In addition to training there is a need to: <ul style="list-style-type: none"> ○ Create a framework through which Abunzi can receive legal advice and guidance on legal questions they face ○ Build a database on best practice in mediation and on cases handled <ul style="list-style-type: none"> ● Material needs <ul style="list-style-type: none"> - Construction of annex rooms at every cell and sector to serve as a hearing and meeting place for Abunzi (Priority: Abunzi at the cell level.) - Duplicate and distribute Abunzi registries and forms developed by RCN and approved by Minijust; - Make available at least one photocopier with the capacity to scan and save on memory stick per 3 bordering cells; - Equip abunzi with papers, pens,etc - Provide transportation, meal and communication means particularly on days of hearing cases - The Government may wish to consider whether Abunzi services should continue to be free; ● Incentive needs <ul style="list-style-type: none"> - The majority of Abunzi agree that although they are not paid, they find their reward in the trust of the citizens who elected them; in the pride they get when contributing to solving problems in their cell or sector; and in the sense of patriotism that animate them; in order to facilitate their work, however, the government should <ul style="list-style-type: none"> ○ pay transportation, meal, phone services on days
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	<p>Abunzi meet;</p> <ul style="list-style-type: none"> ○ Continue and improve the system of mutuelle de santé for Abunzi and cover more members of their families; ○ Develop a program similar to “girinka” for Abunzi; ○ Invite them in public ceremonies and festivities; ○ Develop a system to award best performing Abunzi; <ul style="list-style-type: none"> ● Coordination needs <ul style="list-style-type: none"> - With the new Abunzi Secretariat, the coordination of Abunzi is significantly improving; Abunzi secretariat lacks, however: <ul style="list-style-type: none"> ○ sufficient staff and materials to facilitate its mission. - Because Abunzi system is decentralized this should be well reflected in the structure of Abunzi Secretariat, this means: <ul style="list-style-type: none"> ○ The representation of Abunzi secretariat should be more at the district, rather than province level ○ The mission of representatives of Abunzi secretariat at the local level should be well defined and include for example the Coordination and monitoring of Abunzi activities; Serve as a regional database of best practice abunzi can use in handling cases before them; Organize continuing training of Abunzi in cooperation with MAJ; Serve as a hotline on laws and their interpretation Abunzi; - The government should shift its approach of funding Abunzi activities from an earmark approach that covers only their health insurance to creating an abunzi budget line that takes care of the above mentioned needs of Abunzi.
<p>STRATEGIES TO ADDRESS ABUNZI CHALLENGES</p>	<ul style="list-style-type: none"> ● A strategy for effectively and comprehensively addressing the capacity building needs of Abunzi needs to be built on: <ul style="list-style-type: none"> ○ The high quality training materials and methodologies developed and employed by RCN and other NGOs, ○ The availability and capacity of MAJ to reach a broad audience of Abunzi; ○ The Abunzi Secretariat’s role to organize and coordinate Abunzi activities and trainings; ○ The commitment of the government to budget abunzi activities. ● Implementation of the capacity building strategy of Abunzi would comprise four phases: <ul style="list-style-type: none"> - Phase 1: Developing the curriculum, teaching materials and methodology <ul style="list-style-type: none"> ○ Key players: RCN (to represent NGOs and because of the quality of its training materials and experience), ILPD (because of its mission and capacity in developing training curriculum and materials), Haguruka (because of its gender focus), the Center for Conflict Management at NUR (because of its inputs on mediation and conciliation), and the research coordinator of the Abunzi secretariat. With the technical support from Land Project ○ Mission: develop a complete and comprehensive curriculum of Abunzi training, develop training materials

- and methodology;
- o Period of performance: 4-6 months
- **Phase 2:** development of a comprehensive training plan
 - o Key players: Minijust, curriculum development committee, Abunzi secretariat, Land Project.
 - o Mission:
 - Identifying which entities would carry out trainings in the different cells and sectors, the timeframe for trainings, and plans for monitoring and follow-up trainings.
 - Convene all donors and NGOs interested in providing capacity building to Abunzi for a consultative meeting and present the training plan and curriculum as well as sensitize donors about the unfunded material needs of Abunzi.
 - Timeframe: 1- 2 months
- Phase 3: the training of trainers
 - o Where: ILPD
 - Who will be trained: All MAJ and selected trainers from NGOs intending and with funding to provide training to Abunzi;
 - Areas of training: curriculum and materials developed during phase 1;
 - Timeframe for preparing conducting the training: 1 month;
- Phase 4: Abunzi training
 - o Where: the entire country
 - o Who will train: trainers trained at the ILPD
 - o Funding and schedule: following training plan and funding identified during phase 2
 - o Timeframe: 6-10 months.
- The implementation of these phases should be accompanied by building a framework for Abunzi to continue receiving legal advice from MAJ and regional representatives of the Abunzi Secretariat and building by the latter of a database on best practice cases.

ANNEX B : SAMPLE GUIDING QUESTIONS USED DURING THE ASSESSMENT

1. MEETING WITH ABUNZI

- Why did you choose to become Abunzi?
- What is your level of education?
- What kind of cases do you encounter the most?
- How are mediators in a case selected?
- Did you receive any training on Abunzi organic law or laws related to cases you handle? Who gave you these trainings? How often? What did you learn from these trainings?
- How do you conduct mediation?
- As a women mediator what kind of challenges do you encounter dealing with your colleagues Abunzi or parties you are called to mediate?
- What kinds of issues/cases women bring to Abunzi for mediation?
- What are the key provisions do you know about the 1999 Rwandan law on Matrimonial Regimes, Liberalities and Succession
- What are the key provisions do you know about the organic land law?
 - i. How is land transfer and land lease done?
 - ii. Can you list some rights and obligations of landlords
- Are there other laws you know that you would like to know so that you can do better your job as mediator?
- What are the main challenges do you encounter as mediator?
- Which trainings do you think you need in order to fulfill your responsibilities as mediator?
- What are the material needs of your mediation committee?
- What kind of support (materials, technical, etc) you have received so far and who provided them?
- How do you see your working relationship with MAJ, Primary Court, Executive Secretary and the Ministry of Justice?
- What kind of incentives do you think Abunzi need in order to be encouraged in fulfilling their responsibilities?
- What kind of documentation and laws do you have to assist you when mediating?
- How do you assess if a case brought to you is of the Abunzi competence and not for the Court?

2. MEETING WITH PRESIDENTS AND REGISTRARS OF THE PRIMARY COURTS

- How do you see Abunzi contributing to the justice system in your district?

- What kind of training do you think Abunzi need the most?
- Since the creation of Abunzi system did the number of cases you receive increase or decrease?
- What are the key challenges do you face when dealing with cases coming from Abunzi?
- What do you think can be done to assist Abunzi improving their performance?
- How do you see Abunzi applying the Rwandan law?
- Do you sometimes find cases where Abunzi applied customs rather than written law?
- Do you find sometimes cases in which Abunzi are biased against women?
- What kind of provisions in Abunzi law do you find problematic?
- What other assistance do you think Abunzi need?

3. MEETING WITH CITIZENS

- When did you submit your case to Abunzi?
- Why did you bring your case before the Primary Court instead of Abunzi? (citizens met at the court)
- What is the nature of the case you have before Abunzi?
- What did the Executive Secretary do to help you?
- Does it matter to you if your case is heard in public like now or if it is heard in private (confidentiality) without the public?
- What are the benefits of Abunzi system?
- Would you prefer to have female or male mediators?
- How were mediators in your case selected?
- Tell us all the procedure your case followed to come to Abunzi and what will happen after Abunzi hear your case?
- Do you know what the law says about situations like yours?
- What will happen next if you win your case? What will happen next if you lose your case?

4. MEETING WITH MAJ

- How do you work with Abunzi?
- What kind of training did you offer to Abunzi?
- Who trained you in order to train Abunzi?
- What kind of material and other support do you give to Abunzi?

- What are the key challenges Abunzi face in their work?
- What kind of training do you think Abunzi need?
- What are the key problems Abunzi decisions encounter in their execution?

5. MEETING WITH EXECUTIVE SECRETARIES

- How do you find the responsibilities the Abunzi law has entrusted in you?
- How much time do you spend working on Abunzi issues?
- What are the key challenges Abunzi face?
- How do you think Abunzi can be better coordinated?
- What kind of support does your office give to Abunzi beyond what the law requires?
- What are the weaknesses of Abunzi?
- What kind of training do you think Abunzi need?

ANNEX C: Figures about Abunzi

District	Visited cells or Sectors	N° of Abunzi women	N° of Abunzi men	Total number of Abunzi	Comments
1.RWAMAGANA	Nyarusange cell	4	6	10	2 Abunzi left for personal reasons (studies etc.)
2.KARONGI	Birambo cell	4	8	12	
3.NYANZA	Butansinda cell	3	9	12	
4.RULINDO	Murambi Sector	4	8	12	
5.KICUKIRO	Masaka Sector	2	9	11	1 Umwunzi left and has not yet been replaced

ANNEX D: QUESTIONNAIRE FOR ABUNZI PARTNERS

1. Name of your Organization

.....
.....

2. Is or has your organization been involved in training of Abunzi?

YES/NO

If yes,

a. When? (Please list beginning month and year and ending month and year, noting any periods when training ceased)

.....
.....
.....

b. Where? Please list all the cells, sectors, districts and provinces covered by your trainings and note how many Abunzi committee members were trained in each locale.

.....
.....

c. Please describe the content of your trainings, specifically noting the skill areas you sought to strengthen abunzi capacity.

NOTE: Please also bring to the meeting on Tuesday training materials you have used to train abunzi as well as reports you have written describing the content of your trainings.

.....
.....

d. Who funded your trainings?

.....
.....

3. What knowledge, skills and abilities do you think every member of the abunzi should have?

.....
.....

4. Which knowledge/skill areas do you feel Abunzi currently have good capacity (and therefore they are less likely to require capacity building)?

.....
.....
5. Which knowledge/skill areas do you feel Abunzi lack, and therefore are in need of capacity building? Please list in order of priority, noting the areas you feel are most weak and in most need of capacity building first.

.....
.....
6. Are there any other factors, beyond knowledge and skills that inhibit the capacity of the abunzi to fulfill their mandate (e.g. any particular challenges they face)? If yes, please describe these.

.....
.....
7. Is your organization planning to provide capacity building assistance to the Abunzi in the future? YES/NO

If yes

a. In which capacity building/training areas is your organization planning to focus?

.....
.....
b. In which cells/sectors/districts are you planning to provide training/capacity building services ?

.....
.....
c. What are your targets in terms of number of abunzi members that will be trained?

.....
.....
d. Have you secured funding or planning to receive funding to provide this training? YES/NO
If yes, which donor(s) is providing or will provide the funding?

.....
.....
8. From your experience, what methodologies are (or are likely to be) most effective in strengthening abunzi capacity?

9. Please list all other activities you are involved in supporting Abunzi:

.....
.....

Thank you for your time and feedback!

ANNEX E: ABUNZI PARTNERS MEETING JULY 17TH, 2012

No	NAMES	INSTITUTION	TEL	EMAIL
1.	Nibishaka Emmanuel	OTP/OGS	0784184181	
	Munyaneza Thomas	OTP/OGS	0788788384	
	Karamaga Wilson	RISD	0788531512	
	Munyankiko J.Leonard	ADL	0788639804	
	Habba Batumuliza Hadijah	IBJ	0788634131	
	Michael Novasky	IBJ	0786684423	
	Attouche Anne-Elisa	RCH-JUSTICE ET DEMOCRACIE	0788388184	
	Mutebutsi N. Obedy	RCN-JUSTICE ET DEMOCRACIE	0788351615	
	Talemwa Jackson	AJPRODHO	0782237857	
	Bampire Esperance	MINIJUST/ABUNZI SEC	0788609150	
	Barihuta Pacifique	RGB	0788749435	
	Narcisse Kalisa	SFCG	0785671066	
	Ernest Dukuzumuremy	LAF	0788303795	
	Anna Knox	LAND PROJECT	0786689685	
	Masengo Fidele	LAND PROJECT	0788307619	
	Manirarora J. Bosco	MINIJUST/ABUNZI SEC	0788574960	
	Taremwa Daniel	HAGURUKA	0788403447	
	Annie Kairaba	RISD	0788302452	
	Kabera P.Claver	TRANSPARENCY INTERNATIONAL-RWANDA	0788301546	
	Balinda Anastase	MINIJUST/ABUNZI SEC	-	
	Bizimana Ruganintwali Pascal	MINIJUST/PERMANENT SECRETARY	-	
	Jean-Marie Kamatali	LAND PROJECT	078536586	

ANNEX F: LIST OF PEOPLE INTERVIEWED

INDIVIDUAL INTERVIEWS

NO	NAMES	TITLE AND INSTITUTION	CONTACT
1.	Balinda Anastase	Coordinator Abunzi Secretariat	0785480970
	Angela Nirere	Trainer RCN	
	Niyibizi Tite	Lecturer ILPD	0788827273
	Nick Huls	Vice Rector, ILPD	0784519346
	Jean-bosco Maniraroa	Abunzi Secretariat?MINIJUST	0788574960
	Jacky Bakamurera	Assistant Attorney General/MINIJUST	0788301095
	Jean Bosco Habyarimana	Deputy Director Center for Conflict Management/NUR	
	Naomi Umuhozo	Legal Aid Clinic Coordinator/NUR	0788536195

ABUNZI: NYANZA DISTRICT (CELL LEVEL)

NO	NAMES	TITLE	CELL
1	KANAMUGIRE Athanase	MEDIATOR	BUTANSINDA
2	NIKUZE Dative	MEDIATOR	BUTANSINDA
3	MUKANTAGARA Zeblie	VICE-PRESIDENT	BUTANSINDA
4	MUSABYIMANA Baziliza	MEDIATOR	BUTANSINDA
5	HITABATUMA Viateur	MEDIATOR	BUTANSINDA
6	SEMANYENZI Gaspard	MEDIATOR	BUTANSINDA
7	MUNYEMPARA Joseph	MEDIATOR	BUTANSINDA
8	RUBAYIZA A	PRESIDENT	BUTANSINDA
9	MUNYANDINDA Eliphaz	MEDIATOR	BUTANSINDA
10	MUKAYIRANGA Drocella	MEDIATOR	BUTANSINDA
11	KANANI Jean Damascene	MEDIATOR	BUTANSINDA
12	HAKIZIMANA Jerome	MEDIATOR	BUTANSINDA

ABUNZI: KARONGI DISTRICT

NO	NAMES	TITLE	CELL
1	MUGENZI EVARISTE	VICE-PRESIDENT	BIRAMBO

2	MUNYAMBONERA LEON	MEDIATOR	BIRAMBO
3	MUKAKALISA Alphonsine	MEDIATOR	BIRAMBO
4	TWAGIRAYEZU Vedaste	MEDIATOR	BIRAMBO
5	NYIRARUKUNDO Anonciate	MEDIATOR	BIRAMBO
6	MUKAMASABO Rose	PRESIDENTE	BIRAMBO
7	USABYIMANA Sarah	MEDIATOR	BIRAMBO
8	KAMEGERI Elisee	MEDIATOR	BIRAMBO
9	MVUNABO Dennis	MEDIATOR	BIRAMBO
10	NDAHIMANA Emmanuel	MEDIATOR	BIRAMBO
11	MUREKEZI Theophile	MEDIATOR	BIRAMBO

ABUNZI: RWAMAGANA DISTRICT

NO	NAMES	TITLE	CELL
1	GISAGARA Emmanuel	PRESIDENT	NYARUSANGE
2	BUTARE J.Damascene	MEDIATOR	NYARUSANGE
3	MUKOMEZA Ignace	MEDIATOR	NYARUSANGE
4	MUkarusagara Marie	MEDIATOR	NYARUSANGE
5	MUKAMUNANA Dative	VICE PRESIDENT	NYARUSANGE
6	RUSAGARA Zimir	MEDIATOR	NYARUSANGE
7.	YANKURIJE Capitoline	Executive Secretary	NYARUSANGE

ABUNZI: KICUKIRO DISTRICT

NO	NAMES	TITLE	SECTOR
1	RUDASINGWA Charles	PRESIDENT	MASAKA
2	RUTERAMBUKU Innocent	VICE-PRESIDENT	MASAKA
3	UWANGABE Josiane	MEDIATOR	MASAKA
4	NDUWAMUNGU Theogene	Secretary, Abunzi committee	MASAKA
5	SEKAMANA Celestin	MEDIATOR	MASAKA
6	BAKOMEZA Daniel	MEDIATOR	MASAKA

7	BYINGOMA Leonidas	MEDIATOR	MASAKA
8.	SAMALI James	MEDIATOR	MASAKA
9.	HATUMIMANA Theodette	MEDIATOR	MASAKA
10.	RUSAGARA Silas	MEDIATOR	MASAKA

ABUNZI: RULINDO DISTRICT (APPEAL LEVEL)

NO	NAMES	TITLE	SECTOR
1	KANKINDI Anne-Marie	PRESIDENTE	MURAMBI
2	KALISA Claudien	MEDIATOR	MURAMBI
3	HABYARIMANA Juvenal	MEDIATOR	MURAMBI
4	RWAGAHIRIMA Abel	VICE-PRESIDENT	MURAMBI
5	MUKAHABIMANA Vestine	MEDIATOR	MURAMBI
6	MUSILIZA Onesphore	MEDIATOR	MURAMBI
7	RWABUHUNGU Venant	MEDIATOR	MURAMBI

MAJ

NO	NAMES	TELEPHONE	DISTRICT
1	AKIMANA LAURENCE	0788220590	MAJ / KARONGI
2	RWIGEMA MARIE- LOUISE	0788631201	MAJ / KICUKIRO
3	MUGENI CECILE	0788428996	MAJ / RWAMAGANA
4	MUKARUGIRA MARIE	0788602848	MAJ / RULINDO
5	UMUGWANEZA CHANTAL	0788303896	MAJ / NYANZA

JUDGES & COURT'S CLERK

NO	NAMES	TELEPHONE /TITLE	PRIMARY COURTS
1	MUHUMUZA F. XAVIER	0788526033/PRESIDENT	TB BUSASAMANA
2	NYAMINANI DANIEL	CHIEF COURT CLERK	TB BUSASAMANA
3	HAKIZIMANA POLYCARPE	0788849022/CHIEF COURT CLERK	TB KIGABIRO
4	NYIRINKINDI THEOGENE	0788448284/PRESIDENT	TB KIGABIRO
5	NDAHIGWA FELIX	0788557565/PRESIDENT	TB NYARUGUNGA
6	GAHURANYI THADEE	0783311587/CHIEF COURT CLERK	TB NYARUGUNGA
7	MUVUNYI GILBERT	JUDGE	TB GASHALI
8	HAKIZIMANA FELIX	0788852071/COURT CLERK	TB GASHALI
9	NKUNDIMPAYE ISMAIL	0788514934/CHIEF COURT CLERK	TB MBONGO
10	SAKINDI DIEUDONNE	JUDGE	TB MUHOZA/MUSANZE
11	THERESE TWIZEYIMANA	JUDGE	TB MUHOZA/MUSANZE
	BAZIHANA FIDELE	PRESIDENT	TB MUHOZA/MUSANZE

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