Chapter 8
Land grabbing and land tenure security in Post Genocide Rwanda

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1. Introduction

Land is of vital importance to the people of Rwanda and the Rwandan state, both in terms of access to this scarce resource in a densely populated country, and in terms of the symbolic and practical ramifications of changes to different kinds of land uses (subsistence or commercial, individual or cooperative, rural or urban, polyculture or monoculture, etc). In the past, access to land has been a source of socio-political controversy and conflict, particularly during the colonial era and in the decade prior to the 1994 genocide, when land became increasingly concentrated in the hands of political and economic elites. Competition over land is sometimes cited as one of many factors that made the 1994 genocide possible, as will be discussed below. Currently, land tenure is particularly important because of the role of agricultural land, in particular, in an ambitious programme of national economic growth. The Government of Rwanda is committed to reaching the status of a middle-income country by 2020 (MINECOFIN, 2000) and wants the rural sector to drive economic growth, through rapid commercialisation. Accordingly, the government is engaged in several far-reaching rural transformation strategies including a large-scale agricultural reform which relies upon regional crop specialization and compulsory land use consolidation; and a national land registration exercise. In urban areas, many informal or ‘unplanned’ settlements are scheduled for demolition in order to accommodate the construction of buildings for the formal sector (housing, commerce, and infrastructure).

Compared to other Sub-Saharan African countries, the Rwandan state has an unusually strong capacity to monitor and regulate the activities of its local representatives as well as private citizens. It has also demonstrated a general willingness to achieve the ‘Rule of Law’; and so, the state is unlikely to tolerate outright ‘land-grabbing’ in the sense of illegal acquisition of land through intimidation, and/or corruption. The registration of land holdings across the country and issuance of land leases to landholders (see Ansoms, Cioffo, Huggins and Murison, this volume) may potentially reduce land-grabbing. Nevertheless, it is important to realise that the post-genocide Rwandan state has been willing to curtail the land rights of citizens under certain conditions, and that the extent of land-grabbing since the 1994 genocide is far from negligible.
This chapter complements the chapters in this volume by Ansoms et al and Manirakiza and Ansoms by providing more detailed definitions of various kinds of land-grabbing in Rwanda, in the form of a systematic typology of land grabbing. Our personal view is that the strict legal definition of land grabbing (i.e. outright criminal theft of land through intimidation, force, or fraud) is too narrow to encapsulate the complexities of changes in land ownership and use in countries such as Rwanda. In considering the legitimacy of such changes, it is important to consider not only the domestic legal framework, but also relevant international laws (Leckie and Huggins, 2011). While under international law states are free to choose how land is allocated and how rights will be articulated and administered, they must follow a systematic legal procedure when redistributing rights to land. International law outlaws the arbitrary infringement of property rights. The Universal Declaration of Human Rights (United Nations, 1948) and the African Charter on Human and Peoples’ Rights, to which Rwanda is a signatory, bind states to abide by due process guarantees, outlawing arbitrary infringement of property rights. This places responsibilities on the state to provide clear criteria for the redistribution of land rights, and prohibits ad hoc decisions which are not supported by legislation. The Government of Rwanda has generally claimed to have limited the land rights of some citizens only in the interests of the public good; but it has not always explained the logic of those decisions in a transparent way.

The term ‘land grabbing’ used in this chapter, therefore, refers to decisions curtailing the rights to land which have not been part of a systematic process, which lack a clear legal and/or regulatory basis, and/or which have not been shown to be in the public interest. In order to understand how definitions of land rights are changing, it is important to first consider the general structural issues and historical patterns which affect land tenure security in Rwanda. We then provide a systematic typology of land-grabbing in Rwanda, before discussing the various factors that appear to mediate the government’s attempts to limit land-grabbing.

2. A Brief History of Land Tenure Issues

This chapter does not seek to provide an in-depth historical description of land tenure systems, for which readers are directed to works such as Des Forges, 2006; and Burnet and RISD, 2003. Instead, we address some of the major structural and historical patterns that have shaped the way in which land tenure security is framed in contemporary Rwanda.

2.1. Pre-Colonial and Colonial Characteristics

In the immediate pre-colonial period, there were a few different land tenure systems in operation in different parts of the country. For example, in the north-west of the country, heads of customary ‘land-owning’ lineages dominated rural life (Newbury, 1988: 141). They enjoyed considerable power over the farmland rights of those local people who were not members of their lineages, while pasture lands came more directly under the control of the King, or Mwami. At the risk of over-generalizing, it is possible to say that control over land for the ordinary peasant was generally dependent on forms of tribute to these more powerful lineages: either regular tribute (e.g. a symbolic or more substantial payment of agricultural or pastoral produce) or compulsory unpaid labour known as ubureetwa that was contributed by those households who could not claim some connection (through lineage, for example) to the powerful socio-political patrons. The kinds of service performed included fetching water and cultivating the fields of the powerful
– normally the hill chief. If ubureetwa was not performed by any individual, the rights to land of his or her family would be forfeit.

From the mid 19th century onwards, when the categories of Tutsi and Hutu became rigid and codified with senses of power and powerlessness, it was only Hutu who had to perform ubureetwa, a situation that was later formalized by the colonial administration’s policies of overt ethnic discrimination (Vansina, 2004:135). The Belgian colonial regime imposed conditions of forced agricultural production on the rural population from the late 1920s onwards (Newbury, 1988: 154). Chiefs used the ubureetwa labour of the local Hutu population to meet colonial coffee quotas, as well as to work on their own private farms (Newbury, 1988: 142). Therefore, the colonial regime consciously attempted to integrate the political authorities and ‘customary’ practices into the commercial economy, deepening the inequalities associated with a precolonial form of forced labour. By the 1950s, the rural poor, and particularly the Hutu, were complaining loudly about what has been called this “cohesion” of oppressive practices by local elites and the colonial regime (Newbury, 1988). This oppression was closely tied to the fragile nature of land rights, which could be ‘withdrawn’ by powerful chiefs if their subjects did not comply.

2.2. The Post-Colonial Period

The violence of the 1959 ‘Social Revolution’ led to the flight into exile of many chiefs, and the Hutu-led First Republic of Gregoire Kayibanda was established after the formal independence of Rwanda in 1962. The government dismantled feudal structures (for example, igikingi land, which in pre-colonial and colonial times was reserved for cattle pasture and owned by the monarchy, became common property) and claimed to have created a more equitable system of land ownership. However, over time, members of the new state elite misused their power and influence to gain access to land as well as cheap agricultural labour. New systems of patronage emerged, with access to jobs and education representing the ‘currency’ through which clients were recruited by administrators and politically-connected elites. Access to land also became linked to patron-client politics, as public land (such as marshland) was distributed by state officials in return for political or other forms of support (Gasana, 2002).

Illegal land grabbing and land concentration through purchase became particularly widespread during the later years of the Habyarimana regime, e.g. the mid-late 1980s onwards (Mullins and Rothe, 2008: 90). As civil servants, businesspeople and some NGO staff became more and more wealthy, they accumulated land they had bought from the poor, becoming absentee landlords. Development projects, which moreover had questionable benefits for local people, also resulted in a loss of private land (Uvin, 1998: 147; Human Rights Watch, 2001). 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 (Prunier, 1996). Land ownership became more and more concentrated. By 1984, according to one source, approximately 15% of the landowners owned half of the land (National Agricultural Survey, 1984, cited in Uvin, 1998). When multiparty politics was introduced in 1991, opposition parties seized upon these patterns, blaming the ruling party for the poverty of the rural masses, in order to build support in rural areas (Gasana, 2002).
The civil war that commenced with the 1990 invasion of the country by the Rwandan Patriotic Front (RPF), led to an increase in ethnic tensions that culminated in the 1994 genocide, in which some 800,000 Tutsi, as well as thousands of Hutu, were murdered. While space does not permit a comprehensive review of the factors behind the genocide, it is relevant to very briefly consider the possible role of land scarcity, and related competition and disputes over land, as a cause of conflict. Scholars have differed in their assessments of the importance of land issues. Percival and Homer-Dixon (1995: 1) argue that, “environmental and population pressures had at most a limited, aggravating role.” Gasana (2002), in contrast, contends that competition for land and related environmental scarcity and degradation created a favourable environment for intra-Hutu political struggles in the early 1990s. This argument is supported by an in-depth field study which argues that in the early 1990s, competition for land in a particular commune in Gisenyi was so intense that “the social fabric was at risk of falling asunder” (Andre & Plateau 1995: 45). Such studies, then, strongly suggest that land scarcity was an important background or indirect cause of conflict.

Land scarcity, exacerbated by inequitable distribution of land, has also been described as one of the proximate or direct causes of genocidal violence. It has been well-documented that extremist politicians urged people to kill Tutsi and moderate Hutu in order to gain access to their land. (Human Rights Watch/ Alison des Forges, 1999). Verwimp (2005) finds that the land-poor were more likely to be involved in the genocide than those with average sized landholdings.

In addition, government propaganda claimed that if the RPF were victorious, they would redistribute land in favour of the Tutsi (Percival and Homer-Dixon, 1995). The history of fragile land rights and oppression at the hands of local chiefs and the colonial regime made this propaganda seem more plausible to many people.

In summary, competition for land was both a proximate and a background cause of genocide (though by no means the main cause). This should serve as a reminder of the grave significance of land rights and ‘land-grabbing’, as a socio-political issue as well as an economic one.

The RPF came to power militarily in July 1994, ending the genocide, in the face of international inaction. Some two million Hutu left Rwanda, mainly heading for the Democratic Republic of Congo (DRC) and Tanzania. Meanwhile, hundreds of thousands of Tutsi refugees (the so-called ‘old case’ returnees) returned to the country, which had been completely devastated during the genocide. The new Government policy on land was guided by the Arusha Peace Accords of 1993, which “recommended” that refugees who had been out of the country for more than 10 years and whose land had been occupied by others, “should not claim their property”. The returnees were to live in specially constructed planned settlements, known in Kinyarwanda as imidugudu. While some returning Tutsi refugees settled in the thinly-populated eastern province of Umutara, others identified lands which had belonged to their families; most simply chose conveniently-located properties vacated by fleeing Hutu. Probably about 600,000 Tutsi refugees had returned by the late 1990s (Human Rights Watch, 2001: 65; and Van Hoyweghen, 2000). In a later phase, a total

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1 Article 3 of the Peace Agreement Between the Government of the Republic of Rwanda and the Rwandan Patriotic Front, August 4th, 1993.
2 The singular noun is umidugudu.
3 For a case study on returning refugees and related land problems, see Leegwater, 2011
of 1.3 million Rwandan Hutu refugees (the ‘new case’ returnees) returned *en masse* in late 1996 and early 1997. Their land claims often added to the already problematic land struggles that were taking place. The way in which the Rwandan government dealt with these problems will be discussed in more detail further below.

At about the same time, in what is now called Eastern Province, especially Nyagatare and Gatsibo Districts, large ranches were acquired by politically-connected individuals (mostly Tutsi who had returned from exile after the genocide) including senior military officers, politicians, former local administrators and other politically-connected individuals. Extensive areas of the Akagera National Park were excised by the government for the purposes of settling returning ‘old case’ refugees, and it is reportedly locally that some of this land was ‘grabbed’. Other farms and ranches were amassed through the occupation of land belonging to citizens who were displaced, but have since returned to the country. In such cases, those using the land have threatened the original owners, or bribed local officials in order to block administrative efforts to resolve the situation. Land grabbing in Eastern Province will be discussed in more detail further below.

3. A Historical Review of Dispossession and Redistribution of Land in Rwanda:

Since the Genocide, Rwanda has seen rapid and often sweeping processes of change regarding land tenure; some of them associated with central government programmes, while others are more diffuse and perhaps unintended. The following section is an attempt to distill, from Rwanda’s post-1994 experiences of change, some of the more problematic ways in which land has been redistributed by the state, or illegally taken from land users. Not all of the following phenomena are illegal, and many could arguably be justified according to national economic, security, or other priorities. However, they can all be criticised under the criteria developed in the first section of this chapter: they have not been part of a systematic process (and hence are open to accusations of favouritism), and/or lack a clear legal and/or regulatory basis, and/or have not been clearly shown to be in the public interest.

These processes have been categorised according to the category of land involved (privately owned/claimed or public land, controlled by the state), the process involved, and whether or not the dispossession was state-sanctioned.

3.1. State-Sanctioned Uncompensated Expropriation of Private Land (Land Sharing)

In response to the incredible challenge of dealing with the land claims of more than half a million old case-load (Tutsi) refugees and over one million new case-load (Hutu) refugees (see above), the Rwandan government used a mechanism of ‘land sharing’, which is essentially a form of uncompensated expropriation. Land sharing was originally intended to avoid the eviction of secondary occupants who were occupying land belonging to another household: the land was simply divided in two. Those who were compelled to divide their property ordinarily received no compensation for the part lost. Given the general scarcity of land in Rwanda, it is difficult to imagine feasible alternatives that could cope with the massive demand for land as well as the complex legal, political and administrative issues involved. It has generally been implicitly accepted by the international community as a pragmatic response to difficult post-conflict
However, there remains widespread local dissatisfaction over the policy, and/or the way in which it was implemented (see e.g. Leegwater, 2011). For example, even official Government agencies have acknowledged that “it is possible that the experience of land sharing Kibungo and Umutara recently went through has left a bitter taste” (NURC, 2005). The former Kibungo and Umutara provinces experienced the most extensive ‘land sharing’ programmes, because a large number of ‘old case’ refugees returned there.

Land sharing is problematic from at least four perspectives. First, from a strict legal perspective (based on international legal standards; see e.g. Leckie and Huggins, 2011) the policy violates one of the few existing tenets of international law on land and property rights: a requirement that any state action that restricts the property rights of citizens should be done through due process and in accordance with international law. As described above, international law states that expropriation should be done according to transparent criteria applied universally. In Rwanda, some households were made to ‘share’ their land because former owners came back to claim that specific parcel; but in other cases, returnees who didn’t know where their ancestral homes were located (such as those born in exile who had lost their parents) were accommodated by the government through land sharing by citizens who had no connection to a specific land claim. In other words, some citizens seem to have been arbitrarily selected to provide land for returnees. There seems to have been no official or publically-available guidance on how those providing land should be selected. It also appears, based on interviews, that in some places specific sections of society (such as genocide survivors) were exempt from land sharing. Again, there is nothing wrong with such a policy decision, if it had been taken as part of a transparent policy process and had been implemented systematically. It is the arbitrary and ad hoc nature of the decision that is problematic under international law.

Secondly, land sharing was problematic when it provided local authorities and their friends and allies with a means to illegally grab land, or unjustly allocate more land to some people than others. In general, most Hutu were under suspicion of participation in the genocide and were at a great disadvantage in negotiations over land and property. However, power relations in Rwanda are complex and ethnicity is only one of several dimensions which could affect the process. Vulnerable Tutsi (especially widows and orphans) often found themselves dispossessed by local leaders, who in some cases were Hutu. A government study for example found that land sharing remains a major cause of land disputes in Kirehe District, where in some sectors “local authorities were allegedly bribed” or gave land to relatives (NLTRP, 2006:85). Those who tried to speak out against land-grabbing were often intimidated into silence, or fled the country due to fears of punishment. In former Kibungo Province (now part of Eastern Province), a study

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4 Land sharing was also adopted in neighbouring Burundi, some years later (Huggins, 2010)

5 Expropriation by the state is permitted under international law, conditional upon five criteria. First, the expropriation must be subject to law and due process. Secondly, it must be in accordance with general principles of international law; thirdly, it must be in the interests of society and not for the benefit of another private party; fourthly, it must be proportionate, reasonable, and subject to a fair balance test between the cost and the aim sought; and lastly, it is subject to provision of just and satisfactory compensation. Relevant sources of international law include United Nations General Assembly Resolution 1803 (1962) and United Nations General Assembly Resolution 3281 (XXIX) (1974), while procedural law related to rights to land (prohibiting arbitrary infringement of property rights) is included in the Universal Declaration of Human Rights (1948) and many regional Treaties.

6 Interview with member of local land commission, former Murambi Commune, former Umutara Province (now Eastern Province), 25th November 2005. See also Leegwater (2011)
concluded that over half of all land conflicts had their origins in land sharing (Gasarasi and Musahara, 2004). It is impossible to quantify the overall extent of such problems nationwide, but they are by no means unusual.

Thirdly, whereas government officials presented the practice as voluntary, in practice it was forced upon the population by the Provincial authorities. Former local administrators stated that the unpopular measure was taken because it was “an order.” Those who dared to speak out against the policy were harassed. A resident of Nyabwishangwezi, Eastern Province explained: “When we returned to Umutara in 1996, it was a time of intimidation; there were many arrests and disappearances. The authorities divided the land by force. We accepted in appearance – externally – but internally, we were not in agreement. But there was nothing that we could do. There were many people intimidated because of arguing against the sharing of land.” Some of those who refused to cede part of their property to others were punished by imprisonment (Human Rights Watch, 2001). Unsurprisingly, a field study on land ownership found that some people who lost their land “have not accepted this and still believe their land was unfairly given to others” (Republic of Rwanda, 2007: 93).

Fourthly, land sharing has continued to be applied on an ad-hoc basis in Rwanda. Essentially, the ongoing return of refugees has been used to justify a ‘state of exception’ to the usual land tenure regulations. As a result, many land-holders - particularly those in areas where land sharing has been widespread – do not feel secure in their land-ownership. For example, a national-level government survey found that citizens living in former Kibungo and Umutara were the most keen to acquire title deeds to land, probably because they feared further land sharing, and assumed that a title deed would protect them from expropriation (NURC, 2005). With the national-level registration of land complete, international land tenure experts have argued that it is now important that the Government of Rwanda ceases ‘land sharing’ in order to assure that the land leases will be respected. If land sharing continues, it will seriously undermine land tenure security (Bruce, 2007) and complicate the land leasing certification system that has been put in place. At present, based on a draft version of a new land law, it appears that the government wisely intends to cease the use of the land sharing mechanism.9

3.2. State-Sanctioned Expropriation of Private Land Involving Unjust Compensation

As discussed by Manirakiza and Ansoms (this volume) the government has expropriated land and property from thousands of people, especially those living in urban areas. Such expropriations are justified by the government as an attempt to ‘improve’ the quality of commercial and residential buildings, to improve infrastructure (such as sewerage and water supply systems), to increase population density (by building multi-story units), and to enforce existing regulations. However, the general trend of urban expropriation arguably represents a particular view of ‘modernity’ that is biased against local cost-effective building technologies and materials, and is based as much on an image of ‘improvement’ than a concrete reality. Evidence suggests that only a small

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7 Interview with former local administrator, Kiziguro sector, Eastern Province, November 25, 2005
8 Interview with local resident, Nyagatare town, Eastern Province, December 20, 2005
9 Article 68 of the 2013 Land Law retroactively legalises the land sharing that occurred between “nineteen ninety four (1994) and 30th June 2012”; which may imply that land sharing after that date is not legal. However, it does not categorically ban or declare an end to land sharing.
percentage of the population can afford to build using government-approved materials, and that the vast majority are trapped in a housing crisis partly caused by government prohibitions on more affordable materials (Sommers, 2012).

Large-scale expropriation of land has been associated with a number of systemic problems. Concerns over the expropriation process are amongst the most common complaints made to Kigali City Council officials (Ndikubwayezu, 2009). One of the most pressing problems is insufficient compensation (RISD, 2012a). The under-valuation of land and property represents ‘grabbing’ of part of the value of these assets from citizens – often the poor – and a subsidization of the activities of the state and commercial investors. By law, landowners should be compensated within a four month period after land valuation, but in practice, payments are often delayed (Payne, 2011).

The 2005 Land Law provides greater tenure security for residents than the earlier law, as it recognizes customary tenure. Nevertheless, expropriation for commercial development accelerated in late 2005 and early 2006 as a draft expropriation law was under development, and speculators wished to expropriate residents using the regulations set out in the 1996 expropriation law rather than the new law (Ilberg, 2008). The Ministry of lands circulated an official notice in 2005 directing that the compensation values specified in the 1996 law should be tripled to take inflation into account. However, this letter was largely ignored by those calculating compensation packages. The Expropriation law was finally promulgated in 2007.

While problems of undervaluation of citizen’s assets are arguably the result of ‘technical’ failings, there seems also to be a lack of political will to protect the assets of the poor, if this is seen to slow down the momentum of economic ‘development’. Even in a ‘model’ resettlement project, citizen’s legal rights were violated. This case, in Ubumwe cell in Kigali has been documented by Ilberg (2008). Valuations of properties by city staff were much lower than independent valuations (LDGL, 2008) and the government Ombudsman ordered that the expropriation await an independent second valuation process. However, demolition of the neighbourhood proceeded despite his order (Gakire, 2008). The new houses for resettlement were located far from the city, which affected livelihoods, and many resettled citizens had problems affording the mortgage payments (Wakhungu et al, 2009). Moreover, the construction of the resettlement site resulted in the expropriation of former residents, meaning that there were two case-loads of expropriations associated with the project.

### 3.3 State-Sanctioned Privatization of Public Land

Increasingly, public land in Rwanda is being leased by corporate entities for the production of food crops, flowers, bio-fuels or other valuable commodities. According to the Rwanda Development Board, US$116.3m was invested in agriculture in 2011 (of a total of US$ 598 million for all sectors of the economy combined). Of this US$598, approximately US$371 million was foreign direct investment (Anonymous, 2012). While few details are available about these recent investments, older projects have been the subject of research.

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10 Interviews with Lands Ministry staff, Kigali, early 2006.
One of the earliest cases of foreign investment in the agricultural sector is the Kabuye sugar factory, purchased by investors from Uganda (with roots in South Asia) in 1996. The same investors (the Madhvani Group) also lease 3,100 hectares of marshland in the Nyabarongo valley for sugarcane production. Marshland, which is legally the property of the state, has been one of the main categories of land leased to investors (whether foreign or domestic). The benefits to a small number of local people, some of whom are employed as farm labourers by Madhvani or outgrowers, are probably outweighed by the negative impacts on a larger proportion of the community, which “feels impoverished” as a result of losing access to marshes (Veldman and Lankhorst 2010: 26; Ansoms, 2009) and is forced to use hillside plots more intensively to make up for lost production in the marshes. This means that fallow periods have reduced and soil fertility has declined.

Outside the marshes, land acquisition for commercial purposes occurs on a more occasional basis, and usually on smaller land parcels. The GoR has prioritised flower and fruit production as high-value sectors where Rwanda has some competitive advantage. It is currently inviting investment in a 200ha plot in Eastern Province for the development of a high-tech flower farm.\(^\text{11}\) It has also allocated 600ha of land to a maize and soya farm. (Van der Laan, 2011).

In addition to horticulture, the GoR has also enthusiastically embraced the potential of biofuel technologies. It is for this reason that one of the largest foreign land acquisitions to date involves the production of jatropha, for the production of bio-diesel. In 2009, the Government of Rwanda granted an Anglo-American consortium a 30-year lease to 10,000 hectares of land near Akagera National Park in Eastern Province, for the production of jatropha (Kagire 2009b). This represents a massive landholding in a country where the average household landholding is about 0.75 hectares (MINAGRI, 2012). According to the Daily Telegraph newspaper, the consortium has leased the land “for a rent of a few thousand dollars a year” (Mendick, 2012).

### 3.4. Non-state-Sanctioned Grabbing of Public Land

In order to understand the land question in the contemporary context, it is important to consider not only the question of land ownership, but also ways in which forms of control over land use (rather than outright ownership) allows for the value of land – including its productive benefits – to be monopolized by some individuals at the expense of others. For example, access to marshlands (which are all owned by the state) is now possible only through cooperatives (which lease the land – see Ansoms & Murison, 2012) or through state-regulated processes of leasing to large-scale operators such as Madhavani group (see previous section). Evidence from recent research in Rwanda, as well as the problematic history of cooperatives, suggests that while some cooperatives offer real benefits to members, others are extremely poorly managed (Ansoms & Murison, 2012; Huggins, 2012). The term ‘ghost cooperatives’ has come to be used by Rwandans to refer to institutions which are not based on any collective will on the part of the members, but are rather a legal fiction, and a mere institutional shell, intended to allow a few people to profit while the majority derive only marginal benefits. In such cooperatives, members play little or no role in decision-making, and there is little transparency in the sale of produce and distribution of profits, which are often susceptible to theft. Such cooperatives essentially function as pools of

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\(^{11}\) Advertised on the website of the Rwanda Development Board; accessed 18\(^{th}\) July 2012 at [http://www.rdb.rw/rdb/agriculture.html](http://www.rdb.rw/rdb/agriculture.html)
cheap labour, which cooperative leaders can use largely for their private profit. Often, such cooperatives lease marshland or other state-owned property.\textsuperscript{12} While land has not actually changed hands (i.e. it remains the legal property of the state), the profits from that land have been privatized, to a greater-or-lesser degree. Such ‘grabbing’ of profit from public or private lands goes largely unnoticed unless it reaches such proportions that the cooperative simply collapses.

In other cases, public land – such as valleys, hilltops, or land reserved for state infrastructure – is directly taken, without any legal or state backing, by politically-connected individuals. The Gishwati area of northwest Rwanda (former Gisenyi Province; now Rubavu District) provides an example of land-grabbing by local administrators as well as a cabal of state politicians.

The mountainous Gishwati forest, a remnant of ancient woodland in the northwest of Rwanda, was turned into a Forest Reserve in 1930. Following the genocide, large numbers of Tutsi “old case” refugees from neighbouring Zaire (now the DRC) entered the forest with large herds of cattle.\textsuperscript{13} Their presence was at first accepted by the government, particularly as they formed an obstacle to infiltration of the forest by Hutu guerillas from across the border. The government permitted them to inhabit almost 3000 hectares of forest land (UNDP, undated). However, in December 1999, this policy was reversed for environmental reasons, and some 10,154 families were evicted from the forest. Those evicted lived for years in very poor conditions in temporary camps organized by local authorities, or in makeshift shelters along the Ruhengeri-Gisenyi road (Office of United Nations Humanitarian Coordinator, Rwanda, 2000) before being eventually resettled.\textsuperscript{14} Meanwhile, money intended for the resettlement process seems to have been stolen by government officials. In October 2004, the Auditor General’s office noted that the Ministry for Land could not account for some 100,500,346 FRW (more than $184,000) intended to assist those evicted from Gishwati (Maguru, 2004).

Following the eviction of the Bagogwe community, more local people were evicted from the forest area in early 2005. They faced massive delays in being resettled, without adequate shelter or access to land.\textsuperscript{15} Again, corrupt local authorities grabbed land during the resettlement process, according to local people\textsuperscript{16} and the pro-government New Times (Bugingo, 2006).

In 2007, flooding - which destroyed houses and killed at least 17 people - was blamed on environmental destruction on the Gishwati hills, and agricultural activities across a wide swathe of the hills were banned in September 2007 (Tindiwensi, 2007). By February 2008, those affected were still waiting for access to alternative agricultural land, without adequate government assistance or other sources of livelihood (Tindiwensi, 2008a; UNDP, undated). By June 2008, many residents were still waiting to be allocated alternative plots (Tindiwensi, 2008d).

There are two issues here. First is the fact that the state had reversed its previous policy of allowing settlement in Gishwati and hence had a responsibility to provide those evicted with

\textsuperscript{12} Alternatively, cooperatives may use land belonging to the members.

\textsuperscript{13} Many of the returnees were members of the Bagogwe community with family ties in the area.

\textsuperscript{14} Some of the Bagogwe were later housed in imidugudu in Gikongoro Province, but were unhappy at local grazing conditions. Many left for the DRC or other parts of the country. Interviews and observations, Gatare Sector, Nyamagabe District, Southern Province, April 5, 2006.

\textsuperscript{15} Interview with the Mayor of Kanama District, August 19, 2005

\textsuperscript{16} Interviews, civil society representatives, Gisenyi town, August 17\textsuperscript{th} 2005
alternative land in a timely fashion; this responsibility was not fulfilled. Secondly, land was grabbed during the process of resettlement. Corruption was not limited to the local level. A government Agricultural Land Commission allocated land in the area to many people (including several senior government officials) who had no link to the area and were not eligible to receive assistance (Bugingo, 2006). President Kagame has confirmed the corruption, stating: “The same people who try to appropriate land in the Gishwati forest are the same people who have land in Eastern Province and other places” (Kagame, 2007). Despite this public condemnation, and although some of the land-grabbing was overturned, many of those implicated remain in office.

3.4. Non-State-Sanctioned Grabbing of Private Land

Despite the Government of Rwanda’s reputation for a policy of ‘zero tolerance for corruption’, there are some examples of administrators and politicians conspiring to grab land, particularly plots belonging to poor citizens who lack the financial or political means to publicly complain or seek recourse in the courts. As noted by organizations such as Ibuka (a genocide survivors’ organization), many children orphaned by the genocide – who have inherited land from parents and other relatives - have been affected by land-grabbing, either by public officials or by relatives. Rose (2005) notes that the majority of orphans’ opponents in land disputes were family members, but public officials are often guilty of ‘foot-dragging’ on orphan’s complaints, or are bribed to ignore them. In other cases, state-planned villages (imudugudu) were constructed on land belonging to orphans, who have difficulty getting compensation. Orphans who are not genocide survivors also face land-grabbing.

The Batwa indigenous minority has also been disproportionately affected by land-grabbing. They are historically marginalized socially, economically, and politically, and have thus been largely unable to fight land-grabbing. They were expelled from National Parks in the 1980s and early 1990s, without compensation (Huggins, 2009). Some of the land given to Batwa by the King or his agents during the pre-colonial era was seized during the post-colonial period without any legal basis or compensation. For example, a Batwa community which had been given an entire hill in Mugambazi (Kigali Prefecture) by the Mwami during the colonial period saw some 75% of its land forcibly taken by Bahutu neighbours (Lewis and Knight, 1995). There is also a legacy of ‘voluntary’ sale of land, at extraordinarily low prices, by Batwa to non-Batwa. Both before and after the genocide, land was often sold for token payments (such as small amounts of food) by Batwa households suffering from food insecurity. These distress ‘sales’ are typically undocumented and many should be seen as manipulative, and hence legally dubious. However, in a context of general social discrimination against the Batwa, some local administrators still do not take Batwa claims of land-grabbing or exploitation seriously.

Next to specific vulnerable groups, other poor farmers also undergo land-grabbing. Based on fieldwork, a review of legal and regulatory frameworks, and similar experience in several neighbouring countries, it appears to us that grabbing of private farmland is not as systematic or widespread as in other countries in the Central and East African regions, but it is by no means negligible. Mechanisms of grabbing are also different. Often, rather than grab land outright and risk being uncovered, powerful actors force local people to sell for a nominal sum, far below market rates, in order to make the sale seem legitimate. Peri-urban areas close to Kigali are especially badly affected by abuses against the customary land rights of the local peasant population.
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An example: Forced ‘Private’ Expropriation at Below Market Rates

In November 2004, three senior government figures visited Masaka sector, a rural area near Kigali, and identified an area under cultivation by local people, which they wanted to develop. They then enlisted the help of the local administration in forcing the families occupying the land to sell at far below market rates. According to one of the victims of the forcible expropriation, “They are offering too little money – they offered 100,000 FRW for a plot 20m x 100-120 m. I have children – what will they do without a plot? There is no negotiation, there is no choice. The councillor of the sector is insisting that we sell.” Other residents affirmed that the local authorities were pressuring them to accept the money. Some residents were intimidated and threatened with imprisonment by the District mayor and other members of the local authorities. At least one resident was also told that he had a ‘genocide ideology’ because of his opposition to the land purchases.

Despite the unwillingness of the local people to sell, the crops of several of the local residents were destroyed by hired labourers in October 2006. A few days later, the crops of another resident were destroyed, as a large group of angry residents trying to convince the labourers to stop. The owner of the plot had neither verbally agreed to sell, nor signed any contract.

One of the most disturbing elements of this case is the inability or unwillingness of state officials to stand up for the right of the local residents. For example, one of the residents called an official from the Office of the Ombudsman. On hearing the names the influential people involved in the land-grab, she reportedly told local people “what do you think that I can do?” Someone claiming to be a member of the National Human Rights Commission also colluded with local authorities in trying to persuade local people to accept the money being offered. In the face of continuing intimidation, the local residents eventually sold their land for significantly less than market value.

4. Official Responses to Land-Grabbing

The coverage of land-grabbing issues by Rwandan media, reports of the Ombudsman’s office and other institutions, and the perspectives of international consultants and observers all tend to suggest that President Kagame has a low level of tolerance for corruption, including outright land-grabbing. The Government has publically acknowledged the sensitive nature of land ownership and the connections between struggles over land and violent conflict (e.g. MINITERE, 2004; NURC, 2005). Therefore, it makes little sense for the government to allow such a scarce and emotionally-charged resource to become a currency in systems of state patronage. However, there appear to be two factors that limit the willingness of the RPF to completely crackdown on land-grabbing.

17 Interview with residents of Masaka Sector, Kabuga District, Kigali Ngali. October 25 and 29 2006
18 Interview with residents of Masaka Sector, Kabuga District, Kigali Ngali. Oct 25 2006
19 Interviews with residents of Masaka Sector, Kabuga District, Kigali Ngali. Oct 25 2006 and December 21 2006. In Rwanda, ‘genocide ideology’ is a crime punishable by severe sanctions. The legal framework around ‘genocide ideology’ has been vague, resulting in arrests based on minimal or highly questionable evidence.
20 Interview with residents of Masaka Sector, Kabuga District, Kigali Ngali. Oct 25 2006
21 Interview with residents of Masaka Sector, Kabuga District, Kigali Ngali, December 21 2006
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The first factor explaining the somewhat soft approach to punishing most land-grabbers is an economic motive. The Government of Rwanda is completely committed to the radical transformation of the countryside along a paradigm of ‘modernization’ and ‘consolidation’ of the agricultural sector. The Land Policy argues that customary smallholder agriculture is “mediocre” and “has no future” (MINITERE, 2004: 43) and the government generally has little faith in local knowledge or the productive capacities of smallholders (see Ansoms, 2010). The state believes in economies of scale—for example, it removed a proposed 50 hectare land ownership ceiling from the 2005 Land Law—and wants to actively encourage the commercialization of agriculture, the transfer of land to the most profitable uses, and direct investment by domestic and foreign investors. It therefore seems unwilling to punish wealthy actors for land-grabbing, on the assumption that it is these actors, not smallholders, who will lead ‘economic development’.

The second factor is political. Evidence suggests that while low-level government officials routinely risk losing their jobs for land-grabbing behaviour, higher-level personnel (such as those named in the Presidential Commission for Eastern Province) often enjoy impunity, presumably because of their political influence. In particular, it is noticeable that many of those accused of grabbing large plots of land are current or former members of the Rwandan military (the Rwandan Defence Forces or RDF). Some of these same high-ranking army officers are now amongst the ‘inner circle’ of RPF decision-makers. It appears that in order to maintain support amongst the high-level cadre of the RPF, the Rwandan government has chosen to either turn a blind eye to some past episodes of land-grabbing, or (in cases which have become too high-profile to ignore) to redistribute some of the grabbed land without punishing those accused of grabbing (see the section below on Eastern Province). This policy has given rise to a perspective amongst many Rwandan, and international policy and political science experts, that the RPF leadership sometimes allows party loyalists to indulge in a degree of corruption as long as they remain useful to the party. However, if such individuals become seen as disloyal to the party, or if their appetite for graft is seen as unacceptably blatant, then the ‘file’ on their corrupt activities is leaked, forcing the individual to resign, face legal action, or flee the country. 22

The co-optation of civil society groups by the government (see Gready, 2010), as well as the various legal and extra-legal means used to undermine and destabilize civil society groups in Rwanda (Longman, 2011; Reyntjens, 2011), has meant that there are few organizations able and willing to comprehensively and systematically monitor land-grabbing, and fewer still who are willing to speak out about it publicly. Instead, citizens are encouraged to channel complaints through state-controlled institutions and processes, such as the Ombudsman’s office. Where specific ‘clusters’ of grabbing are detected, these are seen as an internal matter, to be handled by the government, without external interference (see for example Ngarambe, 2012), and generally, these cases are dealt with behind closed doors.

There are however occasional exceptions. In response to land grabbing in Eastern Province by military leaders, administrators and other powerful figures in the months and years following the end of the genocide, President Kagame established a land commission in mid-2007 to redistribute land in the Province. The then State Minister in Charge of Lands and Environment, Patricia

22 Phone interview with international academic, February 22nd, 2012, as well as numerous interviews in Kigali, 2005-7.
Hajabakiga, stated that some top government officials’ plots were likely to be redistributed and that about 200 more officials owned over 50 hectares each, a suspiciously large landholding in the Rwandan context (Musoni, 2008). President Kagame has stated that, “certain leaders are indeed guilty... There are also some Ministers implicated” (Kagame, 2007), and has acknowledged that land-grabbing has negatively impacted local people: “sometimes families flee the country because someone has chased them from their land; some have gone to Tanzania and others to Uganda” (Anonymous, 2007).

However, the overall results of this commission’s work were disappointing for several reasons. First, many members of the commission had been involved in land-grabbing themselves, which presented a clear conflict of interest. Second, unlike many state land commissions which investigate land-grabbing, such as the Ndungu and Njonjo Commissions in Kenya, the results of the Presidential Commission were not made public. Second, there was no difference in the treatment of those who acquired large landholdings legally (for example, through purchase) and those who acquired land irregularly. This means that legal owners had their land expropriated and redistributed without compensation, while ‘land-grabbers’ were not given appropriate punishments (Ntagungira, 2008). Third, the commission’s way of dealing with cases of land grabbing was ambiguous given that owners of large parcels (including those accused of having ‘grabbed’ the land) were permitted to retain 25 hectares, while their relatives who live on the land were allowed to retain ten hectares each. In practice, this amounted to legalizing land-grabbing. For example, General Ibingira, the head of the Commission, originally owned 320 hectares. The Commission allowed him and his family members to retain 95 hectares (Kimenyi, 2008).

5. Conclusion

Rwanda is generally perceived by the international community as an island of integrity in an otherwise very corrupt region. While the government tends to have a lower tolerance for land-grabbing than its neighbours, it seems nevertheless to be a not uncommon occurrence in contemporary Rwanda. As this small, densely populated country undergoes rapid changes in both the urban and rural context (brought on by legislative changes, foreign assistance and domestically-created economic growth) the risks of land-grabbing are likely to increase as market prices of land go up. While the government generally follows the liberal economic doctrine that stresses the importance of secure private property rights, it also tends to prioritise economic growth and the demands of investors over the demands of the poor. In order to understand the various ways in which Rwandan citizens are being divested of land or part of the value of their land and properties, it is important to recognise various forms of land-grabbing. To this end, the chapter has attempted to create a typology of land-grabbing in Rwanda, which includes, for example, deliberate under-valuation of land during expropriation processes, as well as the more well-known forms of land-grabbing.

The chapter has also argued that the highest levels of government generally have a vested interest in cracking down on land-grabbing in order to avoid public unrest. Indeed land-grabbing is less common than elsewhere. However, perhaps due to a desire to avoid a recognition of the role of state officials in land-grabbing (which might risk bringing the RPF into disrepute), state responses have generally been both opaque and somewhat lenient towards land-grabbers, particularly those who hold influential positions within the RPF or the army.
In the context of a stated government intention to move hundreds of thousands of rural people off the land and out of agriculture over the next eight years (MINECOFIN, 2000), as well as widespread urban expropriation, efforts to study land-grabbing in Rwanda should examine the phenomena from a broad, critical perspective which looks not only at laws and policies; but also at how they are implemented in a context of rapid change and significant inequalities in wealth and political influence. Rather than utilize a narrow ‘rule of law’ approach, it is important to enquire more comprehensively into the political economy of land tenure and land-grabbing in Rwanda, especially through detailed fieldwork.

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