

Land Reform in Post-Genocide Rwanda: Connecting Sustainable Livelihoods and Peacebuilding¹⁾

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ジェノサイド後のルワンダにおける土地改革 —— 持続可能な生計と平和構築の統合的考察 ——

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今日の世界は多様な課題を抱えており、その解決には国際的協力が不可欠である。環境保護や紛争解決もその例である。興味深いことに、これら2つの課題はこれまでしばしば別々の問題として扱われ、漸く近年にいたり包括的解決が模索されるようになってきた。本稿ではこれら2つの課題の関連性を、ルワンダの土地問題を例に見ることとする。土地問題はルワンダで1994年に起こったジェノサイドの最重要背景の1つである。ジェノサイド後における適切な土地管理の枠組みを確立することは、永続的な平和の確保に不可欠である。2006年から2007年にかけてルワンダの4つの地域で実施された土地登記の実験は幾つかの改善をもたらすと思われるが、他方であらたな懸念をも生んでおり、全国展開においては慎重な対応が求められる。

The world today faces a wide range of critically important issues, whose resolution require international collaboration of various stakeholders. Environmental conservation and conflict resolution are such examples. Interestingly enough, these two issues have been until very recently conceptualized as separate problems, and coordinated resolution came to be pursued only recently. This paper attempts to connect these two critical agendas by using the case study of land issues in Rwanda in Africa. Land issues were one of the most important background factors of the 1994 genocide in Rwanda. Establishing appropriate land regulatory framework in post-genocide Rwanda is indispensable for sustainable peace in this part of the world. Whereas the land registration piloted in four areas in 2006 and 2007 presents some promises, this exercise also invites additional concerns, which need to be carefully considered in the scaling up process.

1 Introduction

Natural resource management generally has been increasing its importance as it strategically relates to other critical agendas. The post-Cold War world witnessed unfortunately more civil strife and domestic insurgencies instead of war fought between nation-states. Many of these conflicts occurred in developing countries. There, poverty caused conflicts, which in turn exacerbated human deprivation and suffering. Breaking this vicious circle is one of the critical policy issues awaiting urgent resolution in our time. Ways in which competing stakeholders use limited natural resources seriously affects poverty. Indeed, some conflicts are caused by acute competition over such scarce resources. United Nations Environmental Programme (UNEP) reports that in the last 60 years at least 40% of intrastate conflict relates to natural resources (2009: 8), and such natural

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resource related conflicts are twice as more likely to relapse into conflict in the first five years of ceasefire (ibid: 11).

Faced with increased internal conflicts and civil strife, the international society has intensified its effort for peacebuilding. This is a broad notion.²⁾ Indeed as many of civil strife and ethnic violence in the South last for a considerable period of time (Hewitt et al. 2010), establishing durable peace is urgently needed today. While conventional post-conflict activities have tended to emphasize, *inter alia*, restoration of order, demobilization of soldiers, and legal reform in order to respect rule of law and human rights, less attention has been paid to resource management issues that sometimes are root cause of conflicts. It is only very recently that the trajectory between resource management and peacebuilding came to be recognized as an issue of crucial importance both within academic and practitioners' circles (UNEP 2009). There is now an increasing attention paid to the complex relations between environment and resource management on the one hand and restoring peace and durable resolution of conflicts on the other hand (Matthew et al. 2002; Hagmann 2005; Gleditsch 2007).

Among the natural resources, land is one of the utmost important resources. Land is almost the only valuable asset for the majority of Africans, especially in rural areas. It is often said in Africa that "when one has land, one has life". In addition, land is also important as it relates to identity and culture, especially in developing countries. People are connected to ancestors through inheriting land.

Land is, therefore, an excellent example for studying intricate relationships between resource management and peacebuilding. For the same reason, it is an important resource for the poor in attempting to manage their livelihoods. Within development studies, livelihoods perspective is becoming more widely accepted as a useful framework for both understating complicated life worlds of the poor as well as formulating effective solutions of mitigating ill-beings (Ellis and Freeman 2005).

The land issues reemerged as an important policy reform agenda particularly since the 1990s. While in the 1980s, land and agrarian reform agendas were dominated by the structural adjustment that emphasized privatization and marketization, the reemergence was influenced by several important factors including, *inter alia*, persistent widespread poverty, increasing globalization, and increasing connection between poverty and conflicts (e.g. through the notion of human security) (Rosset et al. 2006; Akram-Lodhi et al. 2007; Sikor and Müller 2009).³⁾

On the one hand, the influential international financial institutions such as the World Bank still consider that private ownership of land fosters more effective utilization of and productive investment on land (Deininger 2003).⁴⁾ On the other hand, there is an increasing consensus among development practitioners and scholars that privatization and marketization alone would not resolve a range of issues associated with land use in developing countries in general and in Africa in particular, since land is situated in multiple contexts of historical, political, economic, social, environmental backgrounds (Amanor and Moyo 2008).

This paper, based on the recent experience of unfolding new land policy in post-1994-genocide Rwanda, contributes to the ongoing discussions. Agriculture accounts nearly 40% of the national GDP in Rwanda, which is more than 2.5 times of the average in Sub-Saharan Africa (WFP and NISR 2006: 16; UNDP 2007). Land holding size is a crucial factor determining food security for the majority of Rwandese.⁵⁾ Land registration, an important component of the new land tenure reform, was tested in four places in Rwanda during 2006 and 2007. On the one hand, this pilot phase confirms that some, who had been traditionally excluded in accessing land, are now officially entitled to land inheritance. This benefit is especially important for women. On the other hand, efficacy of land registration depends on local dispute settlement, which is usually considered cost-effective but not without criticisms. Unless dispute settlement receives due political legitimacy, mechanical up-scaling of land registration (using modern techniques) may not alleviate deep-rooted issues of land. Thus, as becoming increasingly recognized (de Greiff and Duthie 2009), endeavors on two often distinct areas of transitional justice and peacebuilding on the one hand and resource management in post-conflict development on the other need to be much more harmonized. Such holistic programming should reflect delicately changing realities of the post-conflict situations, which is easy to be said but difficult to be realized.

This examination bears utmost importance in this 21st century. Whereas the genocide in Rwanda was so “unique” because such magnitude of mass killing did not take place so often, structural causes behind the genocide were not particularly confined to Rwanda alone. Put simply, similar mass murder could take place in other parts of the world in our time if certain conditions would be met (Mann 2005). In order not to repeat such tragedy, the lessons from Rwanda bear contemporary significance for mitigating social tension and alleviating poverty in the world.

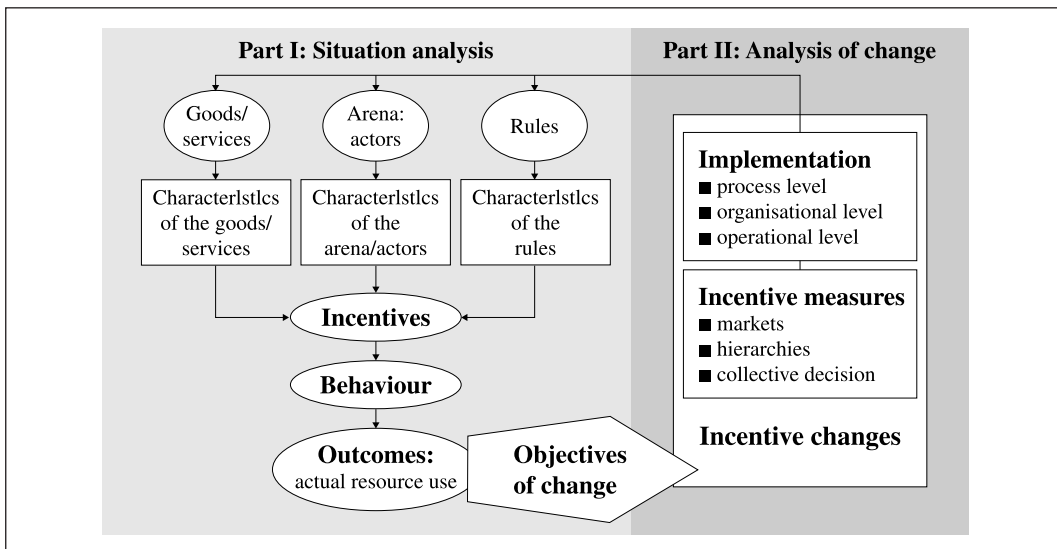
2 Analytical Framework

Literature on natural resource management and conflict is voluminous. Since the 1990s efforts to connect these two themes have been pursued vigorously. Whereas resource scarcity induces more competition and increases likelihood of conflicts, resource abundance also results not to development but to more conflicts under bad governance and patronage politics (Robinson et al. 2006). The latter is a so-called “resource curse,” which is not necessarily new but has recently been attracting attention among policy makers and academics. In Africa it is widely proclaimed that this is one of the unfortunate traps from which many poor countries could not easily escape (Lind and Sturman 2002; Collier 2007).

This situation encouraged researchers to devise analytical framework to identify relationships between resource management and governance. Fischer et al. (2007) offer a very useful analytical framework. They argue that changes of governance outcomes derive from behavior changes of those who utilize natural resources, which are influenced by incentive mechanisms. Incentive can be explained by three factors: first it depends on whether subject resources can be considered as private, club, common pool, or public goods; second it also depends on characteristics of various

actors engaged on resource use and relationships between them; third, it equally influenced by whether rules are formal, in what ways they are considered legitimate, and how the rules are enforced. This series of questions help analysts to understand situation, which leads to useful analysis in formulating possible intervention in the next step. Three different levels of intervention affect incentive measures: politics, polity and policy. In addition, whether governing arrangements are organized by markets, hierarchies, or collective decision-making induces incentive changes.

Figure 1. Analytical Framework



Source: Fischer et al., 2007: 127

This framework is useful for our purpose in analyzing the relationship between resource issues and shift of political situation from conflict to recovery, particularly because this explicitly focuses on incentives. Social norms that once perhaps shared among significant members of society usually becomes dysfunctional in post-conflict settings both in soliciting social cohesion and in presenting predictable behaviors of people (Huggins 2009a). The trajectory between natural resources in general and land in particular and conflict is very complex, that gives many different channels through which incentives are forwarded for behavioral change. Of course, the separation between conflict and post-conflict is often arbitrary and in reality is often blurred (Bruce 2007: 3).

Map 1. Rwanda and the Locations of Land Registration Trials



3 Rwandan Genocide and Land Issues in Historical Context

Rwanda, a landlocked country in the Great Lake region in Africa, suffered from genocide in 1994, in which from 800,000 to one million people were killed during about three months (Pottier, 2006: 509). The casualties are more than 10% of the entire population. Approximately 2 million

people fled the country, and probably another million became internally displaced (Global IDP 2005). While it is beyond the scope of this paper to examine the origins, causes, as well as reasons of rapid spreading of massacre,⁶⁾ land was a key background factor associated with this unmistakable human tragedy in modern history. The land factor was and still is one crucial element to distinguish the wealthy from the poor and the vulnerable (Rwanda, MIFEP, 2001; UNDP 2007). Various recent research has shown that land and genocide were intricately related with each other. Some participated to gain land, which were left behind by the Tutsi victims. The land rich tended to be more actively collaborated with organized killings. Where local political leaders and administrators were not resistant to the instruction of mass murder from the capital city of Kigali, the speed of killing was so fast. Others were forced to become perpetrators since they could not afford to lose whatever the small that they had (Verwimp 2005). The landless poor, who were fearful of possible reprisal of non-collaboration with the genocide, partook in mass killings (Straus 2006; Takeuchi 2009). These findings, therefore, demonstrate that the powerful elite who refused to relinquish political and economic benefits of holding the regime used the genocide for the sake of staying on power.

Furthermore, with hindsight, it is surprising that Rwanda before the genocide was considered as “a model developing country, doing well on the variables we [international aid workers] cared about” (Uvin 2004: 2 insertion added). Even if certain political analysts were uneasy about the tense situations even before the 1994 genocide, as Uvin himself admits, aid workers did not imagine that the situation would change such dramatically (Uvin 1998; 2004). As Uvin self-critically recalls, aid was in effect supported the state that itself instigated this mass murder.

Thus, resolving land issue holds a crucial strategic importance in reconciliation and development in post-conflict Rwanda. Indeed, the post-genocide government of Rwanda was not slow in preparing a new land policy subsequently.

3-1 Land tenure system in pre- colonial and colonial Rwanda

The scenery in countryside of Rwanda is covered by grasslands and small farms extending over rolling hills, and that is why Rwanda and neighboring Brundi are called “pays des mille collines.” According to folklore, Tutsi cattle keepers started to migrate from the Horn of Africa to this Great Lake region in the 15th century and gradually subjugated the early settlers of Hutu. The Tutsi established a monarchy headed by a king called *mwami*. With the feudal hierarchy, the Tutsi was a ruling class (pastoral nobles) and the Hutu constituted working class (agricultural serfdom). However, the difference between these two ethnicities was not clear especially in rural areas, because they spoke the same language, believed the same religion, and settled in the same neighborhoods. The Rwanda kingdom appeared in history at least between the 17th and the 19th century, and some were very strong in this region. Simply put, the expansion of kingdom illustrated the extent in which the Tutsi with their king and royal clans on top of the centralized polity were exploiting the Hutu for their own benefits. But this hierarchical system was more obvious in the

center and significantly less in peripheral areas.

There were basically two types of land tenure systems in pre-colonial Rwanda. The first one was *ubukonde*. This was basically managed by lineage, typical of African practices. “Under *ubukonde*, lineage and non-lineage members could request land from the lineage head. As the first occupier, the lineage head allocated land to his parents, political clients and potential clients from outside the lineage. Non-lineage tenants pledged loyalty, and offered gifts (hoes, beer) and occasionally labour” (Pottier 2006: 513). The second system was called *isambu-igikingi*, which was controlled by the central court (kingdom). *Igikingi* was pastral areas granted by the king to his followers and subjects. Under this system, land belonged to the king. “Lease arrangements existed, in return for hefty prestations in kind and labour, but the state/court remained the ultimate owner” (Pottier 2006: 513).

Colonization changed the land tenure systems significantly. Germans came to Rwanda in the 1890s, and Rwanda became a part of protectorate of Germany in East Africa. *Ubukonde* stopped functioning. Lineage heads lost their right to control the lands that their lineages (the Hutu) devoted to clear. As a result, land inheritance tended to take place within the families, which contributed to subsequent fragmentation of land holdings. Furthermore, the lineage heads came to be replaced by Tutsi notables sent by the court. These Tutsi chiefs often used their positions and acquired land for their benefits. Germans were taken over by Belgium settlers, whose occupation started in 1916. While there are some differences in ruling between these two Europeans, fundamental political structure remained unchanged. European colonization almost invented the dichotomous juxtaposition of the Tutsi being the dominant and the Hutu the subjugate. This dichotomy became one of the origins of the subsequent ethnic tensions (Takeuchi 2009).⁷⁾

3-2 Land and politics from independence to the 1994 genocide

Rwanda gained independence in 1962. But this independence was preceded by a significant socio-political transformation of “Social Revolution” in 1959.⁸⁾ In the 1950s, political parties were born but they operated based on ethnicity. When the king passed away in 1959, the two political parties representing the main two ethnic groups attempted to widen their supporters.⁹⁾ The rivalry between the two parties was also related to political struggle over land. The majority Hutu peasants revolted against Tutsi chiefs accusing that the Tutsi were colonizing the Hutu. The Hutu elites, once in power, abolished the practices of *igikingi*, which for them was a symbol of Tutsi’s domination over Hutu. These lands become common property. Other feudalistic practices were abolished as well. However, in spite of the fact that more land became available for cultivation, clientelistic tendency became even more prominent than before. The new Hutu chiefs often distributed newly available lands arbitrarily. Takeuchi (2009) concludes that the Social Revolution created a rural situation whereby the traditional social bonds, whatever the way manipulative and exploitative they had been, were destroyed, and each peasantry Rwandese became the target of clientelistic politics by the new Hutu elites who perhaps became even more manipulative than

their predecessors. As a result, more than 150,000 Tutsi left the country and went to neighboring countries for (temporarily) settlement. They have been called fifty-niners.

The 1962 independence was therefore headed by Hutu dominated government. Rwanda's post-colonial history was from the very beginning tainted by ethnic tensions and social instability (Gasana 2002).

By the 1980s there are several important factors that negatively affected the land use for ordinary Rwandese. The first element is population increase. Rwanda is the most densely populated country in Africa: the agricultural land density changed from 121 per square kilometer in the early 1960s to 262 per square kilometer in 1990. It even increased to more than 350 per square kilometer in 2006, (Musahara 2006: 6; Rwanda NISR 2008: 24). The population in the last 50 years almost quadrupled (Musahara 2006: 6; Bruce 2007: 6).

The second is inheritance and land fragmentation. The average land size per family was reduced from 2 hectare in 1960 to 1.2 hectare in 1984, and to 0.7 hectare in the early 1990s (Bruce 2007: 6). As FAO estimates that the minimum land size for economically viable agriculture was 0.9 hectare, increasing population was coming to be virtually "landless poor" (Bruce 2007: 6). In 1994, 57% of rural households owned less than 1 hectare, and 25% owned even less than 0.5 hectare (Wyss, 2006: 11).

Third, soil degradation forced many more farmers to cultivate on marginal lands. People started to cultivate especially hillsides, even if hillside agriculture was not suitable for modern technology (Musahara 2006: 7). Similar warning tendency was observed in pastoral areas. More livestock came to be grown than before; grazing lands became more crowded by animals. Furthermore, deforestation also became a serious factor (Musahara 2006: 6). All of these maldevelopments derived from a fundamental reason that limited alternative livelihoods other than agriculture have been available for the majority of people in rural Rwanda.¹⁰⁾

Accordingly, Rwanda in the African continent faced a somewhat unique situation shortly before the 1994 genocide. While Africa in general is abundant in land supply and population density tends to be low, Rwanda in early 1994 was one of the most (if not the most) densely populated African country. This signifies that land is a very scarce and important resource for the majority of Rwandan (rural) population. Without sufficient land, there was a significant proportion of the population that was unable to satisfy food security in the 1990s. Wyss stated that "Rwanda was transformed from one of the sub-Saharan three top performers at the beginning of the 1980s to one of the worst by the end of the decade" (Wyss, 2006: 10).

This is the background against which the genocide took place in 1994. Even before the terrible tragedy started to unfold, Wyss continues that "The government, unable to address the land issue, attempted to use land to maintain control of the state and thereby dominate the institutions and other decision-making structures to allocate scarce land and resources" (ibid: 12). It is no wonder that many researchers, albeit with hindsight, assert that land indeed constitutes a key background factor to the genocide. The land scarce and food insecure population was used, unfortu-

nately, as an effective instrument by the small number of elite power holders to carry out the mass killings.

In October, 1990, Rwanda Patriotic Front (RPF) invaded Rwanda from the neighboring Uganda. RPF was mainly formed by the second-generation Tutsi of the “fifty-niners” who fled Rwanda due to the Social Revolution. Arusha Peace Accord was reached in August 1993 in order to settle this war,¹¹⁾ but this Accord left dissatisfying extremists on both sides. In this historical context, the genocide started in April 1994 very shortly after the airplane crashed in Kigali - the plane was carrying the incumbent president Habyarimana who was in power since 1973 and heading the political party of *Mouvement républicain national pour la démocratie et le développement* (MRND).

3-3 The genocide and land

Recent research increasingly points out that there was a compound relationship between the 1994 mass murder and land. Several researchers have found that once violence started to escalate, “land greed instantly fuelled the killings.... The promise to get more land was a powerful incentive offered by local administrators to those hesitating to get engaged in the killings” (Wyss, 2006: 13; see also Verwimp 2005: 319). Some who have been involved in land disputes became the target of killings. For some perpetrators, genocide provided a good opportunity “to use the cover of confusion in order to ‘settle old scores’ ” (Musahara and Huggins 2005: 275). In such cases, victims included not only Tutsi but Hutu land owners as well. Furthermore, Human Rights Watch discovered that certain militant leaders distributed fake maps showing which Hutu owned land would need be confiscated (Pottier 2006: 510).

According to Verwimp (2005: 317), there is a significant correlation between land size and participation in the genocide. The typical portrait of the genocide participant was Hutu male; earned a good income and leased many pieces of land to others who might had been female household heads without spouse; and also invested a significant income on anti-erosion activities on their lands.

However, citing a desire to acquire land alone is misleading in interpreting the causes of the genocide. Various scholars demonstrate that those who participated in mass killings come from the background of quasi or total landless. They were the most disadvantaged in rural society in Rwanda. Thus, while they might have hoped to gain materialistic possessions during the genocide, they were more afraid of being further pushed into additional misery by not collaborating with the agitators of the ethnic cleansing. Their fear of further socio-economic marginalization was very significant (Mamdani 2001: 191; Verwimp 2005: 320; Pottier 2006: 510; Straus 2006).¹²⁾

3-4 The post-genocide land regime

In July 1994, the RPF victory in the war ended the genocide, and established a new government of the Broad Based Government of National Unity. When the genocide ended, Rwanda was

left with not only with the survivors but also with various structural continuities from the pre-genocide era as well. Thus, the new RPF government was relatively quick in addressing land issues. Peace negotiations included land issues from the very beginning (Bruce 2007: 5).

Land issues in post-genocide Rwanda included several important dimensions. One of the most significant was the magnitude of refugees returning from neighboring countries after the genocide. There are two main types of returnees and their movements are well-captured in Table 1. The first is called “old caseload,” or “fifty-niners” and they are those who fled Rwanda in 1959 because of the Social Revolution. More than 1 million people, mainly Tutsi, started to return in late 1994 from neighboring Uganda, Burundi, Zaire, and Tanzania. Bruce (2007: 9) points out that “the majority of the returnees did not resort to violence and did not seek to occupy their old homes.” The second type is “new caseload.” They fled the country in the immediate aftermath of the genocide, and more than 1.7 million people, mainly Hutu, returned with the peak in 1996. Most of the Hutu, who fled to Zaire from central and northern Rwanda, returned fairly satisfactorily, because few Tutsi returnees resettled in that part of the country. But in other areas, when Hutu returned, they found that their lands were already occupied by recent Tutsi returnees. But because of the fears of retribution, few were brave enough to push their claims. This relative acquiescence was partly due to an experiment of “land sharing.” While it is not entirely clear of the whole situation of this experiment, those who lost land due to this sharing did not receive adequate compensation. The sharing thus may become a cause of complaints (Bruce 2007: 11-12).

Table 1. Number of Returned Refugees and Internally Displaced Persons

	1994	1995	1996	1997	1998	1999
Population (millions)	5.22	5.7	6.17	7.67	7.88	8.1
No. of “Old Case” returnees ^d	900,000 ^a	146,476	28,646	19,615	7,723	890
No. of “New Case” returnees ^d	200,000 ^a	79,302	1,271,936	199,183	3,167	19,337
Internally Displaced Persons	1,000,000	n.d.	n.d.	n.d.	720,000 ^c	40,000 ^b

Source: Office of United Nations Resident Coordinator for Rwanda [2000: 2].

a=Government statistics

b=Figures from UNOCHA

c=New IDP fleeing insurgency in North-West

d= “old caseload returnees,” and “new caseload returnees” in the original table.

For the meaning of “Old Case” and “New Case” returnees, see the text.

Source: *Takeuchi and Marara, 2005: 169*

This massive inflow of returning refugees and other factors (such as increased female headed households due to the genocide) encouraged the new RPF government to plan a new policy on land. It took eight years from the initial assessments into the land issues to the promulgation of the Land Law in 2005 (Pottier 2006: 510). This shows, on the one hand, a kind of sensitivity by the government to the land issues. On the other hand, the way in which the new Law was prepared suggests the process was largely led by the government. Although the civil society was involved in

the process, they did not appear to lead this critical land agenda. “NGOs have by and large followed, if not reproduced, the behavior and ideology of the dominant section of society under the RPF rule in the same way as they did before under the MRND authoritarianism” (Wyss 2006: 19; see also van Leeuwen 2008).¹³⁾

National Unity and Reconciliation Commission (NURC) would be a good example to highlight this tendency. NURC was created in 1999, with a mission to develop “measures that can eradicate divisions among Rwandans and to reinforce national unity and reconciliation” (NURC website). NURC organized various meetings and workshops on the subject of unity and reconciliation. The NURC conducted nationwide consultations in 2001, and concluded that land disputes are “the greatest factor hindering the sustainable peace” (Musahara and Huggins 2005: 275; Wyss 2006: 6).¹⁴⁾ Then it released a report about land in 2005, which stated that “Since 1959, the fear of not having arable land has fuelled ‘ethnic hostility’ which culminated in the 1994 genocide” (Rwanda NURC 2005: 7). While this frank statement is appreciated, several observers agree that the post-genocide reconciliation shows the prominence of the government role, due both to the lack of independence of civil society and to the elaborated state apparatus being able to penetrate deep into society (Zorbas 2004: 38; Nantulya et al. 2005).

3-5 Land Policy 2004 and Land Law 2005

With a relatively long preparation period, the RPF government adopted a new land policy in 2004. Its features are, according to Musahara (2006: vi), as follows:

- i) all Rwandans will enjoy the same rights of access to land;
- ii) all land should be registered for security and titles that are tradable unless it fragments a plot to less than 1 ha;
- iii) land use should be optimal;
- iv) consolidation of household plots is encouraged to ensure that each holding is not less than 1 ha;
- v) land administration is to be based on a reformed cadastral (registered title deeds) system;
- vi) a system of land administration is to be developed; and
- vii) marshlands are in the state’s private domain and are to be allocated to individuals on concession by the Ministry of Lands (MINITERE) on condition of good management.

Then, the subsequent Law gazette in August 2005, again as explained by Musahara (2006: vi), included the characteristics as below:

- i) all land has to be registered;
- ii) land consolidation is encouraged and will be approved by the minister responsible for agriculture in conjunction with local authorities;

- iii) land has to be protected and conserved;
- iv) monitoring of land use is assigned to land commissions whereas registration is assigned to land officers;
- v) failure to use, protect and conserve land properly can result in requisition or confiscation;
- vi) land ownership is only provided through leases of up to 99 years;
- vii) marshlands remain state property;
- viii) transfer of title deeds requires prior consent of all family members,
- ix) there will be a land tax; and
- x) undeveloped land reverts to the state's private domain after three years.

The overall aim of the new Law could be safely said as commercialization and privatization. This direction is in line with the mainstream land reform increasingly being implemented by the World Bank and others. In order for implementing this new Law, National Land Centre (NLC) was established in 2007, and various international donors, including the World Bank and the Department for International Development (DfID) of the UK government, have been assisting the operation of the NLC.

However, there are several important problems associated with the Law. First, there has been an increasing gap between the land rich and the land poor. On the one hand, Musahara and Huggins (2005: 314) estimated that 73 - 77% of the households own less than 1 hectare. One of the official statistics in Rwanda also reported recently that more than 60% of households cultivate less than 0.7 hectare of land (Rwanda, NISR 2007a: iii). Under these circumstances, the proposition of 1 hectare as a minimum land size presents fear for the majority of Rwandans. Accordingly, massive landless and food insecurity would unlikely to result in increased land productivity contrary to the official proclamation. Thus costs and benefits of land consolidation need to be carefully compared during the implementation of the land policy (Musahara 2006: 11). As for these important concerns, it appears that policy makers never showed convincing evidence that land consolidation would boost productivity, as justified in the Law (Pottier 2006: 523).¹⁵⁾

At the other end of the spectrum, there appears that land is being increasingly in the hands of the few elites. Even if there are some difficulties to identify the trends of land distribution statistically, the overall picture seems to indicate that the distribution is becoming more and more unequal. The following two tables illustrate this negative change. In 1984, about 57% of the total households owned lands of less than 1 hectare. In 2000, this ratio has increased to be about 78%. By around the middle of the 1980s, before the genocide, approximately 182,000 farms, about 1.6% of the total farmers owned about half of the total agricultural land (Musahara 2006: 7). This trends seems to be continuing at least, if not accelerating. More recent government study reports that "There has been a slight increase in the share of the population who own four or more plots of land since 2005" (Rwanda NURC 2008: 3).

Table 2. Land Distribution Trend

Table A. Land Distribution by percentage of households 1984		
Classification of holdings	Percentage of households	Percentage of cultivated land
Less than 0.5 ha	26.4	6.9
0.5-1.0 ha	30.3	18.4
1.0-1.5 ha	15.6	15.7
1.5-2.0 ha	11.1	16.1
More than 20.0 ha	16.4	42.9
Total	99.8	100.0

Source: ENBC 1983-85; cited in Baechler, 1999

Table B. Distribution of land holdings in Rwanda in 2000	
Classification of holdings	Percentage of agricultural holdings
Less than 0.5 ha	58.6
0.5-1.0 ha	19.0
1.0-1.5 ha	10.6
1.5-2.0 ha	5.8
2.0-3.0 ha	3.5
3.0-4.0 ha	1.2
4.0-5.0 ha	0.5
More than 5.0 ha	0.8
Total	100.0

Source: GoR, 2002

Source: Musahara, 2006: 7

Furthermore, a 30 or 50 hectare ownership ceiling that appeared during the draft stages of the Law disappeared in the final Law. Several analysts speculate that this change reflected the desires of the influential in the regime. Large coffee and tea estates as well as cattle grazing areas have recently been established by those were well connected to the regime (Musahara and Huggins 2005: 324; Pottier 2006: 528; Wyss 2006: 30).

3-6 Land registration trials in four areas

In the middle of this sort of criticisms, a series of important pilot land registration activities took place in 2006 and 2007. They are conducted in the following four areas (they are shown as ◆ marks in the Rwandan map):

- Biguhu Cell, Ruganda Sector, Karongi District (rural)
- Kabushinge Cell, Rwaza Sector, Musanze District (rural)
- Mwoga Cell, Mahama Sector, Kirehe District (rural)
- Nyamugali Cell, Gatsata Sector, Gasabo District (urban)¹⁶⁾

In Rwanda's local government system, the administrative hierarchy consists of province, district, sector, cell, and *imidugudu*¹⁷⁾ (village). For processing land registration, land commissions

are formed both at the national and district levels. In addition, each sector and cell needs to establish respective land committees. Local land committees are formed by opinion leaders such as school teachers, church leaders and other prominent persons.

The situation of these four places are quite distinct. In Biguhu, approximately 250 households reside in five villages. The physical terrain varies within this locality and some are hilly and others are located in valley bottoms. The mean land size is about 0.25 hectare and about 5% of the land parcels are more than 1 hectare.

In Kabushinge, about 1100 households live in eight villages. Like Biguhu, the terrain here also covers hills and a river valley. But here majority of land size is very small. The mean land size is only about 0.08 hectare and only 0.3% of parcels are larger than 1 hectare. Large portion of land is claimed by a local church here.

Mwoga is located in eastern Rwanda and this is a flat savannah. The mean land size is about 0.7 hectare, and about 13% of land parcels are larger than 1 hectare. This is where returnees from Tanzania resettled, and many of them were given 1 hectare per household.

Nyamugali is the only semi-urban area in the trial areas. It is located close to Kigali, and takes about half an hour or so to reach the city center by taxi. Because of this semi-urban location, nearly about 1500 households live in 12 villages. The land use covers different usages here including, commercial, informal settlements, and agriculture as well. Terrain includes marshlands and hillsides as well. The mean land size is very small among the four trial areas: 0.1 hectare. But 1.2% of land parcels are larger than 1 hectare, signifying that some plots are reasonably large (Rwanda MINIRENA 2008d).

Implementation in these four areas was conducted in a sequence; preparatory works were carried out in 2006 and field trials were conducted in 2007. Even if the exact way in which trials were carried out differed slightly from one area to another, the actual land verification and registration in one place took about a month and half on average.

The land registration trials were conducted as follows:¹⁸⁾

First, the cell land committee was formed and a 3-day training was given to five members in order for them to understand the content of the law, significance of the land registration, and the procedure of the fieldwork.

Then, a large meeting with residents was conducted. In the case of Nyamugali Cell, this was a one day meeting. Each household was urged to send one to participate in this meeting, and it was also a requirement for all land holders to attend this as well. The land committee explained the significance of the land registration and the procedure of the demarcation and registration of land titles.

What was called “para-surveyors” are identified and trained. They were six relatively young people who had been to schools and thus capable of conducting verification of land boundaries on the ground. From the first to this step, it took about a week in Nyamugali.

The actual verification and demarcation of land needed about three weeks by para-surveyors in Nyamugali. When they visited each piece of land, the *imidugudu* chief accompanied them, and all neighbors who shared borders with others needed to be present. The land holder(s) identified the borders with their neighbors. Through this process, all the borders were verified. If some were sick or absent, then the para-surveyors would return on the following day, for instance.

If no dispute arises on a piece of land with clear demarcation, then the plot number is issued by the NLC, and all these plots are registered on a book managed by the cell land committee. The book covers such aspects as: plot number; name of owner(s); ID number of owner(s); names of children/relatives of owner(s); relationship between owners and children/relatives; how the land was obtained by the owner(s) (e.g. through inheritance, purchase, donation etc.); accompanying legal documents, if any; names of neighbors; neighbors plot numbers; and disputes if any.

Once all requirements were satisfied, then a provisional paper was issued by the committee. This paper was signed by the president of the committee, a para-surveyor, and land holder(s). As para-surveyor(s) and the *imidugudu* chief moved around in the area, and as the required procedure was completed, this paper was issued. In Nyamugali, verification of land demarcations started on 17th July 2007, and some papers were issued on the very first day. (For those who were absent land holders, receiving this paper took long time.)

After this issuing of the paper, two month was allowed for those concerned to make adjustments, if needed. Those who made errors and those who were sick when visited were allowed to claim any adjustments. Once this time was over, NLC would take all the record back to the office for processing into their data base.

NLC then issued two documents: a lease agreement between the government and the holders; and a certificate of land title. It took a long time for NLC to process the data, and in Nyamugali, the NLC returned with these documents for distribution in December 2008.

4 Discussion of Land Registration Trials

What would be general assessment of these trials in four areas? Overall, variety of stakeholders expressed more satisfaction than complaints. Before the pilot activities, the NLC and donors were nervous about how this process actually would proceed. But it turned out that the process was very successful. It was relatively a quick and inexpensive process. According to the report of the Ministry of Natural Resources (Rwanda, MINIRENA 2008a: 2-3), the unit cost for titling is estimated to be approximately US\$ 9-10 per title both in rural and urban areas. This is “reasonable and not excessive.” One of the reasons for this success, as stated by an international donor official, was that the process mainly focused on the technical aspect of identification, verification and processing on land titles without making the exercises politically mingled.¹⁹⁾ The same Ministry report, accordingly, concludes that there is a “strong evidence that there will be sufficient positive economic impacts resulting from the titling and registration of land to justify the costs” (ibid: 4).

The government has also conducted an opinion survey to residents in these four areas, and the results also confirm that “the land tenure reform process will improve land values and expand land market activity” (Rwanda, MINIRENA 2008b: xi).

Another obvious positive change is expressed by women. In Rwanda in particular and in Africa in general, land is inherited along the patrilineal lines: from father to sons. Women have been excluded from this inheritance (Rose 2004; Mutaba and Izabiliza 2005; Brown and Uvuza 2006). However, the new Law clearly states that wives and daughters can enjoy equal legal entitlement for land inheritance. While some men still make cases complaining that lands inherited by women are illegal, the legal provision itself is undoubtedly clear on gender equality (Rwanda, MINIRENA 2007: 54-59). As a result, aid donors and Rwandan researchers appear to share an opinion that the land registration process contributes to social cohesion in the local community.

While this claim may be true, as the Ministry document also pointed out, realization of potential benefits critically depends on “the implementation and enforcement of the new legislative framework as well as reforms in other sectors” (Rwanda, MINIRENA 2008a: 4). There are obviously some problems if the same exercises will be implemented in a nation-wide scale. One of the most significant problems associated with the scaling up is the trajectory between land titling and dispute settlements.

The land registration trials in the four pilot areas show that approximately slightly more than 5% of households encountered with some objection during the trial processes (Rwanda, MINIRENA 2008b: x). This proportion of the land disputes was in fact much smaller than the NLC and donors anticipated.²⁰⁾

However, it merits certain caution to interpret the complicated relationship between land titling and dispute settlements. One of such settlement mechanism at grassroots is called *abunzi*. This is an informal mechanism, since hearings and adjudication are conducted outside of the formal judicial procedure. Local opinion leaders are selected by their residents to form *abunzi* committee, and the *abunzi* members hold open sessions (literally under big trees in Africa!) with contested claimants as well as general local residents also participating in the meetings. If one side makes certain remarks, then their claims are heard by their neighbors. If some of the explanations are deemed strange, for instance, the elderly or someone who know the disputed case may add their explanations to the sessions. By so doing, it is expected that *abunzi* will reach an balanced judgment. *Abunzi* used to handle all sorts of claims including land disputes, petty thefts, and relatively minor violence committed by residents.²¹⁾ *Abunzi* is usually welcomed by grassroots population, because it is normally inexpensive and less time consuming than formal judicial trial which is not accessible by ordinary Rwandese.

Even if *abunzi* is popular, a range of land disputes are diverse and some cases are quite complicated. Even though there is no statistical data available about the types of disputes, in many rural areas majority of land disputes are caused by quarrels between family members and relatives (RISD undated)²²⁾. In Biguhu and Kibushinge, most of the disputes are between family members.

In Mwoga, the disputes are low because this savanna land was resettled only in the late 1990s. In semi-urban Nyamugali, many disputes are not caused by family members but they occur between neighbors as well as between individuals and organizations (Rwanda, MINIRENA 2008b).

Musahara and Huggins (2005: 276) point out three other types of land disputes. The first one derives from the return of “multiple waves of refugees” seeking resettlements. Interestingly, Kondylis (2008) demonstrates that returnees tend to settle in more productive areas of Rwanda. Then this type of disputes is serious because the pervasive rural poverty in the country is serious and nobody wishes to lose their fertile land without due compensation.

The second type of disputes relates to *imidugudu*, or commonly called villagization policy pursued by the RPF government in the post-genocide situations (Napier 2007). As a corollary of the returns of refugees, the government often confiscated lands for the resettlement of the new case-load who returned after the genocide. Usually, there is little or no compensation given in such circumstances, even if the national habitat policy states that due compensation should be given (Bruce 2007).

There is yet another type of land disputes, which is “appropriation of large plots by powerful people ... often for purposes of land speculation, rather than agricultural production” (Musahara and Huggins 2005: 276). Even if there is no clear statistics on this, many believe that this is a continuing trend.

One of the crucial questions that needs to be asked therefore is that whether *abunzi* can handle all these disputes without aggravating social cohesion. Asked whether some external assistance may still be needed during the field trial exercises, the land committee members said that they do not require further assistance.²³⁾ Taken as a face value, their capacity appears not to be constrained. Aid donors share this feeling that the grassroots dispute settlement does not constitute a bottleneck in applying this to other parts of the country.

However, this optimism seems only one side of the whole story. One woman who was interviewed explained that she tends to be overwhelmed by the difficulties and a time-consuming nature of some of the complicated land disputes, and she frankly said that she did not want to continue serving as a land committee member for another term.²⁴⁾ This statement signifies that at least there are some areas where grassroots capacity still needs more improvement. This is not surprising at all, since some of the complicated land disputes are caused by a national socio-political change such as the genocide as well as a post-genocide government policy. It is no wonder that coping with such wider upheavals is beyond the scope of the informal dispute settlement mechanism which is based on unpaid grassroots volunteers.

Indeed, at least one government report is more frank than the statement made by some local officials. It acknowledges that “the complexity of some of the cases will presents a great difficulty to largely untrained local *abunzi* who may have difficulty in applying the law correctly, or resolving a dispute to the satisfaction to all parties” (Rwanda MINIRENA 2008d: 74).

In fact, one of the important claimed beneficiaries of this new trail should perhaps also be

interpreted cautiously. While women greatly benefitted by the new policy and the Law, it came to be known during the land registration trial exercises that female land owners, especially, female-headed households, became involved in land disputes more often than male counterparts (Rwanda, MINIRENA 2008d: 75).²⁵⁾ This tendency clearly attests that some men are still attempting to maneuver the new Law for the sake of increasing their own profits (Rwanda, MINIRENA 2007: 54-59). About one-third of the local residents in four trial areas replied that the new land tenure arrangement that allows women to inherit lands will “unnecessarily complicate inheritance” (Rwanda, MINIRENA 2008b: 49). Under these circumstances, unless *abunzi* members are adequately informed about the new legal rights of female contestants and unless they are also properly equipped by adequate support mechanisms, the intention of the new Law may not be realized.

The local people indeed displayed their ambivalent feeling when they were asked about the relationship between land titling and conflicts. On the one hand, as they receive explanation, their general anxiety over the new policy reduced (Rwanda, MINIRENA 2008b: 53). The majority of the local people were satisfied with the way their cell land committee organized the land registration process (ibid: xiii). Majority of them felt that as land titling increased transparency, this will reduce unresolved disputes over inheritance and will contribute to reduce corruption in general, even if responses tend to be different in different areas (Rwanda, MINIRENA 2008b).

On the other hand, a significant proportion of respondents to the opinion survey felt that the land registration process itself highlights disputes, particularly in Biguhu and Mwoga areas. The answers seem to vary from one area to another. There is also a variation between male and female (Rwanda, MINIRENA 2008b: 37). Yet, it is clear that grassroots population are anxious that land titling will create more land disputes in the near future. In addition, many local people tend to consider that the land registration will increase the value of land parcels, and therefore the commercial transactions will also increase. This increased purchase will also likely to create more conflicts in the future.

Some are even more fearful because this process may marginalize the poor even further. Many respondents considered that land registration would contribute to land consolidation (ibid: 40). In addition there is a further troubling tendency in the post-genocide land distribution: while officially ethnicity is no longer used in public policies, the Tutsi was given obvious privilege as a genocide survivor at the cost of Hutu (Wyss 2006: 15). If this criticism is adequate, then the current land distribution does not lead to reconciliation but may become a seed for further ethnic tensions.

Therefore, after reviewing these ambiguous responses by local residents, the same government report concludes that “It is recommended that more attention be given to the potential for future conflict that may arise from the land tenure reform process and that efforts be made to clarify the rights, rules, and procedures around land tenure reform for beneficiary communities” (Rwanda, MINIRENA 2008b: xvi, emphasis in original).

5 Conclusion

This paper has explored the recent experiences of land title registration in Rwanda in post-1994-genocide circumstances. The land issues in Rwanda relate to a complex web of socio-economic entanglements. It covers diverse range of stakeholders such as settled agriculturalists and returnees after the civil strife and the war. The current situation is also a historical result of multiple stages of social control, including feudal hierarchy in pre-colonial era, exploitation by European colonialists, and increased manipulation by local elites in the post-independence era. Thus, post-genocide land tenure reform would not be able to create much desired social harmony by simply putting the situation back to pre-1994 incident. While the notion of fair settlement over land is apparently influenced by the 1994 Genocide, much needed political legitimacy of such reform is deeply embedded in a series of complex struggles over the precious resource of land manifested differently in different historical periods mainly due to population increase in the second half of the 20th century (Sikor and Müller 2009).

Land is indeed a very complex natural resource with multiple implications including cultural identify, economic productivity, and food security. Land tenure system is essentially about multiple socio-politically relationships (Huggins 2009a: 344). Thus, simple classification of whether one resource is considered as private, club, common pool or public goods is not deemed entirely adequate. Land can be seen at the same time private, club, common pool and (quasi-) public goods. Therefore, while the analytical framework by Fischer et al. (2007) is helpful, actual empirical investigation needs to be based on historical as well as social contexts.

The framework's focus on incentives has proven to be more useful for empirical studies, including the Rwanda case. The emphasis on incentives is further reinforced by a recent poverty trend in Rwanda. Virtually all arable land has been used up (WFP and NISR 2006: 29), and land productivity has decreased in the last decade, which is now below the average of Sub-Saharan Africa (ibid: 31). Even if the poverty rate decreased, the number of poor people is estimated to have increased "from around 4.8 million in 2001 to 5.4 million in 2006" (Rwanda, NISR 2007b: 3).²⁶⁾ With acute competition over scarce land, the efficacy of recent land registration crucially depends on dispute settlements. What matters is political legitimacy generated by such settlement process. Unless and until competing claimants over land would accept decisions made by informal justice of *abunzi*, social harmony in this post-conflict society, particularly in rural areas, cannot be fostered. As the success of land registration depends on how ordinary Rwandans evaluate legitimacy of these exercises, as well as how they perceive local informal justice for dispute settlements, much more holistic thinking is urgently needed.

Ultimately, this would relate to a question of citizenship (Mamdani 2001). As Rwanda's genocide was indeed ethnicized, in which one ethnicity enjoying the full citizenship rights while the other arguably being denied such status, conferring equal citizenship to both ethnic groups is a fundamental requirement. Citizenship, however, cannot be fully guarded by the legal provisions

alone. Without adequate economic basis for food security and day-to-day survival, citizenship only in words would remain empty. Thus, land registration at grassroots is extremely important. The land titling exercises are hoped to enhance possibility of both providing such economic foundation and contributing harmonious society by settling disputes over much needed resources. For Rwanda to strive forward to prosperous and peaceful future, associated issues already became known by the recent land titling exercises should be openly discussed with all stakeholders including the landless poor. This would be a time-consuming process, but presently appears the only promising path to much desired future.

This lesson has much a larger implication for policy and research agenda in the future. As pointed out by de Greiff and Duthie (2009), there needs to be much more close connection between reconciliation and transitional justice in post-conflict society on the one hand and development and natural resource management on the other hand. Establishing appropriate reform policy over such crucial resource as land holds an extremely important strategic role in attaining social cohesion in order not to relapse into devastating conflicts again as well as in building a promising economic livelihoods and food security. This kind of double mission, at least, is particularly important for Rwanda and other developing countries as well. Whereas the Rwandan genocide was extreme incident, Rwanda is not the only country of having a characteristic of being a small landlocked country trapped by badly governed neighbors in the middle of the problem-imminent continent of Africa. Land titling is technical but land tenure reform is political. This message needs to be shared beyond Rwanda, because other countries are also now engaged in agricultural and land tenure reforms as well.

Notes

- 1) This paper is based on my visit to Rwanda from August to September 2009, and this visit was funded by the Socio-Cultural Research Institute of Ryukoku University, Japan. The preparation of this paper is benefited from the organizers of the international research project of Strengthening Post-Conflict Peacebuilding through Natural Resource Management (http://www.eli.org/Program_Areas/PCNRM/index.cfm) as well as from the Environmental Change and Security Program (ECSP). Special appreciation is given to Mr. Carl Bruch of Environmental Law Institute who has given me valuable suggestions throughout the research process. Dr. Herman Musahara, National University of Rwanda, also guided me invaluable, particularly during my visit to Rwanda.
- 2) Peacebuilding usually incorporates conflict prevention, mitigation as well as restorative activities in post-conflict societies (Chetail 2009).
- 3) For critical appraisal of neo-liberal policy reform including land and sustainable development, see Amanor and Moyo (2008).
- 4) Mainstream policy recommends decentralization of land authority as well. See, for instance, Bruce and Knox (2009) for critical review.
- 5) Among the peasants with less than 0.1 hectare, 41% are food-insecure compared with 21% of those cultivating more than 0.5 hectare (WFP and NISR 2006: 4).
- 6) The literature on the 1994 genocide is vast and still growing. See, for example, Human Rights Watch 2006; Straus 2006; and Takeuchi 2009.
- 7) The 1994 genocide is often explained in terms of ethnicity. Yet, it is clear that the stereotypical discourse of Tutsi and Hutu was not “naturally” developed. Rather, it was created politically. The colonial

- powers and post-colonial state used the ethnic dichotomy for political purposes (Takeuchi 2009).
- 8) The name of “Social Revolution” was given by Hutu elite since this uprising gave power to them.
 - 9) There is another ethnicity of Batwa, and they were and still are small in number. Huggins (2009b) is an elaborated account of their land situations.
 - 10) Indeed, defining adequate role of agriculture in the overall development in Rwanda remains a serious question. See, for instance, Ansoms 2009 for her critical review.
 - 11) The Arusha Peace Accord also has an importance in land regulations. It adopted the ten year rule: those who are absent for more than ten years should not reclaim their properties that are occupied by others. This rule was subsequently followed in the post-genocide Land Law as well.
 - 12) This view refutes what others may have argued before. Some expressed that in Rwanda, there is a “culture of obedience,” partly due to the historical reason of the society being so hierarchically oriented (Straus 2006).
 - 13) For the politics of preparing the new law, see, Musahara and Huggins 2005; Pottier 2006; Wyss 2006; Bruce 2007.
 - 14) In the same year of 2001, Ministry of Lands, Human Settlement and Environmental Protection stated that about 80% or more about the cases brought to prefect court were related to land (Wyss, 2006: 16). This magnitude is confirmed by a field research conducted by Gasarasi and Musahara (2004) as well (Musahara 2006: 10).
 - 15) Place (2009) discusses complex relationship between land tenure and agricultural productivity in Africa.
 - 16) I visited Nyamugali Cell on 2 September 2009 with the assistance of National Land Centre.
 - 17) *Imidugudu* means plural villages in local language and *umudugudu* is a single village.
 - 18) Personal interviews at National Land Centre on 25 August 2009 and fieldwork in Nyamugali Cell on 2 September 2009.
 - 19) Personal interview, 2 September 2009.
 - 20) Procedurally, if the land is a source of disputes, then disputes are registered under a separate book. This book covers to following information: plot number; name of owner(s); ID number of owner(s); names of children/relatives; names of the people who are in disputes; their ID numbers; relationship between the disputed peoples (eg. relatives etc.); and types of disputes (eg. disputes among relatives; claim and counter claim). In Nyamugali, the population is 7862, and there are 1567 pieces of land. There were first 42 disputes about the borders, but now only 1 case went to the court (personal interview 2 September 2009).
 - 21) Then, as the genocide produced massive perpetrators, genocide-related disputes now become a separate category of *gacaca* (Wolters 2005).
 - 22) Personal interviews in the village of Cyeru, 31 August 2009.
 - 23) Personal interview, 27 August 2009.
 - 24) Personal interview, 27 August 2009.
 - 25) The report points out that women became involved in land disputes in such cases as a) when husband sells land without informing wives, b) polygamy related disputes; and c) disputes over inheritance (Rwanda, MINIRENA 2008d: 75).
 - 26) A similar worrisome situation is also reported by WFP and NISR 2006 (10).

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