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On: 19 April 2013, At: 07:25

Publisher: Routledge

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Journal of Genocide Research

Publication details, including instructions for authors and subscription information:

<http://www.tandfonline.com/loi/cjgr20>

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Version of record first published: 27 Apr 2007.

To cite this article: Laurel L. Rose (2007): Land and genocide: exploring the connections with Rwanda's prisoners and prison officials, *Journal of Genocide Research*, 9:1, 49-69

To link to this article: <http://dx.doi.org/10.1080/14623520601163087>

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Land and genocide: exploring the connections with Rwanda's prisoners and prison officials

LAUREL L. ROSE

Introduction

For the past two decades, a growing number of researchers have focused attention on the problem of environmental scarcity, particularly land scarcity, which they believe can contribute to violence and conflict in some countries.¹ Their work follows in a tradition of linking land matters to war. More specifically, some researchers have argued that land scarcity may be linked to genocidal violence in some countries,² including Rwanda, where land scarcity, along with population pressure, environmental degradation, economic decline, and perceived social disparities, contributed to the ethnic-political conflict that culminated in the genocide of 1994.³ The field research upon which this article is based explored four connections between land and genocide in Rwanda, as suggested by the literature, by interviewing, first, prisoners accused of genocide (mostly Hutu)⁴ about their experiences with wartime and post-war land-grabbing and, second, prison officials (mostly Tutsi) about their fact-finding techniques for assessing prisoners' accounts of post-war land-grabbing. Instead of arguing that land scarcity in Rwanda is linked to or contributed to the genocide, this article argues, on the basis of the interview findings and an analysis of the fact-finding efforts, that the genocide influenced land-grabbing during the war and continues to influence interpretations of and responses to land-grabbing after the war.

Overview

A number of researchers in post-war Rwanda, notably economists and political scientists, have made a statistical link between land and genocide on the basis of quantitative surveys. For example, André and Platteau (1998) argued that people with insufficient landholdings were more likely to commit genocide, and that people with extensive landholdings were more likely to be victims of genocide. Verwimp (2003a, 2003b) argued that people who rented more land

for cultivation, relative to their own landholdings, were more likely to commit genocide, and that people who rented out land (landlords) were more likely to be victims of genocide. Other researchers have made a conceptual link between land and genocide on the basis of qualitative analysis. For example, Bigagaza *et al.* (2002) and Percival and Homer-Dixon (1998) argued that before and during the genocide, people who believed that they would retain their land rights or receive new land rights, if they participated in the genocide, were more likely to commit genocide.

With the exception of these researchers, most observers of the Rwandan genocide have advanced arguments about the presumed connection between land and genocide on the basis of anecdotal evidence. Indeed, the connection between land and genocide is not well understood because little “micro-information” (Uvin, 1998, pp 200, 201) or “micro-data” (Verwimp, 2003a, p 3) has been collected regarding individual motivations and actions before, during, and after the genocide.⁵ Moreover, the “micro-information” or “micro-data” that has been collected thus far has come primarily from quantitative household surveys conducted in select villages, as in the studies of André and Platteau (1998) and Verwimp (2003a, 2003b).

The research study upon which this article is based aimed to add an anthropological dimension to discussions about the land and genocide connection by collecting “micro-information” from in-depth qualitative interviews with about 120 prisoners accused of genocide (genocidists) at prisons in central and southern Rwanda and with about 15 prison officials (mostly directors and social workers) at these four prisons and at the Ministry of Internal Security in Kigali.

The qualitative research methodology of this field study aimed to focus in more depth on the beliefs of one sub-set of the Rwandan population, the accused and imprisoned perpetrators of the genocide. The study also aimed to explore the interpretive processes (i.e. indigenous “fact-finding” techniques) of these prisoners as well as of prison officials regarding the presumed connections between land and genocide. Although a number of genocide researchers in Rwanda have interviewed prisoners and prison officials, none of these researchers have focused on land matters. Finally, the study aimed to analyse specific land disputes that occurred after the Rwandan genocide, an area of inquiry that has received little attention from genocide researchers in Rwanda (or elsewhere). In essence, this study focused upon assembling and organizing Rwandan prisoners’ and prison officials’ stated ideas about land and genocide linkages, particularly in post-genocide Rwanda; it did not assemble broad survey data that might “prove” theories about the causes of the Rwandan genocide or the presumed motives and ideologies of the Rwandan genocidists.

Rwanda’s land tenure system

Before the war and genocide, researchers in Rwanda observed that higher population densities were putting increased pressures on limited land and resources (Ford, 1993; André and Platteau, 1998), with the consequence that

most rural peasants were struggling to meet their basic needs on small customary landholdings that were inherited within families, held according to local rules of occupation, and regulated by local authorities.

After the war and genocide, researchers observed that the victorious leaders of the Rwanda Patriotic Front (RPF), as part of a larger post-war recovery effort, would have to address pre-war problems related to land shortages and land use practices as well as post-war problems related to land occupation patterns (Barriere, 1997; Hoyweghen, 1999). Essentially, the war had worsened Rwanda's land tenure situation, which was proving increasingly unable to accommodate a growing population that predominantly (over 90%) relied upon subsistence agricultural activities conducted on customary landholdings.

Although families and communities had been competing for Rwanda's scarce land resources before 1994, after 1994, the huge population dislocations plunged many communities and families into tumultuous, even violent, land competitions. The residents of most post-war communities experienced a discontinuity and insecurity in land tenure: those residents who had not left their communities during the war were concerned that their pre-war land rights were no longer secure, and those residents who had entered into communities after the war as returning or relocating refugees did not know if they could reclaim pre-existing land rights or claim new land rights (Human Rights Watch, 2001).

Many Rwandans who were imprisoned after the war on genocide charges became concerned about maintaining their land rights: they discovered that they were more vulnerable to and often unable to defend against land-grabbing by either family members or strangers.

Rwanda's post-genocide prisoners

At the conclusion of Rwanda's war and genocide in July 1994, thousands of suspected war criminals were apprehended by the RPF and held for trial in grotesquely overcrowded community jails and urban prisons (Human Rights Watch, 2003, p 18). Wagner (2003, pp 260–261) writes that 800 genocide suspects were detained in mid-August 1994; this number climbed to 10,000 three months later and to 15,000 four months later. The arrest rate at the end of 1994 was 1,500 persons per week. By early 1995, Rwanda's prisons were holding five times their maximum capacity, with the consequence that prisons were sometimes packed at a density of six inmates per square metre (refer to an Amnesty International report of December 17, 2002b; also 2002a).

Rwanda's decimated legal system was charged with processing the cases of more than 100,000 prisoners (about 90% of whom were accused of genocide). In an effort to deal with this heavy caseload, the Rwandan government implemented a limited amnesty programme for the release of prisoners who were elderly, ill, without files, acquitted, or sentenced to community work; it also undertook a policy of trying and releasing prisoners through *gacaca*⁶ trials in which prisoners confessed in exchange for reduced sentences, according to the *gacaca* law of 2001.⁷ The consequence of this policy was that by 2004,

about half of the country's prisoners had been reinvestigated and released through various release programmes, thus bringing the prisoner population down to about 60,000 (Temple-Raston, 2005, p 249). The remaining prisoners are pressing for the facts of their genocide cases to be assessed or reassessed with the hope that they will eventually be released from prison.

Fact-finding after Rwanda's genocide

The process of sorting through the "facts"⁸ of genocide and getting at the truth is not easy, as Dallaire (2003, p 101), the former Canadian commander of the UN forces in Rwanda, has maintained. In Rwanda, as in other recent situations of genocide (e.g. Cambodia, Bosnia, and Sudan), legal records are missing, potential witnesses are unavailable or deceased, and both perpetrators and survivors have a vested interest in conveying their own version of events. Consequently, considerable effort must be devoted to assembling competing facts, and thereafter, to independently and objectively verifying these facts by generally accepted legal investigative methods. The procedures for assembling and verifying facts, i.e. fact-finding, are fundamental to a post-genocide recovery process: they aim to restore the rule of law for a post-genocide country and to achieve reliable and just decisions for both accused and aggrieved individuals.

Although the Rwanda literature has discussed at length the formal fact-finding procedures that are being applied within the post-war trials of accused Rwandan genocidists at the International Criminal Tribunal for Rwanda in Arusha, Tanzania (see e.g. Schabas, 1996; Nahmya and Diarra, 2002), it has paid little attention to the formal fact-finding procedures that are being applied within the post-war criminal trials of accused genocidists within courts and post-genocide *gacaca* in Rwanda. Moreover, the literature has paid even less attention to the informal fact-finding procedures that are being applied within the civil and administrative proceedings involving accused genocidists within customary *gacaca* and prisons in Rwanda. An analysis of these informal fact-finding procedures would indicate how officials interpret, assess, and act upon complaints made against and by accused genocidists.⁹

The literature has not only neglected both formal and informal fact-finding procedures in Rwanda, it has mostly ignored the fact-finding procedures specifically associated with land disputes—procedures that would involve, for example, a determination of land occupation patterns or a verification of land transaction records. In the chaotic land tenure situation of post-genocide Rwanda, in which thousands of refugees are occupying land that other people recently claimed, fact-finding about land disputes is even more challenging and politically "sensitive" than it was before the genocide.

This study of Rwandan prison officials' fact-finding efforts examines two dimensions of the post-genocide land tenure situation: (1) *how prison officials process individual prisoners' land complaints through fact-finding techniques; and (2) whether and how the facts indicate that land rights after the genocide are being shaped by the genocide.*

Four connections between land and genocide in Rwanda

A number of researchers have connected land and genocide in the twentieth century, referring to land scarcity problems or to land distribution policies in different parts of the world. Some of these researchers have attributed the land–genocide connection to external colonial impositions upon societies, thereby maintaining that colonial settlements or policies resulted in land-grabbing and genocidal violence both within small-scale, indigenous societies¹⁰ and within complex societies.¹¹ Other researchers have attributed the land–genocide connection to internal disruptions within societies, thereby maintaining that a dysfunctional land tenure system¹² or ethnic rivalries contributed to land conflict and associated genocidal violence.¹³ Still other researchers have not directly connected land to genocide, although they have inferred that unresolved land issues can contribute to genocide.¹⁴

In Rwanda, researchers have argued that the country’s political elite linked the ongoing conditions of land scarcity with the economic downturn and rising unemployment of the 1980s (C. Newbury, 1998; D. Newbury, 1998; Uvin, 1998). According to the researchers, extremist Hutu elites successfully cast blame upon the Tutsi minority for manoeuvring in ways that would create a future land crisis: the Hutu elite convinced the Hutu masses that the Tutsi-dominated RPF aimed to reestablish political control in Rwanda—either through invasion of Rwanda or through diplomatic manoeuvres at Arusha—in order that the RPF might reassign Hutu land to Tutsi residents in Rwanda and returnees from exile. In essence, the researchers argue that when the Hutu elite told the Hutu masses that all Tutsis must be eliminated through genocide in order to prevent Hutu disempowerment (including land loss), the elite were transferring blame for their own political and economic mismanagement to a vulnerable minority group which they believed would engage in land-grabbing (see Prunier, 1995; Mamdani, 2001; Pottier, 2002).

Several researchers have written about at least four connections between land and genocide in Rwanda: the first two connections concern alleged Hutu land-grabbing before or during the war, and the second two connections concern alleged Tutsi land-grabbing after the war.

Connection 1: some Hutus participated in the genocide in order to prevent a loss of their land to the invading RPF

Extremist Hutu politicians told ordinary Hutus that the mostly Tutsi RPF, if victorious, would redistribute their lands to the incoming “old caseload” (mostly Tutsi) refugees.¹⁵ They stirred up Hutu fears about land loss by arguing that Rwanda could not accommodate both the Hutu farmers and the Tutsi herders (Temple-Raston, 2005, p 6). One example of how Hutus were drawn into the genocide in order to prevent land loss is found in Berkeley (1994, p 18) who writes about a 29-year-old peasant, Alfred Kiruhura, who served with the Hutu death squads responsible for killing Tutsi. This man told Berkeley that he

did not believe the radio reports that claimed that the Tutsi were coming to kill them, but he did believe that the Tutsi were going to take Hutus' land. Consequently, Kiruhura took defensive action.

Connection 2: some Hutus participated in the genocide in order to gain land as a reward

Extremist Hutu politicians urged ordinary Hutus to kill or denounce Tutsis and moderate Hutus in order to gain their land: the politicians offered the victims' land as compensation to the killers for their efforts.¹⁶ In addition, some people—acting on their own initiative—killed or denounced their neighbours as a way to secure rights to contested land (Mamdani, 2001, p 197). Des Forges (1999, pp 563, 300) indicates that the size or number of land parcels that killers acquired "... almost certainly reflected the political weight of the recipients and may also have been related to the zeal shown in slaughtering Tutsi or in driving them from their homes." Apparently, would-be killers were even inspired to act by a "vague hope" that they would obtain the victims' land when "things settled down" (Prunier, 1995, p 248). Two examples of how people participated in the genocide in order to gain the victims' land as a reward are found in Des Forges (1999, p 237) who writes, first, that Pasteur Kumubuga commented at a meeting that "those who killed say that the properties of the victims belong to them" and, second, that someone commented at another meeting that people were cultivating lands taken from victims "to reward themselves for the work they had done."

Connection 3: some Rwandans—both Tutsis and Hutus—used the uncertainty and insecurity about land ownership and rights during and after the genocide as an excuse to grab land

Writing about genocide victims' land, Des Forges (1999, pp 299–300, 408) explains that uncertainties regarding the disposition of victims' land encouraged land-grabbing during the genocide and gave rise to many disputes. According to Des Forges (1999, pp 299–300, 561–564), people were competing so acutely for victims' land plots that some sector authorities were compelled to draw up wartime inventories to mitigate disputes: the inventories revealed that some victims' land had been granted to multiple parties, as had occurred with the land of Laurenti Masabo, which had been granted to 19 landholders. An example of how Hutu villagers used wartime land insecurities to grab land is found in Verwimp (2003a), who describes the minutes of a meeting in Kibuye commune in May 1994, in which the mayor allowed people to cultivate the land of dead families for six months. An example of how a Tutsi returnee used post-war land insecurities to grab a prisoner's land is found in Ngowi (2002), who tells the story of Philbert Mdaهرانwa, an accused genocidist whose land was grabbed by wealthy strangers.

Connection 4: some Rwandans—mostly Tutsis—made accusations of genocide after the war in order to take over the land of both guilty and innocent Hutus

Musahara and Huggins (2005, p 317; see also Des Forges, 1999, p 753) claim that many Hutus so greatly feared being accused of genocide by Rwandans who desired their land that they did not struggle vociferously for their land, lest they be accused of genocide. An example of how someone accused an allegedly innocent Hutu of genocide after the war and thereafter took over his land is found in Temple-Raston (2005, pp 105–106), who writes about Damien Nzabakira, a man whose land was confiscated when he was accused of helping army soldiers kill 40 orphans and some of his colleagues. Temple-Raston implies that the case against him was weak because no details about his supposed killings were provided, he was accused more than a year after the genocide, and his accuser stood to get his job, his house, and his land if he was imprisoned.

As indicated, the literature concerned with the Rwandan genocide has focused more on Connections 1 and 2—the competitions for land that contributed to the genocide—than on Connections 3 and 4—the opportunistic and retributive land-grabbing that occurred after the genocide. The following discussion focuses on fact-finding about land-grabbing after the genocide.

Fact-finding in prisons: exploring the four connections between land and genocide in Rwanda

Interviews with prisoners

In 1995, 2003, and 2004, the author interviewed at length about 120 prisoners (mostly male Hutus) within four prisons in different provinces in central and southern Rwanda: Kigali Central Prison, Butare Prison, Mpanga Prison, and Nsinda Prison. As discussed above, the goal of the interviews was to learn about, first, the prisoners' perspectives and accounts regarding the land and genocide connection, and second, the prison officials' fact-finding efforts to interpret prisoners' accounts.

All the prisoners who participated in individual or group interviews either acknowledged that they had taken other people's land (or property) during the genocide or complained that their land had been taken by others after the genocide. All the prison officials who participated in separate individual interviews said that they regularly engaged in "fact-finding" regarding prisoners' complaints: in effect, the officials served the important role of "gate-keeper" for prisoners' affairs, according to which they received prisoners' complaints (the majority of which concerned land and property matters), debated the merits of the complaints, and determined how and if the complaints should be further processed internally or directed to external local authorities or judicial officials. While on the one hand, the prisoners understood that they were constructing "facts" about their circumstances, on the other hand, the officials were deconstructing their "facts."

During the interviews, several prisoners acknowledged that they had confessed to genocide because they were aware of the *gacaca* law which provides that

prisoners who confess might be released or given a reduced sentence. Most of these prisoners complained that they had not been released from prison because their confessions had not been believed by officials within prisons, courts, or communities.

A number of prisoners indicated that their land had been taken over and occupied by RPF military officers or returnees who had entered the country after the RPF victory (Connection 1). One prisoner, a former local leader, said that government officials had instructed villagers to stop the Tutsis invading from Uganda (RPF) by killing the Tutsis in Rwanda. Moreover, he insisted that the Hutus who had participated in the genocide had been motivated to defend their government from political takeover by the RPF rather than to defend their personal land interests.

Several prisoners acknowledged that some people had participated in the genocide with the hope of eventually gaining land as a reward (Connection 2), although they usually maintained that most people who had grabbed the land and property of genocide victims had acted randomly and without premeditation. One prisoner related that his cell leader had instructed people to “to destroy the houses of the enemy,” without specifically offering the victims’ land and property to the potential killers. According to this prisoner, the unspoken understanding was that the killers could help themselves to the victims’ land and property. In another prison, a former local leader explained, “We did not tell the villagers that they would get land if they killed, but they understood that if they killed they might eventually get land.” He stated that “outsiders from Kigali,” who had been born in northern Rwanda where land shortages were more severe, had promised villagers land and property as a reward for killing.

As might be expected, most of the prisoners who participated in the interviews wanted to complain about post-war threats to their land rights. They usually argued that their land had been taken over by land-hungry people who took advantage of the prevailing circumstances of uncertainty and insecurity about land ownership and rights (Connection 3). The prisoners claimed that the land-grabbers were motivated by opportunism: the land-grabbers knew that most prisoners were unable to defend adequately their land rights while incarcerated, that many prisoners’ family members (particularly wives, brothers, sisters, or children) were unable to defend their land rights because they (the family members) were inexperienced or young, that many prisoners had no land documents, and that many prisoners’ local authorities refused to deal with their land complaints.

According to the prisoners, people resorted to one of four methods for grabbing their land. First, some people simply occupied their vacant land. Second, some people grabbed their land after they had evicted the family members or other parties whom the prisoners had granted occupation rights. Third, some people refused to renew the land agreements that they had made with the prisoners before the war. Several prisoners complained that renters refused to pay them rent or to vacate their land upon the expiration of rental agreements. Fourth, some people “altered” the land agreements that they had made with the prisoners before the war. Several prisoners protested that after they were imprisoned, renters

suddenly began to claim falsely that they had purchased rather than rented land from them.

When a prisoner believed that someone had grabbed his land, he usually wrote a complaint letter that he submitted to the prison officials. Most prisoners' letters requested that their local authorities take a particular action, such as authorizing their family members, friends, or neighbours to occupy their land or to act with "power of attorney" in order to pursue land disputes on their behalf or to receive monetary benefits from investments or compensations involving their land.

Prisoners were most likely to depend upon their family members to assist them in maintaining their land rights or in protesting the alienation of their land rights. Nonetheless, some prisoners' family members were unwilling or unable to protect their land rights. A relative who was unwilling would use a prisoner's land in unacceptable ways or transact it without his permission, usually in order to advance his own financial interests or to rectify past grievances. One prisoner protested that his wife had obtained from the district office a fraudulent certificate for his death in order that she could sell his houses. A second prisoner said that his paternal grandmother and aunts had sold most of his land without his permission, insisting that he did not need the land since he was in prison. A third prisoner said that his sister had sold his land because she was angry that he had not provided sufficient bridewealth cows for her marriage.

Although most prisoners complained about the land usurpations of their relatives, some prisoners complained that their neighbours or strangers encroached upon their land rights. A neighbour or stranger would occupy a prisoner's house or cultivate his land, without offering compensation. Two prisoners complained that their local authorities had reassigned their land to other people. One prisoner said that his sector leader had threatened to reassign his land if he (the prisoner) did not forgive his (the leader's) outstanding debt of a cow.

Those prisoners who claimed to have lost their land rights after the war due to genocide accusations (Connection 4) indicated that this had occurred in three types of exploitative situations. First, a person (the prisoner) was still in exile when a land occupant preemptively accused the person of genocide in order to prevent him from returning and claiming his land. Second, a person (the prisoner) returned from exile to discover that someone was occupying his land. The land occupant then accused the returning refugee of genocide and had him imprisoned in order that he could retain the land. Third, a person (the prisoner) was occupying his land and another person accused him of genocide in order to take over his land for his own (the accuser's) or an associate's benefit. In all situations, regardless of the validity of the genocide accusations, the prisoners believed that the accusations were unjustifiably linked to land interests.

Prisoners maintained that most people who had accused them of genocide and grabbed their land had done so because of their personal need, their desire to compensate personal losses suffered during the genocide, or their desire to even out personal pre-genocide grievances. One female prisoner said that a neighbouring woman, who was occupying her house and using her land, had accused her of

revealing her husband's hiding place during the genocide, thus causing his capture and death. Several female prisoners said that their co-wives or neighbours, with whom they had not been on good terms before the war, had accused them of genocide and taken over their land.

Alternatively, some prisoners maintained that the people who had accused them of genocide and grabbed their land had done so because of their desire to achieve retribution for ethnic losses during the genocide. One female prisoner said that a neighbouring woman had falsely accused her of genocide and turned over her land and house to returning "old caseload" refugees.

Most of the prisoners said that their neighbours or other community members were their accusers, but several prisoners claimed that their own family members had accused them of genocide in order to avoid sharing family land with them. One female prisoner said that her brother had not wanted to give her a plot from the family land and had therefore accused her of genocide. One male prisoner said that his brothers, who had already divided the family land among themselves in the belief that he had died during the war, accused him of genocide after he unexpectedly returned from exile.

Interviews with prison officials

According to prison officials, those prisoners who confessed to genocide insisted that they had acted in defence of their country or in compliance with the demands of their local leaders or fellow citizens.¹⁷ The officials believed that most prisoners did not specifically confess to killing for land because that would have indicated that they had been motivated by a desire for personal gain.

The prison officials generally believed that most prisoners had no legitimate complaints about land-grabbing (Connection 3) and that most prisoners who linked genocide accusations and post-war land-grabbing (Connection 4) did so in order to "argue their cases," to nullify genocide accusations against them, or to mitigate their guilt. Importantly, most prison officials refused to believe prisoners' claims that they had recently been accused of genocide by land-grabbers: the officials believed that most "old caseload" refugees had claimed land immediately after the war and were no longer motivated by land hunger such as to accuse people of genocide. One prison social worker even maintained that prisoners were lying when they said that land-grabbers had accused them of genocide; instead, she insisted that the prisoners were concocting complaints about land confiscations to divert attention from genocide accusations against them.

Several prison officials explained that investigators can easily look into prisoners' claims that they were accused of genocide by land-grabbers. According to the officials, an investigator can engage in two forms of fact-checking: (1) examine the dossier of a prisoner to discover the nature of the genocide accusation and the name of the accuser; and (2) go to the community where a prisoner claims his land is located and discover the person who is occupying the land and identify the person who the neighbours say legitimately owns the land. According to the officials, such fact-checking would reveal the person who accused the prisoner

of genocide and whether that person is occupying the land claimed by the prisoner. The officials maintained that an investigator would likely discover that a prisoner's relatives are living on the land, that someone other than the land occupant accused a prisoner of genocide, or that a prisoner had never owned or occupied the land in the first place.

In reality, as the case study below demonstrates, prison (as well as administrative or legal) officials encounter various challenges in their fact-finding investigations into prisoners' claims that land-grabbers accused them of genocide: discovering the person who initiated the genocide accusation against a prisoner and further verifying whether the accusation is true; verifying whether a prisoner occupied the disputed land before the war (i.e. discovering pre-war land documents); identifying the various claimants to the land after the war; and verifying the statements of witnesses about the history of the land occupation.

Case study of a prisoner who complained that a genocide accusation was linked to land interests

The following in-depth case study illustrates the facts of a land dispute, as presented by Prisoner P, and the fact-finding methods employed by the Director of Prisons and several other parties in reasoning through and evaluating the prisoner's presentation of facts. This case, which shares many aspects in common with other cases collected by the author, is presented to illustrate how debates about land are influenced by the genocide but also are influencing post-genocide recovery.

Prisoner's presentation of facts

The prisoner (P), a Hutu man in his late 50s, was a well-respected medical assistant before the war.

In the 1960s, P acquired two land plots. One plot, which P took over when its Tutsi occupants fled Rwanda as refugees, is in Gitarama Province. After the 1994 genocide (in 2001), P disputed about the plot with the original claimants when they returned to Rwanda. Eventually the parties resolved their dispute. The second plot, which P acquired together with a man, is in Umutara Province (formerly Kibungo Province). After the 1994 genocide (in 2003), P disputed with that man's son, L, an influential RPF captain with government connections. According to P, L's brother, who died during the genocide, had sold their father's land share to him (P) in 1974 and therefore he (P) currently owns the entire plot. (P's explanation of the land transaction is a bit sketchy.) P acknowledges that L believes that the entire plot belongs to him. P says that his name is still in the land registry from the transaction in 1974 and that he has many witnesses who can attest that the plot belongs to him. However, P says that he does not have a land document to prove his claim because he lost it while in exile in Congo.

P insists that his ongoing dispute with L about the second plot in Umutara Province is linked to the genocide accusation that resulted in his imprisonment.

According to P's version of events, he returned from exile in Congo in 1996 and occupied the plot together with L and his brothers. Their land sharing arrangement broke down in March 2003 when several former colleagues of P accused him of having "incited genocide" together with the former mayor, a notorious genocidist, during the war and of having "bad mouthed" the new *gacaca* after the war. As a result of the accusations, P was imprisoned.

Two days after entering prison, P received a notice ordering him to attend a hearing at a Canton Court in Umutara Province where the disputed plot would be discussed. Unfortunately, P was unable to attend the hearing and defend his land rights because he was not authorized for release from prison. According to P, L had intervened to prevent his release. The court decided against P, and several months later, his wife was evicted from the land.

P insists that he is innocent of inciting genocide. To the contrary, he maintains that L wanted his land and therefore relied upon "puppets" (P's former colleagues) to make genocide accusations against him. P says that L could not directly accuse him since he (L) was not in the area during the genocide.

Officials' fact-finding

During their informal fact-finding endeavours, the Director of Prisons and several other parties interviewed P and others about the land dispute. They investigated, interpreted, and weighed the various alleged facts relevant to P's complaint that he had been accused of genocide by a land-grabber. Their fact-finding resulted in arguments both for and against P's complaint.

Fact-finding in P's favour

- 1) *P was accused of inciting genocide in 2003, nearly nine years after the war.* The fact-finders argued that if P had actually been involved in the genocide, his accusers would have made their accusations earlier.
- 2) *P had lived on and used the land since 1974.* The fact-finders argued that if L really believed that P did not own the land, he (L) or his family members would have claimed the land earlier.
- 3) *L made his land claim against P two days after P was accused of inciting genocide.* The fact-finders argued that L's land claim against P was likely linked with other people's genocide accusations against P since the separate events occurred almost simultaneously.
- 4) *L made his land claim only after his brother, who allegedly had sold the land to P in 1974, had died, and only after his father had become too old and infirm to answer questions about earlier land transactions.* The fact-finders argued that L had waited until everyone who could contest his land claim was either dead or incompetent.
- 5) *The former provincial leader had granted the disputed land to P when he returned from exile.* The fact-finders argued that the leader would not have allowed P to use the land if he did not believe that it belonged to him.

- 6) *P had allegedly criticized the gacaca process.* One fact-finder determined that this assertion was true although he concluded that it did not prove that P had incited genocide. This fact-finder argued that L may have used P's statements against the *gacaca* (an offence which can result in imprisonment) as a means to mobilize P's former colleagues against him.
- 7) *P was allegedly a friend of the notorious, genocidal mayor.* One of the fact-finders spoke to members of P's community who insisted that P was not a friend of the mayor and in fact belonged to a different political party. Still, community members tended to view P as an "outsider" who came from Gitarama Province and was not a "land brother."

Fact-finding not in P's favour

- 8) *P was a "land-grabber" himself, having taken over land from Tutsi refugees who fled the country in the early 1960s.* The fact-finders argued that P's separate land-grabbing incident might indicate his predilection for improperly claiming land.
- 9) *P did not immediately reveal to the fact-finders the nature of his land transactions with L's brother in 1974.* The fact-finders argued that P's initial concealment of facts might indicate that his land claim was not legitimate.
- 10) *P eventually admitted to having bought the disputed land from L's brother in 1974 without the consent of L's father.* The fact-finders argued that P must have lied about this land transaction because by custom L could not have alienated his family land without his father's consent.
- 11) *L's brother had died under mysterious circumstances during the 1994 genocide.* The fact-finders argued that P could have been involved in L's brother's death during the 1994 genocide since that would have eliminated the one person involved in the 1974 land transaction who could contest P's land claim.
- 12) *P did not have land documents to prove his claim of land ownership.* The fact-finders debated whether P had really lost his documents in the Congo while in exile, as he claimed, or whether he was concealing the documents because they indicated land occupation arrangements contrary to his claim.

Analysis of the case study

At the time of the author's departure from Rwanda in 2004, prison and judicial officials were still investigating P's complaint that he had been falsely accused of genocide by people who were acting in collusion with a land-grabber (L). In their investigations, the officials examined the chronology of events and the statements of the disputing parties and witnesses regarding land ownership and P's alleged complicity in genocide. The officials determined that the facts supporting P's complaint indicated the following: the simultaneous timing of the genocide accusation and the alleged land-grabbing attempt suggested a connection between the events (points 1–4); P was supported by a high ranking person and

therefore his complaint should be taken seriously (point 5); and two facts underlying the genocide accusation were insignificant or false and therefore should be disregarded (i.e. regarding the *gacaca* and the former mayor) (points 6 and 7). In addition, the officials determined that the facts not supporting P's complaint indicated the following: P had been involved in another land dispute (point 8); P had not been completely forthcoming about the history of the land transaction (points 9–11); and P had no documents to support his land claim (point 12).

On the whole, after informally evaluating the various asserted “facts” that either supported or refuted P's complaint, the officials determined that the former seemed to be more numerous, substantial, and verifiable than the latter. In essence, the fact-finders were leaning toward the conclusion that P's complaint had merit and should be investigated further by judicial officials.

Follow-up: by 2006, after having spent about two years in prison, Prisoner P was released. He returned to his community, where he again occupied his previous residential land but was not permitted to use his previous agricultural land. At this writing, the local council is still reviewing his case.

Discussion: assessing fact-finding in Rwanda's prisons

In Rwanda, fact-finding efforts are essential for assessing acts of genocide and achieving some approximation of justice. The Rwandan prisoners who were interviewed revealed that they had presented the “facts” about genocide creatively (selectively acknowledging and conveying the facts of their cases) in order to persuade the fact-finders to interpret events in their favour. For their part, the Rwandan officials revealed that they engaged in creative fact-finding when investigating genocidal events (i.e. assessing and comparing various accounts about the events). The officials' interpretations of alleged “facts” were based upon their logic and intuition; their methods of interpretation aimed to evaluate the cogency of prisoners' alleged “facts,” to ascertain valid facts, and to determine how valid facts should be pieced together to explain complex events. The officials knew that many prisoners moulded their definitions of genocide, as well as their accounts of their behaviours, to conform to their personal interpretations and their desire to limit their culpability.

In this study, the prisoners who participated in the interviews mostly discussed their difficulties in maintaining their land rights while in prison, complaining that they were forced to argue the “facts” of their land ownership claims to prison officials, local authorities, and court officers. The prison officials who participated in the interviews acknowledged that they frequently had to resort to interpretive fact-finding regarding prisoners' complaints about land-grabbing because of the challenges involved in verifying the alleged facts (mostly due to a lack of written documents and witness accounts).

The prisoners and prison officials usually dissimilarly interpreted the “facts” when determining, first, the legitimacy of a prisoner's land claim and, second, the possibility that a genocide accusation against a prisoner was motivated by land-grabbing. From a prisoner's perspective, when his land claim was not

linked to a genocide accusation (Connection 3), two important facts required interpretation: (1) if he had no documents to prove his land claim or if the documents available at different land offices (e.g. the government ministry, town council, or prefectures) indicated another land owner, then the explanation was that he (the prisoner) had lost his documents during the genocide or that the documents had been altered through the bribery of powerful land-grabbers; and (2) if the local authorities refused to help him (the prisoner) pursue his land claim (and he had to take his complaint directly to the courts), then the explanation was that the authorities were biased against him or had been bribed by his opponents.

In addition, from a prisoner's perspective, when his land claim was linked to a genocide accusation (Connection 4), three important facts required interpretation: (1) if he was accused of genocide by the same person who claimed his land, then the genocide accusation was motivated by land-grabbing; (2) if he was accused of genocide at the same time that he was pursuing or defending a land claim, then the accuser was trying to prevent or to usurp his land claim; and (3) if he confessed to genocide and was not released from prison or he was released from prison but was subsequently re-imprisoned, then a land-grabber wanted him to remain in prison so that he could control his land.

As a contrast, from a prison official's perspective, when a prisoner complained that his land claim was linked to a genocide accusation (Connection 4), three important facts required interpretation: (1) if a prisoner did not reside in his home area and pursue his land claim immediately upon his return from exile, then he was guilty of genocide and was "hiding out" (i.e. he feared being spotted by genocide survivors in his home area); (2) if a prisoner with a land dispute avoided the local authorities and immediately approached judicial authorities about his land dispute, then the prisoner was guilty of genocide and was afraid that he would be accused in his community; and (3) if a prisoner omitted or lied about important facts when relating his land problems (e.g. where he was residing when he returned from exile or where his family members were currently living), then he was guilty of genocide and was fabricating his land claim.

Although the prisoners and prison officials tended to have different interpretations of the "facts" that proved the legitimacy of prisoners' land complaints, they tended to have similar perspectives regarding the obstacles that prisoners worked against to maintain their land rights. They agreed that a prisoner was likely to fail in pressing his land claim under the following circumstances: (1) he did not have sufficient money to pursue his land claim (e.g. to obtain land documents that substantiated his claim or to pay legal council to pursue his claim); (2) he was not eligible for release from prison to collect documentation, to conduct investigative work, to locate witnesses who could verify his claim, or to attend proceedings that addressed his land claim; (3) he had no relatives or friends outside the prison who were competent or willing to pursue his land claim on his behalf; and (4) he could not persuade officials to respond to his complaint about land confiscation because they had no incentive to assist, had other directives to pursue, were pressured from well-placed community members not to respond, or had themselves confiscated his land. Conversely, the prisoners

and prison officials agreed that a prisoner was more likely to succeed in pressing his land claim under the following circumstances: (1) he possessed documents that proved his land claim; (2) he was eligible for (temporary) release from prison or had another person to pursue his land claim; and (3) he was able to persuade officials to address his complaint.

When interpreting the facts associated with prisoners' specific land complaints, the prisoners and prison officials further revealed their perspectives regarding various aspects of the general land and genocide connection:

- *The occurrence of land-grabbing during various phases of the genocide.* Many prisoners acknowledged that they had occupied other people's land during the genocide, and many complained that their land had been grabbed by people after the genocide. The prison officials agreed with prisoners that land-grabbing had occurred during all phases of the genocide, although they did not necessarily believe a particular prisoner's complaint of land-grabbing.
- *The organization of land-grabbing during and after the genocide.* Many prisoners acknowledged that either local or national leaders had organized land-grabbing during the genocide, and they also argued that land-grabbing had been organized after the genocide through government policies, such as village settlement (*imidugudu*) and land sharing. The prison officials agreed with prisoners that some land-grabbing activities had been organized during the genocide, but they did not agree that land-grabbing had been organized after the genocide.
- *The politicization of land-grabbing during and after the genocide.* Both the prisoners and the prison officials agreed that land-grabbing was politicized during the genocide, but they did not agree about the politicization of land-grabbing after the genocide. Many prisoners stated that specific land-grabbing events after the genocide were part of a retributive land-grabbing initiative, whereas most prison officials argued that land-grabbing events after the genocide consisted of individual acts of occupying unclaimed, unused, or inadequately used land.
- *The ethnic dimensions of land-grabbing during and after the genocide.* Many prisoners suggested that land-grabbing was organized on an ethnic basis, involving mostly Hutus during the genocide and mostly Tutsis after the genocide; the prisoners also suggested that land-grabbing activities represented acts of ethnic assertion or retribution by both Hutus and Tutsis. At the same time, the prisoners acknowledged that most land-grabbers were primarily motivated by personal need, greed, or opportunity. Many prison officials agreed that land-grabbing during the genocide had ethnic dimensions, but they denied that land-grabbing after the genocide had ethnic dimensions. Instead, they suggested that land-grabbing after the genocide was always based on individual desires for personal gain. Interestingly, the prisoners seemed to concur with the officials' explanations when they (the prisoners) described their own experiences with land-grabbing after the genocide: they maintained that most often other Hutus—usually family members rather than neighbours or strangers—had

grabbed their land for non-ethnic reasons, and that even when Tutsis had grabbed their land, they had not necessarily done so for ethnic reasons. Basically, most of the prisoners who insisted that post-genocide land-grabbing had an ethnic dimension had personally experienced land-grabbing by neighbours or strangers that was linked to a genocide accusation.

Conclusions

Most Rwandans reside in rural areas and depend upon their land to meet their subsistence needs. Before the genocide of 1994, they struggled to maintain their land rights in a context of rapid population growth and inadequate land policies; after the genocide, they have struggled to maintain their land rights in a context of massive population shifts and controversial land policies, such as land sharing.

The Hutu prisoners and Tutsi prison officials who were interviewed about land-grabbing events during and after the genocide interpreted the facts of genocide and land-grabbing differently. Just as Mamdani (2001, p 221) wrote that he obtained different accounts from Hutus as opposed to Tutsis regarding genocidal behaviours, this study obtained different accounts from Hutu prisoners as opposed to Tutsi prison officials regarding land-grabbing behaviours during and after the genocide.

In general, the interviews with prisoners revealed that the prisoners believed that many people used the uncertainty and insecurity about land ownership and rights after the genocide as an excuse to grab prisoners' land—sometimes in association with a genocide accusation. As a contrast, the prison officials argued that many prisoners had been involved in the genocide with the intent to grab land, and that after the genocide, some prisoners accused other people of grabbing their land in order to divert attention from their genocidal activities.

More specifically, the interviews with prisoners indicated that many prisoners believed that their land rights were vulnerable such that a number of them had lost land rights that they could not defend while incarcerated. At the same time, the interviews with prisoners indicated that at least some prisoners had lost their land rights due to genocide accusations.

The in-depth, qualitative interviews with prisoners served to investigate prisoners' beliefs about motives, but the interviews clearly could not reveal either the actual motives of specific prisoners in committing genocide and in grabbing land during the genocide or the actual motives of specific genocide survivors (or others) in accusing people of genocide and in grabbing their land after the genocide. Moreover, although the observations of prison officials' fact-finding techniques served to reveal how officials investigated and weighed the merit of individual prisoners' assertions that land interests were connected to genocide accusations against them, the observations could not reveal the veracity of specific accusations of genocide or specific accusations of land-grabbing. Nonetheless, even though the interviews and observations could not prove either the motives or the actions of specific people, they did reveal the complexity of belief

systems that serve to order and make sense of the diverse motives and actions associated with the genocide.

As an illustration of the complexity of belief systems, one might consider the variety of motives that the Hutu prisoners attributed to Tutsis in order to explain why the latter occupied the formers' land after the war: some Tutsi returnees discovered and wanted to take advantage of vacant land; some Tutsi returnees wanted to reoccupy their own family land that had been taken over by Hutus following their (the Tutsis') exodus from Rwanda in the late 1950s or early 1960s; some Tutsi survivors wanted to grab land that belonged to Hutus whom they believed had killed either their relatives or other people during the genocide; and some Tutsi returnees and survivors wanted to grab land that belonged to Hutus who were not suspected of any specific genocidal killings but whom they wanted to hold responsible collectively for the genocide.¹⁸

In effect, this study of the land and genocide connections in Rwanda does not suggest that land was either a direct or primary factor motivating the genocide, but it does maintain that the genocide provided the opportunity for individuals to grab land that they otherwise would not have had access to—both during and after the genocide. Essentially, this study concludes that specific land relations evolved in conjunction with various phases of the genocide, such that as the genocide progressed from the first phase of killings into the post-war recovery phase, different individuals took advantage of the circumstances associated with the genocide to claim land rights.

Also important is the fact that this study was primarily concerned with individual land competitions and individual interpretations about these competitions; it therefore did not aim to understand national land interests and group ideologies about these interests. Instead, this study was concerned with examining how specific prisoners and prison officials are presenting and interpreting the "facts" of land-grabbing associated with genocide such as to convey their version of events. Various "facts" of land-grabbing and genocide are continuously generated within important yet neglected informal fact-finding processes within prisons, as the typical case of Prisoner P illustrates. Yet even beyond the prison setting, Rwandans as a whole are relying heavily on informal fact-finding processes in their case-by-case efforts to interpret and react to individual motives and actions associated with the genocide as well as in their collective quest to comprehend the overall trajectory and impacts of the genocide.

Researchers in other post-genocide contexts might provide useful information for comparative purposes regarding how and if land scarcity contributes to genocide, how and if land-grabbing proceeds during and after genocide (e.g. whether it is organized and politicized), and why certain individuals are motivated to grab land during and after genocide (e.g. whether they are motivated by personal or group desires for advancement, compensation, or retribution).

Ultimately, justice for all, and thus reconciliation among all, may not be achieved in post-genocide Rwanda or in other post-genocide contexts until both the actual and perceived connections between land and genocide are better understood.

Acknowledgements

The research upon which this article is based was begun in 1995 under the auspices of a USAID project and was continued in greater depth during three trips to Rwanda in 2002, 2003, and 2004 with the support of a 12-month, post-doctoral research grant from the United States Institute of Peace, Washington, DC. I would like to thank Rwanda's Minister of Internal Security and the Director of Prisons for granting me access to four prisons in Rwanda and for facilitating my interviews in these prisons. I would also like to thank Alison des Forges for her general insights and two anonymous reviewers for their specific comments.

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Notes and References

- 1 See, for example, Dobkowski and Wallimann (1998); Homer-Dixon (1994); and Kahl (1998).
- 2 See, for example, Brass (2003); Churchill (1993); Diamond (2005); and MacDonald (2003).
- 3 See, for example, African Rights (1994, pp 14–18); Baechler (1999); Diessenbacher (1995); Huggins (2003, 2004); Mamdani (2001, p 197); McNab and Mohammed (2006); Musahara and Huggins (2005, pp 276, 281); D. Newbury (1998, pp 93–95); Prunier (1995, p 353); Rose (2004); and Uvin (1998).
- 4 Until the early 1990s, Hutus comprised about 84% of Rwanda's population, while Tutsis comprised about 15% of the country's population. A third ethnic group, the Twa, represented about 1% of the country's population.
- 5 Diehl (1998, pp 275–276) complains that many studies have produced "... largely abstract conceptions of the environment–conflict nexus, with actual cases presented only as anecdotal evidence or as illustrative examples."
- 6 *Gacaca* refers in the Kinyarwanda language to community members meeting on grass. In the traditional *gacaca* meetings, the members primarily handle civil matters and aim for settlements, such as compensation, that apply customary law toward restoring social order (see Reyntjens, 1990; Rose, 1995).
- 7 Refer to the Organic Law No 40/2000 of January 26, 2001 Setting Up "Gacaca Jurisdictions" and Organizing Prosecutions for Offences Constituting the Crime of Genocide or Crimes against Humanity Committed between October 1, 1990 and December 31, 1994.
- 8 Facts are herein defined as pieces of information that are asserted to be certain.
- 9 Anthropologists, such as Bohannan (1957), Gluckman (1955), and Gulliver (1963), have provided detailed accounts about how informal fact-finding procedures operate in customary cases in western, southern, and eastern Africa.
- 10 See, for example, Mamdani (2001) regarding Herero, Churchill (1993) regarding Native Americans, Finzsch (2005) regarding Tasmania, and MacDonald (2003) regarding Maori.
- 11 See, for example, Brass (2003) regarding the Punjab.
- 12 See, for example, Maguire (1998) regarding Tasmania. Of note, Cambodia, Bosnia, and Sudan have dysfunctional land tenure systems and have experienced recent genocidal events associated with land-grabbing; however, it remains unclear if and how land and genocide are connected in these countries.
- 13 See, for example, Prunier (1995) regarding Rwanda.
- 14 An exotic example of how stressful land relations might be associated with genocide is found in Rappaport's (1967) work in New Guinea. Rappaport described how one group sometimes eliminated a rival group—either by killing off its members or by driving them from a shared territory—when it believed that cultivated land was stressed and thus valued cultural activities were threatened (i.e. the exchange of pigs). (Anthropologist James Riddell pointed out this New Guinea example in a personal communication.)
- 15 See, for example, African Rights (1994, p 24), Des Forges (1999, p 561), and Musahara and Huggins (2005, p 276). According to Prunier (1995, p 301), after the RPF won the war, many returning refugees did in fact evict landowners.
- 16 See, for example, Des Forges (1999, pp 11, 237), Mamdani (2001, pp 201, 220), Musahara and Huggins (2005, p 276), and Prunier (1995, p 257).
- 17 The author suspects that some prisoners admitted to "justifiable" killings because they wanted to receive assistance with their legal problems or because they wanted to be released from prison through the *gacaca* process: the prisoners knew that they needed to "come clean," although they needed to do so in a manner that minimized and somewhat sanitized their role in the genocide.
- 18 Human Rights Watch (1996) makes an interesting argument that the complex dynamic between genocide and conditions of land scarcity in post-war Rwanda has led some Tutsi returnees to take over the land of genocide survivors (presumably both Hutus and Tutsis) because they need land and because they suspect that anyone who survived the genocide must somehow be complicit in the genocide.