



Integrating Land Governance into the Post-2015 Agenda
Harnessing Synergies for Implementation and Monitoring Impact

Annual World Bank Conference on Land and Poverty Washington DC, March 24–27, 2014

LAND CONFLICTS AND THE STATE IN RWANDA AND BURUNDI

SHINICHI TAKEUCHI

Institute of Developing Economies – JETRO

Shinichi_Takeuchi@ide.go.jp

Paper prepared for presentation at the
“2014 WORLD BANK CONFERENCE ON LAND AND POVERTY”
The World Bank - Washington DC, March 24-27, 2014

Copyright 2014 by author(s). All rights reserved. Readers may make verbatim copies of this document for non-commercial purposes by any means, provided that this copyright notice appears on all such copies.

Abstract

Land problems in conflict-affected situations have recently attracted considerable attention in the context of peacebuilding. To tackle the problems, it is imperative to understand their relationship with statebuilding process. This paper attempts to clarify the relations through a comparative analysis of Rwanda and Burundi. Although both of these “twin” countries have seen massive refugee returns after the recent armed conflicts, their post-conflict land policies and features of land problems are often contrasting. In Rwanda, despite the radical policy transferring a part of land properties of original Hutu inhabitant for the sake of Tutsi returnees, the government has so far controlled the popular discontents. On the contrary, under the power-sharing government established according to the peace agreement, post-conflict Burundi has failed in implementing effective land policies. Moreover, recent policy changes made by the conflict resolution organization have further destabilized the country. The comparison illustrates that characteristics of land problems as well as effectiveness of land policy depend substantially on the nature of the state-society relationship. In addition to the capacity development in land governance, which is critically needed for Burundi, enhancing state legitimacy in the eyes of citizens are indispensable for both countries in order to establish sustainable land tenure security.

Key Words: Burundi, land conflict, peacebuilding, Rwanda, state,

INTRODUCTION

Armed conflicts and disputes over land are closely connected each other. On the one hand, serious armed conflicts tend to lead an outbreak of land disputes, due to various reasons including massive displacement, paralyzed land governance, and changes of power relations. The tendency has been confirmed in a number of recent armed conflicts, such as those in Bosnia-Herzegovina, Cambodia, Kosovo, South Sudan, and Timor-Leste (Von Carlowitz, 2004; Eastmond & Öjendal, 1999; Fitzpatrick & Monson, 2009; Leonardi, 2011). On the other hand, acute land conflicts can be a fundamental source of large-scale violence, as shown in Colombia and the Democratic Republic of the Congo (Autesserre, 2010; Thomson, 2011). For these reasons, land disputes in conflict-affected situations have attracted considerable attention in the context of peacebuilding (Leckie, 2008; Pantuliano, 2009; Unruh & Williams, 2013).

To tackle the land problems, it is imperative to understand them in relation to the state-society relationship. Land disputes are generally caused by the instability of property rights. In contemporary world, proper function of property rights requires official acknowledgment and effective protection by the state. The nature of the state has a strong influence on characteristics of property rights, and characteristics of land problems are basically determined by the state-society relationship (Fitzpatrick, 2006). In the context of peacebuilding, this illustrates the importance of analyzing land problems in relation to the statebuilding. The analysis is indispensable for policy interventions, and so much relevant as the statebuilding actually constitutes an integral part of peacebuilding (OECD, 2007).

This paper examines how post-conflict statebuilding determines the nature of land problems as well as that of land policies through the comparison of Rwanda and Burundi, two adjoining conflict-affected countries in Central Africa. While the two countries have a number of similarities and are even called “twins”, their post-conflict land policies as well as features of land problems have been different and often contrasting. This paper argues that the differences have derived from those in power dynamics of the two countries in the post-conflict period. The research is based on literature and field surveys in the two countries, in which the author has regularly visited for several years.

One caveat is that this paper deals mainly with land problems caused by the civil wars, particularly by the massive return of refugees. Although both countries have seen a huge number of land disputes independent from effects of the civil wars, in particular within family members essentially due to inheritance, this point will basically remain untouched in this paper because of limited space. In the

following sections, I begin with arguing the significance of the research topic and of the comparison between Rwanda and Burundi. Then, three dimensions with regard to post-conflict land issues will be compared: provision of land for returnees, conflict resolution mechanisms for land disputes, and policy interventions over lands. In conclusion, the different nature of the two states, their effects on land problems, their challenges, and policy recommendations will be laid out.

1. LAND CONFLICTS, STATEBUILDING, AND PEACEBUILDING

Dealing with conflicts over land and properties is now considered to be crucial in the process of peacebuilding. The idea has been mainstreamed, particularly after the adoption of “Pinheiro principle” in 2005 (UN, 2005) focusing the property rights of displaced people. This reflects an emerging interest in the field of peacebuilding. Since the end of 1990s, and particularly after the 9/11 attacks in 2001, the statebuilding came to be the focal point of peacebuilding. In this context, statebuilding has tended to imply the institution building for strengthening the state capacity. However, this trend has invited criticism that on-going practices of peacebuilding and statebuilding have lacked local ownership and served only for elite consolidation (Newman et al., 2009; Richmond & Franks, 2009). Emphasizing the importance of addressing people’s everyday life for sustainable peace, these arguments may be in line with recent views in the DAC, which considers statebuilding as a series of attempts for the establishment of a constructive state-society relationship (OECD, 2008, Manning & Trzeciak-Duval, 2010).

The importance of addressing land conflicts in the process of peacebuilding is quite clear. Firstly, the land is inevitably and deeply concerned with people’s everyday life, particularly in developing countries, in which the majority of population tends to depend on lands through agriculture and stock raising. It is mainly in these developing countries that serious armed conflicts have recently broken out (Holsti, 1996), and therefore enormous efforts for building the sustainable peace have been undertaken particularly since the end of the Cold War. For the improvement of people’s everyday security in such countries, addressing problems over land constitutes one of the most fundamental and indispensable measures.

Secondly, appropriate policy interventions based on the in-depth analysis of land conflicts can address efficiently challenges of the statebuilding and peacebuilding. As often being emphasized in recent literature and policy documents, policy interventions in land are closely linked with the promotion of good governance, as they aim at enhancing legitimacy of the state in the eyes of citizens (Deininger et al., 2012; FAO, 2012; UN-Habitat, 2012). Improving land governance has, therefore, critical importance for

the establishment of constructive state-society relationship and durable peace. While such effective policy interventions may not be easy in reality, since the political elites tend to gain substantial benefits from the existent state-society relations and has no incentive to change it, external actors could play critical roles in order to break up the constraints. In addition, understanding the nature of state-society relationship should be a minimum requirement for external actors offering assistance, because the same policies will have completely different meanings as well as consequences under different state-society relations.

2. COMPARING RWANDA AND BURUNDI

For examining the close relations between land conflicts, land policies, and state-society relationship, Rwanda and Burundi are an interesting combination (Takeuchi, 2013). On the one hand, these two countries are so similar that they are often called “twins”: these adjoining countries shares a number of commonalities, including their hilly landscapes, the high population density,¹ the economic structure heavily depending on agriculture,² and their histories in which considerable violence on the basis of ethnic labels of Tutsi and Hutu³ have been repeated. As a result of the violence, both countries have witnessed a number of massive refugee flows. In Rwanda, the so-called “social revolution” just before independence caused more than 200,000 Tutsi refugees (Lemarchand, 1970, p.172), whose children organized a rebel (Rwandan Patriotic Front, hereinafter RPF) in Uganda and invaded the homeland in 1990. Huge number of Tutsi returnees, estimated more than 600,000 (Huggins, 2009, p.69; Bruce, 2009, p.112), came back to the country following the victory of RPF in 1994⁴.

¹ Population density of Rwanda and Burundi in 2011 was 444 and 334 person per square kilometer, respectively (World Bank, 2013).

² In 2012, Rwanda’s Agriculture constituted 33 % of the total GDP and its rural population had 81% of the total. In the same year, Burundi’s figures were 41% and 89%, respectively (data from World Bank, 2013).

³ While there is voluminous literature on the ethnicity in Rwanda and Burundi, we confine ourselves to providing the minimum information due to the constraint of space. Population of the both countries is composed of three ethnic groups: Hutu, Tutsi, and Twa. Hutu are the majority having more than 80% of the total population and Tutsi are the minority; while Twa are an extremely small group, with only 1% of the population. The three groups share the same language (Kinyarwanda and Kirundi), religion, and they live in mixture in the country. The ethnic divide was particularly widened in the colonial period, and political mobilization on ethnicity has repeatedly resulted in serious violence including the massacres in 1972 in Burundi (mainly against Hutu) and those in 1994 in Rwanda (mainly against Tutsi).

⁴ For detailed description concerning Rwanda’s conflict and displacement, see Takeuchi and Marara (2005; 2009).

In Burundi, the massacre of Hutu in 1972 led by the Tutsi-dominated military caused an outflow of around 150,000 Hutu refugees, particularly from southern regions to Tanzania (Lemarchand, 1994, p.104). During the harsh civil war in the 1990s triggered by the assassination of the president Ndadaye, several hundred thousands of Tutsi were obliged to flee from their home village, due to brutal persecution and killing by Hutu. After the conclusion of peace agreement in 2000, the majority of Hutu refugees came back to Burundi or chose the naturalization option offered by the Tanzanian government.⁵ However, a lot of Tutsi internal displaced persons are still compelled to live in the camps to date (*see infra*).

On the other hand, ways of concluding recent civil wars were contrasting between the two countries. While the Rwandan rebel RPF captured a complete victory against the Habyarimana regime, the civil war in Burundi, being locked in the military stalemate, could come to an end only through the international mediation. Consequently, post-conflict power structures of the two countries have been also contrasting. Having no organized internal opposition in Rwanda, the RPF has kept the strong grip on the state power to date (Beswick, 2010; Reyntjens, 2011). On the contrary, a strict power-sharing system has been introduced in post-conflict Burundi as a consequence of the peace agreement in 2000 (Vandeginste, 2009). Important political positions including the cabinet, the parliament, and the security organizations, have been distributed on the basis of ethnic quotas.⁶ Until recently, the system has contributed to the political stability. However, Burundian politics became apparently destabilized in recent years. As the ruling party, *Conseil national pour la défense de la démocratie–Forces pour la défense de la démocratie* (CNDD-FDD), has repeated tenacious attempts to strengthen its political control (HRW, 2010; ICG, 2011), Tutsi-led minority party *Parti de l'Union et du progrès national* (UPRONA) has mounted stiff resistance, thus culminating the resignation of its three ministers from the coalition government in February 2014. We will discuss this point later in detail.

3. LAND CONFLICTS CAUSED BY THE REFUGEE RETRUNS

Massive refugee returns caused a tremendous numbers of land conflicts in both of the two countries, although their features were quite different. In Burundi, disputes over land have tended to break out between returnees and secondary occupants, who had acquired land rights after the departure of original

⁵ According to the UNHCR, the total number of Burundian returnees between 2000 and 2011 amounted to 548,720 (authors' calculation from *UNHCR Global Reports*). More than 160,000 Burundian refugees were granted Tanzanian citizenship by April 2010 (Nordic Consulting Group 2010, p.76).

⁶ In case of the cabinet and the parliament, 60% of the posts are allocated to the Hutus and 40% to Tutsis. As to the security organization like the military and the police, the post is to be divided in half.

owners (Kohlhagen, 2011). The returnees, who came back to their original places following the conclusion of the peace agreement, have constantly found secondary occupants there. The returnees and the secondary occupants often have different ethnic affiliation. While the returnees are Hutu without exception, many Tutsi can be found among the secondary occupants. Although no statistical data are available, it was quite likely that many Tutsis, who had lived in the central highlands, poured into the southern regions, which had been vacated after the refugee outflow in 1972, because they often had close connections during that period with the local administration, which ardently called for migration⁷. The disputes have been mainly dealt with by the special organization, namely National Commission for Lands and other Goods (CNTB), which was established in 2006 for mediating disputes over land and properties caused by political violence since independence⁸. Taking into consideration difficulties caused by the land scarcity as well as rights of the secondary occupants, the CNTB has given instructions for the conflict parties to divide the disputed lands between the parties. This measure can be regarded as a partial restitution.

In Rwanda, the situation has been different. Following the massive return, the Tutsi returnees were guided to be settled mainly in the eastern part of the country, in which the population density was relatively low. It was a period when almost all of original Hutu inhabitants in the area had fled to neighboring countries, due to the instigation of the former leaders alleging possible retaliation from the RPF soldiers. For this reason, the Tutsi returnees could easily find lands and houses to settle themselves. It was after 1996 when the original inhabitants began to return following the outbreak of civil war in the Democratic Republic of the Congo that tremendous numbers of land disputes arose between the two parties. To deal with this situation, Rwandan authorities instructed that houses occupied by the Tutsi returnees were to be returned to their former owners, but with the caveat that the land should be divided equally between the two parties without any compensation. The practice is officially called “land sharing” (Bruce, 2009; Huggins, 2009; Musahara & Huggins, 2005; Takeuchi & Marara, 2005, 2009).

Rwandan government has legitimized this measure from the necessity to provide land for “any person who was denied of his right to land they used to own before fleeing into exile due to political reasons during the various periods up to 1994”⁹. While it is undeniable that the Tutsi returnees had been deprived of their rights for long years, it does not explain why they could acquire the portions of land from the Hutu inhabitants of eastern Rwanda, who are not the secondary occupants of returnees’ family lands.

⁷ See Ndayirukiye & Takeuchi (forthcoming) for detail.

⁸ Loi No. 1/18 du 4 mai 2006 portant mission, composition, organisation et fonctionnement de la Commission nationale des terres et autre biens.

⁹ Article 3 of Ministerial order No.001/16.01 of 26/04/2010 determining the modalities of land sharing.

Two reasons can be given for the explanation. Firstly, the “land sharing” policy could be regarded as a “*règlement de comptes*” following the war. A huge number of Tutsi refugees decided their return to the homeland following the victory of RPF, which was originally organized by Tutsi refugees in Uganda in the 1980s. The land sharing clearly prioritized Tutsi refugees over Hutu original inhabitants in the east Rwanda, and such a practice could be implemented simply because the RPF, the winner of the war, needed to take care of their core supporters and it had a capacity to suppress the discontent and criticism from opponents. Ordinary people cannot refuse an official policy imposed by a strong government. The Hutu inhabitants had no choice but to accept the land sharing and provide the half of their properties.

Secondly, it was probable that Rwandan policy makers aimed at providing for the Tutsi returnees with viable size of lands. During the decades of absence, the overwhelming majority of original family lands for the Tutsi returnees had been occupied by and/or distributed to Hutu farmers, who had also seriously suffered from the lack of lands. Therefore, Should the returnees go back to their family lands, they had to confront with strong resistance from small farmers and could only get small portions of land. For the policy makers, the settlement in eastern part of the country would have deemed more rational, as the land was relatively abundant there and the returnees were likely to acquire larger plots. There has been a strong belief among them that Rwandan lands have been too much fractionized and this should be prevented. The belief was repeatedly expressed in policy documents including Republic of Rwanda (2004) as well as the land law enacted in 2005¹⁰, which prohibits the division of a land parcel that is equivalent to or less than 1 hectare (article 20).

Even if the practices had a common feature of sharing lands, the idea behind the provision of land for Tutsi returnees in Rwanda was different from the idea promoting the partial restitution in Burundi. Considering the fact that overwhelming majority of the Tutsi returnees had no original relation with the land that he had occupied following the return, Rwandan policy of “land sharing” was near to the land allocation rather than the restitution.

4. CONFLICT RESOLUTION MECHANISMS

For confronting numerous land disputes erupted in post-conflict period, Rwanda and Burundi have taken two major policy measures: strengthening the capacity of conflict resolution and revision of land related laws for securing land rights. This section deals with the first point.

¹⁰ Organic Law No. 08/2005 of 14/07/2005 determining the use and management of land in Rwanda.

Systems and performances of the conflict resolution mechanisms on land disputes are also quite different between the two countries. Specializing in land and property problems caused by the past violence, the CNTB has mediated a huge number of land disputes between the Hutu returnees and the second occupants. According to the annual report in 2012, CNTB resolved since 2006 more than 15,000 cases among more than 25,000 registered disputes (République du Burundi, n.d., p.39). In other words, more than 9,000 cases remain unsolved. As the CNTB originally had no executive power, its mediation were often refused by conflict parties.

However, the CNTB has rapidly changed its characters for a couple of years. Direction of the change has been twofold. Firstly, it has been equipped with much stronger legal and political power. Following the legal amendment in 2009, the CNTB was provided with the legal capacity to execute its own determinations without waiting for the courts' decisions¹¹. This means that the CNTB's decisions are decisive for the concerned parties. The CNTB's authority was further strengthened by the revision of the law in 2011, as it was transferred from the jurisdiction of the First Vice-President to that of the President.¹²

Secondly, the organization has come to be considered as pro-returnees and pro-ruling party. This change was triggered by the installation in 2011 of the current president, Mgr. Bambonanire, who had personal experience as a refugee following the Hutu massacre in 1972¹³. Opposition parties have repeatedly blamed the new president for his stance favoring returnees¹⁴. Under the previous president Kana, the basic principle of the mediation between a returnee and a secondary occupant was to divide the land equally in half¹⁵. However, the new president declared the principle was "abolished" and revised the basic rule to provide two thirds for the returnee and one third for the secondary occupants¹⁶.

The impacts of this policy change have been tremendous, as it has fuelled speculation on the ground. People have begun to believe that the CNTB is pro-returnee, and this has markedly influenced their behavior. On the one hand, some returnees come to take a firm stand against secondary occupants; they

¹¹ Art. 19 of the 'Loi no.1/17 du 04 Septembre 2009 portant revision de la loi no.1/18 du 04 mai 2006 portant missions, composition, organisation et fonctionnement de la Commission nationale des terres et autres biens'.

¹² Art. 3 of the 'Loi no.1/01 du 04 janvier 2011 portant revision de la loi no.1/17 du 04 septembre 2009 portant missions, composition, organisation et fonctionnement de la Commission nationale des terres et autres biens'.

¹³ Interviewed on 25 July, 2013.

¹⁴ For example, see @rib news, 'Burundi: Mgr Sérapion Bambonanire dans l'œil du cyclone', 15 April 2012, http://www.arib.info/index.php?option=com_content&task=view&id=5065 (accessed 16 April 2012).

¹⁵ Interviewed on 27 October 2010.

¹⁶ Interviewed on 25 July 2013.

even ask to revise their previous decision of dividing the land in half. On the other hand, many secondary occupants, expressing their dissatisfaction and fear about the policy change, feel that their confidence in the CNTB has been undermined. Consequently, disputes over land and property recently tend to be exacerbated. Because of the policy changes under the new presidency, debates on functions of the CNTB have been politicized. Since the capture of political power through the election in 2005, the ruling CNDD-FDD has continuously strengthened its control over public institutions through legal as well as illegal means. Burundians understand the CNTB's recent change in this context. Distrust of the CNTB constituted one of the main reasons why tension has critically mounted between CNDD-FDD and UPRONA in the beginning of the year 2014.

In Rwanda, the situation is quite different. Although officials recognize land conflicts among family members to be serious problem, they see those with returnees as negligible. In fact, according to our observation in Southern and Eastern provinces, the number of land conflicts against the Tutsi returnees has considerably decreased in recent years.¹⁷ While the land sharing was a radical policy transferring a half of the property, the RPF-led government has so far succeeded in controlling popular discontent on the basis of its political dominance, exerting strong influence over the administration as well as the justice system.

Rwanda has recently reorganized its conflict resolution mechanisms to be more clearly hierarchical. If you have a problem, you are requested to consult it with a chief of *umudugudu*, which is the lowest administrative unit. The chief is supposed to make efforts for mediation. If the mediation is not accepted by the parties, it will be brought to a chief of Cell, which is the second lowest administrative unit, and its Executive Secretary¹⁸ is in charge of the mediation. When the mediations by the local administrators are not accepted, a local mediation committee called "abunzi" will be in charge of the problem. The "abunzi" system was introduced in 2007 and 12 elected members are supposed to devote efforts for the mediation of local disputes¹⁹. It is obligatory to complete these procedures before bringing local disputes to the court. Both the local administration and the justice recognize the legitimacy of the land sharing policy, and persuade Hutu inhabitants to accept the division of land. In such circumstances, people tend to refrain from voicing their discontents, simply because it is not only in vain but politically dangerous. Obviously, they harbor bitter resentment against the loss of their properties, but there is nowhere for them to express their resentment.

¹⁷ See Takeuchi and Marara (forthcoming) for detail.

¹⁸ In a cell, the Executive Secretary is the almost sole official, receiving a regular salary from the government. He or she is therefore considered to be a delegate of the state in local communities.

¹⁹ Organic Law no. 31/2006 of 14/08/2006.

5. LAND POLICY

Land policies and their effectiveness have been also contrasting between Rwanda and Burundi in the post-conflict period. Rwanda's RPF-led government has adopted a series of land policies characterized by active interventionism. In addition to the above-mentioned land sharing, a number of policies with regard to land have been implemented and produced significant effects on the ground. Four of them are particularly important and deserve brief explanations here: villagization, admission of land rights for women, land consolidation, and land registration.

The villagization program was launched in the late 1990s, when the government recognized an urgent need for providing houses for the Tutsi returnees, who had handed over their once occupied houses for the Hutu original inhabitants following the land sharing (Hilhorst & Van Leeuwen, 2000). The government constructed, with the international assistances, a tremendous number of settlements called *umudugudu* (pl. *imidugudu*). The settlements with well-ordered lines of houses were quite different from Rwandan traditional way of living, in which dwellings used to be scattered on the flank of hills. The construction of settlements was more than a temporary program for the provision of settlement. The government has coherently promoted the villagization all over the territory for efficient use of land (Republic of Rwanda, 2004, p.16), thus causing significant changes in national landscape.

Recognition of women's land rights has also had strong impact on Rwandan society. The inheritance law adopted in 1999 admitted that "all legitimate children of the de cujus, in accordance with civil laws, inherit in equal parts without any discrimination; between male and female children"²⁰. Although Rwanda has traditionally been a patrilineal society, in which only sons had rights to inherit land from their father, the legal recognition of women's land rights triggered a significant change, as women began to actively demand their land rights. In our observations in the field, women's land rights tend to be well recognized in the justice system, which generally follows governmental instructions, and inheritance of land by daughters is now by no means an exceptional case.

The land consolidation is defined as "a procedure of putting together small lots of land in order to manage the land and use it in an efficient uniform manner so that the land may be more productive"²¹.

²⁰ Law No. 22/99 of 12/11/1999 to supplement book I of the Civil Code and to institute part five regarding matrimonial regimes, liberalities and successions. O.G. no. 22 of 15/11/1999 (article 50).

²¹ Organic Law No. 08/2005 of 14/07/2005 determining the use and management of land in Rwanda (article 2).

Under this policy, which has been implemented since the late 2000s, farmers are requested to plant the same crops in defined areas. Typically, farmers are invited to cultivate designated crops such as maize and rice, with the assistance with regard to seeds and fertilizers. This policy is clearly based on the idea of rational and productive land use, which Rwandan policy makers deem indispensable for the land-scarce country.

Land registration was stipulated to be obligatory in the land law in 2005, and has been systematically implemented since the late 2000s. As of August 2013, more than 8 million of the certificates have been provided among more than 10 million of land parcels recorded all over the country (*New Times*, 2013). The rapid implementation was attributable not only donors' assistance but well-designed registration method as well as Rwanda's high administrative capacity (Sagashya & English, 2010).

On the contrary, Burundian policy interventions over lands have been generally delayed and their effects have been quite limited. Women's land right is not yet officially recognized. Although the country revised land law in 2011 and facilitated the ways of land registration²², its implementation is still only in its infancy. No serious effort has been made to resolve the problem of Tutsi internally displaced persons, who have lived in camps since 1993²³. A tremendous number of land disputes among family members are brought to the courts, which have been faced with huge backlog (Kohlhagen, 2009). In short, Burundian government has not been able to carry out effective land policies.

In addition to this lack of capacity, the policy change of the CNTB has done damage to its legitimacy. The clash on 28 May 2013 in the Ngagara area of the capital was one of the consequences²⁴. This was a clash between the police, carrying out a decision of the CNTB, and those who opposed it. The decision was to entirely remove occupants from housing belonging to the 1972 refugees. Though some of the occupants claimed compensation, arguing that they had bought the houses without any information about the original owners, the CNTB completely refused it. The violence was a clear sign of growing dissatisfaction about CNTB, which is increasingly regarded as a tool of the ruling party.

²² Loi no.1/13 du 9 août 2011 portant révision du code foncier du Burundi.

²³ While 281,628 IDPs resided in 229 camps in 2002, the number in 2009 was 157,167 in 137 camps (Rwabahungu and Nintunze, 2009, p.9).

²⁴ See for example, *Ibujumbura* 2013, 'Affrontements à Ngagara, alors que la CNTB entend récupérer une maison "vendue" en 1972', 28 May, viewed 26 July 2013, <<http://www.ibujumbura.net/2013/05/28/affrontements-ngagara-alors-que-la-cntb-entend-rcuprer-une-maison-vendue-en-1972/>>. Another examples was that the opposition between displaced people living in the IDP camp in Ruhororo (Province of Ngozi) and those who live in the surrounding areas has resulted in several attacks on both groups. In November 2012, five people were seriously injured. (See COSOME (Coalition de la société civile pour le monitoring électoral), 2012, *Regain de tension à Ruhororo entre les déplacés et les habitants des Collines environnantes*, viewed 11 February 2013, <<http://www.cosome.bi/spip.php?article1499>>.)

CONCLUSION: LAND AND THE STATE

The state policies and practices over land indicate its intention and capabilities to control the society. Their comparison between Rwanda and Burundi illuminates differences in their process of post-conflict statebuilding. In Rwanda, we could observe a series of attempts made by the RPF for strengthening and institutionalizing its control over land: the land sharing was clearly advantageous for Tutsi returnees, the core supporters of the RPF; the practices of land sharing were formally endorsed in the 2005 land law²⁵; official certificates have been issued for the transferred plots through the land registration. The RPF-led government has maintained a relatively stable political order, which is basically advantageous for the Tutsi returnees and survivors.

On the contrary, post-conflict Burundi has not succeeded in establishing a stable control over land. Due to the weak capacity in policy implementation under the power-sharing system, the country has not been able to make effective interventions in land-related issues. Moreover, Burundian politics has become further unstable following the recent political development. Having strengthened its control over the state institutions, the ruling party does not hide its intention to change the constitution, which has constituted the basis of the political framework in post-conflict period (ICG, 2012). This has been the background of the CNTB's policy change, causing discontent, fear, and anger among the secondary occupants as well as their supporters including the Tutsi-led political party, UPRONA. The organization for conflict resolution is now regarded to be under the influence of the ruling party, CNDD-FDD, thus seriously damaging its legitimacy.

Comparison between the two countries also illustrates challenges they are facing. Rwanda has been often praised for its efficient and progressive land policies. It is true that the country has realized valuable policy interventions with regard to land. The positive effects are not confined to the RPF's supporters. Rwandan women today have had clearly greater security of land rights than under the previous regimes. However, as illustrated in the case of land sharing, it is also true that the some policies have been privileged only a part of the nationals, particularly the Tutsi returnees, and public discontent about such policies has been suppressed. The decrease of land conflicts with returnees does not mean that the problem has been solved. Although people do not voice their complaints, they will never forget them. If

²⁵ The Organic Land Law adopted in 2005 legalized land sharing and exempted it from compensation (Article 87).

the current RPF-led regime lost power to control the society, a lot of claims for the revision of land sharing would arise. Land tenure security in Rwanda substantially depends on the sustainability of current political regime.

In post-conflict Burundi, although the introduction of the rigorous power sharing mechanism has contributed to prevent ethnic tension from mounting, lack of effective policy intervention in land has exerted harmful influence over political stability: tremendous numbers of land disputes remain unsolved; little effort has been made for the integration of Tutsi IDPs living in the camps; a huge number of Hutu returnees are still landless. In addition, the CNTB's recent policy change has not only compromised its impartiality, but created disastrous impacts on national politics. Land problems have been clearly one of leading causes of present political turmoil in Burundi.

The nature and stability of property rights depend substantially on that of state-society relationship. Land tenure security requires a sustainable state-society relationship. To confront actual challenges in Rwanda and Burundi, this point shows valuable insights. While it is imperative for both countries to enhance the state capacity as well as legitimacy in land governance, measures that should be taken will vary. For Burundi, developing capabilities in land governance is acutely needed. The country has critically lacked effective interventions for ensuring land tenure security as well as the impartial conflict resolution mechanism. Rwanda, which has relatively high administrative capacity, needs to promote pro-poor policies, targeting on the poor and land-scarce social group, in particular the Hutu farmers who had lost their lands due to the land sharing. Policies bringing real benefit for the group, which constitutes overwhelming majority of Rwandan rural society, surely enhance confidence and legitimacy towards the government, thus contributing to the constructive and sustainable state-society relationship.

References

- Autesserre, S. (2010) *The trouble with the Congo: Local violence and the failure of international peacebuilding*, Cambridge: Cambridge University Press.
- Beswick, D. (2010) Managing Dissent in a Post-genocide Environment: The Challenge of Political Space in Rwanda, *Development and Change*, 41(2), 225-251.
- Bruce, J.W. (2009) International standards, improvisation and the role of international humanitarian organizations in the return of land in post-conflict Rwanda. In S. Pantuliano (Ed.), *Uncharted*

territory: Land, conflict and humanitarian action (pp. 109–31), Rugby: Practical Action Publishing.

Deininger, K., Selod, H., & Burns, A. (2012) *The land governance assessment framework: Identifying and monitoring good practice in the land sector*, Washington, DC: The World Bank.

Eastmond, M., & Öjendal, J. (1999) Revisiting a “repatriation success”: the case of Cambodia. In B. Richard & K. Koser (Eds.), *The end of the refugee cycle?: Refugee repatriation and reconstruction* (pp. 38–55). New York: Berghahn Books.

FAO (Food and Agriculture Organisation of the United Nations). (2012) *Voluntary guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security*. Rome.

Fitzpatrick, D. (2006) Evolution and chaos in property rights systems: The Third World tragedy of contested access. *The Yale Law Journal*, 115, 996-1048.

Fitzpatrick, D. & Monson, R. (2009) Balancing rights and norms: Property programming in East Timor, the Solomon Islands, and Bougainville (pp. 103-135). In S. Leckie (Ed.) *Housing, land, and property rights in post-conflict United Nations and other peace operations: A comparative survey and proposal for reform*. Cambridge: Cambridge University Press.

Hilhorst, D. & Van Leeuwen, M. (2000) Emergency and development: the case of imidugudu, villagization in Rwanda. *Journal of Refugee Studies*, 13(3), 264-280.

Holsti, K.J. (1996) *The state, war, and the state of war*, Cambridge: Cambridge University Press.

Huggins, C. (2009) Land in return, reintegration and recovery processes: Some lessons from the Great Lakes Region of Africa (pp. 67–93). In S. Pantuliano (Ed.) *Uncharted territory: Land, conflict and humanitarian action*. Rugby: Practical Action Publishing.

HRW (Human Rights Watch). (2010) *Burundi: Closing doors? The narrowing of democratic space in Burundi*. New York.

ICG (International Crisis Group). (2011) Burundi: du boycott électoral à l’impasse politique. *Rapport Afrique*, 169, Nairobi/Bruxelles.

ICG. (2012) Burundi: Bye-bye Arusha? *Rapport Afrique*, 192, Nairobi/Bruxelles.

Kohlhagen, D. (2009) *Burundi: La justice en milieu rural*. Bujumbura: RCN Justice et Démocratie.

- Kohlhagen, D. (2011) Conflits fonciers sur ordonnance: L'imbroglie juridique et social dans les «village de paix» de Rumonge (pp. 41–64). In S. Marysse, F. Reyntjens & S. Vandeginste (Eds.) *L'Afrique des grands lacs: annuaire 2010–2011*. Paris: L'Harmattan.
- Leckie, S. (Ed.). (2008). *Housing, land, and property rights in post-conflict United Nations and other peace operations: A comparative survey and proposal for reform*, Cambridge: Cambridge University Press.
- Lemarchand, R. (1970) *Rwanda and Burundi*. London: Pall Mall Press.
- Lemarchand, R. (1994) *Burundi: Ethnocide as discourse and practice*. Cambridge: Cambridge University Press.
- Leonardi, C. (2011) Paying “buckets of blood” for the land: Moral debates over economy, war and state in Southern Sudan. *Journal of Modern African Studies*, 49(2), 215–40.
- Manning, R. & Trzeciak-Duval, A. (2010) Situation of fragility and conflict: aid policies and beyond. *Conflict, Security, and Development*. 10(1). 103-131.
- Musahara, H., & Huggins, C. (2005) Land reform, land scarcity and post-conflict reconstruction: a case study of Rwanda (pp. 269–346). In C. Huggins & J. Clover (Eds.) *From the ground up: Land rights, conflict and peace in Sub-Saharan Africa*. Pretoria: Institute for Security Studies.
- Ndayirukiye S. & Takeuchi, S. (forthcoming) Dealing with land problems in post-conflict Burundi. In Takeuchi S. (Ed.) *Confronting land and property problems for peace*. Routledge.
- New Times*. (2013) Land office issues 8.4 million titles. 19 August.
<http://www.newtimes.co.rw/news/index.php?i=15454&a=69652> (accessed on 19 August 2013).
- Newman, E., Paris, R., & Richmond, O.P. (Eds.). (2009) *New perspectives on liberal peacebuilding*. Tokyo: United Nations University Press.
- Nordic Consulting Group. (2010) *Evaluation of the protracted refugee situation (PRS) for Burundians in Tanzania*. Copenhagen: Ministry of Foreign Affairs of Denmark.
- OECD. (2007) *Principles for good international engagement in fragile states and situations*. Paris.
- OECD. (2008) *State Building in Situations of Fragility*. Paris.

- Pantuliano, S. (Ed.). (2009) *Uncharted territory: Land, conflict and humanitarian action*, Warwickshire: Practical Action Publishing.
- Republic of Rwanda. (2004) *National land policy*. Kigali.
- République du Burundi. (n.d.) *Commission nationale des terres et autres biens: bilan d'activités période 2006–2011*, Bujumbura: Lake House.
- Reyntjens, F. (2011) Constructing the truth, dealing with dissent, domesticating the world: Governance in post-genocide Rwanda. *African Affairs*, 110(438), 1-34.
- Richmond, O.P., & Franks, J. (2009) *Liberal peace transitions: Between statebuilding and peacebuilding*. Edinburgh: Edinburgh University Press.
- Rwabahungu, M., & Nintunze, A. (2009) *Rapport sur l'étude d'actualisation de la base de données sur la situation de déplacés et des rapatriés encore dans les sites, Ministère de la solidarité nationale du rapatriement des réfugiés et de la réintégration sociale*. Bujumbura.
- Sagashya, D. & English, C. (2010) Designing and establishing a land administration system for Rwanda: technical and economic analysis (pp. 44-67). In K. Deininger, C. Augustinus, S. Enemark & P. Munro-Faure (Eds.) *Innovations in land rights recognition, administration, and governance*. Washington, DC: World Bank.
- Takeuchi, S. (2013) "Twin Countries" with Contrasting Institutions: Post-Conflict State-Building in Rwanda and Burundi (pp. 40-65). In Y. Mine, F. Stewart, S. Fukuda-Parr and T. Mkandawire (Eds.) *Preventing violent conflict in Africa: Inequalities, perceptions and institutions*. London: Palgrave-Macmillan.
- Takeuchi, S. & Marara, J. (2005) Returnees in their homelands: land problems in Rwanda after the civil war (pp 162–191). In I. Ohta and Y.D. Gebre (Eds.) *Displacement risks in Africa: Refugees, resettlers and their host population*. Kyoto: Kyoto University Press.
- Takeuchi, S. & Marara J. (2009) Conflict and land tenure in Rwanda. *Working Paper No.1*, JICA Research Institute.
- Takeuchi, S. & Marara J. (forthcoming) Land Tenure Security in Post-Conflict Rwanda. In Takeuchi S. (Ed.) *Confronting land and property problems for peace*. Routledge.

Thomson, F. (2011). The agrarian question and violence in Colombia: Conflict and development. *Journal of Agrarian Change*. 11(3), 321–56.

Unruh, J.D., & Williams, R.C. (Eds.) (2013) *Land and post-conflict peacebuilding*, Oxon: Earthscan.

UN-Habitat. (2012) *Handling land: Tools for land governance and secure tenure*. Nairobi.

UNHCR. *The Global Reports* (<http://www.unhcr.org/pages/49c3646c278.html> accessed on 7 February 2014).

UN (United Nations). (2005) *Economic, social and cultural rights, housing and property restitution in the context of the return of refugees and internally displaced person, final report of the special rapporteur, Paulo Sérgio Pinheiro, principles on housing and property restitution for refugees and displaced persons*. UN Doc.E/CN.4/Sub.2/2005/17.

Vandeginste, S. (2009) Power-sharing, conflict and transition in Burundi: Twenty years of trial and error. *Africa Spectrum*. 44(3), 63-86.

Von Carlowitz, L. (2004) Setting property issues in complex peace operations: The CRPC in Bosnia and Herzegovina and the HPD/CC in Kosovo. *Leiden Journal of International Law*. 17(3): 599–614.

World Bank 2013, World Development Indicators.

(<http://data.worldbank.org/products/wdi> accessed on 7 February 2014)