

Land reform, land scarcity and post-conflict reconstruction: A case study of Rwanda

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INTRODUCTION

Between 2000 and 2002, the African Centre for Technology Studies (ACTS), in collaboration with the Institute for Security Studies (ISS), conducted research to identify the extent to which environmental factors have contributed to political conflicts in Rwanda. This work was published in 2002 as a chapter in *Scarcity and surfeit: The ecology of Africa's conflicts*.² It identified a number of ways in which the political economy of land contributed to socio-political tensions, conflict and genocide. These include the role of resource capture by elite groups and landlessness in the economic collapse prior to 1994, as well as the historical significance of land in patron-client relations which became increasingly rigidified in the late 19th century, and which meant that "land became a factor of differentiation between Hutu and Tutsi". All of these factors must be seen in the context of structural land scarcity: the country is the most densely populated on the African continent. The average land holding at the household level has dropped from 2 ha in 1960, to 1.2 ha in 1984, to just 0.7 ha in the early 1990s.³ In 2001, almost 60% of households had less than 0.5 ha.

The study concluded:

Various factors contributed to the onset and continuation of conflict in Rwanda. The role of land, however, is critical to understanding conflict dynamics...many reforms will be necessary to effectively manage the sources of conflict in Rwanda. The government has the responsibility to strengthen the security of rural livelihoods, and to create employment for thousands of unemployed youth... the government, however, has a moral duty and responsibility to redress gross inequalities in land ownership, and to improve livelihoods for the rural poor. Land distribution to benefit the poorest will be a necessary part of any strategy for meeting these responsibilities. Doing so will reduce powerful tensions related to access to and control of land, and contribute to the process of national reconciliation and peacebuilding.

Since that chapter was written, the Government of Rwanda has completed a process of developing a National Land Policy and a National Land Law, which at the time of writing (September 2004) were being considered by a parliamentary standing committee, and evaluated by

the Ministry of Justice. The development of the Land Policy and the Land Bill required some seven years of internal debate between policy-makers, which would seem to indicate the importance of the issues, and the sensitivities involved. Land policy reform is reportedly the most sensitive item on the government's agenda.⁴

This case study, based on interviews in Rwanda and an extensive review of secondary material, builds on ACTS' previous analysis, and examines the proposed land reforms as articulated in the policy. However, it does not attempt to be a comprehensive review of the land policy – more in-depth studies have already been conducted.⁵ Instead, it situates the policy and the process involved within the wider debates about governance and conflict resolution in the country. It examines some assumptions made in the policy, and essentially looks at the political aspects of questions which are often portrayed as purely 'technical' issues. We suggest that "policy *implementation*" is more likely than not to be a process of policy *interpretation*"⁶; and examine governance structures which are likely to guide this interpretation.

Finally, some recommendations are offered on ways in which the land policy and law can best be implemented in order to assure the long-term growth and stability of the country, and mitigation of future conflict.

A BACKGROUND TO THE CONFLICT IN RWANDA

Inequality and social tensions have existed in Rwanda prior to the civil war which began in 1990. The pre-colonial and colonial-era situation, which is discussed in detail below, led to the political dominance of an elite group within the Tutsi community. However, on the eve of independence, the Belgian colonial power essentially switched allegiance to those advocating for 'Hutu majority rule'. The 'social revolution' of 1959 led to most Tutsi in positions of power being forced or voted out, and there were widespread ethnic pogroms against Tutsi across the country. Post-independence governance, despite some positive characteristics, came to be characterized by exclusionary state policies and political networks which functioned through patron-client relations between factions of the state elite, and contributed to poverty and grievances amongst the rural poor.

These grievances were used by some political elements in the transition to multi-party politics in the early 1990s, which occurred against a backdrop of civil war. Rwandans in exile formed the Rwandan Patriotic Front (RPF) and invaded the country from Uganda in October 1990. Hundreds of thousands of people were displaced as the RPF, composed mainly of exiled Tutsi, engaged the government forces between 1990 and 1994. Amidst rising ethnic tension and widespread anti-Tutsi propaganda, militia forces allied to political parties, carried out violent attacks against Tutsi civilians with impunity. In advance of the death of President Habyarimana, a 30–50 thousand-strong militia was recruited, armed and trained specifically for the task of massacring Tutsi, and

Hutu opponents of the extremists.⁷ The genocide of 1994 was directed, planned, supported and incited by officials in the armed forces, the police and the civil authorities. Civilians were forced and cajoled into violence through a number of means, including propaganda, bribery, intimidation and fines for criticizing the genocide policy. Over 800,000 people, the vast majority Tutsi, are believed to have been murdered.⁸ The failure of the international community, including the United Nations (UN), to prevent or stop the genocide, and the alleged complicity of some Western countries, continues to affect relations between Rwanda and the outside world.⁹

The remnants of the Rwandan armed forces (ex-FAR) and the *Interahamwe* militia fled the country, along with more than 1.7 million refugees, most of them into Eastern DRC. In 1996, an anti-Mobutu rebel group calling itself the Alliance of Democratic Forces for the Liberation of Congo (ADFL), along with Ugandan and Rwandan troops, attacked and destroyed the refugee camps in the DRC, which had become highly-organised military training grounds for the *Interahamwe*/ex-FAR. The *Interahamwe*/ex-FAR, lacking operational bases in DRC, moved to areas in North Kivu, and then mounted attacks in the Northwest of Rwanda.¹⁰ The areas most affected were Gisenyi and Ruhengeri Provinces, which have historically been heartlands of anti-Tutsi sentiment; but neighbouring communes in Kibuye, Gitarama and Greater Kigali were also affected.¹¹ The insurgency was suppressed by 2000, though a few sporadic incursions have been experienced since then.

As a result of violence, almost everyone in Rwanda has undergone an experience of forced displacement, either within the country or to a second or even third country. People who had left the country at different times returned in successive phases during the 1990s (particularly 1994–1996) to claim their lands and property. Those who left due to violence and repression from 1959 onwards entered Rwanda in large numbers, starting from 1994. They are generally known as the ‘old caseload’, are almost all Tutsi, and numbered about a million. Those who had fled in the immediate aftermath of the war and genocide – who are almost entirely Hutu and became known as the ‘new caseload’ – returned in late 1996 or early 1997. These influxes resulted in multiple claims of ownership for farmlands, buildings, and agricultural and forest products. Government policy, guided to some extent by the Arusha Accords of 1993, has directed people to share land resources, or has opened up public lands (such as Akagera National Park) for resettlement. The government also extended an ‘emergency’ policy of constructing villages, known in Kinyarwanda as *imidugudu*, into a more widespread settlement policy. Despite people’s general willingness to share land and natural resources, considerable controversy surrounds issues of land in many parts of the country, and there are many land disputes at the local (intra- and inter-household) level.

Discourse on conflict, governance, and environment in Rwanda

Since 1994 donors have differed radically in their assessments of basic matters such as the current dynamic of the Rwandan conflict, the nature and intentions of the government; the weight of the past in explaining the present, or the nature of current ethnic, social and economic trends in society.¹²

Any kind of analysis of actual or potential 'conflict', by nature of its subject-matter, is bound to be controversial. The debate over governance in Rwanda has also been highly emotive and tended towards polarised positions, for reasons which will be discussed below. Here, we follow the UNDP in defining governance as:

The exercise of economic, political, and administrative authority to manage a country's affairs at all levels and the means by which states promote social cohesion, integration, and ensure the well-being of their populations. It embraces all methods used to distribute power and manage public resources, and the organisations that shape government and the execution of policy.

We further agree with UNDP that,

Good governance therefore depends on public participation to ensure that political, social and economic priorities are based on a broad societal consensus and that the poorest and most vulnerable populations can directly influence political decision-making, particularly with respect to the allocation of development resources. Good governance is also effective and equitable, and promotes the rule of law and the transparency of institutions, officials, and transactions.¹³

Before discussing land issues, and the volatile debate over governance in Rwanda, it is important to examine the perceived significance of land issues to 'conflict prevention' in Rwanda. It has become more apparent to a number of actors, especially since the late 1990s, that effective management of land disputes, and policy responses to land scarcity, are essential for long-term stability. The ACTS study quoted above concluded that, "dealing with issues of land and resource rights in a considered and open way at the level of policy-making to the level of local dispute resolution will have enduring benefits for peace building in Rwanda."

A number of other studies and scholars have also identified land as a key issue.¹⁴ The *Country Indicators for Foreign Policy Project* study on the Great Lakes, dating from 2002, looks at demographic and environmental stress, as well as other indicators.¹⁵ The assessment concluded that Rwanda had a 'high risk' of conflict according to all these indicators, and a 'very high risk' according to the environmental stress indicator.¹⁶ The specific indicators under the environmental stress category include:

rate of deforestation, people per sq. km of arable land, and availability of freshwater (cubic metres per capita).

USAID's *Conflict Vulnerability Assessment*, conducted in 2002, also prioritises land issues.¹⁷ "The reform of land use, land tenure policy and law issues" was one of three areas selected and analyzed in 'qualitative' terms, with information being gathered primarily through interviews with key informants.¹⁸ The assessment concluded that,

The period 2002–2004 will be one of maximum danger for the consolidation and successful conclusion of the transitional process that began in 1994... the lingering threat of potential, large-scale violent conflict in Rwanda (whether or not it takes a specifically genocidal turn) remains very great – perhaps among the greatest in Africa.

In specific reference to the land reform process, the assessment warns that:

...should there be a great deal of land 'consolidation', the perception that large numbers of people have been left poor and landless while a small minority prospers could have explosive implications in the post-genocide context.

A third example comes from the Clingendael Institute, which is particularly respected for its analysis of conflicts in the Great Lakes Region.¹⁹ Land scarcity is included under an indicator of "Mounting Demographic Pressures", which was rated as "Alert Status", meaning that it was a priority issue to be addressed in order to safeguard stability. The study concluded that,

The prevailing land scarcity and demographic pressure make land into a highly sensitive issue along ethnic, intra-ethnic and class-lines. The problem is compounded by the existing imidugudu policies of the government and future uncertainty about the land tenure law and associated policies. The influx of refugees, soldiers and the outflow of released detainees of the gacaca process, all add to this problem. Improper land use and management systems lead to erosion and deteriorating land quality, while rural productivity remains at low subsistence levels.²⁰

Finally, the draft land policy itself recognizes the importance of land management in conflict prevention. It states that,

From 1959 onwards, the land system became a conflict factor among the population", and that, "At the beginning of the 80s, the "new" land no longer existed, and serious problems began to emerge; the reduction of soil fertility as well as land for cultivation, family conflicts stemming from land expropriation, scarcity of land, etc.

Before discussing Rwanda's vulnerability to conflict, we should start from a definition of what we mean by 'conflict'. Conflicts can be defined in many ways; though for our current purposes we are specifically referring to large-scale violent conflict, whether of low-intensity or

high-intensity in nature. Analysis of the current situation in Rwanda tends to focus on ethnic relations. The threat of violence from Hutu extremists is real, and indeed Rwanda was regularly affected by violence arising from their activities (both in terms of attacks by the 'insurgents' and, in some cases, violent repression by government troops) in certain areas until 2000; in April 2004 some 200 insurgents entered the country and were repulsed by the Rwandan Defence Forces.²¹ The presence of ex-FAR and *Interahamwe* in Eastern DRC was the main official justification for Rwanda's involvement in the conflict there.

It may be assumed, therefore, when discussing potential conflict that one is talking exclusively about 'Hutu-Tutsi' conflict, or more specifically, about a resurgence of genocidal ideology and genocidal acts. However, to define potential conflict purely in 'ethnic' terms, or according to a specific type of manifestation of violence, would be over-simplistic. As mentioned above, Rwanda is part of a region which is politically volatile, and where patterns of political violence, internal displacement, refugee movements, and arms supply and opportunistic cross-border military alliances have led to complex regional interactions. As the direct involvement of some nine African states in the 'second Congo rebellion' in the late 1990s demonstrated, the international dynamics also go further than the region; and indeed, the actions of development partners, transnational corporations and other non-African institutions are also significant. In recent years, neighbouring countries have been accused of harbouring dissidents (of various ethnic backgrounds and political affiliations) with the intention of destabilising Rwanda.²² All of these problems become more pressing in the context of extreme poverty – while the GNP per capita has risen since 1994, the country has higher levels of poverty than in the pre-genocide period.

Various aspects of land tenure reform, land scarcity and land management can be seen as potential root causes of conflict; and also as proximate causes. It is generally agreed that poverty was one of the root causes of the genocide, though not on its own a 'sufficient' cause. The general situation of grinding poverty for the majority was worsened by the sudden crash in coffee prices between 1989 and 1991, and the disrupting effects of the civil war. Land scarcity is strongly associated with poverty, particularly because there are few off-farm opportunities available in rural Rwanda today. Inequitable distribution of land, and tenure insecurity (brought about by frequent episodes of population displacement and subsequent re-distribution of land by the state), have been described as key aspects of the 'structural conflict' that have underpinned violent conflict – i.e. one of the aspects of economic domination and exclusion that creates deprivation and social tension, and prepares the way for violence. During the genocide, violence was directed not just at Tutsi, but also at those involved in land disputes. One in-depth study of local level land access provides an account of a particular commune in Gisenyi, where land disputes were becoming more and more numerous in the years leading up to the 1994 genocide.²³ Customary conflict mediators reported that about half of all the disputes being

referred to them were over land, particularly over inheritance. Because of the sheer extent of land scarcity, many of these conflicts could not be resolved satisfactorily. Evidence of increasing social tensions included the activities of a large number of thieves in the community who became less and less amenable to control, and the tendency of some local people to live in fear of their neighbours and relatives, and specifically a fear of being poisoned. This led to the researchers concluding that, "the social fabric was at risk of falling asunder". In this particular commune, 32 people of a total population of 596 were murdered during the genocide period. Of these, only one was a Tutsi. According to researchers, many of the rest were resented by some people because they had large landholdings. This then represents a tendency for some local people to use the cover of confusion in order to 'settle old scores', many of which originate in social struggles for access to land, and reminds us that the Hutu-Tutsi dynamic is not the only issue of significance.

Land disputes are increasingly common in Rwanda, and as demonstrated above, can erode social relationships. Many people consider land disputes to be at the heart of most conflicts between households. A number of organisations have estimated that between 80–95% of disputes operating at district level reported to administrators are centred on land.²⁴ The National Unity and Reconciliation Council, which conducted consultations across the country, found that land disputes are "the greatest factor hindering sustainable peace".²⁵ Disputes which are difficult to solve at the provincial level are referred to MINITERE. Based on the frequency of these referrals, we can conclude that land disputes are most prevalent in the provinces of Ruhengeri, Gisenyi and Cyangugu (which are also among the most densely populated areas), while Umutara and Kibungo also experience many disputes, mostly linked to land-sharing.²⁶ The provinces of Byumba and Gikongoro seem to have fewer disputes.²⁷ Kigali Ngali also has a large number of disputes related to land sharing, because many 'old case' refugees returned there. While local level land disputes may not seem to be high risk phenomena in terms of violent conflict, it should be remembered that they often have 'political' aspects related, for example, to competing claims of 'old case' and 'new case' refugees. These political aspects become more pertinent if they are purposefully emphasized: according to provincial officials, one Rwandan presidential candidate used the land issue for political purposes during the last elections. Many people feel that by promising to return to the peasants land that they shared with old case returnees, he was striking the ethnic chord.²⁸

However, land disputes do not only involve land sharing or disagreements between families: intra-family disputes are also common, especially over inheritance, with the rights of women being significant. Evidence from Kinigi commune, for example, suggests that over 90% of local court cases are over land and of these, 30% involve women claiming their rights over land.²⁹ In 1996, approximately a third of households were headed by women, and a fifth of households were headed by widows.³⁰

It is possible to categorise most disputes into a number of broad types. First, competing claims due to the return of multiple waves of refugees (typically small-scale farmers) – local level agreements and compromises have been made in some places, and the situation is far from uniform across the country. Second, disputes related to *imidugudu*: significant numbers of people are yet to receive compensation for private land converted to communal use, while others received less than the value of the land they gave away.³¹ Many people who moved into *imidugudu* were able to retain their farmlands outside the villages (in addition to having access to communal plots), while those whose land was used for settlement lost significant portions of their land.³² Third, appropriation of large plots by powerful people: large plots of land have been appropriated in many areas, often for purposes of land speculation, rather than agricultural production.³³ After 1994, large parts of the Akagera National Park, and some other public lands, were ‘grabbed’ for private use.³⁴

Land scarcity, exacerbated by inequitable distribution of land, has also been described as one of the proximate causes of the genocidal violence. It has been well-documented that during the genocide, extremist politicians urged people to kill Tutsi and moderate Hutu in order to gain access to their land. In some cases, those who led the killings were rewarded with land by politicians.³⁵ This was an organised effort: the minutes of a meeting from a commune in Kibuye, in May 1994, for example, reveal that the *bourgemestre* allowed people to ask permission to cultivate the land of dead families for the six months prior to it falling under the management of the commune.³⁶ Presumably, the land would eventually be earmarked for redistribution or communal use. This demonstrates the link between ‘structural’ factors and ‘proximate’ factors: the lure of land would have been lessened if land had been more readily available, or if more off-farm opportunities had been available.

In addition to the promise of more lands if people were killed, there was also a fear of loss of land, as well as a general loss of economic opportunities, if the RPF were victorious. The state had for so long been the instrument of wealth acquisition by the elite, that some Hutu feared that their lands would be distributed on the orders of the RPF, to the incoming ‘old case’ returnees.³⁷ Indeed, government propaganda claimed that, if victorious, the RPF would redistribute land in favour of the Tutsi.³⁸ This argument was also used against Tutsi inside Rwanda, and leaders distributed false evidence of maps showing Hutu-owned fields which would supposedly be grabbed by Tutsi after the RPF gained control.³⁹ These fabrications presumably became more credible in the chaos following the death of Habyarimana.

Issues related to land tenure and rural production are extremely controversial in Rwanda, and the long process of policy formulation reflects a hot debate within government itself – one that has largely been kept out of the public eye.⁴⁰ There are a number of reasons for this. First, as mentioned previously, is certainty that the scarcity of land and the

general lack of technological and market developments, will lead to an agrarian crisis over the next generation, unless major changes can be made to occur. Agriculture, primarily for home consumption, is the occupation of 90% of the population.⁴¹ In addition to the constraints imposed by land scarcity, a number of factors have led to a change in the mix of crops grown by most households in recent years: in particular, both cash crop production and high protein crop production have fallen. This may translate into reduced access to market goods, a less healthy diet for most households and an increase in chronic food insecurity.⁴² Specialists have estimated that according to a *status quo* scenario, 425,000 households (more than a quarter of the projected population) will be without family land, due to land scarcity, by 2010.⁴³

Another significant aspect of land access is the unequal distribution of land, which has been a recurrent pattern throughout much of the country's history. Pre-colonial systems ensured that a significant proportion of the population accessed land only through providing labour and other services to the socially powerful, while in 1984 it was estimated that 50% of agriculturally productive land belonged to just 182,000 farms out of the total of 1,112,000 in the country.⁴⁴

Because of population pressure (and to a lesser extent, unequal access to land) fallow periods are minimal, leading to decreasing soil fertility. In many areas, households are cultivating soils which are inherently poorly-suited for agriculture. Many agricultural plots, particularly on upland slopes, exhibit symptoms of soil erosion.

The second reason for the inherently controversial or 'political' nature of land issues is that the disputes over land ownership have been managed by local administrators, and the policy may therefore undermine or support the *ad hoc* solutions that they put in place. Policy-makers will be wary of undermining their authority, as they are the most important local arm of government.

The third reason is that, as elsewhere in the world, land use and land tenure systems were an important part of social differentiation. Different kinds of customary land tenure and associated rural production systems have become associated with different groups in society. The ways in which the history of land use and land tenure is interpreted thus becomes part of a historical narrative of Hutu-Tutsi relations. While such historical debates may seem somewhat academic, there are reasons why they may be highly relevant to an understanding of social dynamics today. First, much of the North-west of the country only came under control of the central Kingdom in the 1920s, with a simultaneous change in land tenure systems.⁴⁵ Upon taking power from President Kayibanda in 1973, the Northern Hutu elite around President Habyarimana lost no time in attempting to restore the influence of the pre-Tutsi land-use system.⁴⁶ Second, research has demonstrated the importance of 'group memory' in identity-formation and in the mobilization of particular communities towards either peace or violence. Group memory consists of a particular (re)interpretation of the past, constructed – just as all narratives are

constructed through popular 'folk' analysis (which may verge on mythologizing) of selected significant events. The genocidal narrative that was propagated in Rwanda since independence and amplified in the early 1990s used elements of a collective 'Hutu' memory of 'Tutsi' privilege. At that time, the 'privileged' group was in fact a particular Hutu elite, largely from the North, and especially those linked to the *Akazu* – the 'little house' formed of members of Habyarimana's clan, that of his wife and their close allies. The idea of the 'zero-sum' political game, by which the victors gain such privilege, had been reinforced by the colonial experience and the exclusionary practices of post-independence regimes. However, through organised propaganda, it became linked to the memory – which to some extent was a reinterpretation of history – of Tutsi privilege. This, in conjunction with many other factors, especially economic collapse, related events in Burundi and the approach of the RPF, facilitated the genocide. Significantly, some Rwandans remain in self-exile.

While group memory is important for all communities all over the world, it is particularly significant for diaspora communities who (re)interpret the history of their home country, and their community, as part of an effort to remain sure of their specific identity. Of course, many of Rwanda's people have been in exile at specific periods – many Tutsi, including a considerable number of the most powerful members of government, were in exile between 1959 and 1995; while many Hutu were in DRC or Tanzania between 1994 and 1996/1997. Liisa Malkki, in particular, has demonstrated the importance of group memory and myth-making to the survival of group identity amongst Burundian refugees in Tanzania.⁴⁷

Another reason why understandings of historical development of land tenure/land use systems may be relevant to our analysis is that customary systems are still of considerable significance. There has been insufficient research to fully understand the situation, and many (including MINITERE) feel that the customary systems have 'broken down', largely due to land pressure. However, it is likely that customary systems still have some influence. In the North West of Rwanda, much of which remained outside the control of the central court and the Belgian authorities until the early 20th century, customary systems of lineage-based clientship (*ubukonde*) are a local counterpoint to the *isambu* systems which were imposed by the Tutsi monarchy. Under *ubukonde*, land was accessed in exchange for goods such as banana beer. Under *isambu*, however, land access was dependent on exchange of goods as well as labour – and the labour requirements became more onerous after the Belgian authorities encouraged local chiefs to become coffee entrepreneurs. Scholars have linked these unpopular labour requirements to the prevalence of anti-Tutsi feeling in the Northwest during the 1950s.⁴⁸ Many official readings of land tenure do not acknowledge this, and as such may be seen as a re-writing of history.

Governance in post-genocide Rwanda

The test of any land tenure reform process is not the quality of the policy or legislative frameworks, but the extent to which the policy is effectively implemented. The style of governance in the country then becomes all-important in any assessment of whether the political will exists, at various levels, to ensure that policy will be implemented evenly and effectively. This is especially true in Rwanda, where so many difficult trade-offs have to be made and where the issues are so inherently 'political'.

Rwanda's tragic recent past makes the country unique in many ways, and this has affected the expectations of all stakeholders – such as citizens, civil servants and donors – regarding forms and standards of political governance. In the words of one analyst,

*Rarely in human history has a society asked that all its people live together again, side by side, in the aftermath of genocide. That is, however, the task at hand in Rwanda. The people of Rwanda are attempting to do what few societies in recorded history have ever done.*⁴⁹

The impacts of the civil war, and particularly the genocide, cannot possibly be understated, either in personal human terms or from a macro-economic perspective. Three quarters of all public service personnel were lost.⁵⁰

*...houses had been destroyed, cattle slaughtered, fields abandoned, government institutions ransacked and professional staff killed or forced to flee. The national coffers were looted; the economy was in tatters; social structures collapsed.*⁵¹

Rwanda is therefore a special case, a country in "post-traumatic convalescence".⁵² The international community expected that governance in the country would be 'tightly managed', and that the country would not be ready for Western-style 'democracy' for many years. This view was informed by a realisation that the hasty imposition of multi-partyism in the early 1990s (led by international donors and international financial institutions) contributed greatly to the political and social tension in the run-up to the genocide. Donors have been willing to support the government, giving it the 'benefit of the doubt' despite of its limitations. The post-genocide government was constituted as stipulated in the Arusha Accords, though the *Mouvement Révolutionnaire National pour le Développement et la Démocratie* (MRND) and *Coalition pour la Défense de la République* (CDR), both implicated in the genocide, were disbanded. The Presidency was assumed by Pasteur Bizimungu, a Hutu member of the RPF; Faustin Twagiramungu, a Hutu member of the MDR, took the position of Prime Minister; while Paul Kagame of the RPF became Vice-President and Minister of Defence. The RPF however, faced with a country that was still affected by sporadic insecurity and a force of ex-FAR/*Interahamwe* in the DRC, reportedly governed with a 'heavy hand' during this period. This led to the Prime Minister, and several Hutu

Ministers, leaving the government in 1995, and a concomitant tightening of control from the centre. In 2000, one observer argued that,

...the concentration of power is not only expressed in terms of a dominating position assumed in the government and the army by a splinter group of the Ugandan Diaspora. Since the military victory, the political, military and economic networks created by the RPF have been closely linked.⁵³

It is noticeable, however, that Rwanda has undergone some transformation since then. The transition from a broad-based government of national unity to elections in 2003 saw a broadening of the RPF rank and file, including people who were not in the diaspora. The efforts of the government to integrate ex-FAR in the army and diverse social groups in government have created a 'broader' elite than was previously the case. Within organisations (such as institutions of higher learning, for example) the predominance of '1959' refugees who had been in exile in Uganda and elsewhere, was tackled through more open recruitment.⁵⁴ From 1998, the RPF conducted a number of national-level consultations (known as the *Urugwiro consultations*) in order to guide national policy-making, and many of the recommendations were incorporated into the Vision 2020 policy programme document. A decentralisation programme has been implemented, and elections were held at the local and district level in 1999 and 2001, respectively. The country has moved from the emergency phase, through a transition period, which formally ended in 2003, and has implemented presidential and parliamentary elections, and promulgated a new constitution. While not perfect, proponents argue, these represent the start of a long-term democratic process.

These processes, in particular the presidential election, are themselves a source of controversy. In combination with the knowledge of the international community of their own lack of action against the genocide – or even, in some cases, complicity in the escape of *genocidaires* and possibly worse – the fact that Rwanda is an 'exceptional case' has led to a lack of common, agreed criteria for assessing the appropriateness of different policies.⁵⁵ The pivot-point of politics in Rwanda is the issue of democratic debate and political competition. While the organising principle of Rwandan politics has been 'consensus', there is disagreement to what extent consensus over problematic issues has really been achieved through dialogue.⁵⁶ This debate over the appropriate boundaries of debate and political competition takes place within the RPF as well as more generally. Rather than moving towards increasing openness, some organisations and individuals feel that governance in the country is in many ways becoming less inclusive, and more tightly managed by a relatively small group of influential people.⁵⁷ As evidence of this, they argue that the continued use of charges of 'sectarianism' against individuals and groups – including, for example, the MDR and Liberal Party, both banned prior to the Parliamentary elections, and numerous civil

society organisations (CSO's) accused of sectarianism by a recent parliamentary commission – is an illegitimate means of political control.⁵⁸

When the Transitional National Assembly (TNA) released a report in 1999 that criticized certain ministries, it was not well received amongst key decision-makers, and the president of the TNA was forced to resign and leave the country.⁵⁹ They also argue that a more general, though less visible problem, is that few mechanisms have been put in place to enable power-sharing and truly inclusive decision-making, and that pressure is exerted by the key decision-makers within the state in order to control debate and 'impose conformity'.⁶⁰ Clearly political opposition to the RPF is weak, and the RPF generally dominates Rwandan politics. At lower levels, RPF members still dominate the administration: in 2003, for example, 11 of the 12 provincial *prefets* in the country were RPF members; and of the 28 heads of state-owned enterprises, 24 were RPF members.⁶¹

Research by NGOs has revealed lack of trust and disagreements between local communities, NGOs and local and central authorities, and lack of full two-way communication between various levels of government.⁶²

In addition, economic decision-making is relatively unaccountable, with some questioning the levels of investment in urban centres, particularly Kigali, compared to poor rural areas.⁶³ In reaction to this, internal and external opposition to the government – both overt and covert – has seemingly increased. Due to the lack of legitimate channels for such opposition, some observers have warned that it is more likely to take on a destabilizing character.⁶⁴

Supporters of the current regime argue that the RPF's strong-hold on political events is necessary in a country that is vulnerable to sectarian sentiments, and is still recovering from the terrible effects of war and genocide. The decentralization programme, initiated in May 2000, has utilized participatory methodologies to reduce 'power distances' at local levels.⁶⁵ While the policy hasn't yet been fully implemented due to funding constraints and other issues, and the provincial level remains much more powerful than the district level, there is greater communication and awareness of local problems.⁶⁶

Debates over the nature of governance in the country cannot be ignored by those concerned with economic development, environmental sustainability and conflict prevention in Rwanda, as they are important factors in the success of policy implementation, and the perception of policies and laws amongst the general population. Even a good policy cannot be successful if it is formulated and implemented in the context of exclusionary governance.

The most recent problems of land scarcity and access have been identified with the genocide, displacement of Rwandans and influxes of old and new case refugees. In this regard, it may be argued that roots to the land problems (and to some extent, their potential solutions), are located in the 'ethnic' nature of political organisation in Rwanda. Indeed the

problem of land in Rwanda had a substantial political flavour even before 1994.

Politicisation of the land question is evident in the refusal of the Habyarimana regime to allow Rwandans in exile to return to their country, ostensibly due to land scarcity. The anecdotal metaphor was that Rwanda was like a glass of water, which was already full to the brim. It could no longer hold any more people. In the mid 1960s, the government had invited refugees to return, but directed that they should by no means attempt to reclaim their original lands, but rather accept to be resettled elsewhere. In the political and social context of the era, this was not seen as a fair or well-intentioned offer, and few if any refugees returned.⁶⁷

The Arusha Accords of 1993 may have recognised the political importance of land but did not provide adequate consideration of land access and distribution. As part of the negotiations it was agreed that people who were outside of Rwanda for ten or more years would not claim right on the property they held before leaving Rwanda. At the same time it stipulated that all Rwandans had rights to property. When the genocide was stopped and the post-genocide government was established, there was a large inflow of Rwandans who had fled the country. Those who left due to violence and repression in 1959, 1963, 1973 and other years entered Rwanda in large numbers starting from 1994. As mentioned above, they are generally known as the 'old caseload', are almost all Tutsi, and numbered about a million.

Many of these people occupied lands belonging to those who had fled Rwanda during the genocide. On their return, those who had fled in the immediate aftermath of the war and genocide – who are almost entirely Hutu and became known as the 'new caseload' – tried to access these same lands. In many cases, the official government policy of land sharing was followed, though this was sometimes problematic in practice.

The present problems of access are therefore those of contested rights to land that arose from largely political happenings in the past. The old caseload, many of which have little or no land, is perceived by government officials to "continue to feel cheated"⁶⁸ that their property was distributed to others by the government after the 1960s, largely through a process known as *amasambu ya demokrasi* – "plots of democracy".⁶⁹ Some members of the 'new caseload', who have shared part of their plots with returning 'old caseload' families, may nurse grudges due to having smaller plots than those they possessed before 1994. Moreover the sharing process was not supported by any written legislation. Those who shared land and any capital investments on the piece of land, such as coffee plantations or banana stands, were not compensated.

Currently, there is a burgeoning elite, composed mainly of town dwellers owning large swathes of land in the rural areas. It has been suggested that they, too, have strong links to the political, military and business networks, which are the domain of those with high positions in government.⁷⁰ It is likely that without effective checks and balances, those with political connections will continue to have preferential access to the little land that is available.

Finally, access to pasture is a potential source of tension. Traditionally, the distinction between agriculture and pasturage corresponded broadly to the distinctions among the major ethnic groups.⁷¹ There is no empirical evidence to suggest that the distinction is still clear and sharp, but it is a legacy that is not easy to dismiss. Land scarcity has affected this relationship: in 1970, there were 487,000 ha of pasture in the country, but by 1986 there were only 200,000 ha.⁷² By May 1995, at least 700,000 head of cattle had been brought into the country by the returning 'old case' refugees. Returning 'old case' refugees in Umutara received large chunks of land for pastoralism: about 25 ha were originally distributed for each 50 cows, and the maximum area allocated for grazing was 100 ha. The land was further subdivided in 1996 and 1997, but it seems that many large plots still remain in the hands of single households.⁷³

A recent survey, also in the East of Rwanda, revealed that large swathes of land were being allocated to herders associations.⁷⁴ Since the same herders also have land for cultivation, they have accordingly been referred to as a group with 'multiple access' to land.⁷⁵ After 1994, there were reports of members of the political elite taking over large tracts of land in the East, for ranching.⁷⁶ Such controversies have ethnic dimensions.

The challenge of participatory policy-making in post-1994 Rwanda

Policy-making in Rwanda is subject to a number of challenges and constraints, many of them due to the lingering effects of the war and genocide. These challenges are social, economic, political, and even linguistic – due to the need for documents to be drafted in English as well as French to cater for those who grew up in exile in Anglophone countries. The loss of human capital and institutional knowledge during the war and genocide has been a problem, and the financial burden of the 'emergency' period also limited investment in longer-term policy research and development. However, perhaps the most important challenge, particularly for a sensitive domain such as land tenure, which affects every household in the country, is the incorporation of the views of all stakeholders in policy-making, whilst simultaneously maintaining government control of a process that is potentially volatile. It is this challenge that we focus on here. In most parts of Africa, non-governmental actors have started to play an important part in the policy-formulation process, due both to their importance in the implementation of such policies (often a result of access to external funding sources) and to their technical capacity in particular areas. Despite the existence of a plethora of NGOs and CBOs, in general, civil society in Rwanda is weak and disorganised.⁷⁷ As in other countries, though perhaps to a greater degree, dependence on external funding limits their ability to plan and implement long-term programmes. There is also, as is true of other sectors, a clear rural-urban divide, and many urban-based organisations do not have strong grassroots links.⁷⁸ On the one hand, there has been a lack of adequate consultations in the

development of most major policies. On the other hand, there has been little, if any, organised lobbying or pressure from civil society. For example, during the Poverty Reduction Strategy Planning (PRSP) process, international NGOs that convened a meeting of local NGOs were surprised to find that only two of the 30 participants at the meeting had heard of the PRSP before receiving the meeting invitation.⁷⁹

There are a number of reasons for the limited capacity of civil society to influence policy. First, the effects of the war and genocide on civil society were serious, not just in terms of loss of life (with many intellectual Hutu moderates killed, as well as Tutsi) and property, but also in terms of damaged social relations. Civil society organisations, like any institution, function through networks which rely on trust and mutual support, which have been undermined by the legacy of violence.⁸⁰

Second, most Rwandan NGOs have some unwritten links with government, either because the NGOs benefit from government consultancies, or rely upon good relations with government officials for authorization, access to land for offices, or other needs. The role of the churches (traditionally the strongest of all non-government institutions) in the genocide, as well as the 'co-option' of the church 'seal of approval' for political ends, has led to a reduction of their ability to engage in constructive criticism of the government.⁸¹ It is reported that, after 1994, government politicians made many public statements about the huge amount of land owned by churches.⁸² This amounted to a dispute between the government and the church: however, it is believed that consultations led to some understanding between these two stakeholder groups, as the issue has not been publicly raised by the government for several years.⁸³

Third, the centuries-old history of centralized, exclusivist governance in the country has resulted in lack of awareness amongst the general public about the nature of democratic citizen-state relationships. The formulation of the PRSP, for example, was seen as fairly consultative, but the level of participation did not go beyond consultation: in other words, CSOs were not involved in decision-making. In many cases, the expectations of CSOs were limited to consultation: they did not hope for a more participatory process.⁸⁴ Finally, the government often reacts strongly against any activities which are seen as critical of government programmes. For example, human rights groups in particular have suffered "intimidation and co-optation by the government".⁸⁵ In order to survive, civil society organisations often opt to support government policies broadly, thereby relinquishing any advocacy role. Debate has therefore become increasingly polarized, with those that have continued to criticize government policies often taking confrontational positions.

The policy/law development process

The land policy formulation process, like all politically significant processes, is open to a number of possible interpretations. Policy formulation has often been portrayed as a linear, unproblematic

process, dictated by rational and objective scientific arguments. Elements of the formulation process are described by terms such as ‘consultation’, and ‘consensus-building’; often without being ‘unpacked’ or critically analysed. Pottier notes that this is the case in Rwanda, where

...the message seems to be: Government and donors know what they are doing. Those suggesting new policies, however, take little account of the likely impact that discourses of public morality and social exclusion will have on how policies are actually realised.⁸⁶

Experience suggests that policy formulation is more accurately conceptualised as discourse – as a competition between different narratives, each of which is presented in various ways in order to achieve greater credibility and a dominant position. For example, certain policy prescriptions claim ‘scientific objectivity’, whilst others might claim ‘local legitimacy’. These claims are always open to debate, and should be seen as constructions of processes such as legitimisation through networks of actors, (such as local ‘informants’ or international journals and conferences, for example). When policy formulation is deconstructed in this way, “analytical attention is turned to the webs of power underlying the practices of different actors in the policy process”.⁸⁷ By studying the ‘knowledge interfaces’ between different actors, we pay attention not only to the outcome, but to the process involved:

The types of discontinuities that exist and the dynamic and emergent character of the struggles and interactions that take place, showing how actors’ goals, perceptions, values, interests, and relationships are reinforced or reshaped by this process.⁸⁸

A stakeholder analysis then becomes a useful tool for understanding the power relations between different interest groups. The significance of the state in multiple sectors and aspects of life in post-independence Rwanda is well-documented. The ability of the central state to penetrate and monitor community structures, especially through party-political membership, obligatory participation in state-organized activities and of course the ability of elites linked to the CDR to mobilize thousands of ordinary peasants to participate in the genocide, are all examples of the state’s power to intervene at the local level. However, this power has not translated into an ability to regulate the general patterns of land-use and transfer effectively (for example, the three-hectare legal ‘ceiling’ on land holdings that was put in place).

Legislation was passed in 1960 and 1961 to move customary systems further towards Western notions of property rights. Legal pluralism still existed – i.e. the co-existence of statutory and customary systems – but the customary system was intended to be brought closer to statutory systems through the formal registration of customary rights by the state. The statutory order No. 09/76 of March 1976, which remains the land law currently in operation in Rwanda, sought to avoid the development of a land market. It specified that the state is sole owner of land in

Rwanda, with all access being usufruct, granted on behalf of the state. This is, according to some experts, in contradiction to the constitution, which guarantees individual rights to property.⁸⁹

Subsequent efforts at legislated land reform in 1967, 1978 and 1991 all aimed at spreading the concept of individual rights within areas under the *ubukonde* system, though they were largely unimplemented. In fact, the regulations that did exist tended to bring more confusion, rather than clarity, as they were provisional, or were ignored in practice. For example, a circular from the Minister of Home Affairs regarding land distribution was prepared and finalised, ready for distribution to all *bourgemestres* (now called mayors) in the country. However, despite the preparations, it was never distributed.⁹⁰

This inability to implement and enforce legislation over land effectively seems to be a combination of two factors: firstly, the sheer technical difficulty of the task, with people using long-term leasing arrangements to circumvent the law, or simply not registering sales; these difficulties were compounded by lack of consultation and a sense of 'ownership' amongst the key stakeholders in the process. The second factor is the self-interest of the bureaucrats, themselves part of the class that was most active in acquiring land.⁹¹

The idea of development of a land law began in 1996 within the Ministry of Agriculture and Livestock, and was particularly prompted by the development of the "Agriculture Development Strategy", and a two-day national conference on land issues, where delegates argued that the agriculture sector could not be developed in a sustainable manner without the development of a land law.

Following the recommendation of that conference, the Ministry of Agriculture and Livestock conducted a first concrete study on land reform in Rwanda by Olivier Barriere, funded by FAO, in 1997. The study recommended that family plots should become legally indivisible in order to safeguard plot-sizes; and supported the *imidugudu* programme. The paper, which remains influential, includes a description of the historical development of land tenure systems, which seems to have informed the land policy, and has been criticised by some analysts.⁹² Others praise Barriere's emphasis on the importance of 'communal' aspects of land, and interpret this as a return to the 'traditional' concept of patrimony. However, it is generally situated within a narrative based on commercialisation of agriculture; and it is this narrative, rather than one focussed on subsistence agriculture, which has taken precedence since.⁹³ Some observers assert that a convergence of FAO, World Bank and Government of Rwanda narratives has come to dominate the policy formulation process, notwithstanding the popular participation that is claimed for the early consultation processes.⁹⁴ It is likely that this situation is a product not just of direct contact and influence, but also through the indirect influence of publications and paradigms which tend to dominate the literature on rural development and land tenure.

In 1998, the ministerial cabinet decided to put in place an inter-ministerial commission to follow up the development of a land law, headed by the Ministry of Agriculture. Interestingly, it is during this period (1997–1998) that the majority of the contents of the Land Law were drafted, and the first draft was ready in early January 1999. However, it was ‘shelved’ until a policy could be formulated to frame the bill.

Preliminary consultative meetings were organised throughout the country and recommended that ‘full ownership’ of land be given to all land owners. Those meetings included local administrators, members of local organisations and farmers’ representatives. In September 1999, a workshop was held on “Land Use and Villagisation in Rwanda”, convened by a Rwandan NGO. A number of the recommendations made at this workshop, including that ‘any new land law should be preceded by a national land policy’ were endorsed by the government over the following year.⁹⁵ Importantly, this workshop, initiated in a context of distrust between civil society and government, reportedly created greater space for dialogue around the issues. In subsequent workshops, there was a shift towards greater openness and trust.

In 1999, a new inheritance law was passed, which generally improved the situation of women.⁹⁶ The law allows a newly-married husband and wife to choose between three property regimes (community of property, separation of property, and limited community of property) and gives women the same inheritance rights as men, both in terms of bequests made prior to the death of parents, and the division of property upon the death of a parent. However, the law does have limitations (discussed below), and the inheritance of land is subject to land regulations – making the land policy and law even more significant for women’s land rights.⁹⁷

In the beginning of 2000, the ministry in charge of land, currently termed the Ministry of Lands, Environment, Forestry, Water and Natural Resources (MINITERE) began the development of a national land policy, and, in November, the first national consultation was convened to exchange views and considerations of the first draft of the policy. One of the recommendations of the conference was to continue consultations at the grassroots level. This process has been done with the participation of some NGOs working closely with local people in rural areas, including CCOAIB, and RISD.⁹⁸ MINITERE organised other consultative meetings in all provinces. These meetings tended to involve administrators at the district level, rather than members of the general public.⁹⁹ This reflects a tendency within some governments (common to many parts of the world) to see peasant populations primarily as beneficiaries, incapable of fully and actively participating in such processes. Of course, governance norms in Rwanda have long discouraged ordinary people from considering themselves capable of designing solutions.

In 2001, a workshop was held by MINITERE, with UNHCR support, in order to make the policy and law more gender-sensitive. A number of recommendations were made by the participants, who included NGO members, mayors, and government personnel.¹⁰⁰

The draft land policy was almost complete by 2001, and was disseminated for comments to organisations such as RISD, the Rural Development Institute, Oxfam GB and others. These comments were incorporated to varying degrees. In the words of one analyst:

...because the changes envisaged by the land policy are so far-reaching, the government has declared its intention to consult with the population as widely as possible and to modify the Policy on the basis of their views. However, the government is very clear on the direction it wishes to take.¹⁰¹

Also in 2001, the Poverty Reduction Strategy Paper (PRSP) was drafted. This includes several important elements concerning land, including the following:

- Households should consolidate plots to ensure that each holding is not less than 1 hectare; there shall also be a ceiling of 50 ha.
- All land should be registered to improve tenure security. The title will be tradable, but not in a way that fragments plots below 1 ha.
- The community will be involved in the process of allocating title.

The Vision 2020 document, which sets out Rwanda's vision for development until 2020, also forms a framework for development of the land policy. It aims to raise agricultural incomes and generate incomes outside agriculture, through 'recapitalization' and transformation of the rural agricultural landscape into a commercialised sector. This vision is laid out in fairly general terms and specific strategies are not elaborated.

At that time, it was expected that both the law and policy would be approved in 2002; but from 2001 until the final draft of the land policy and land law, which were sent to the ministerial cabinet for adoption in February 2004, key issues were being debated within government, largely behind closed doors. Interviews and published sources suggest that the most contentious issues include the process of consolidation of fragmented plots; and the resolution of disputes over land-sharing. The law was adopted by the cabinet meeting in February 2004 and will now pass to the parliament and the senate for adoption.

Rwanda has in many ways only just started to develop procedures and norms for policy development. According to some observers, the process involved (for example, the role and phasing of review and discussion by cabinet and parliament) is unclear, and is in fact quite fluid. Certainly, in early 2004, there was widespread confusion at the progress of the land policy and bill, which suggested that key stakeholders had not been informed of the process.¹⁰²

By August 2004 the policy was being discussed by a Parliamentary Standing Committee with input from interested CSOs. The discussions were open and free, with a number of local and international organisations making presentations. At the time of writing, it was too early to say whether extensive changes would be made based on the discussions.

Despite some effective consultation with civil society organisations and district-level administrators, it appears that some stakeholders in

government were not fully consulted during the process. Key stakeholders within government would include, for example, the Ministry of Agriculture (MINAGRI), the Ministry for Local Government and Social Affairs (MINALOC), the Ministry of Finance and Economic Planning (MINECOFIN), and the Ministry of Justice (MINIJUST). However, the policy makes extensive reference to the centrality of MINITERE and there is insufficient reference to relevant institutional linkages and policy synergies (and possibly contradictions of policy).

The main Rwandan CSO advocating for an informed land reform process is LandNet Rwanda Chapter, a network of local and international NGOs dealing with development projects in Rwanda, the majority of which are based in Kigali. Like most NGOs, the member organisations rely heavily on support from foreign donors, and the membership has not been broadened to include, for example, farmers associations and cooperatives.

LandNet has an official of the Ministry of Lands as a *bonafide* member, as it is believed that having government officials as members of the organisation makes dialogue possible and engagement more organised. A number of opinion leaders in the network can use the government member as a link to the policymaking process, while the government can have access to the advocates and NGOs trying to create a pressure group. Indeed, this has helped LandNet to gain access to some policymakers in a regular, structured way.

Despite this, LandNet has had to walk a fine line between procedural, formal dialogue with government, and more direct 'lobbying' tactics, such as writing directly to the President to seek an audience. A mix of tactics has been used, partly because the progress of the draft Bill, for example, was not entirely clear, due to lack of communication from government. Key stakeholders were often unsure, for example, what processes the draft had to go through before it was 'finalised' and adopted. While the relationship between LandNet and the government has generally been positive, tensions have been evident when the network has taken the initiative to lobby senior politicians, without prior consultations with MINITERE.

A crucial issue, however, is whether civil society and important Ministries will be actively engaged and involved *ex poste*. The proposed composition of the Land Commission, which will be appointed by MINITERE, may involve civil society. But as in other countries, the role of the local rural peasant in policy-making and implementation is minimal: the real stakeholder is still out of the arena.

This chapter will draw attention to some of the most important aspects of the policy in section four, but it is first necessary to provide some background on the land issue in the country.

Land use, management and tenure systems in Rwanda: Historical perspective

An analysis of the historical development of land tenure and land-use management systems is a particularly important part of any analysis of the Rwandan socio-economic and socio-political situation today, especially from a conflict prevention perspective. This is because land tenure, land use and the benefits and obligations linked to land have been a key aspect of the formation of Rwandan society, including class and 'ethnic' differentiation. The history of Rwanda, particularly the pre-colonial period, has become something of an intellectual battle-ground, particularly since the terrible events of 1994.

The first main point of contention relates to the earliest beginnings of what is now known as Rwanda. There is perhaps a consensus that the earliest inhabitants of the territory were the Twa, who were primarily a hunter-gatherer society, related to the pygmies of the modern-day DRC. The Twa form a small minority in Rwanda (currently less than 1%) and though some Twa played important ceremonial roles in the central court of the *Mwami*, they have been marginalized from politics for more than a century. They have suffered from insecure land tenure and landlessness for many years.

From a general consensus that the Twa are the oldest inhabitants of the country, the picture becomes more hazy. There are two polarized views of the origins of 'Hutu' and 'Tutsi' identities. We will review these before also considering a more nuanced possibility that involves aspects of these two polar viewpoints. It is important to say from the outset that a belief in any of these narratives – or any other – cannot and must not be used to justify violence, discrimination or oppression against any group in society. However, given their importance in the political history of Rwanda, they are significant to the present study.

The first view, which could be termed 'primordialist', is that the Hutu and the Tutsi are different peoples, originating from different parts of Africa. The colonial authorities, and a number of colonial-era scholars, saw physical differences between the Hutu and the Tutsi (especially in terms of average height, as well as the size and shape of noses and lips), as well as the fact that Tutsi tended to be cattle keepers while Hutu tended to be primarily farmers, as evidence that the Tutsi were originally a 'non-negroid' pastoralist people from outside of the region, perhaps from Eastern Africa. Some went as far as to claim that the ancestors of the Tutsi may have originated in Tibet, or India: this belief fitted racist colonial ideology that saw black Africa as inherently 'primitive' and generally stateless: the colonialists saw the Tutsi-dominated royal court as evidence of racial superiority which could not, from their viewpoint, originate from Africa.¹⁰³ The narrative presupposes that the Tutsi migrated to Central Africa, found the Hutu and Twa already living in modern-day Rwanda, and gradually took control from the Hutu through military force as well as a system of loaning cattle to farmers in return for labour.¹⁰⁴ This view – that the Tutsi were late-comers to the country

and hence 'foreigners' – was, of course, propagated by Hutu extremists, particularly in the years immediately preceding the 1959 'social revolution', and again prior to and during the genocide. In one infamous speech, a government official declared that the Tutsi came from Ethiopia and would be made to return there – via the Nyabarongo river.

The second view is that the people of Rwanda have common ancestors. This explains why all Rwandans speak the same language, live together in the same communities, and had the same customary religious beliefs. The differences in height and physiology, according to this view, may be explained primarily through differentiated access to foods, which came about through the specialization of labour. Over centuries, a situation developed whereby some households – those who primarily tilled the land – who would later come to be identified as Hutu, relied primarily upon a diet of starches and other drought-resistant staples. This starch-laden diet, accompanied by lives of work in the fields, resulted in a 'stocky' physical body-type. Those who tended to be livestock herders had better access to milk and other animal products, and hence progressively became taller through access to protein. The fact that they, as a group, tended to do less physical work in the fields meant that they supposedly developed a more slender body-type. They later became identified as Tutsi. This process of differentiation was, according to some scholars, enhanced by sexual selection based on individual and socially-constructed ideals of beauty.¹⁰⁵ This was broadly the version of events taught by senior members of the Rwandan Patriotic Front (RPF) to their (almost exclusively Tutsi) troops prior to and during the invasion of Rwanda, and remains essentially the 'official' government view. An official history curriculum has yet to be developed in post-1994 Rwanda, however, government and army officials tend to emphasize that all Rwandans viewed themselves as essentially the same prior to the colonial period, although there is an element of class-based differentiation in the analysis of the term 'Hutu', which is meant to signify a 'servant' or 'client', whereby a 'Tutsi' was a 'patron' or 'master'.

Those who hold this view add that in pre-colonial times, it was possible for family bloodlines to move gradually from one category to another, and even for an individual to be considered 'Tutsi' by clients or servants, but 'Hutu' by patrons or 'superiors'.¹⁰⁶ This has become part of a narrative which describes pre-colonial Rwanda as an essentially harmonious society, where the exchange of cattle for labour – the *ubuhake* cattle clientship system – allowed for people to cross class boundaries, and which decreased social tensions and inequalities. Along with many scholars, they argue that the Belgians turned this essentially fluid 'class' system into a rigid ethnic divide, by arbitrarily dividing the population into different categories, based largely on the number of cows each household possessed.¹⁰⁷ The production of fixed identities, which were compulsorily printed on identity cards, had tragic consequences. Indeed, the cards were used by the *genocidaires* to identify their victims, as it was often difficult to tell who was Hutu or Tutsi from physical appearance.

Both of these narratives seem overly simplistic. Mahmood Mamdani has outlined four ways in which scholars have further problematised such black-and-white accounts.¹⁰⁸ First, migration may not be a single, massive movement of people, and may not be associated with conquest – it may be a protracted affair. We might add that it may presumably have different outcomes in different areas, at different times. Second, any presumed migration of people may not necessarily be the only or the primary source of pastoralist livelihood strategies and was not the only model of ‘statehood’. Livestock keeping, perhaps on a small scale, may have been part of a basket of options employed by (primarily agricultural) people in the region for centuries. Thirdly, an exchange of ideas and practices between communities is possible without migration or conquest. Fourthly, many contemporary Rwandans may be the descendents of marriages between Hutu and Tutsi, although the *idea* of Hutu or Tutsi identity was maintained through patriarchal transmission of cultural identity. This is, as has often been observed, very clearly the case in the South of Rwanda, where ‘intermarriage’ is quite common. The overall impression is that the terms Hutu and Tutsi are to some extent ‘constructed’ socially and, therefore, have changed over time.

It may be the case that a variety of processes contributed to the country’s current ethnic situation, the distribution of labour and perceptions of ‘class’ or privilege. These are likely to have included migration (possibly over a long period of time), but the situation was not always a simple division into Hutu, Tutsi and Twa. While we know very little about how these three terms were used until the 1860s, seminal work by Catherine Newbury, as well as other historians, has shown that many communities who now consider themselves Hutu did not do so until relatively recently – as recently as the late 19th century.¹⁰⁹ The people of the North West, for example, considered themselves *Bakiga*, the people of the mountains, and saw themselves ethnically linked with neighbouring hill-dwellers in Uganda. They referred to the southern Hutu, who warred against them alongside the Tutsi in the late 19th century, as *Banyanduga*. It should also be noted that the primary unit of organisation was not ‘tribe’ or ‘race’ but rather lineage or the neighbourhood residential group. The North West, as well as the Hutu Kingdoms of Bukunzi and Busozo in the South West, did not come under the control of the central court until the 1920s.

It was through the process of state formation and the associated changes in control over land and livestock, that the term Hutu came to be associated with the mass of people who did not have the privileges accorded to the Tutsi. In Kinyaga, lineages that were wealthy in cattle and had connections with chiefs came to be known as Tutsi.¹¹⁰ The term could then be seen to be partially socio-economically constructed, as well as partially ‘ethnic’. Those who were Hutu and who came under the control of King Rwabugiri, who expanded the royal court, largely through conquest in the latter half of the 19th century, became bound to contribute free labour (*uburetwa*) in return for the ability to till the land.¹¹¹

It can be seen, then, that changing patterns of control over land and natural resources – specifically, the expansion of the royal kingdom and related customs, tenure and taxation regimes – were a factor in the generation of current ‘ethnic’ identities. This shows the importance of understanding the political economy of land tenure and land use, and also the risks inherent in changes to the existing systems. It has been shown, for example, how the ‘collective memory’ of Tutsi privilege was resurrected to suit the selfish aims of the Hutu elite of the ‘Hutu Power’ factions – even though the realities on the ground did not tally with the genocidal myth being propagated. Changes to land tenure, rural production systems, settlement patterns and land access may be perceived through a historically-specific ‘ethnic’ lens by some people and will certainly be interpreted that way by the extremists who still maintain genocidal ideology, within and outside the country.

As has been mentioned briefly above, there were three systems regulating access to land immediately prior to the colonial period.

In the Central, Eastern and Southern areas controlled by the central kingdom, the *igikingi* system governed pastoral lands. The *mwami*, the head of state, was the holder of all land rights and granted usufruct rights to land through his local representatives, in return for obligations including fees, payments and labour requirements.¹¹² The right to use land could be withdrawn by the *mwami* and it seems that access to land was used as a political ‘stick’ or ‘carrot’ according to need. In the 1870s some forms of the *igikingi* land grants were altered and became more exploitative.

In the Northwest and the ‘Hutu’ kingdoms of Bukunzi and Busozo, the *ubukonde* system was dominant. Under this system, the lineage-group of the person or household who first cleared a plot of land (which was, in this region, mostly under forest) controlled access to that land.¹¹³ The rights of exploitation of the land were permanently conceded to members of that lineage, or granted to others in exchange for obligations and fees. These typically consisted of banana beer or agricultural implements, and only rarely included provision of free labour. Some clients could, over a period of time, increase their wealth and thus become *abakonde* – a lineage head. However, one problematic aspect of *ubukonde* – at least from the point of view of the clients – was that an *abakonde* could reduce the amount of land available (i.e. to settle members of his extended family) but would still have to pay the same ‘tribute’. The situation has of course changed greatly since the pre-colonial period. The extent to which any vestiges of the customary systems remain today, is not very well understood.

In agricultural areas that were under Tutsi control (including those, for example, which came under the control of the central court during the reign of the expansionist King Rwabugiri in the latter half of the 19th century), the *isambu* system replaced the *ubukonde* system – on which *isambu* seems to have been modelled. Instead of the *abakonde*, the Tutsi *Mwami* became the ultimate owner of the land, which he distributed in return for produce and provision of unpaid labour. This labour requirement was a

major difference between the two systems, and it increased the extractive power of the state at the expense of the peasants. The *igikingi* system, which was also based on access to land being granted by a Tutsi lineage to a client group, was also significant. The spread of this system led to some landed Hutu lineages being transformed in social status in order to become Tutsi, but also relegated the vast majority to a state of inferiority, such that they had to sell their labour to survive.¹¹⁴ However, in the late 19th century, grievances over land were not articulated in ethnic terms, but rather in terms of a regional, centre/periphery struggle.¹¹⁵

As the peripheries of the country came under central rule, administrative control over land shifted from the customary Hutu lineage heads to the hill chiefs, who were under the control of the *Mwami*. These hill chiefs (who could be Tutsi, Hutu or Twa) were part of a hierarchy that included, at the 'provincial' level, three kinds of chiefs: the 'chief of the men' (responsible for recruitment to the army), the chief of the land and the chief of the cattle. Appointed by the *Mwami* or his delegates, the chief of the land was usually a Hutu, while the others were always Tutsi. It has been suggested that the cattle chief and the land chief were engaged in a kind of "reciprocal surveillance" which benefited the peasants, which some authors describe as a "balance of forces"¹¹⁶, while Mamdani speculates that the masses could reduce the pressures on their labour, by playing the two chiefs against each other.¹¹⁷

The land policy, in its historical review of land tenure in the country, glosses over the important issues of inequality and imposition of tenure regimes through conquest, describing the system of land access as stable and harmonious.

Some impacts of colonialism

The impact of the colonial regime has been well documented in a number of sources.¹¹⁸ Some – including many in government in Rwanda today – argue that Rwandan society was largely 'harmonious', with classes or groups living in a kind of social 'balance', until the colonial period. They blame the Belgian colonial machinery for creating the ethnic identities and tensions which have resulted in conflict.

Others, who are probably in the majority, argue that inequalities and differentiation between Hutu and Tutsi existed in pre-colonial times, and became especially significant during the rule of King Rwabugiri. The colonial regime then exacerbated these differences to a massive degree, by a number of direct or indirect processes, including the dissemination of an explicitly racist ideology. Mamdani has done a particularly good job of contrasting Rwanda's colonial experience with that of others to indicate the extent of the influence on current events. He describes how in most other colonies, indirect rule 'created' ethnic groups (by fixing them as separate entities and ignoring gradual changes, fusions and fissions which may have taken place over decades) and made these subordinate on a racial basis to the colonialists. In

Rwanda, by contrast, the particular form of indirect rule (re)created the Tutsi as a 'race', not an 'ethnicity', and thus further separated them, in the minds of some Rwandans, from the Hutu. He compares the treatment of the Tutsi as somewhat similar to the British treatment of 'Indian' or 'Arab' inhabitants of other parts of Africa – they were seen as inferior to the Europeans, but superior to what the colonialists thought of as 'indigenous' Africans.

The Belgian authorities, during the first half of the 20th century, assisted the Tutsi in bringing the remaining independent areas under their control, and hence ensured that *isambu*, with its *uburetwa* labour requirement for Hutu, was applied to the whole of the territory. They also made several other changes: by codifying it (in 1924) they increased the number of days to be worked; by encouraging the chiefs to become coffee entrepreneurs, they encouraged increased exploitation on the chief's coffee fields; they ensured that *ubuhake* clients, who were in a cattle-client relationship (usually with a Tutsi) took part in *uberetwa* in some regions; they made *uburetwa* the responsibility of all adult males (before it had been rotated between members of a lineage), and by imposing additional labour requirements (for reforestation, road construction, and cultivation of export crops). It should be noted that, a) all Tutsi were exempt from these requirements; and that b) the chiefs who were imposing these requirements were exclusively Tutsi. While it has been estimated that the average Tutsi household (outside the royal circle or administrative class) may have had an annual income of only slightly more – around 5% than the average Hutu) all Tutsi, no matter how poor, were exempt from these labour requirements. In 1929, the Belgians ordered that the three chiefly positions at provincial level (chief of the army, the chief of the land and the chief of the cattle) be fused into one. Tutsi's held these positions:¹¹⁹ in the 1950s, for example, on the eve of independence, and after several UN missions criticizing the levels of inequality in the country, all 45 *chefs de chefferies* were Tutsi, as were 544 out of a total of 559 sub-chiefs. In addition to the Tutsi dominance, these positions were dominated by two particular Tutsi clans.¹²⁰ The Belgians apparently believed that fusing the three chiefly positions into one would benefit the Hutu majority, but in fact, the action led to the creation of a position without peers, and without a system of appeal, which could easily be abused.¹²¹

In addition, some politically-powerful Tutsi took advantage of Belgian laws, which held that land under *ubukonde* was 'vacant', to control large amounts of Hutu land (the compensation that the law provided for was often minimal and provided late.)¹²²

The Belgians sought to enhance the rights of individual farmers and land-users, by abolishing the *isambu-igikingi*, imposing constraints on the *ubukonde* and by proposing exclusive individual rights more akin to modern notions of 'private property'. Another feature of this period was the spread of Christian missions, which claimed private property rights to land in many areas. This contributed to a situation in which users of

igikingi land (which was mostly grazing land) who had a number of cows (and were therefore almost bound to be Tutsi) tried to obtain 'private' rights to what had, until then, been a kind of public resource.¹²³ This, in turn, altered the client-patron contracts governing access to land and labour relations, polarizing Tutsi-Hutu relationships and causing much resentment.¹²⁴ Violent conflicts erupted between various actors, including land users ('clients') on the one hand, and the land 'owners' (political authorities under the *mwami*, the lineage heads, and the church) on the other.

Through the 'Social Revolution', the government claimed to have dismantled feudal structures and thus created a more equitable system of land ownership, but most commentators have noted that the new state elite lost no time in (mis)using their power and influence to gain access to land as well as cheap agricultural labour. According to Prunier, in the early 1960s, "...the new *bourgmestres* were quickly picking up the old habits of 'feudal' rule and were creating their own Hutu clientele on the Tutsi model".¹²⁵ Some examples of abuse of government control over land include the logging of part of Gishwati forest (public land) in the North of the country, for a World Bank-funded cattle-ranching project, the profits of which were allegedly siphoned off by corrupt members of the government and the Bank.¹²⁶ By the 1980s, the process of land concentration accelerated, through unregistered land sales.¹²⁷ Those buying land tended to be in commerce, government or the aid industry, rather than full-time agriculture.

As civil servants became more and more wealthy,

*...the land available to ordinary cultivators actually diminished in some regions as local officials appropriated fields for development projects and as members of the urban elite bought out the poor, establishing themselves as absentee landlords.*¹²⁸

Peasants, forced to sell land to cover subsistence costs (see below) found their former lands being purchased by progressively richer traders connected to the political regime, who often operated as absentee landlords. Some analysts have argued that this process of land concentration took place at least partly as a way for poor families to clear their debts.¹²⁹

As documented earlier, land ownership in the country was radically disturbed by the political violence following the 'social revolution' of 1959 and the flight of many Tutsi, whose land was then allocated to other people. Subsequent legal efforts to manage the land issue were unsuccessful due to lack of political will at various levels, and a process began of accumulation of land by an elite, accompanied by the rise of a landless population. By 1984, approximately 15% of the landowners owned half of the land.¹³⁰

Land access and scarcity in Rwanda today

Access

As stated in the introduction, for the purposes of this study, we adopt a single useful and succinct definition of land access: “the right or opportunity to use, manage, and control land and its resources. It includes the ability to reach and make use of the resource”.¹³¹

According to such a definition, access is therefore mediated by various factors – political, economic, social, technical and legal.¹³² In a ‘development’ context, access to land is also defined to include access to the benefits of land – such as the income streams generated through productive land-based activities. From this perspective, land access is part of a broader context that enables agricultural or pastoral production. It is mediated by many significant factors including access to inputs, seeds, technology, credit and infrastructure such as water conveyance technology.

In the African context, land access is often a complex concept, due to the simultaneous operation of statutory (or ‘modern’) and customary systems. Under customary systems, access to land is mediated according to kinship ties and other forms of communal identity-group membership. Under customary natural resource management systems found across Africa, multiple resource use is common, with different categories of users (for example, owners, co-owners, primary, secondary and tertiary users) each entitled to different uses of a particular resource, often at different times of the year or under specific circumstances.¹³³ Particular categories of people may be granted rights (often of a temporary nature) to common property resources, such as ‘village lands’, which are administered by village leaders. For example, in Rwanda, custom dictates that if a married woman returns to the home of her parents or her brother (i.e. due to separation from the husband), she should be provided with land to support herself.

In Rwanda, the increasing frequency of land sales, in tandem with the increasing land pressure, has significantly affected these systems. In at least one area for example, it seems that purchased land is exempt from these customary or ‘family’ rules, perhaps because bought land is perceived to have been acquired through the ‘sweat’ of an individual rather than handed down through generations. In other words:

*Due to the ever growing population pressure on land, a land market developed. Those with money could acquire land without obligations for solidarity; i.e. capitalization and accumulation became means for transcending solidarity.*¹³⁴

Currently, in contrast to less densely populated parts of the continent, access to land is primarily secured through individual ownership of plots (whether registered with central government or not). However, leasing, tenancy, sharecropping, grazing rights and other usufruct functions of land are also important aspects of access. It should also be noted

that some of the best-known information on land access is based on research in specific areas – such as Andre and Platteau's study of a single commune in Gisenyi. The situation across the country may vary greatly, and in general there remains a lack of in-depth information.

Because so much of the available land surface is already being used, and there is a lack of additional land for cultivation and pasture or other uses, it can be said that Rwanda is experiencing land scarcity in 'absolute terms' whereby the area available per capita is extremely limited. While this is putting great pressure on customary systems, it is not clear to what extent monetarized land markets have replaced custom.

Geography and land use

The surface area of Rwanda is 26,388 square kilometres. It is one of the smallest countries in Sub-Saharan Africa. Out of the total area, 52% or 1.38 million ha is arable. Forests cover 3,000 square kilometres or 12.4% of total land area.¹³⁵ Protected areas, particularly the Akagera National Park, Nyungwe Forests and Virunga (Volcano) National Park constitute 3,600 square kilometres or 14.6% of total land area.

Except for the desert-like terrain of Southeastern Rwanda, where extensive pastoralism has historically been practised, Rwanda's relief is typically hilly. Most of Rwanda is above 900 metres (3,000 feet) and the central plains have an average elevation of 1,932 metres (4,400 feet) above sea level. Although the mountainous topography has often conjured the beauty of a country of 'a thousand hills', to an ordinary peasant it has provided a challenge, as sloping hillsides are not ideal environments for agriculture or pastoralism. It is estimated that 27% of cultivated land is undertaken on slopes of more than 20 degrees, 23% on slopes between 10–20 degrees, 16% on slopes between 5–10 degrees and about a third on land between 0–5 degrees.

Unlike some of its neighbours, Rwanda has no major deposits of precious resources such as diamonds, oil or gold. Agriculture and pastoralism are therefore crucial components of the economy.

The draft Land Policy (2004) acknowledges that a plot of less than 0.75 ha may not be capable of fulfilling the nutritional needs of an average family. It also cites an FAO statistic that for a plot to be economically viable for a family, it has to be at least 0.9 ha.¹³⁶ Already by the late 1960s, some scholars had started warning of a growing absolute land scarcity in Rwanda. Landal stated that "it is assumed that by 1975 *ceteris paribus* there will be no further land for cultivation lying idle."¹³⁷ This became a reality in the 1980s when several Rwandan families started migrating into countries neighbouring Rwanda because they could not get any land for cultivation.¹³⁸

Scarcity of land must not only be viewed in absolute sizes of arable or other forms of land uses only, but also relative to demographic changes and geographical and environmental factors. Access is limited by pressure on land by population growth and the resultant

environmental scarcity. Percival and Homer-Dixon have defined environmental scarcity as either demand-induced (resulting from population pressure or increased per capita consumption); supply-induced (resulting from degradation of the quality or quantity of the resources); or structural (resulting from unequal distribution of such resources).¹³⁹ Data on population change in Rwanda suggest that demand-induced scarcity is a reality, while supply-induced scarcity is supported by data on the effect of soil erosion and environmental degradation. As mentioned above, structural inequality is also an important issue.

Demand-induced scarcity

In the last 50 years, the population of Rwanda has almost quadrupled. The population in 1934 was just over one and a half million. It had risen to 8.16 million in 2003.¹⁴⁰ In the 1980s Rwanda had a total fertility rate of 8.3, the highest in the world at that time. For many decades the natural rate of reproduction was in excess of 3%, the highest in Africa even today. The government, with the support of development partners, is now conducting a programme to encourage condom use for family planning and sexual health, in the context of the HIV/AIDS pandemic. However, because of the genocide, the ethnic quota system practiced from 1959–1993 (which depended heavily on estimates of ethnic proportions within society), and the influence of the Catholic church, family planning is an extremely sensitive issue.

The obvious result of dramatic demographic change is the rise in density of population. Some 40 years ago density on agricultural land was 121 persons per square kilometre; the figure rose to 166 per square kilometre ten years later; is thought to have been approximately 262 people per square kilometre in 1990; and is today well above 350.¹⁴¹ In some parts of Rwanda, density is exceptionally high. In parts of Save District, in the South of the country, it is estimated at 700 persons per square kilometre and Ruhondo in Ruhengeri, to the North of the country, is thought to have 820 inhabitants per square kilometre – the highest density of population on arable land in Africa South of the Sahara.

Clay *et al* have documented the dynamics of population pressure and declining productivity in Rwanda.¹⁴² They summarise the effects of rapid population change in Rwanda as follows: first, farm holdings have become smaller due to constraints on land availability and holdings are more fragmented. Second, cultivation has pushed into valley-bottom lands and fragile, marginal lands on steep slopes previously used for pasture and/or wood lots. Third, many households now rent land, particularly households owning little land or those with large families; and finally, fallow periods have become shorter and cultivation periods have grown longer, leading to a decline in soil fertility.

This would be less alarming if increasing adaptation and considerable increase in levels of productivity offset the limitations posed by increasingly smaller plots. Unfortunately, this has not been the case,

even prior to the war and genocide. For example, if annual food production was 100 units between 1979–81, it was only 70 units in 1993. Kilocalorie production per farmer fell from 2,055 per day in 1984 to 1,509 kcals in 1991, well below the FAO recommended minimum of 1,900 kcals per day for active adults.¹⁴³

One major factor that has caused the fall in productivity has been environmental degradation. On average, farmers observe a decline in productivity in nearly half their holdings due to soil degradation.¹⁴⁴ Soil erosion is moderate to severe on 50% of the land surface of Rwanda.¹⁴⁵ It was estimated that up to 4/5th of households in hilly areas like Ruhengeri observe a decline in productivity related to soil erosion. Soil erosion is reducing capacity to feed 40,000 persons per year (cited by Draft Land Policy, 2004). Of course, it should be noted that some of the topsoil contributes to the fertility of the marshlands, and so is not completely 'lost' to the agricultural system.

It is generally believed that demographic pressure is the driving force behind soil degradation in Rwanda. However, it must also be recognised that a variety of social, political and economic forces are also important. Poverty (and, to a lesser extent lack of agricultural training) restricts the use of artificial fertilisers¹⁴⁶, while the lack of extension capacity of MINAGRI, also limits the dissemination of organic farming techniques, soil and water conservation measures, and other 'intermediate technologies'.¹⁴⁷ Farmers have in the past often been blamed for poor soil and water management, despite evidence that they in fact invest significantly in technologies such as terracing, agro-forestry, use of living hedges, cultivation in mounds, mulching and manuring.¹⁴⁸ Production systems can be characterized as intensive organic systems and involve the combination of food, fodder and tree crops. In addition, intercropping and crop rotation are typically practiced.¹⁴⁹ However, despite widespread use of appropriate anti-erosion technologies, there are several constraints to their universal adoption, including land fragmentation, as higher transaction costs reduce incentives to invest in conservation measures, and insecurity of tenure.¹⁵⁰

Some attempts to reduce erosion have been counter-productive. Many of the 'conservation projects' planned and implemented in an authoritarian, top-down manner, contributed to grievances amongst the rural poor. These grievances were noted by some political elements and used to their advantage. Mukankusi quotes a peasant talking of 'development' in the years immediately preceding the genocide:

*We were told to dig water harvesters and to cultivate in terraces. If we did not we were fined 500 RWF or more – this represented five days of work! When the MDR leaders/brothers came and told us this was exploitation and oppression, we did not hesitate, we destroyed it all! ... MDR were right, 'they' [the Habyarimana regime] were cheating us, making us waste our time digging this.*¹⁵¹

Environmental degradation is not limited to soil erosion (fluvial and dry) alone. In the 1980s the deforestation rate was 2.3% or 2000 hectares per year. These patterns are important for food security, because of the use of forest products (such as wood and wild fauna and flora) by rural households. Deforestation therefore indirectly affects private land uses.¹⁵² There have been major reforestation efforts, which have been successful in many areas. However, many of the replanted trees are exotic species, and specifically Eucalyptus, which, while fast growing and reasonably good for providing building material, is known to absorb many important soil nutrients and also to be very demanding of groundwater reserves.

Another exhibit of environmental degradation is the rate at which forests have been depleted on mountains and natural reserves. In most cases it was through converting them into arable land. Of the primary forest that covered 80% of the country there is 5–8% left.¹⁵³ Altitude degradation of vegetation was also influenced by the search for more land for cultivation. Whereas in past decades the cultivation was practised at a maximum elevation of 1,800m, today the maximum is 3,000m.

Gishwati forest was declared a national reserve in 1930s. Forest cover has been depleted by 86.4%. It had 21,000 ha of forest cover by 1981, lost 5,000 ha to a World Bank project and was settled by 1959 returnees after 1994. Mukura Forests have lost original cover by 46.7% and Akagera National Park by 17.6%. While in 1956 the Akagera was 331,000 ha it was depleted to 255,000 in 1992 and is now 90,000 ha, slightly below a third of the original size.

At a national level, the major agent of environmental degradation is the requirement of wood for different uses including fuel and timber. In excess of 4.5 million cubic metres of wood is exploited each year, up from 3.5 million in 1990.

Another aspect of relative scarcity, mentioned in the introduction, is limited access to technology, inputs and even credit. Rwandan agriculture is still overwhelmingly traditional. The hilly relief does not permit use of modern technology; although poverty is the primary reason for low application.¹⁵⁴ Only one tractor is available for 100 ha of arable land compared to 175 in Botswana or 20 in Tanzania. Irrigation can be applied to less than 0.4% of the cultivated area.¹⁵⁵

Most farmers lack access to chemical fertilisers, as they are expensive. Chemical fertilisers are used by 5.2% of Rwandan households. Between 1996 and 1998 on average only 400 grams of fertilisers were used per hectare of arable land, compared to say 35,700 in Kenya or 53,700 in Zimbabwe.¹⁵⁶ Like other African countries, Rwanda intends to exploit this fact for the production of certified organic produce. However, the market is specialised and not all smallholders may be able to benefit from it. Sources of agricultural credit (for example, *Banques Populaires*) have not had any significant impact on the agricultural sector mainly because a lot of credit is used for non-agricultural purposes.¹⁵⁷

Land distribution

Structural scarcity has not been perceived as a major problem in Rwanda, because land distribution has not been as skewed as in other parts of Africa. However, some studies have indicated serious concerns over increased inequality in land access. It is argued that the Gini co-efficient (a measure of inequality) of land distribution has been steadily increasing, particularly since the 1980s.¹⁵⁸ It is currently 0.594.¹⁵⁹

Table 1: Farm holdings in 1984

Classification	Percent of households	Percent 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
> 2.0 ha	16.4	42.9
Total	99.8	100

Source: Guichaoua 1989 cited in Baechler 1999

Table 2: Farm holdings in 2001

Classification	Percent of households
<0.5 ha	58.6
0.5–1 ha	19
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
>5 ha	0.8
Total	100.0

Source: HLCS 2002.

However, it needs to be emphasised again that land distribution has not been perceived as a major problem in Rwanda's past.¹⁶⁰ This does not mean that land distribution inequality is not increasing, and is not a policy concern.¹⁶¹

First, it is widely believed, as stated in the draft land policy that a significant share of land is in the hands of a rich elite, who are mainly from urban areas.¹⁶² There is no recent figure, but as far back as 1984 it was estimated that 50% of agriculturally productive land was on only 182,000 farms out of the total of 1,112,000 in the country.¹⁶³

The church is also a major landowner: in the mid-1980s one estimate put church land alone at about 20% of all arable land in Rwanda.¹⁶⁴ Some land is given to the poor for cultivation, but the extent of this is not known and such users lack any security of tenure.

A second indicator is that of landlessness. Some observers have opined that Rwanda does not have absolute landlessness in the true sense of the word.¹⁶⁵ The observation is true to the extent that some

Rwandans have access to land even if they do not own any plot. A landless person can still operate a plot of land from the extended family through the traditional mutual help schemes.¹⁶⁶ A landless and jobless person, even if in town, can be supported by his family if he returns to the rural areas.¹⁶⁷ The customary access rights for women in some 'social categories' have already been mentioned. However, all of these livelihood strategies are insecure, constrained by land scarcity, and are likely to have been weakened by the social effects of the genocide.

Several sources have indicated growing landlessness over the last two decades. In 1990, according to some estimates, about a quarter of the rural population was landless, and in some districts that figure was 50%.¹⁶⁸ The proportion of the landless including urban dwellers, is estimated by the government at 11.4%,¹⁶⁹ though other figures of between 15–20% have been offered.¹⁷⁰ Even if inequality in land ownership is not as extreme as in other countries, the trend seems to be that inequality is increasing, not decreasing.

Land, poverty and livelihoods

The effects of land scarcity and environmental change, combined with civil unrest, have meant that Rwanda has at many times been incapable of producing enough food for the rural population. Frequent periods of famine are common in the history of Rwanda: 1890, 1895, 1887–98, 1900–1903, 1904–08, 1909, 1910, 1911, 1912, 1916–18, 1921–22, 1924–26, 1927, 1928–29 and 1943.¹⁷¹ Most of these famines were localized. As noted above, annual food production declined by 30% between 1979 and 1993. Food production remained low after 1994, due to the effects of war and genocide.

A variety of factors were involved in these famines, including epidemics, droughts, locusts or military expeditions. Although food insecurity may be highly geographically variable, with some part of the country producing a surplus while others starved, markets do not 'naturally' function in order to supply food from surplus areas to food deficit areas during times of localised food insecurity.¹⁷² In the past, food insecurity has existed on hills just a few kilometres from areas of food surplus.¹⁷³

One strategy that has often been advanced in relation to food security is regional specialisation. It has been suggested that Ruhengeri specialize in production of white potatoes, Gitarama focuses on cassava, and Kibungo on bananas.¹⁷⁴ This approach is based on the comparative advantages of the regions, but can succeed only subject to a number of conditions. One is a working marketing system with efficient infrastructure for distribution. It should be possible, with a proper marketing system, to ensure distribution in the right quantities, at the right time and at the right price. However, regional competition is significant: Kibungo's banana crop must compete with bananas from outside the country, especially from Uganda. As stated earlier, it should be remembered that specialization in a 'consumption oriented' economy may be difficult to implement. A small farmer may reduce food security risks by growing a little bit of most of the crops.

It is also important to note that ‘miniaturisation’ of plots may be associated with poverty. Table 4 below corroborates the finding that the majority of the poor – those whose livelihoods are on balance – are the ones with smallholdings.

Table 3: Size of average agricultural farms, by wealth quintiles

1st quintile	(poorest)	0.55 ha
2nd quintile		0.58 ha
3rd quintile		0.66 ha
4th quintile		0.82 ha
5th quintile	(richest)	0.85 ha

Source HLCS 2002

Some exit solutions from the problem of land scarcity have been known in the past. The first is migration, internally and internationally. The latter solution was either encouraged, forced or tolerated by the government. At one point before independence, Rwandans formed a fifth of the population of rural Buganda, in neighbouring Uganda.¹⁷⁵ However, internal migration had become untenable by the 1990s. With minimal or negative growth in the numbers of formal jobs available, moving to towns has not provided an adequate means of livelihood under conditions of shortages of land in the rural areas. Instead, it is a policy concern with regard to possible creation of slum areas, a point noted but not fully pursued by policy makers.¹⁷⁶

The political aspects of exile have made it less attractive to both the government and refugees since the 1970s. The government, since 1994, has consistently called for all Rwandans in the diaspora to return to the country, while Rwandans in other African countries have at times been victims of harassment or violence. In 1990 Rwandan migrants were expelled from Tanzania and 1000 were killed in communal violence in 1993 in Zaire.¹⁷⁷ Violence against Rwandan Tutsi in Uganda was instrumental in persuading them first to join Yoweri Museveni’s National Resistance Movement, and then to form the RPF and enter Rwanda by force.

More local coping strategies may not always be sustainable or dignified. When asked what landless or land-poor households do to survive, the Mayor of Save (Butare Province) mentioned the following four ‘occupations’: petty theft, prostitution, migration to towns, and dependence on intermittent casual labour (with the last two strategies often linked). A case study from Gisenyi between 1988 and 1993 found that crime was greatly increasing because of land scarcity and extreme poverty. The researchers concluded that the level of crime and suspicion was such that, “the social fabric was at risk of falling asunder”.¹⁷⁸ Interestingly, the local community differentiated between those thieves who were driven by desperation (who were to some extent implicitly forgiven for their crimes) and those who were more ruthless. It was reported that some of the latter group were killed during the civil war/genocide period. Another strategy that is usually mentioned as a means

of livelihood under land scarcity is that of non-farm and off-farm activities. Indeed in a recent survey 16% of all rural households were found to have at least one off-farm activity carried out in the course of the previous year.¹⁷⁹ It should be noted, however, that most of these are distress tasks that do not constitute full time employment, such as casual labourer in a rich farmer's farm or enterprise. About 47% of households engaged in some non-farm and or agricultural labour activities out of necessity and not as a form of alternative employment.¹⁸⁰ This indicates that subsistence farming no longer provides an adequate livelihood – many non-farm activities therefore complement, rather than replace, farm activities.

There are far fewer non-farm activities than off-farm agricultural activities available in Rwanda. A survey prior to 1994 revealed that of all the 'off farm' activities, almost a third involved agricultural labour on another household's land. Men dominate off-farm employment,¹⁸¹ as do those with an education. Those with at least primary education spend at least 71% of their time on off-farm activities, compared to only 42% of their time for those without education.¹⁸² Also, non-farm income is concentrated in the hands of high income households.¹⁸³ This implies that promotion of non-farm activities – which is undoubtedly an important priority, especially in the context of land scarcity – should be carefully targeted in order to benefit the poorest, and women, rather than entrenching current inequalities.

A closely related issue is that of subsistence and commercialisation of agriculture. Rwandan agriculture is 'consumption oriented' and not 'market oriented'.¹⁸⁴ The meaning of the concept is that a majority of Rwandan farmers aim their production at food self-sufficiency. A single household in the South of Rwanda will typically grow as many as 14 different crops.¹⁸⁵ Studies suggest that only a small percentage of crops – possibly around 35% – are marketed, and that less than two-thirds of households sell any crops.¹⁸⁶ In this regard, Van Huyweghen notes rightly that this may be a cultural attribute of Rwandans, who traditionally take pride in being able to provide for their families and households; though this is changing. It is also related to the vagaries of the market – many farmers felt the ill-effects of the crash in global coffee prices in 1989.

Unfortunately, the tendency towards home consumption, rational though it is, is often seen in a purely negative light. This fits with a broader tendency, which has been in evidence for some time within government, whereby:

*The vocabulary and language use in all policy documents related to rural areas clearly stigmatise the peasant economy as backward and out of date in a modernising economy.*¹⁸⁷

HIV/AIDS is also an important factor in land use and access patterns. The national sero-prevalence rate is about 11%.¹⁸⁸ Though empirical data on the effects of HIV/AIDS prevalence on land rights in the country is

largely lacking, due to the practical and ethical difficulties involved, a number of studies have identified general patterns, which are likely to be seen in rural economies affected by high rates of HIV/AIDS infection.¹⁸⁹ Death and impoverishment within households due to HIV/AIDS tends to undermine the land rights within the nuclear family, particularly for women and children. Interview-based research in neighbouring Uganda, for example, found that male and female respondents differed in their view of the most significant land-related issue associated with the pandemic.¹⁹⁰ According to men, the most important issue was the increased frequency of distress sales of land, while women reported that increased vulnerability to loss of land and general tenure insecurity were most important. The study also suggested that the effects of the disease on land use (related to reduced labour within the household) and land rights (especially in terms of inheritance for women) result in a higher frequency of land disputes, which is particularly important for Rwanda, being already saturated with disputes.

The results of studies from countries across Southern and Eastern Africa reveal that the most pressing issue is that of inheritance after the death of a male head-of-household, with women and children often being dispossessed of land by relatives. Conflicts over land are also associated with HIV/AIDS-related land use changes.¹⁹¹ Within Rwanda itself, there are associations of people living with HIV/AIDS in Rwanda, which are overwhelmingly female in membership.¹⁹² These associations could be important in the struggle to defend the land rights of people living with HIV/AIDS and family members (especially widows and orphans). This is true both in terms of their importance as a channel for information to their members, and also as a voice to influence policy-makers and administrators.

The effects of the pandemic are not just felt at the household level, but less directly, through reduced ability of governments to regulate land use and access. HIV/AIDS reduces the government workforce, not just in terms of illness and death of infected persons, but also in terms of absenteeism associated with support for infected friends, relatives and colleagues, either in monetary terms (i.e. forcing civil servants to take on extra occupations) or in time devoted to care or attending funerals.

Some of the policies that the Government of Rwanda – for very good reasons – is pursuing, may in the long-run increase the risk of infection for many people. For example, policies likely to increase rural-urban migration (particularly when this leads to nuclear families becoming separated for long periods of time) and create pools of rural labour in agro-industry (which is also associated with internal migration and separation of families) are likely to create conditions that hasten the spread of HIV/AIDS in rural areas.¹⁹³

To conclude this necessarily brief survey of land access and production in Rwanda today, we can observe that despite the importance of non-farm activities due to land scarcity, there are relatively few options open currently to most rural people. The development of a

market-based agro-industrial economy is very necessary, but extremely challenging. It may also conflict with the idea of regional specialization, which is only likely to be achieved, if at all, through regulation, and is thus at risk of introducing major market distortions. Transformation of agriculture will depend not only on the quality of land and agricultural policy, but also on the degree of political will to implement these policies, and the level of confidence that peasant households and communities will have in the systems put in place.

Aims and modalities of the land policy

The land policy is designed to respond to the negative effects of the following issues:

- extremely high density of the population and the resulting pressure on land;
- excessive partitioning of family agricultural plots, resulting in: plots that are no longer viable, increased food insecurity and poverty, and a growing number of people without land;
- soil erosion and degradation to the point of loss of fertility through overuse, and “inappropriate farming systems”;
- pressure on forests and natural reserves;
- inadequacies and anachronisms of the written law governing land issues and the predominance of customary law, which is not formally recognized by the state;
- a customary land regime which discriminates against women; and
- insufficient human, material and financial resources which affect many governmental sectors and results in poor management and use of land.¹⁹⁴

The Government of Rwanda sees increased security of tenure or rights of access to land, and more effective land management, as important factors for the improvement of the agriculture sector and the economy as a whole, helping to create the resources needed to reduce poverty and to consolidate peace and social cohesion. In the words of policy-makers, land reform is envisaged to:

- provide security of land tenure in order to promote investment in land;
- establish an appropriate land allocation and land use through national and local level land use planning and development;
- avoid land fragmentation and to promote land consolidation in order to enhance optimum production;
- establish mechanisms which facilitate an optimum exploitation of land, targeting the social-economic development of the country through the development of land use and development guidelines at national and local levels;
- orient land management towards more profitable and sustainable production, by making good choices among methods of land development which are appropriate to the nature of soils;

- develop appropriate methods of land protection and conservation, such as terracing on slopes of between 25% and 55%, and agro-forestry in cultivated plots to avoid land degradation;
- promote research as well as the education of the public on all aspects of land tenure, land management and land markets;
- strengthen discipline in land acquisition in order to control pressure on land, inappropriate development and any kind of land speculation, by creating a framework for the following: elaborating regulations and guidelines; involving local authorities and local NGOs in the process, and training technicians of the district land offices and the district and sector land commissions; and
- involve and sensitise the population at all levels in order to ensure protection of the environment and good management of the land.¹⁹⁵

The land reform in Rwanda will be guided by clear and concerted principles that are summarized in the words of policy-makers as follows:

- The right to land ownership should be co-related to a certain number of obligations in order to guarantee the development of the land, which is the common heritage of past, present and future generations;
- According to the constitutional principle of equality for all citizens, all Rwandans enjoy the same right of access to land, without any discrimination whatsoever;
- Land tenure and administration should guarantee land security for all holders of title deeds, and should promote optimum development of land;
- The process of land management should consider different land categories, as represented by the various land use maps and master plans which show the using of different categories of land according to their capability;
- The methods of management and use will differ, depending on whether they apply to urban or rural land;
- Proper land management should include land use planning, including the reorganization of urban and rural settlement and land consolidation for more economically viable and productive use of the land; and,
- Development of a land market will improve the value of land and lead to more productive land use. An appropriate cadastral system is essential for good land administration.

The policy plans for the current manual land registration system, which has approximately 20,000 pending applications for land registration, to be modernised and transformed into a cadastral system. Practically, Rwandan land administration will be characterized by the:

- establishment of a Land Centre to provide technical and administrative support to the National Land Commission, as a central land data bank of all land information in the country; and

- establishment of national, provincial, and district land commissions. Currently, their composition is uncertain, and will depend on appointment of citizens to the commissions by MINITERE.

There will be a land office in each District with the main role of surveying land parcels and registering land titles. This will be done under the supervision of the District and Sector land commissions.

Activities can be broadly divided into 'urban sector' and 'rural sector'. In Rwanda, the rate of urbanisation is low: about 17%, according to the draft land policy. Currently, the urban growth rate is approximately 9% year, most of which represents the growth of the capital city, Kigali. Rwanda's policy-makers believe that urban growth is an inevitable and desirable phenomenon, because towns facilitate the integration of surplus agricultural population. However, the government wishes to avoid the development of slums. Most of the low-income housing (90% in Kigali city, and also in other agglomerations) is developing in a spontaneous manner. The policy stresses that appropriate sites must be found in towns to re-allocate the low-income housing.

In rural areas, the actions to be undertaken are:

1. Re-organisation of habitat in rural areas through villagisation (*imidugudu*);
2. Demarcation of agricultural areas;
3. Establishment of the general master plan of land use and land development;
4. Guided land consolidation;
5. Maintenance of marshlands in the state's private domain, and establishment of clear regulations concerning their sustainable use in order to avoid negative environmental consequences;
6. Complete inventory of marshlands, and clarification of their location, as well as their allocation;
7. Specialization of marshland users, and establishment of appropriate measures which can increase the yields of the chosen marshlands for agricultural purposes;
8. Complete inventory and delimitation of protected areas, and other fragile ecosystems;
9. Planning for the development and management for each protected area;
10. Development of ecotourism infrastructure; research and promotion of technologies adapted towards the proper use of biological resources;
11. Development of a comprehensive political and legal framework geared towards sustainable conservation and use of resources in protected spaces; and
12. Creation and strengthening of structures carrying out a community based management with equitable share of the benefits of protected areas, with the population surrounding the protected areas playing the key role in management.

According to MINITERE personnel, the next steps regarding implementation of the policy and law will be taken according to the following plan:

2004

- Adoption of the land policy and land law by the government, parliament and senate
- Elaboration of a national master plan of land use and development

Years 2005–2007

- Development of by-laws (land regulations)
- Sensitisation campaigns and large diffusion of policy and law documents (through media)
- Installation of land offices and land commission in each district, training of staff at district level, installation of pilot zone of land registration in districts
- Restructuring of national cadastre by introduction of modern methods of mapping
- Land surveying and registration
- Land registration at district level

Year 2006–2010:

- National Centre of Mapping and Land Information established

LAND POLICY ANALYSIS

The recent endorsement of the land policy by the government is an important landmark in the post-genocide history of Rwanda. It will be effective if it safeguards the livelihoods of the rural poor, who form the overwhelming majority of the population, reduces poverty and mitigates conflict. If it manages to do so, it will act as a major pillar for peace building in the country and the region.

It is, however, important to critically analyze the assumptions on which the land policy has been drafted. Although the policy states that there has not been any written law or policy in Rwanda, there were attempts, as mentioned above, to undertake land reform in 1967, 1978 and 1991, which all failed, largely due to a lack of political will at various levels.¹⁹⁶ In other countries, such as Uganda, land reform is also politically very difficult to implement, with some district officials characterizing a policy that looks good on paper as ‘unimplementable’ due to political considerations at the local level.¹⁹⁷ Given the historical challenges to implementation, it is important to identify possible constraints and limitations on the effective implementation of the current draft policy while, of course, recognizing its strengths and the opportunities that it presents.

We look at several aspects of the land policy, which we consider to be particularly significant for long-term stability and prevention of conflict in Rwanda. They are: 1) Consolidation of land, 2) Access to Land for the Landless, 3) Land Registration: different meanings of tenure security, 4) Abolition of customary systems, 5) Addressing Inequalities in land ownership, 6) Villagisation, and 7) Land use and environmental protection. These are by no means the only important issues, and other sources provide information on other aspects of the policy.¹⁹⁸

Consolidation of land

Consolidation is stated as the third objective of the land policy framework in Rwanda.¹⁹⁹ The PRSP also states that,

...households will be encouraged to consolidate plots in order to ensure that each holding is not less than 1 hectare... this will be achieved by a family cultivating in common rather than fragmenting the plot through inheritance.

It is intended to address the “excessive partitioning of plots” (land fragmentation) and to promote their regrouping in order to bring about optimum production. As indicated earlier, the average total household land holding is about 0.76 ha. In some areas, the mean size of family holdings is particularly small – 0.36 ha in Butare and 0.5 ha in Gikongoro.²⁰⁰ It is estimated that the average Rwandan household possesses five plots, though the figure is higher in some areas, such as Ruhengeri where the average is about ten.²⁰¹ This is a result of several factors, including subdivision of household plots amongst sons through customary inheritance, and also sale and purchase of land. A household may sell a portion of land during a financial crisis, only to buy another plot from a different family when money becomes available. Land sharing arrangements, which differ from place to place, and the distribution of unoccupied land by the government, may also have contributed to this pattern.²⁰² These land parcels are typically located in different parts of the landscape: in general a household will actively try to access land in different eco-niches (for example, valley bottoms and at higher altitudes), in order to benefit from differences in rainfall availability and soil retention characteristics.²⁰³

In simple terms, consolidation means putting together small plots with the aim of making them viable and more productive per unit of investment, through economies of scale. This need not change the amount of land controlled by individuals, and is therefore not necessarily an instrument for social justice.²⁰⁴ The Draft Land Policy instructs that,

...henceforth a clause forbidding the partitioning of land by inheritance or transfer among individual members will appear in the land law. The process of grouping plots for more economic use will be favoured and the regulation and purchase of land among inheritors will be established so as to render regrouping of plots effective’.

In addition, if the Minister of Agriculture believes it to be necessary, he may advise on issues related to consolidation. This differs from the land law, which provides for the Minister of Agriculture and Livestock Development to request the consolidation of smaller plots. This is of the many areas in which harmonisation of the law and policy will be needed.

Land consolidation is not a new concept, and has been implemented in a number of countries, using different models, which differ in terms of the process involved, and also the extent of voluntarism or coercion of the affected community. 'Comprehensive' land consolidation includes the re-allocation of parcels together with a broad range of other measures to promote rural development.²⁰⁵ Examples of such activities include village renewal, support to community-based agro-processing, construction of rural roads, construction and rehabilitation of irrigation and drainage systems, erosion control measures, environmental protection and improvements including the designation of nature reserves, and the creation of social infrastructure including sports grounds and other public facilities. Typically the government, in the form of a variety of line ministries, will be the main agency involved in design and implementation, but because of the extent of impacts on the local community, the participation of all community members in decision-making is particularly important. However, as it is unlikely that all community-members would agree, a fair degree of legal compulsion is usually involved.

Other forms of consolidation are voluntary or individual types.²⁰⁶ In voluntary consolidation schemes, unlike comprehensive schemes, all participants must agree fully with the proposed project. As a result, voluntary projects tend to be small, and voluntary consolidation tends to be best suited to address localised problems. Voluntary projects usually have fewer than ten participants, but in some cases this number may be higher. Individual consolidation involves the spontaneous consolidation of holdings, without the direct involvement of the state. However, the state may provide an enabling environment for consolidation by promoting instruments such as joint land use agreements, leasing and retirement schemes. Experience in a variety of countries has shown that entirely voluntary consolidation tends to be a "slow and unsatisfactory" process.²⁰⁷ This is due to the difficulties of community collective action, which suggests that progress would be particularly slow in communities where social bonds are weak or strained. There remains a lack of clarity about the mechanisms to be employed to ensure that consolidation occurs. The PRSP states that households will be 'encouraged', and the policy states that, "one needs to carry out the regrouping of plots". MINITERE personnel suggest that land consolidation will be focused on encouraging increased production, through formation of adjacent plots with similar crops. According to policy-makers, this means that, "nobody will lose their plot". Farmers will be encouraged to adopt cash crops including tea, coffee, flowers, and rice, in large mono-cropped areas, but each person will have the possibility to register his/her plot separately.²⁰⁸

However, by linking the process to villagisation, the policy suggests that it will be a type of comprehensive consolidation process. As argued above, it is far from clear whether further large-scale villagisation will be possible in Rwanda, due to lack of funding. Donor representatives routinely refer to it as a “dead issue”.²⁰⁹ Despite this, the government is absolutely resolute that it remains a central pillar of policy. This impasse is likely to severely cripple the implementation of the land policy.

There are a number of other pertinent questions related to consolidation in the Rwandan context. First, and most importantly, the policy fails to state how consolidation will bring significant improvements. Possible ways include various forms of economies of scale; mechanisation; associations which are better able to invest in inputs and negotiate with middlemen, etc. However, none of these will bring a miraculous increase in returns: indeed, researchers have argued, based on empirical data from Rwanda, that “land consolidation policies are unlikely to increase land productivity significantly.”²¹⁰ It would be useful if policy-makers could produce some figures, based on research, to explain the theory behind the policy. It is far from clear whether fragmentation is necessarily always a negative phenomenon. As with most issues, it depends to some extent on the scale at which one wants to examine it. At the scale of the household, there are often benefits in terms of crop diversification and risk management represented by each plot’s specific characteristics of fertility, water retention, accessibility, altitude and form of tenancy.²¹¹ The negative aspects of fragmentation (such as distance from the homestead) may be offset by these benefits, as well as better spacing of labour throughout the year, due to different labour demands of different crops planted in different microclimates and soils. Also, fragmentation is a result of household management of land as an asset: plots are sold during hard times, and other plots are bought when money becomes available. Some researchers have concluded that all in all, the private benefits of plot fragmentation are probably at least as large as the private costs.²¹² The policy intends to facilitate the further development of land markets, however, much of the activity in the informal land markets that currently exist, involves plots smaller than 1 ha.

Second, the policy suggests that consolidation will result in some people losing their lands. The policy states that, “not every one will own a registered plot, given the existing pattern of scattered housing, however, those who miss out will be compensated.” There are a number of important issues. The amount of compensation that will be offered is of course a crucial factor. Currently, Rwandan law only allows for compensation for investments on the land (such as buildings and crops), but the draft Expropriation Law allows for land to be valued in order for appropriate compensation to be calculated.²¹³ It is important that valuation is based not just on ‘productive value’ (i.e. the value of goods that the land could potentially produce) but also on market value. If compensation is calculated appropriately and paid on time, there remains the question of what alternatives are open to those made landless. It is unlikely that the money

will be sufficient to purchase land of 1 ha or more, as those whose land is expropriated through consolidation will presumably have owned less than 1 ha. The government would prefer that they invest in non-farm activities, but many peasant households will find the move from small-holder agriculture to small enterprise challenging. If land expropriation affects a number of households simultaneously in the same area, the market may also be flooded with people looking to invest in small businesses. Households will need support on the technical aspects of setting up a business, and there is a very real risk that if the policy results in a large number of expropriations, the result will be an unmanaged influx of households to urban areas, and a growth in the urban underclass.

Third, the minimum plot size of 1 ha may be questionable. With the majority of the population owning less than this, and surviving through off-farm and non-agricultural activities, it may well be better to aim for a smaller mean plot size. The 1 ha minimum figure, which also appears in the legislation on inheritance, does not appear to be based on a full scientific study.²¹⁴ Indeed, even the policy itself considers 0.75 ha to be a viable minimum for a household to fulfil its nutritional requirements. Several studies have indicated that productivity per ha is significantly higher in small plots due to higher levels of investment (in labour, inputs and conservation investments), but insufficient research has been done to estimate at what point increased intensification fails to compensate for reduced plot size.²¹⁵ In some ways, this 1 ha rule-of-thumb has come to be received wisdom in the land reform debate. This illustrates the power of a 'sound-bite' in policy debates.

This question is far from academic. Because 73–77% of households own less than 1 ha of land, for consolidation to achieve a minimum holding of 1 ha, over half a million households would have to give up their plots, but would receive compensation, according to the policy (the question remains whether the government could afford to pay adequate compensation). This huge number of people, representing almost a third of the entire population, would have difficulty finding alternative forms of subsistence.²¹⁶ The likely result would be an influx of this group to towns, and hence a large unemployed or underemployed and extremely poor urban population. This would not bode well for the future of the country.

The 1 ha figure is also significant, because it is partly on this basis that widespread land redistribution has been ruled out. The idea of land redistribution may seem inappropriate in a country as land-scarce as Rwanda, and indeed would be a huge task, with great social, political and technical challenges. Some might argue, however, that principles enshrined in the constitution and the policy (which talks of the "guarantee of right to land" and promises "just and fair access" to land) support the idea of re-distribution. Specialists estimate that by redistributing land from the land rich (those with more than 1 ha) to the land poor (primarily those with less than 0.5 ha), the mean land holding would increase to 0.91 ha.²¹⁷ However, a simple distribution from the land

reserve to the land poor would be much simpler, and less conflictual. There is probably about 400,000 ha of land available for redistribution: including some 33,000 ha of unexploited marshlands. If this was redistributed to those with less than 1 ha (and primarily to those with less than 0.5 ha) then the mean land holding for those with less than 1 ha would rise to 0.83 ha. Of course, re-distribution would not solve the 'second generation' problem: unless the rules governing the inheritance of land were strictly followed, this land would quickly become fragmented amongst the sons and daughters of the current generation.

Fourth, encouraging farmers to concentrate on monocropping of cash crops, in the absence of strong mechanisms for market support and possibly some form of price regulation, will be contrary to the patterns seen today. Coffee farmers, for example, are increasingly turning to intercropping, especially of beans and bananas. Questioned in 2003, a quarter of farmers said they planned to reduce the number of coffee trees on their plot, introducing intercropping instead.²¹⁸ Moreover, monocropping involves highly effective soil and water erosion measures, as row cropping of crops will lead to increased rates of soil erosion when compared to the inter-cropped fields commonly seen today.²¹⁹

Consolidation is seen as a way to create conditions for commercialisation and intensification of agriculture. Plans for regional specialisation of agriculture were first outlined by government in the 1970s, but have yet to be implemented. In 1998, for example, a "Thematic Consultation on Food Security" recommended that Rwanda be categorised into three zones for planning purposes:

- The plateau area of Central and Western Rwanda: food production with careful land preservation;
- Central and Eastern areas: high potential for increased production, e.g. through exploitation of wetlands; and
- Peri-urban areas: intensive livestock and vegetable production to be encouraged.²²⁰

The agricultural policy will support intensification in agriculture only if a number of other services are delivered more efficiently. Particularly important is the availability of inputs, especially fertilisers, seeds, technology and changes in the methods of agricultural production.

It can also be expected that only a small segment of the population, namely those with the most land and the best access to markets, will move towards increased commercialisation. The most likely source of commercialisation in agriculture is within the export sector. It is, however, estimated that 90% of Rwandan exports are produced on 7% of agricultural land. In terms of population, it will be practised by less than a third of the farming population.²²¹

The PRSP identifies expansion of rice, maize, potatoes, soya and beans, which will presumably dominate the 'master plans' mentioned in the land policy. However, Rwanda has historically suffered from periods of severe and widespread food insecurity.²²² If farmers are

encouraged to introduce monocropping of cash-crops, to the detriment of more drought-resistant crops, there may be a negative effect on food security. The question should be asked: what safety nets will be put in place in case of widespread crop failure? In the words of local peasants, “we cannot eat tea”.²²³

Finally, if consolidation is to be voluntary and spontaneous, it is unlikely to happen very quickly – if at all. It is suggested that in Rwanda consolidation can be through farmers associations and cooperatives.²²⁴ But, as mentioned above, the cooperative sector and associations are fairly weak and sometimes affected by corruption. Also, given the current number of land related disputes within families, which have arguably increased since the passage of the inheritance law, it is yet to be seen whether consolidation can occur at the extended family level, as envisaged by policy-makers.²²⁵

If the targets set out in the Vision 2020 document are to be achieved, it seems clear that the process will involve some degree of compulsion by the government. This is not impossible, in light of the tactics used (mostly based on decisions taken by local level administrators) in the villagisation programme in the late 1990s. This will raise the danger that peasants will lose control over their land-based livelihood strategies, which will compromise the incentives for efficient utilisation of the plots. Local elites may gain the bulk of the benefits from a process that is likely to be uneven, due to the difficulties of objectively valuing land (according to soil quality, position, etc). Even if the decisions made are technically appropriate, the very act of compulsory consolidation may be a source of discontent, partly because of the traditional ‘attachment to the land’ felt by Rwandan peasants, and because it will go against much of the democratic, participatory language of the government. The district and provincial land commissions are charged (in the land policy) with ensuring effective implementation of the resettlement policy, and hence their composition, technical capacity and accountability to local people will be an important factor in ensuring that the exercise does not add to social tensions. The situation is difficult, however, as a more spontaneous process will be difficult to integrate into a strategy for broader rural transformation (including infrastructural development, marketing systems and investment in non-farm activities) that is necessary if Rwanda is going to overcome the agricultural constraints that currently make the future look bleak. Without such a comprehensive strategy – the details of which are lacking from documents such as Vision 2020 and the PRSP – the necessary, but difficult decisions cannot be made: for example, regarding selection of cash-crops, and trade-offs between enhancing small-holder agriculture and facilitating big agribusiness investment. The solution would seem to rest in the quality of relationships between different stakeholders, in order to achieve an iterative learning process, which is responsive to various micro-and macro-economic factors. Systems should be put in place for the effective coordination of various line ministries, district land commissions,

donors and civil society groups, who will play a particularly important role in facilitating information exchange between such institutions.

Access to land for the landless

The Land Policy, in its section on the historical background to the land issue, notes that many people were landless even prior to the civil war and the events of 1994. As has been documented elsewhere, many people have become landless through distress sales of land, or sheer land scarcity within a family, resulting in some sons being unable to inherit land.²²⁶ Other forms of landlessness, including people depending on renting or sharecropping, need to be addressed. Women, particularly widowed, divorced or single women, are also vulnerable to landlessness. The government has noted this elsewhere.²²⁷ It is also possible that some of the 'new case' refugees were unable to gain access to lands when they returned. It was not unknown for someone to be falsely accused of being involved in the genocide in the years after 1994, and this discouraged some people from claiming their land rights too vociferously.²²⁸

However, after this historical section, the policy defines the landless specifically as 'old case' refugees who have returned: Rwandans who fled the country in 1959 or later and stayed outside the country for more than ten years.²²⁹ No other type of landless person is mentioned.

The policy's solution to the problem of landlessness is redistribution of private and public state land, including non-occupied, escheated and unexploited reserves. According to experts, there may be around 330,000 ha of arable land available for distribution. Without full details of the numbers of landless people, it is difficult to assess whether this will be sufficient. The government estimates the number of 'old case' refugees as about one million. However, a large (but unknown) proportion has benefited from land sharing, and hence have access to land. Others are in salaried employment; however, as noted by researchers, salaries are often insufficient to cater for the needs of a household and a plot is often necessary to supplement incomes.²³⁰ If we use a very approximate figure of 15% of the total population, which would include not just the 'old case' refugees but others as well, we can estimate that 1,224,000 people may be landless.²³¹ Clearly, the land reserve will be insufficient to address the needs of so many.

In addition, the policy provides that the land of genocide survivors (such as widows) and orphans will be leased out to them. Survivors and orphans were often exempted from 'land sharing' arrangements and hence the size of their land-holdings often out-strips their labour availability; in some cases they are living with friends or relatives and their land is unoccupied.²³² This leasing would be done in order to make efficient use of land in Rwanda. However, the terms and conditions for this should be carefully thought through, with full involvement of survivors and orphans themselves. According to a number of sources, many

survivors already feel that the government has not done enough to defend their rights.²³³ If the government or local administration is to be charged with leasing for them, regulations regarding the terms and duration of the deal should be established, which are responsive to local variations in land and labour markets. Clear guidelines to prevent problems will be necessary if this is not be another source of social tension.

It is apparent that if the land reserve will be reserved only for the 'old case' refugees, then this definition and the approach to the solution will appear biased towards one social group (as indicated previously, the 'old case' refugees are almost exclusively Tutsi). It is true that this group is genuinely a major victim of the land problem in Rwanda. Analysts have noted that the 'ten year rule' and the provision for villagisation in the Arusha Accords seem to violate the property and housing rights of the 'old case' refugees, under international law.²³⁴ The rights of the 'old case' refugees has already become one of the most visibly controversial aspects of the policy.²³⁵ However, the issue of landlessness is much wider than this, and will continue to expand as relative land scarcity increases. The policy is silent on how, and by whom, the land reserve will be allocated: firm criteria need to be set in place and a balance needs to be struck between centralized authority over the process (which would have the drawback of insufficiently detailed knowledge of local situations) and local authority, for example, through the District land commissions (which would risk bias through personal links with those affected).

The policy also states that in addition to the 'old case' refugees, land from the reserve will be given to, "those who place an application for it, having a consistent plan of development." This may provide an in-road for other landless people to apply: but this will depend on the definition of "a consistent plan of development." If this is interpreted as a business plan for cash-crop production, for example, then the landless are unlikely to be able to produce such a plan. It would be unjust if those with economic means were given priority to access the land reserve over those who are most in need of land. This would be a source of tension in future. It is also perhaps surprising, given the importance of 'environmental scarcity' narratives in the policy, and the conversion of huge parts of protected areas that took place during the 1980s and 1990s, that the policy states that: "Should the redistribution of land be necessary, the government will dispose of any protected reserve, to provide land for any larger, landless community." This clause comes in the context of policy on villagisation. The remaining areas of protected land have important functions as watersheds and habitat for significant wildlife (including the endangered mountain gorilla, in the case of the Parc des Volcans), which can bring in foreign exchange from tourism in future. It would seem unwise to sacrifice more protected land.

Overall, there is a need to redefine the issue of landlessness. There are those, influenced by the customary structure of social capital in Rwanda, who state that there is virtually no real landlessness in

Rwanda.²³⁶ However, it is indisputable that social capital is under great pressure, due not only to the population displacements, trauma and death caused by violence, but also due to the scarcity of communal land which could previously be utilized to address disputes.²³⁷ It is imperative to establish the extent, rate of growth, and the nature of landlessness in Rwanda, and the coping strategies arising from it. The policy perhaps requires a timeframe for distribution of the 'land reserve', as the number of landless people will continue to grow in the future. A fuller exploration of the phenomenon would inform a holistic and comprehensive policy on landlessness, with an accountable system and clear criteria for allocation that will not lead to social tensions and would hence mitigate a latent source of future conflict.

Land registration: different meanings of tenure security

The issue of registration of land rights illustrates two things: first, the need for working definitions of 'land tenure security' which reflect realities on the ground; and second, the importance of popular perception, with the associated dangers of misinterpretation.

As mentioned above, the capacity for land registration is currently below demand, especially in terms of urban demand. In urban areas municipal authorities are responsible for registering land. Only Kigali Municipality currently has a truly effective system, which is managed by a Kenya-based company, GeoMaps, which issues title deeds on a full cost recovery basis. In rural areas basic documentation, including a sketch plan and a description of the property, is issued to the user and held in a cadastral database at MINITERE. In some cases, an *Acte de Notoriataire* has been given to recipients of land through land-sharing, though this does not appear to have a formal legal basis. Registration of land across the country, and the creation of a modernised land cadastre will be a major feature of the new land policy.²³⁸ Although land will continue to be owned by the state, land tenure security will be achieved through the acquisition of leases, of between three and 99 years duration.²³⁹

This is based on the assumption that 'tenure security' is a priority for Rwandan farmers. Numerous studies and consultations have indicated that indeed it is: but the question is, security from what, and from whom? In line with many institutions – particularly the World Bank, for example – MINITERE originally perceived 'land tenure security' as means for farmers to access credit, through formal title. It remains to be seen whether small rural parcels of land of less than 1 ha will actually be viewed by financial institutions as viable forms of collateral. Also, land tenure security cannot be measured objectively, but as a production of social and psychological processes, as exists in the minds of the farmers.²⁴⁰ Experience demonstrates that what most farmers want is security from land disputes – which typically involve members of the family, neighbouring households, or agents of the state.²⁴¹ For example, research

in Kibungo has revealed that local administrators are most often identified as the source of problems – or the ‘culprit’ in land disputes.²⁴² In particular, those involved in land sharing require some guarantee for their land rights. This need not necessarily be a formal title deed; the main requirement is a symbol of mutual agreement, between the claimant, the surrounding community and the state, that the rights to a particular plot will be respected. Therefore, tension over land – arising from the *ad hoc* nature of land sharing, for example, as well as general social tensions – has to be reduced in order to improve tenure security.²⁴³ This explains the spontaneous rise of the *Acte de Notoriataire*. From this perspective, the land policy, which gives the government the right to cancel the long-term leases of farmers who do not use it in conformity with the law, may actually undermine land tenure security if the policy is not elucidated further, and disseminated at the local level. A key danger is that this clause, which is linked to legal obligations to maintain land productivity, land ‘protection’ and land use in accordance to master plans, is abused by local leaders in order to dispossess people and benefit others.

The Government of Rwanda has re-conceptualized its notion of registration in pragmatic ways, though not necessarily because of the reasons above. The original plan was for every plot in the country to be surveyed and registered: however, it is practically impossible for all households to have plots registered in the near future, as there are over 1.5 million plots.²⁴⁴ It was also stated that the landowners would pay for the registration process. Some stakeholders have therefore been concerned that those with access to money and with influence, may be able to claim rights at the expense of the marginalized. The policy states clearly that cadastral costs and costs of registration will be borne by the tenants,²⁴⁵ though this has been re-defined, within MINITERE and in consultation with independent specialists, as a dual system. The ‘formal’ or ‘national’ system will be based on full cost-recovery, will utilize standard and accurate surveying equipment, and will cater to those willing to invest in titles in order to gain bank loans and have a very high level of security, to enable high levels of capital investment. The ‘informal’ or ‘local’ system will use less expensive mapping methods – aerial photography (at a resolution that is affordable, but shows plot boundaries such as lines of trees) or participatory community-mapping, which is already completed in some areas (under the *ubudehe* programme) have both been suggested.²⁴⁶

There are already worrying popular perceptions of what the land registration process, along with the consolidation exercise, might entail for the poor.²⁴⁷ The 1 ha minimum, the compulsory nature of registration, the principle of cost-recovery for registration, and the policy’s statement that “Not every Rwandan can possess a plot of land for agriculture or livestock” have led to fears that those with land holdings smaller than 1 ha, or unable to afford the fees, would not be able to register, and would be forced to give up land for consolidation.²⁴⁸

Many of these issues have been resolved by amendments to the land policy, or through elaboration of definitions in internal MINITERE documents. However, the risks of misinterpretation remain high, due to the complexity of the issues involved – not every farmer will be able to read the entire 52-page land policy, due to lack of access, illiteracy or insufficient understanding of the issues. The rights of child-headed households – who are numerous due to the effects of genocide and HIV/AIDS – should also be defended, through the actions of the land commissions. Also, more details of the compensation scheme for land expropriated through consolidation should be developed and disseminated. Information dissemination will be a vital part of the implementation strategy, and should involve multiple stakeholders, such as civil society organisations, as well as government organs. Regulations should also be developed and published to ensure that the spirit of the policy and law is adhered to.

Abolition of customary systems

In many African countries, recent or current land policy reform has taken account of customary land tenure systems, often seeking to incorporate elements of customary rights and traditional power-structures within a written legal framework. In many areas, common property resources are governed by customary regimes, which allow multiple users to access the same lands, often at different times and for different purposes. In Rwanda, by contrast, the new policy generally casts customary tenure in a negative light, and rights are seen as purely ‘individual’ by nature. This is, we suggest, partly a reaction to the evolution of indigenous tenure systems due to the effects of land scarcity and partly a result of a somewhat partial reading of history. The new policy is somewhat contradictory regarding the influence of customary tenure. It characterises the current written law as “very restrictive and confining” and the customary law as “widely practised, but with a tendency to cause insecurity, instability and precariousness of land tenure, in general”.

While the policy is ostensibly designed to unify all land access under one system, implying a kind of recognition for customary rights, in fact the law essentially abolishes the dual nature of the Rwandan land tenure. Due to the restrictions on subdivision, the long practiced system of inheritance will cease and access by lineage *ubukonde* will also be abolished. However, a number of caveats must be attached to this scenario.

The first issue is the way in which custom is conceptualised by policy-makers. As has been pointed out by others, given the social dynamics in Rwanda the interpretation of historical ‘facts’ continues to have a strong relevance for Rwandans.²⁴⁹ The policy indeed notes that, “the definition of land... carries the mark of the socio-political history of the country.” It may be appropriate, then, to accept the essentially political nature of the task, and make some reference to the fact that different systems were used by different social (or ethnic) groups. However, instead, the policy

states that, “One should therefore strive to avoid being trapped by cultural considerations”. From a conflict prevention viewpoint, the cultural aspects of land access are highly significant. The policy paints a very rosy picture of pre-colonial land tenure systems, which

*Facilitated economic production, stability and harmony in production...
The profits were thus based on the liberty to occupy any territory as well
as the complementary links among types of production.*

This narrative ignores power relations and elements of exploitation based on provision of labour, in return for access to land. This labour – known in Kinyarwanda as *uberetwa* – was only imposed on Hutu, not on Tutsi.²⁵⁰ The policy also describes,

...the suppression of the ubuhake system [by the colonialists], and the distribution of cattle in grazing areas (ibikingi), the effect of which, “favoured the extension of arable land, to the detriment of livestock”. This brief statement would seem to indicate a repression of grazing rights: however, it refers to a complex reality. Having abolished the ubuhake system, the colonial authorities failed to redistribute pasture land, so that those who had a number of cows tried to obtain ‘private’ rights to what had, until then, been a kind of public resource.²⁵¹ This in turn altered the client-patron contracts governing access to land and labour relations, polarizing Tutsi-Hutu relationships and causing much resentment. Pottier has demonstrated the way in which a focus on the ubuhake, to the exclusion of other aspects of rural tenure and systems of production, has resulted in a simplified version of history being reproduced until today, despite extensive research which contests this version.²⁵² For example, the land policy states that in the pre-colonial period, “the ruler of the time accorded plots to any who required one”. This significantly understates the class-based social differentiation, which governed land access. Rather than being characterised by harmony, the pre-colonial system from the middle of the 18th century was characterised by the complete control exercised by a small group of nobility over access to land and the labour of the majority of the population, whether Hutu or Tutsi.

The land access rights of the Batwa – a minority social group in Rwanda who were traditionally hunter-gatherers and have been largely denied land tenure security since colonial times – are also not mentioned. Historically, as other communities encroached upon forests, the Twa were forced to retreat into smaller and smaller pockets of land. Opening of large farms of pyrethrum in the North exacerbated a similar process of marginalisation on even a larger scale. The project involved clearing large forests that used to be occupied by the group. Land Net Rwanda has been advocating for greater appreciation of the Twa as a marginalized stakeholder group, but it seems that they have yet to be heeded.²⁵³

The summary of forms of land tenure is also somewhat general, and doesn’t go into detail into the differences in tenure between pastoral

grazing areas (shared by 'associations'), marsh areas, forested lands and agricultural areas (of which there are private plots and those administered by local administrators). There are also issues of the evolution or mixing of tenure systems, as customary and 'modern' systems are not always separate, but have in some ways influenced each other.

In many parts of Africa, population pressure and intensive use of land led to individualisation, closing of land frontiers and commercialisation.²⁵⁴ The same phenomenon seems to have been the case in Rwanda.²⁵⁵ In other words, the customary tenure system adapted to changing demographic realities and the growing economy. The policy and land law will not be implemented overnight, and changes on the ground will not be instantaneous and spontaneous. It is likely that some aspects of customary practices will continue to have an influence, but due to lack of research in this area, it is unclear how the changes will be felt at the local level. For example, the policy mentions that,

Between 1952 and 1954, King Mutara III Rudahigwa abolished the ubukonde system and decreed that all abakonde [lineage heads, in charge of land] would henceforth share their land property with their tenants, known as Abagererwa.

However, the extent to which the patron-client relationship was fully overturned is unclear, as a decree of 26th May 1961 reconstituted it. The lack of reference to this decree in the policy tends to suggest that the customary systems (in this case, an essentially Hutu custom) have fallen into irrelevance, when in fact they may still have an influence. It is for this reason that the land law specifically abolishes *ubukonde*. After independence, many powerful political leaders were lineage heads (*abakonde*).²⁵⁶ Research in the Northwest of Rwanda suggests that some of these customary client relationships have become 'monetarised'; the power of the patron is based on his or her links with the monetary economy.²⁵⁷ Overall however, the policy seems, on the face of it, to address customary systems without fully exploring their significance today.

Addressing inequalities in land ownership

Inequality in land ownership is a complex issue, but only two aspects will be mentioned here: first, inequality in the size of plots held by different landowners (for example, as estimated by the Gini coefficient); and second, gender imbalances in land access.

The extent of inequality in access to land has been noted above. The quarter of the population who own more than 1 ha/household, own almost 60% of the entire land holdings in the country. The 16.8% who own less than 0.25 ha /household, own just 3.3% of the total. To put this another way, the quarter of the population with the largest land holdings own about ten times more land than households within the lowest landowning quartile. Unlike some other countries, inequality is not really a 'regional' issue, as the situation is fairly uniform across the country.

The policy notes the “increasing hold of the urban elite over rural land” – but provides no explicit means to counteract this tendency.

There are two major policy and legal instruments in the policy and law, which could address inequalities in land ownership. The first is consolidation, discussed above. The second is a maximum land ceiling. The maximum land ceiling is also a component of the PRSP, which sets the maximum at 50 ha. In an earlier draft version of the land policy, this minimum was set at 30 ha. However, in the latest version of the policy, the maximum ceiling has been dropped altogether. This is interesting, in light of the fact that some politically connected individuals have acquired, over the last few years, land holdings of 50 ha or more for coffee and cattle production.²⁵⁸ Also, as stated above, returning ‘old case’ refugees in Umutara received large chunks of land for pastoralism: the maximum area allocated for grazing was 100 ha. The land was further subdivided in 1996 and 1997, but it seems that many large plots still remain in the hands of single households.²⁵⁹ As mentioned previously, the churches also have huge amounts of land, which it seems will remain untouched by the planned land reform.

The Government of Rwanda has been very active in addressing historical imbalances in gender relations. Women constitute 54% of the population and more than 30% of all households are headed by women (RDI 2002).²⁶⁰ Rwanda is a largely patrilineal society where sons, but not daughters, may inherit land. A widow cannot take over the full rights to the household land: she can make use of the land as long as she stays with the husband’s family, and her sons will take over the land when they reach the age of majority; or if she has no sons, the brothers of her late husband could take over the land. Custom did provide safety nets for women such as *urwibutso*²⁶¹, *inkuri*²⁶², *intekeshwa*²⁶³ and *ingaligali*.²⁶⁴ However, evidence suggests that these are now largely inoperable, because of land scarcity.²⁶⁵

Many analyses do not consider gender issues to be highly significant in the generation or reproduction of violent conflict, because of a perception that women are ‘peacemakers’ and war is inherently a male dominion. However, if poverty is seen as a root cause of conflict in Rwanda, as elsewhere, then the deprivation suffered by female-headed households, for example, will be particularly significant. Children in landless female-headed households are likely to join the ranks of those seeking casual labour in the towns, a social category, which played a significant, if unorganised, role in the genocide.²⁶⁶

In order to address gender inequities in access to land, legislation was passed in 1999 which states that male and female children have equal rights to inherit their parents’ property, both prior to, and after, the death of a parent.²⁶⁷ However, there remain a number of obstacles to effective implementation of the law.

First, the law only applies to married women: those in long-term unmarried relationships (who are numerous) are not covered. Many couples do not get legally married because of the expense, while

polygamous households (which exist mostly in the Northwest, an area mostly populated by Hutu) are not legally recognised.²⁶⁸ Second, the land law stipulates that women can inherit land as guided by the inheritance law; while the inheritance law provides that the land law will spell how women can also inherit land. This does not clarify the position.

There are also customary barriers to implementation, with many men believing that the law is unjust as women will then be able to benefit from land from two sources: her parents and her husband.²⁶⁹ Some women believe that only a woman who is single or separated from her husband should claim land through inheritance, because of the extent of land scarcity.²⁷⁰

Access to land for women is often dependent on subjective community perceptions of their 'virtue', as judged against ideals of female behaviour. In addition to customary norms, Christian narratives have also been influential in shaping local perceptions of the secondary status of women.²⁷¹ In some cases, female survivors have been stigmatised due to alleged or actual sexual relations (including rape) between them and those who hid them or helped them to escape the genocide; the situation is particularly traumatising for them.²⁷² District administrators mentioned that the 'coping strategies' employed by those affected by landlessness included prostitution, due to the lack of other non-farm opportunities.²⁷³ This is likely to establish a vicious cycle, where those judged 'unworthy' of gaining land then turn to 'unworthy' occupations: a self-fulfilling prophecy.

Interviews with local administrators in rural areas – who tend to be aware of the inheritance law – suggest that some women are retroactively claiming their rights, which were denied in past inheritance cases.²⁷⁴ The same administrators also state that with the extra pressure on the land represented by the entry of women as legitimate inheritors of family land, the ban on sub-division of plots smaller than 2 ha will be impossible to enforce.²⁷⁵ Finally, while awareness of the law amongst officials is high, it seems that a large proportion of the general population may not be fully aware of the provisions of the law.²⁷⁶

Clearly, gender-based inequalities cannot be merely 'legislated away'. Customary attitudes and the pragmatic approaches of local administrators – who often combine statutory and customary law in their decisions – will determine how the law is implemented. In order for the inheritance law to be effective, the 'top-down' mindset which sometimes dominates the policy-making arena, will have to be tempered by awareness of local realities. Monitoring of the implementation of the law, by researchers who have experience in gender issues and are aware of the Rwandan gender 'narratives' (including the effects of the war and genocide on these), will be essential in order for it to have a positive impact. In addition, the high-profile gender equality campaign – which is highly effective in underpinning urban, middle-class rights – may not be as effective at the level of the *colline*, and a multi-dimensional approach to gender inequalities is necessary.

Villagisation

Planned villages, known in Rwanda as grouped settlements, or in Kinyarwanda as *imidugudu*, were initially constructed almost entirely through the financial and logistical support of donors and international NGOs, as housing was urgently needed for the hundreds of thousands of returnees and internally displaced people in the country in the years following the 1994 genocide.²⁷⁷ Secondary justifications included the improved security that grouped settlements provided for the inhabitants. It was therefore explicitly seen by donors as an ‘emergency’ policy. However, in December of 1996 the government launched its villagisation policy, stating that, “the ultimate objective of the government is to enable the entire rural population to live in grouped settlements”.²⁷⁸

Indeed, in early 1997, the government directed that construction of any house outside of the *imidugudu* by any Rwandan, whether or not a returnee, was forbidden. Had it not been for the official argument that resettling Rwandans was an exceptional, ‘emergency’ measure, the compulsion used to ensure that households moved into the villages would certainly be judged unconstitutional. The constitution provides that every Rwandan has the right to go anywhere and settle anywhere (Article 23).

Some observers have noted that Villagisation is ambiguous in both its aims and its effects.²⁷⁹ What is certain is that, like many other government initiatives, it demonstrates the amount of faith that policy-makers have in the ‘power of planning’.

Vision 2020 states that by the year 2020, the majority of the rural population will be villagised. The draft land policy is clear that it is going to be a mode of using and managing rural areas,²⁸⁰ based on a justification of land scarcity: section 5.6.3. states that, “villagisation is the one and only method allowing for utilisation and proper management of land considering the scarcity of land”. Except for a policy statement on choosing of sites the policy is mute on other issues, such as infrastructural development and sources of funding. The overall financial costs of such a radical programme, needs to be estimated. Currently only a small segment of the population lives in villages. With the exception of Kibungo and Umutara (each with 92% of the people living in the grouped villages) and Ruhengeri (with 52.5%) the rest of the country has extremely low rates of settling in the villages. The national average would appear to be around a quarter of the population, but only around 4% of those living outside of these three provinces have been villagised.²⁸¹ Donors have been unwilling to fund the programme since the late 1990s.

Villagisation is also related in the policy to consolidation:

*Regrouping of land in rural areas needs regrouping of plots.... New method of regrouping partitioned and dispersed land ensuring the permanence of larger and more regular plots as well as the possibility of a more independent exploitation.*²⁸²

There are two burning questions: first, whether the new drastic changes will be able to answer most of the land issues raised with regard to Rwanda; and second, whether they will be implementable.

If villagisation is to be attempted, it will have to avoid the problems that have dogged earlier attempts. Decision-makers should make sure that services are available and that particular sites are not reserved for certain categories of Rwandans – for example, genocide survivors, ‘old case’ refugees, the elderly, or particular ethnic groups, which weakens community social ‘safety nets’ and risks a perception of biased treatment for particular groups.²⁸³ The sites need to release fertile land clearly and those whose lands were used for the settlements should be compensated. The process should be participatory and coercion should not be used.²⁸⁴ Also, villagisation should avoid breaches of traditional norms of privacy (an enclosure or *urugo* should be built, which may be difficult if the area allotted is limited).

The Government of Rwanda has argued that the villagisation policy is one answer to food insecurity, as well as land scarcity. It is argued that by situating houses close to one another, cooperation will be facilitated and improved agricultural productivity will result. However, there exists little firm evidence to suggest that this is the case. Senior agricultural specialists at the University of Rwanda state that, in general, it seems that productivity in *imidugudu* has actually declined. Similar experiments in other countries in Africa, such as Tanzania, Ethiopia and Mozambique, have also had disappointing results.

Land commissions are charged by the policy to oversee the grouped settlement policy. In order to do this properly, the composition of the land commissions – or the sub-committees that will probably be established for this purpose – will have to demonstrate the appropriate mix of local participation. This should include members of those ‘voiceless’ sections of society who are most easily marginalized (such as the poor, the elderly and vulnerable women), as well as those with greater technical and planning abilities. The draft Land Law leaves the details of membership and the mission of the National Land Commission to be defined by presidential decree, while MINITERE will set the mission, programme and membership for the provincial and district land commissions.

Land use, allocation and environmental protection

The policy cites the lack of ‘specialisation’ as an obstacle to effective land management, with reference to the appropriate choice of crops relative to soil type, altitude and regional location. In response to this, the policy argues that, “the rational utilisation and proper management of national land resources should be based on master plans”. It is true that, as mentioned above, transformation of the rural sector is crucial if Rwanda is to avoid a rural food security crisis and improve economically. However, the predominance of master plans, in the absence of robust multi-sectoral systems for popular consultation and participation in decision making, could undermine the livelihood strategies which have allowed Rwandan peasants to make a living on their small plots.

These include strategies to improve soil fertility, reduce the risk of total crop failure by the cultivation of a variety of crops, and to reduce the risk of impoverishment through a collapse in cash crop prices, by simultaneously cultivating food crops. A single household in the South of Rwanda will typically grow as many as 14 different crops in 50 different rotations, with the view to maintaining fertility of the soil.²⁸⁵ Fruit trees are very important (where the climate allows, hence particularly in the South) including papaya, avocado, guava, jack fruit, mango, passion fruit, and others. Other trees are grown for timber, firewood, or shade; and leaves and twigs are often used as compost. Banana is normally intercropped with beans, groundnut and maize during the long and short rains seasons; and also with sorghum during the long rains season. Woodlots, where they exist, are intercropped with food crops. The rational nature of these diversified cropping patterns should not be ignored by policy-makers. It is also unclear whether the master plans will have been formulated with the full participation of all the relevant government ministries and departments. For example, decisions on land use cannot be made in isolation from plans for marketing of produce, investment in agricultural processing infrastructure, road construction and other aspects of rural development. The PRSP, one of the main frameworks for national development, does not provide a full rural development strategy. It does provide direction on priorities for the agricultural sector (such as expansion of the crops noted above) but does not make the links between human settlement patterns, private investment and public infrastructure priorities, including investment in 'social services' such as health clinics and schools. The idea of 'rural development poles', which has been discussed at various times since independence, is yet to be fully elucidated.

The management of marshlands is an important issue. It is estimated that there are 165,000 ha of marshland in Rwanda, of which about 98,000 ha are utilised. By the late 1990s, the marshes had come to provide about a fifth of the national food production.²⁸⁶ Currently, the marshes are managed by local administrators, who allow households to use marshes for a fee, often on leases of three to five years.²⁸⁷ According to interviews, the poorest households are often allowed to cultivate free-of-charge; though in the past, such arrangements have depended on the recipient providing a 'sweetener' such as a gift of banana beer or other incentive.²⁸⁸

In some cases, the sustainability of the marshland hydrological regimes may be at risk. Hence, the draft Land Policy says that the state will impose the cultivation of particular crops, depending on the location of the region. Large-scale commercial activities are likely to be prioritised. It is, for example, instructive to remember that MINAGRI, not MINITERE, is responsible for the inventory of classified wetlands. This would seem to indicate the prioritization of 'development' rather than 'conservation'. Unless this is done in a sensitive way, the changes to marsh management could have a serious impact on livelihoods, particularly of the poorest. The government aims to encourage agro-industrial

investment and give priority to ‘professional’ farmers with development plans for the land. Issues such as terms of labour and transparency of land allocation will be important. A case in point concerns a foreign private investor, who in the late 1990s secured a right to exploit a part of marshlands in the Nyabarongo valley for sugar cane plantation.²⁸⁹ This resulted in several peasants losing their access to marshland. Discontent led to confrontation, and some farmers set fire to the sugarcane crop, before the government intervened in the dispute.

Marshlands and protected areas are potential areas for competition and conflict in land scarce Rwanda, and some local administrators may resist or ‘adapt’ new policies in order to continue to enjoy the social benefits – and possibly the ‘sweeteners’ mentioned above – associated with the power over marsh management. It has been a ‘lucrative business’ in the past, and may remain so.²⁹⁰ The trade-off between ecological sustainability and agricultural productivity must also be managed within government, and indeed there has been disagreement between the two ministries over the scientific calculations involved in modeling water flow regimes.²⁹¹ Marshes are fragile ecosystems and effective management is crucial in order to safeguard environmental services such as water filtration, infiltration into groundwater and regulation of water flows.

CONCLUSIONS

As noted throughout this chapter, there is a striking lack of consensus, both within and outside Rwanda, over the nature of governance in the country, and the threat of future conflict. Many people argue that the constitution, the elections and the decentralization process, amongst other things, all indicate that the government has put in place systems for good governance and public debate of key issues. Such views tend to suggest that the main threats to Rwanda’s long-term stability lie outside of its borders – in the form of the *Interhamwe* and perhaps hostile neighbours – rather than from internal opposition and social tension.

On the other hand, others warn that opposition may take an increasingly conflictual turn, if avenues for legitimate protest are limited. At the local level, increasing rates of poverty can be expected if the range of economic opportunities is not increased, which in tandem with increased land scarcity, will exacerbate struggles over land and resources. This could have a destabilizing effect, which could be manipulated by those with a vested interest in promoting fear and violence. Those who are pessimistic about governance in Rwanda today might agree with the viewpoint expressed by one member of civil society, that due to the pressures of land scarcity and the frequency of land disputes, the government is “sitting on a volcano”.

A key reason for the lack of consensus over governance in Rwanda is the polarization of viewpoints which has taken place, especially within Rwanda, but arguably also within the development and academic

communities. The most dangerous aspect of this polarization is the continued influence of racist or genocidal ideologies, especially amongst some Rwandan Hutus in the diaspora, but also within Rwanda itself, albeit to a limited degree. Partly in response to this extremism, the Government of Rwanda has prioritized the consolidation of consensus and unity in order to make its counter-narratives more effective. However, the confidence and optimism with which policies are often presented and discussed, and the pressure for conformity within government (and, to a lesser extent, within civil society), tends to curtail the political space for discussion of alternatives. Many actors, both within and outside of government, practice self-censorship. This is linked to the faith government personnel have in planning, and a general tendency for top-down decision-making.

Conclusions and Recommendations

The ways in which these issues are handled will have a great effect on levels of social tension in Rwanda in years to come. The policy emphasis on land markets and individual registration of land may lead to many land parcels changing hands. If livelihood choices remain limited and incomes deteriorate it is possible – unless checks are put in place – that the wealthier minority will eventually ‘buy out’ poor land owners. According to neo-liberal ‘received wisdom’, which underpins much of the thinking behind the policy, this is not a problem because the new poor (and landless) would seek employment in the larger commercial farms which are expected to develop. However, there are no guarantees that the labour market will expand sufficiently for this balance to occur, or that those employed on such commercial farms will themselves be poor or landless. If no other regulations are drawn up in order to protect the rights of the poor, such as reasonable ceilings of holdings, and allocation of some land to those who are landless and jobless, a large, impoverished mass of people may result. This would be extremely dangerous.

Often, the main criticism of Rwandan policy is not that it is inappropriate – for the government has a cadre of talented individuals, especially at the highest levels – but rather that it does not indicate the extent, and the nature of the challenges that Rwanda faces. There are no easy solutions. Therefore, the trade-offs and risks involved in land tenure reform should be spelled out in order to enable discussion and true consensus-building. The modalities for implementation of policy cannot be entirely formulated from offices in Kigali – they must be negotiated and adapted according to the complex and variable realities experienced on the ground, across the country.

Short term recommendations:

1. The land policy should be piloted in limited areas, and the results monitored, before being applied more widely across the country.

Based on the pilot experiences, the government should be ready to make amendments to the land policy. Because the ecological and social structure of land ownership varies across Rwanda, the policy and land legislation should be allow for local variations. Citizens should be empowered to influence the policy without their comments being filtered through many layers of bureaucracy.

2. Assumptions regarding the 'irrelevance' of customary systems, particularly those related to clientship in Northwest Rwanda, should be tested through empirical research prior to implementation of the policy.
3. Implementation of the land policy should not be based on compulsion, and while it is recognised that some rise in the number of landless people may be inevitable (due to land scarcity), the government should ensure that implementation of the policy does not lead to increased landlessness.
4. Systems should be put in place for effective consultation with various line ministries and the provincial and district administration, who will be instrumental in drawing up the more detailed regulations which will guide policy implementation. There is also need for greater synergy between the policy on environment and the draft land policy.
5. Civil society organisations should be involved in a number of aspects of policy implementation, including awareness raising and dissemination of the key aspects of policy; capacity building (particularly of local dispute resolution mechanisms); and monitoring of the socio-economic impacts of land consolidation and villagisation. Monitoring by researchers who have experience in gender issues and are aware of the Rwandan gender 'narratives' (including the effects of the war and genocide on these) will be essential in order for the policy to have a positive impact on women's rights.
6. Further research into the effects of HIV/AIDS on land rights, particularly for women and children, should be conducted, and the results used to guide policy. District administrators, community development committees, and local agricultural associations and CSOs should be involved in an awareness-raising effort to reduce the negative impacts on women and children's rights.
7. The composition of the land commissions – or the sub-committees that will probably be established for this purpose – should demonstrate the appropriate mix of local citizens. This should include members of those 'voiceless' sections of society who are most easily marginalized (such as the poor, the elderly, and vulnerable women) as well as those with greater technical and planning abilities.
8. Overall, there is a need to redefine the issue of landlessness, to include those who have lost land through processes of impoverishment. An accountable system for allocation of land to the landless should established, with clear criteria for allocation. While household plans for land utilization would be a good tool for development, any requirement for such plans should not result in the marginalization of the illiterate or poor.

Longer term recommendations:

1. A more transparent dialogue within the country on governance and post conflict reconstruction is important, particularly in light of the increasing economic and political dominance of a small elite.²⁹² Effective implementation of a fundamental and sensitive issue such as land will not be possible without transparency.
2. There is a need to create a more effective mechanism of advocating for land rights as well as engaging government over policy issues. Currently, members of LandNet Rwanda are active, but there are large gaps in capacity between a) urban-based NGOs and rural organisations, and b) national and international organisations. It is important to build the capacity of local NGO networks to advocate for the land rights of the poor.
3. There is an urgent need to evolve a workable policy and strategy to promote non-farm activities as a long-term conflict mitigation approach and response to land problems. This should be based on realistic projections of the possibilities involved, rather than an overly optimistic model, because of the large number of people who may become landless through consolidation and related processes. This should involve regional as well as national solutions, and the East African Community, COMESA, the African Union and other organisations should be directly involved in this effort.

ENDNOTES

- 1 Herman Musahara is a lecturer at the University of Rwanda, Butare. The report was reviewed by Kizito Sabala.
- 2 J Lind and K Sturman (eds), *Scarcity and Surfeit: The ecology of Africa's conflicts*, ISS/ ACTS, Pretoria/ Nairobi, 2002.
- 3 A Kairaba, *Rwanda country case study*. Paper presented at a World Bank Regional Workshop on Land Issues in Africa and the Middle East. Uganda, April – May 2002; and J Bigagaza, C Abong, and C Mukarubuga, Land scarcity, distribution and conflict in Rwanda, in J Lind and K Sturman (eds.) *Scarcity and surfeit: The ecology of Africa's conflicts*, ACTS Press, Nairobi/Institute for Security Studies, Pretoria, 2002.
- 4 Interview with two of Rwanda's most significant 'development partners', April 2003 and February 2004.
- 5 Natural Resources Institute, Rural Development Institute, LandNet Rwanda, Oxfam GB and others have been involved in policy analysis, often on behalf of MINITERE and Rwanda's development partners.
- 6 See J Pottier, *Re-imagining Rwanda: Conflict, survival and disinformation in the late twentieth century*, Cambridge University Press, 2002.
- 7 See G Prunier, *The Rwanda crisis: History of a genocide, 1959 –1994*, Fountain Publishers, Kampala, 1996; Human Rights Watch/ Alison des Forges, *Leave none to tell the Story: Genocide in Rwanda*. Human Rights Watch, New York, 1999.

- 8 The government gives a figure of 937,000 people.
- 9 See L Melvern, *A people betrayed: The role of the West in genocide in Rwanda*, Zed books, London, 2000.
- 10 The areas of Masisi and Rutshuru have been major areas of *Interhamwe* activity in North Kivu.
- 11 Gisenyi and Ruhengeri Provinces, which have a smaller proportion of Tutsi inhabitants than other parts of the country, were also amongst the last areas to be incorporated into the Kingdom of Rwanda during the nineteenth century.
- 12 P Uvin, Difficult choices in the new post-conflict agenda: the international community in Rwanda after the genocide, *Third World Quarterly*. Volume 22, Number 2/April 1, 2001.
- 13 UNDP, *Governance for sustainable human development*, New York, 1997.
- 14 See for example C Andre, *Terre Rwandaise*, Access, Politique et Reforme Foncieres, in F Reyntjens and S Marysse (eds), *L'Afrique des Grands Lacs. Annuaire 1997-1998*, L'Harmattan, Paris, 1998.
- 15 The other subheadings are: history of armed conflict, governance and political instability, militarization, population heterogeneity, demographic stress, economic performance, human development, environmental stress and international linkages.
- 16 While this approach is useful, as it combines a wide range of information, the way in which some of the indicators are interpreted could be questioned. For example, high rates of urbanization are seen as leading to a high risk of conflict, through the rise of unplanned, unserved settlements which have "negative impacts on the social and biophysical environment". While some would agree with this interpretation, the Rwandan Government, and others, would not: after all, the government has made increased rates of urbanization a key part of their strategy for development. Peter Uvin argues that the controls, which were placed on urbanization during the Habyarimana regime, were a constraint to families with small plots of land seeking alternative livelihood strategies. Similarly, the analysis of 'ethnic diversity' simply assumes that a high degree of ethnic diversity correlates with a high risk of ethnic conflict. Accordingly, Rwanda, with only three ethnic groups, is given a medium risk rating (while Tanzania, which has relatively few 'ethnic' problems, is given a high risk rating).
- 17 See Weeks, W Rakita, S Brown, and M Munyeli, *Rwanda conflict vulnerability assessment*, Management Systems International, Washington DC, 2002
- 18 The other issues selected for analysis were: the dynamics of citizen participation in public affairs; and the community-based *gacaca* process.
- 19 Clingendael Institute, *Conflict analysis paper for Rwanda*, October 2002.
- 20 *Imidugudu* is the Rwandan term for the 'villagisation' process, explained later in this report. *Gacaca* is a community-based justice

- system especially established to try alleged *genocidaires*.
- 21 *The East African*, 16–22 August 2004.
 - 22 See International Crisis Group, *Rwanda/Uganda: A dangerous war of nerves*, Nairobi/Brussels, December 2001.
 - 23 C Andre and J-P Plateau, *Land relations under unbearable stress: Rwanda caught in the Malthusian trap*, Centre des Recherche en Economie de Developpement, Namur, Belgium, 1995.
 - 24 See for example D De Lame, *Une Colline entre Mille Ou me calme avant le tempete: Transformations et Blocages du Rwanda Rurale*. Musee Royale de L'Afrique Centrale, Tervuren, 1996. The National Ombusdan reported that the majority of cases received concern land disputes and settlement issues. See M Kazoora, Ombudsman Meets District Officials, *The New Times*, Kigali, 16–18 February, 2004.
 - 25 Republic of Rwanda, *Brookings initiative in Rwanda*, Minitere, 2001a.
 - 26 Umutara and Kibungo, which were fairly sparsely populated prior to 1994, experienced large numbers of returning 'old case' refugees after the genocide.
 - 27 Interviews, MINITERE, April 2004. Rwanda has 11 provinces (excluding Kigali) and 106 districts. Other administrative boundaries (in order of descending size) are sector and cellule.
 - 28 Interview in Kibungo December 2003. The candidate did not succeed and his use of ethnic divisionism to seek support from voters was condemned openly in other parts of the country
 - 29 E Burnet, *Culture, practice and law: Women's access to land in Rwanda*. RISD, Kigali, 2001.
 - 30 Republic of Rwanda, *Poverty Reduction Strategy Pape*, MINECOFIN, Kigali, 2002.
 - 31 See Republic of Rwanda, 2001a, op cit; Human Rights Watch, *Uprooting the rural poor in Rwanda*, Washington, DC, 2001.
 - 32 Interview with NGO personnel, Kigali, August 2003.
 - 33 Interviews with members of civil society, 2003.
 - 34 This was in addition to the government-sanctioned use of the National Park for resettlement of returning refugees. Interview with Deputy of the National Assembly, Kigali, August 2003.
 - 35 G Prunier, 1994, op cit.
 - 36 P Verwimp, *An economic profile of peasant perpetrators of genocide: Micro-level evidence from Rwanda*, UN-WIDER Conference on Making Peace Work. Helsinki, June 2004.
 - 37 C Andre and J-P Plateau, 1995, op cit.
 - 38 V Percival and T Homer-Dixon, *Environmental scarcity and violent conflict: The case of Rwanda*, Trudeau Centre for Peace and Conflict Studies, University of Toronto, 1995.
 - 39 Human Rights Watch/ Alison des Forges, *Leave none to tell the story: Genocide in Rwanda*, Human Rights Watch, New York, 1999.
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- 41 Republic of Rwanda, 2002.
- 42 C Donovan, E Mpyisi and S Loveridge, *Forces driving change in Rwandan smallholder agriculture, 1990–2001*. Food Security Research Project and Division of Agricultural Statistics, MINAGRI, Kigali, 2002.
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- 44 G Baechler, *Violence through environmental discrimination*, Academic, Kluwer, 1999.
- 45 J Pottier, 2002, op cit.
- 46 Ibid.
- 47 L Malkki, *Purity and Exile: Violence, Memory and National Cosmology among Hutu Refugees in Tanzania*, University of Chicago Press, Chicago, 1995.
- 48 J Pottier, 2002, citing C Newbury, Uburetwa and Thangata: Comparative Colonial Perspectives, in *La Civilisation Ancienne des Peuples des Grans Lacs*, Katharla, Paris, 1981.
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- 52 Management Systems International, *Rwanda Conflict Vulnerability Assessment*. Greater Horn of Africa Peacebuilding Project, USAID, 2002.
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- 55 L Melvern, *A people Betrayed: The role of the West in genocide in Rwanda*, Zed books, London, 2000.
- 56 Management Systems International, *Rwanda democracy and governance assessment*, USAID Office of Democracy and Governance, 2003.
- 57 See for example Christian Aid, 2004, op cit. P Uvin, *Wake Up! Some policy proposals for the international community in Rwanda*, 2003.
- 58 See for example Human Rights Watch, *Preparing for elections: Tightening control in the name of unity*, Human Rights Watch Backgrounder, 2003. Those who accuse MDR of being divisionist point out that political language in Rwanda is often indirect and symbolic, making it fairly opaque to outsiders. Also, they argue, MDR was not united, but rather had a moderate side and a hardline

- side which was unable to dissociate itself from *Hutupower*. The Liberal Party was Tutsi-dominated and took genocide survivor's rights as its rally-point. See SIDA, 2004, op cit.
- 59 SIDA, 2004, op cit; Management Systems International, 2003, op cit.
- 60 For details of a perceived backlash, see for example International Crisis Group, Rwanda at the end of the transition: A necessary political liberalisation, *ICG Africa Report No. 53*, Brussels/Nairobi, 2002.
- 61 A-E Gakuzi, and F Mouzer, *De le revolution Rwandaise a la contre-revolution: Contraintes structurelles et gouvernance 1950–2003*. Harmattan, cited in E Zorbas, Reconciliation in Post-Genocide Rwanda, in *African Journal of Legal Studies*, 29–52, 2004.
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- 63 Interviews, Kigali April 2004 and Ruhengeri, July 2004; also SIDA, 2004.
- 64 See for example International Crisis Group, 2002, op cit.
- 65 W Bergman, 2002, op cit.
- 66 Based on comments by Rwandan local government officials and NGO personnel at CARE International Regional Stakeholders and Planning Team Workshop, Kisoro, Uganda, 27–29 July 2004. Eventually, the provincial level apparatus is to be phased out as the Districts are empowered.
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- 69 See Republic of Rwanda Ministry of Lands, Kigali, 2004; see also C Andre, *Land access, policy and reform in Rwanda*, mimeo, 1998, who identifies the issue of returnees as a possible source of social tension
- 70 see for example M Dorsey, 2000, op cit, for politico-economic-military analysis five years after genocide.
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- 85 Interviews, Ruhengeri, July 2004, and Management Systems International, *Rwanda democracy and governance assessment*, USAID Office of Democracy and Governance, 2003.
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- 88 A Arce and N Long, The Dynamics of Knowledge: Interfaces between Bureaucrats and Peasants, in N Long and A Long, (eds) *Battlefields of knowledge: The interlocking of theory and practice in social research and development*, Routledge, London, 1992.
- 89 Interview with Rwandan NGO personnel, Kigali, August 2003.
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- 91 See P Uvin, *Aiding violence: The development enterprise in Rwanda*, Kumarian Press, 1998.
- 92 J Pottier, 2002, op cit.
- 93 S Van Hoyweghen, 2000, op cit.
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- 95 R Palmer, *Recent experiences of civil society participation in land policy planning in Rwanda and Malawi*, Seminar Summary Report, Philippines, 2000. The workshop was organised by RISD.
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- 97 See for example A Kairaba, *Rwanda country case study*. Paper presented at a World Bank Regional Workshop on Land Issues in Africa and the Middle East. Uganda, April–May 2002.
- 98 RISD (Rural Initiative for Sustainable Development) hosts the coordinator of LandNet Rwanda.
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- 104 See G Prunier, 1994, op cit.
- 105 Various exponents of this version of events, including Walter Rodney, are cited in M Mamdani, 2001, op cit.
- 106 The source for much of this "idyllic" narrative of pre-colonial Rwanda was research by Jacques Maquet, a Belgian anthropologist, and Abbe Alexis Kagame, a member of the Tutsi aristocracy and foremost historian of the royal court. See J Pottier, 2002, op cit.
- 107 Amongst those who argue that pre-colonial Rwandan society was harmonious, with; "occupational groups. No classes" is Basil Davidson. See J Pottier, 2002, op cit. The so-called 'ten cow rule' may have been used in some cases (along with physiological and other indicators) but it seems impossible that it was used across-the-board, as there were too few cows in the country for each 'Tutsi' to own ten. See J Pottier, 2002, op cit, and G Prunier, 1994, op cit.
- 108 M Mamdani, 2001, op cit.
- 109 C Newbury, *The cohesion of oppression: Clientship and ethnicity in Rwanda, 1860-1960*, Columbia University Press, 1988; and J Pottier, 2002, op cit, reminds us of the difficulties of speculating about 'ethnicity' pre-1960.
- 110 C Newbury, 1988, op cit.
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- 112 C Andre, 1998, op cit. The term *ibikingi* is preferred by some, such as G Prunier, 1994, op cit.
- 113 In the process, the Twa were pushed from their customary homes and left with the remaining pockets of forest.
- 114 G Prunier, 1994, op cit.
- 115 Ibid.
- 116 J Pottier, 2002, op cit; R Lemarchand, *Rwanda and Burundi*, Praeger, 1970.
- 117 M Mamdani, 2001, op cit.
- 118 *Ibid.* Only those colonial impacts which are related to land tenure and land use are discussed here.
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- 121 M Mamdani, 2001, op cit.
- 122 G Prunier, 1994, op cit.

- 123 J-N Nkurikiyimfura, *Le Gros Betail et la Société Rwandaise*, L'Harmattan, Paris, 1994, cited in G Prunier, 1994, op cit.
- 124 P Uvin 1996, op cit, points out that throughout this entire period, and ever since, the *Bazungu* (Europeans) have effectively formed a 'fourth tribe' in Rwanda, and have consistently enjoyed the highest standards of living in Rwanda.
- 125 G Prunier, 1994, op cit.
- 126 *Ibid.*
- 127 P Uvin, 1998, op cit.
- 128 Human Rights Watch, 2001. op cit.
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- 130 National Agricultural Survey, 1984, cited in P Uvin, 1998, op cit.
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- 141 G Baechler, 1999, op cit.
- 142 D Clay, T Kampayana and J Kayitsinga, *Inequality and the emergence of non-farm employment in Rwanda*, MSU/MINAGRI, 1990.
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- 202 Marara and Takeuchi, 2000, op cit.
- 203 Balasubramanian and Egli, 1986, op cit.
- 204 L-M Zhou, How to carry out land consolidation: An international comparison, *Working Paper No. 99/1*, European University Institute, Department of Economics, 1999.
- 205 FAO, The design of land consolidation pilot projects in central and eastern Europe, *FAO Land Tenure Studies No.6*, 2003.
- 206 *Ibid*.
- 207 L-M Zhou, 1999, op cit.
- 208 MINITERE staff, (personal communication).
- 209 Interviews, Kigali, August 2003.
- 210 B Blarel , P Hazell, F Place and J Quiggin, *The economics of farm fragmentation: Evidence from Ghana and Rwanda*, World Bank Economic Review 6(2), 1992.
- 211 D Waller, 1996, op cit.
- 212 B Blarel et al, 1992, op cit.
- 213 D Bledsoe, 1994, op cit.
- 214 The figure of 0.9 ha is given in the original land policy 'blueprint', O Barriere, *Cadre juridique de la réforme foncière au Rwanda; analyse et propositions préliminaires*, 1997), but without a scientific justification.

- 215 V Kelly, E Mpyisi, E Shingiro, and J B Nyarwaya, *Agricultural Intensification in Rwanda: an Elusive Goal*. MINAGRI, Kigali, 2001.
- 216 The total number of households in the country is about 1,440,000.
- 217 Those with 1–2 ha currently, would lose 0.25 ha, while those with more than 2 ha would lose 1 ha. This calculation is intended merely as an indication of possibilities, not necessarily as an ideal solution.
- 218 S Loveridge, with J B Narwaya and E Shingiro, *Decaffeinated? Situation, trends and prospects for smallholder coffee production in Rwanda*. MINAGRI, Kigali, 2003.
- 219 Chemonics International Inc., *Rwanda: Quality and environmental management incentives for agricultural trade*. USAID, 2002.
- 220 Republic of Rwanda, *Thematic consultation on food security*. Ministry of Agriculture, Livestock, Environment and Rural Development, 1998. A World Bank study from 1994 prefers a five-region categorisation, comprising 1) the high plateau (where currently beans, bananas, sorghum, coffee, sweet potatoes, cassava, maize, and other crops are grown), 2) Kagera piedmont (which is suitable for drought-resistant sorghum and cassava), 3) Kivu lakeshore (similar crops to number 1), 4) Central Congo-Nile divide (where millet, potatoes, maize, and tea are typically grown), and 5) Volcanic highlands (intensive agriculture, little grazing). See S Gillespie, *Potential Impacts of AIDS on Farming Systems: A Case Study of Rwanda*, FAO, Rome, 1989.
- 221 Cited by D Waller, 1996, op cit.
- 222 Frequent periods of famine have been recorded in the history of Rwanda: 1890, 1895, 1887–98, 1900–1903, 1904–08, 1909, 1910, 1911, 1912, 1916–18, 1921–22, 1924–26, 1927, 1928–29 and 1943; G Baechler, 1999, op cit, citing F. Nahimana, 1993.
- 223 D Waller, 1996, op cit.
- 224 See for example, Liversage, 2003, op cit.
- 225 This argument is found in the PRSP and MINITERE officials also support it.
- 226 See for example C Andre and J-P Plateau, 1995, op cit.
- 227 *Poverty profile*, 2002, op cit.
- 228 According to human rights organisations, many people detained soon after 1994 were innocent victims of property disputes, and were some of those who ‘disappeared’ in the early post-genocide years. See J Pottier, 2002, op cit. With the improvement in social relations over the last decade, it is possible that some have been able to reclaim lands.
- 229 Section 5.1.2.3 of the draft land policy.
- 230 S Van Hoyweghen, 1999, op cit.
- 231 See D Bledsoe, 2004, op cit.
- 232 *Ibid.*
- 233 See for example International Crisis Group, *Rwanda at the end of the transition: A necessary political liberalisation*. ICG Africa Report No. 53, Brussels/Nairobi, 2002.

- 234 See for example L Jones, op cit .
- 235 See S Bugingo, Land 'Crusader' Slips Up, Riles MPs, in *The New Times*, Kigali, 30 July-1 August 2004.
- 236 B Blarel, 2001, op cit; Takeuchi and Marara, 2000, op cit.
- 237 C Andre and J-P Plateau, 1995, op cit.
- 238 Draft Land Policy, 2004, p 16.
- 239 Draft Land Law, May 2004.
- 240 B Blarel, 2001, op cit.
- 241 See D Bledsoe, 2004, op cit.
- 242 Forthcoming study by Centre for Conflict Management, University of Rwanda.
- 243 S Van Hoyweghen, 1999, op cit.
- 244 By means of comparison, the registration process that has been taking place in Kenya for five decades now has required more than 50 years in order to register 1.5 million parcels by the fixed boundary method.
- 245 Draft Land Policy, 2004, p 19.
- 246 The *ubudehe* programme, funded by the EU, is a process of participatory community mapping, problem analysis, and prioritisation of development needs. Approximately 40 out of 106 districts have been covered.
- 247 Interviews, Kigali and Butare, April 2004.
- 248 The Land Law states that "all landowners are required to register their land"
- 249 Indeed, traditional myths and prophecies continue to have political influence, according to sources such as International Crisis Group, 2002, op cit.
- 250 Hutu who had entered into *ubuhake* cattle-contracts were also exempt – though they were few in number. J Pottier, 2002, op cit; B Rutiga, Rwanda: Struggle for Healing at the Grassroots, in MA Cejka and T Bamat (eds), *Artisans of peace: Grassroots peacemaking amongst Christian communities*. Orbis Books, Maryknoll, New York, 2003.
- 251 J-N Nkurikiyimfura, *Le gros betail et la societe Rwandaise*, L'Harmattan, Paris, 1994, cited in G Prunier, 1994, op cit. J Pottier, Taking Stock: Food Marketing Reform in Rwanda, *African Affairs*, No. 92, 1993.
- 252 J Pottier, 2002, op cit. The 'harmonious' narrative was developed largely by Jacques Maquet and Alexis Kagame, writing in the 1950s.
- 253 See J Burnet and RISD, *Culture, practice and law: Women's access to land in Rwanda*, RISD/Emory Project, Kigali, 2001.
- 254 R Palmer, 1998, op cit.
- 255 B Blarel, 2001, op cit; C Andre, 1998, op cit.
- 256 J Pottier, 1993, op cit.
- 257 C Andre and J-P Plateau, 1995, op cit.
- 258 Interviews, Kigali, April 2003; April 2004. The draft land policy also mentions "the increasing hold of the urban elite over rural land", though details of plot sizes are not provided.
- 259 D Bledsoe, 2004, op cit.

- 260 The oft-quoted figure of a 70:30 gender balance after the genocide was revised downwards after 1996. H Hamilton, *Rwanda's Women: the key to reconstruction*, *Journal of Humanitarian Assistance*, 2000.
- 261 Under this tradition, a father would give land as a gift to his daughter.
- 262 Under this tradition, found in Ruhengeri, a father would give a daughter land as a gift when she gave birth.
- 263 Under this tradition, a father could give a daughter land as a farewell gift on getting married.
- 264 Under this tradition, the chief in charge of land would give land to women who were abandoned by their husbands.
- 265 J Pottier, 2002 op cit.
- 266 See for example G Prunier, 1995, op cit.
- 267 Law to Supplement Book 1 of the Civil Code and to Institute Part 5 Regarding Matrimonial Regimes, Liberalities, and Successions. A concise summary and critique of the law is found in A Kairaba, 2002, op cit.
- 268 Children of polygamous marriages will also be excluded from legal inheritance rights. J Burnet, 2001, op cit.
- 269 As stated above, widows are not always able to keep their former husband's land after his death, due to pressure from his relatives. See J Burnet, 2001, op cit, and J Pottier, 2002, op cit.
- 270 J Burnet, 2001, op cit.
- 271 See J Burnet, 2001, op cit, and J Pottier 2002, op cit.
- 272 Many women who have been raped are no longer seen as eligible for marriage. H Hamilton, *Rwanda's Women: the Key to Reconstruction*, *Journal of Humanitarian Assistance*, 2000.
- 273 Interviews, Butare, April 2003.
- 274 Interviews in Butare, April 2004. In fact, the law is not retro-active, though this may not be widely understood.
- 275 Interview with land specialist in Kigali, May 2004.
- 276 J Burnet, 2001, op cit.
- 277 One million Rwandans were internally displaced during 1994 while 1.4 million people returned from Zaire, Tanzania and Burundi in 1996–1997, and about 650,000 were internally displaced in the NW of the country during the insurgency in 1997.
- 278 Republic of Rwanda, *Brookings initiative in Rwanda: Land and human settlements*, MINITERE, 2001.
- 279 S Jackson, undated, op cit.
- 280 This is a follow up of the Kigali Plan 1997 Villagisation – Phase II.
- 281 Byumba has a rate of 4.2%, Kigali Rural 3.0%, Gisenyi 13%, Kibuye 2.3%, Cyangugu 1.4%, Gikongoro 1.2% and Butare 2.8%. Figures for 1999 cited by Marara and Takeuchi, 2000, op cit.
- 282 Draft Land Policy, 2004, op cit.
- 283 S Van Huyweghen, 1999, op cit; L Jones, 2003, op cit.
- 284 A hot debate followed reports, which alleged that that government was forcing people into villages, with government supporters citing

- the importance of security concerns in the process. See Human Rights Watch, *Uprooting the rural poor in Rwanda*. Washington, DC, 2001.
- 285 D Waller, 1993, op cit.
- 286 N Van de Gisien and M Andreini, Legal Quagmires: Wetland use and Development in Rwanda and Zimbabwe, in *Law and anthropology. International lawbook for legal anthropology*. No 9, 1997; cited in J Pottier, 2002, op cit.
- 287 M Jack and N Hitimana, *Natural products assessment report: Potential for economic growth and trade in Rwanda*. ASNAPP, 2002.
- 288 J Pottier, 2002, op cit.
- 289 The incident was widely reported in the Rwandan press at the time.
- 290 J Pottier, 2002, op cit.
- 291 Interviews, Kigali, March 2003.
- 292 This is not a reference to any particular ethnic group, but rather to a small group of powerful, politically connected individuals based largely in Kigali.