

DISPLACEMENT AND LAND ADMINISTRATION IN POST CONFLICT AREAS-CASE OF RWANDA

POTEL JOSSAM

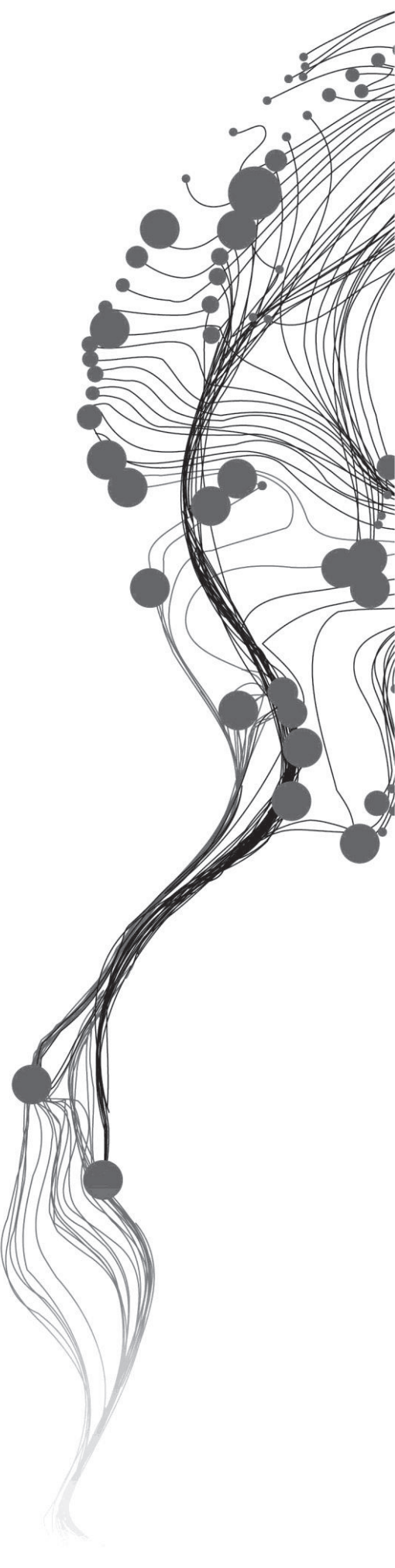
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ABSTRACT

There is always a connection between conflict and displacement. During the conflict, many people are displaced, this displacement which is usually forced displacement due to the involvement of arms, cuts the relationship people had with their land as displaced people are forced to leave behind their land. With a critical gap that has been identified in the humanitarian response to land issues in post conflict situations, coupled with the post conflict government's sorry state of lack of capacity, both financially and lack of skilled labor to deal with land issues.

Land issues have been identified as a non prioritized issue compared to the post conflict, social and political issues the post conflict governments have to cater for and this has resulted in post conflict, illegal land occupation, secondary occupation and taking advantage of dysfunctional government institutions and legalize these illegal and secondary occupations. This research makes an overview of displacement and post conflict land administration, it analyses how the land administration is handled in an emergency and early recovery periods of post conflict situations affects the future land administration in the reconstruction phase.

The post conflict Rwandan government envisaged land governance as a contributor of sustainable peace and security as it enhances social equity and prevent conflicts. It, thus, embarked on a nationwide systematic land registration programme to register land all over the country that will ease the land administration. However, the programme faced many challenges among which were a continuous land claims and disputes through which the research has confirmed, are due to how land issues were handled in an emergency and early recovery period of the post conflict period especially during land sharing and imidugudu (collective settlement policy).

Keywords: displacement, land administration and post conflict period.

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*Dedicated to my dearest friend and wife **Umwiza Peninnah** because of your enjoyable love, patience, self-sacrifice, unwavering support and to our son **Manzi Potel Jaxen** because of the smiles you bring*

And

To all victims of forced displacements all over the world, a case in point South Sudan, Central Africa, DR Congo and Syria.

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LIST OF ABBREVIATIONS

CNDD-FDD:	National Council for the Defense of Democracy – Forces for the Defense of Democracy (Burundi’s ruling political Party)
COHRE	: Centre on Housing Rights and Eviction
ECE	: Economic Commission for Europe
FAO	: Food and Agriculture Organization
FIG	: International Federation of Surveyors
GDP	: Gross Domestic Product
HRIDP	: Human Rights of Internally Displaced Persons
IDMC	: Internal Displacement Monitoring Centre
LA	: Land Administration
LAS	: Land Administration System
LTR	: Land Tenure Regularization
LTRSP	: Land Tenure Regularization System Programme
LWF	: Lutheran World Federation
NGO	: Non Governmental Organization
NISR	: National Institute of Statistics of Rwanda
NRC	: Norwegian Refugee Council
NRM	: National Resistance Movement (Uganda’s ruling political party)
NSMC	: National Secretariat for Mediation Committees
OCHA	: Office for the Coordination of Humanitarian Affairs
OLL	: Organic Land Law
RNRA	: Rwanda Natural Resource Authority
RPF	: Rwanda Patriotic Front (Rwanda’s ruling political party)
RPRSP	: Rwanda Poverty Reduction Strategy Programme
SLR	: Systematic Land Registration
UN	: United Nations
UNDP	: United Nations Development Programme
UNESCO	: United Nations Educational, Scientific and Cultural Organization
UNHCR	: United Nations High Commission for Refugees
USAID	: United States Agency for International Development

1. INTRODUCTION

1.1. Background of the study

Rwanda is a small country with approximately 12 million people (Rwanda, 2012) in the Central of Africa; it covers an area of 26'338 Kms (IDMC, 2012). It borders with Uganda in North, Tanzania in East, and Burundi in South and Democratic Republic of Congo in West. It has an average population of 479 persons/ km² across the country (Sagashya & English, 2009) – one of the highest in Africa. Being a densely populated and hilly country, Rwanda faces serious problems related to the scarcity of land, land for agricultural activities, mode of human settlement and the protection of environment (IDMC, 2012). Over 85% of Rwandan population work on land from which they earn their livelihood (Rwanda, 2012).

Land claims and disputes in Rwanda has its roots which are predated back to pre-colonial period land tenure system where the King was the owner of the right and had prerogative power over land (IDMC, 2012). The land tenure system in the Rwanda Kingdom consisted of two systems of land ownership that co-existed in different regions of Rwanda (Shearer, 2013) that is *ubukonde* (commonly practised in northern and western part of Rwanda, is a system of land ownership in which lineages claimed rights to land that they have cleared) and *Igikingi* (predominantly in Eastern, Central and Western part of Rwanda, is a system of Royal land distribution). Land rights were accorded on behalf of the King and these rights were transmitted from generation to generation. In 1955, the King abolished serfdom and introduced a sharing principle where the wealth (mostly cows) of the master was shared with his serfs and abolition of *Igikingi* by redistributing land that chiefs and sub-chiefs occupied to all peasants (Prunier, 1998). This saw a change in land administration as new tenure of private land where a very person had his land without a fear of being retaken by his master, hence the birth of individual right to land.

During colonial rule, a new form of land tenure was introduced, the formal tenure system based primarily on the *codes et Lois du Rwanda* (codes and laws of Rwanda) derived from the European civil law tradition. Rurangwa (2013) draws two main issues during this colonial era in land administration that were brought by the introduction of new written laws and these are:

- Only the colonial public officer could guarantee the right to occupy land taken from indigenous Rwandans
- Occupation of land should be accompanied by a title deed.

What is important to note here is that this form of tenure did nothing to protect the interests and rights of mere local people with land, but to guarantee security of tenure rights to white settlers, churches and later to foreigners wanting to invest in Rwanda. Similar to the colonial period, in the post colonial period the dual tenure system of formal and customary continued to go hand in hand as almost 90% of the country's arable land was still governed by customary law, the only written law was applied in small numbers by persons especially in urban areas, trading centers, foreign investors and religious institutions. So the dual land tenure system had continued to exist in the country in the post colonial period that is 1962 to 2004 when Rwanda embarked on major land reform that saw the whole country brought under one tenure system which is formal; thanks to a new land policy.

1.2. The 1959 ethnic uprising

This was the first major conflict in Rwandan history, ethnic tensions where national campaign against Tutsi was supported by the government and this act saw a first displacement of mass exodus of Tutsi refugees to neighbouring countries of Uganda, Burundi, Zaire (DR Congo) and Tanzania (Dale & McLaughlin, 2000). This so-called Hutu revolution brought an abrupt change of power from the Tutsi monarchy to Hutu elite groups. Tutsi were excluded from participation in any political and economical processes in the country (Bigaragaza, Abong *et al.*, 2002). While Tutsi fled for their safety, the Hutu government used land left by the fleeing Tutsi and distributed it to Hutu. This was later to create a paradox situation when these Tutsi returned in 1990's.

In 1959, there was an 'ethnic' clash between Tutsi and Hutu which lead to the beginning of Tutsi exodus as refugees and internally displaced persons (IDP'S). As in conflict many IDP's and Refugees are forced to flee and leave behind their land with no any legal document that can later be used to justify their ownership (Augustinus, Lewis *et al.*, 2004), this was the case in Rwanda where in 1959 Tutsi were forced out of the country, they left their land with no any legal document that can later be used to justify their legal right as the country had weak land administration system. So, then the administration used land as a tool for their political intentions by, redistributing the land that belonged to the Tutsi exiles and displaced ones to the Hutu, occupying their farmland by politicians. According to UNHCR report, Rwanda had over 498000 refugees in neighboring countries by 1964 as shown below:

Country	Official figures	Adjusted figures
Burundi	200 000	200 000
Tanzania	36 000	54 000
Uganda	78 000	156 000
Zaire	22 000	88 000
Total	336 000	498 000

Table 1 Source: 1964 UNHCR census

When Tutsi refugees demanded their right to return, the government and the Hutu extremist groups used this as a political tool to politicize the land issue to fuel resentment among rural Hutu by convincing them that, claims by returning Tutsi refugees were intended to capture the State and reclaim scarce land from Hutu (Bigagaza, Abong *et al.*, 2002). This became apparent in the minds of every Hutu peasant at the time that any returning Tutsi would reclaim their land. Thus, the return of Tutsi refugees was deeply political and emotional to poor rural Hutu who were concerned with the security of their own land rights (Bigagaza, Abong *et al.*, 2002).

For more than three decades in exile, and having failed to convince the then Rwandan government to allow them to return peacefully to their mother country, the exiled Tutsi formed Rwandese Patriotic Front (RPF), and through Rwandese Patriotic Army (RPA), their military wing launched a military attack on Rwanda (UN-Habitat, 2007) and a civil war of four years was fought between the government forces and the rebels. This civil war was followed by a cease fire negotiations and a peace agreement was signed (Bigagaza, Abong *et al.*, 2002). However, the death of the then President Juvenal Habyarimana in a plane

crash, stopped the implementation of the signed agreement as Interahamwe¹ in collaboration with presidential guards started a mass massacre of all Tutsi within the country and this act resumed a fierce fighting between the government forces and the RPF forces who were fighting to stop the genocide. These fierce fighting and the genocide led to the displacement of many people fleeing their homes to neighboring countries, leaving behind their land.

1.3. Return of Refugees

The victory of RPF² in July 1994 was a revolutionary change and had a number impact on Rwandan land tenure (Takeuchi & Marara, 2009). The generation of 1959 refugees/old-case refugees (mainly Tutsi who had fled in neighbouring countries in 1959) was the core members of RPF (Takeuchi & Marara, 2009). Consequently, the RPF victory triggered the massive wave of returnees of 1959 refugees to Rwanda. At the same time, the victory of RPF had also resulted in multiple waves of refugees mainly Hutu and the internally displaced persons. More than 2.5 million ordinary Hutu and their leaders from the defeated regime crossed to neighbouring countries (Prunier, 1995) mainly Democratic Republic of Congo, Tanzania, Uganda and Burundi .

As was the case in Mozambique post conflict many IDP's had nowhere to return after the conflict as their homes had been destroyed, houses burnt and properties destroyed (Augustinus, Lewis *et al.*, 2007). In post conflict Rwanda internally, many of Tutsi who had survived the genocide were not in their respective homes, almost all them had fled to different areas within the country mostly in areas that had been under the control of RPF; and after the war, they had nowhere to return as their homes had been destroyed, houses burnt and properties destroyed and taken (Zevenbergen, 2002).

The last wave of refugee return was the 1996, when the refugees of 1994 were returning, mostly from DR Congo in late 1996 and from Tanzania where over 1.5 million people had returned home in the last months of 1996 (UNCHR, 2002b). The returnees who had taken refuge in 1994 and following years in neighboring countries were later to be called “new-case” refugees but many tend to use the term “1994 refugees” to mean those refugees, mainly Hutu who left the country in the aftermath of the genocide and returned later and “1959 refugees” to mean the Tutsi refugees who had fled in the 1959. In my work, therefore, I will also be using 1994 refugees and 1959 refugees.

When the 1994 refugees returned in large waves, they were confronted by their 1959 counterparts now occupying their original properties (Houses and land) (Takeuchi & Marara, 2009) . With reference to the Arusha agreements which had recommended that in order to promote harmony and national reconciliation, refugees who left the country more than 10 years ago should not reclaim their properties (Rwanda, 1993), which might have been occupied by other people, the 1959 returnees were now ordered to return the houses to the 1994 returnees with a new rule that the land was to be divided equally between two parties.

Immediately after the conflict has ended, many institutions are not functioning normally and therefore normal monitoring and enforcement by the State institutions and the society in regard to illegal and

¹ *Interahamwe* A Kinyarwanda word meaning ‘those who attack together’. This was a para-military militia youth trained by President Habyarimana party in 1992.

² Is a current ruling political party in Rwanda that waged a war on 1st October 1990 against Habyarimana regime who had denied them right to return home. It was formed in Diaspora Uganda by the 1959 refugees with objective of returning back in Rwanda and end to the then problem of refugee.

voluntary occupation, is not functioning (Zevenbergen & van der Molen, 2004). As Anastase Murekezi (2011), in post conflict Rwanda, the country lacked not only the foundation to build from, but also skills to do it. Almost all land professionals who dealt with issues related to land surveying, mapping and administration and those worked and served in previous government had either been killed in the genocide or forced to flee the country and the state institutions were all at a standstill, leaving a room for grabbers, secondary and illegal occupants in an emergency and early recovery periods. That is when the sharing principle³ was adopted and it was through this process that the 1959 returnees were able to officially acquire land.

By the beginning of the 1997, the country was facing the challenge of resettling the returning refugees (A. Murekezi, 2012) as now the country had over 2.5 million returnees (UNCHR, 2002a) both of 1959 and 1994 (Prunier, 1995) and together with that challenge, a challenge of property related issue mostly land arose in horizon. All of these were done during the emergency period. This is a post conflict period which requires humanitarian activities most especially to help IDPs and returning refugees to get access to basic needs like shelter and food. In Rwanda, this period is between 1994 and 1996, this period requires urgent intervention to prevent the worsening of the situation (UN/HRIDP, 2008).

In Rwanda, there was an influx of massive return of 1959 refugees with their herds of cattle that could not be accommodated to the then existing land that was reserved for farming activities in Rwanda, some returnees were young to know the origin of their parents, others did not remember the properties left by their parents, others feared to go back to their origin still taunted by the 1959 massacres (IDMC, 2012), some re-occupied their properties they had left, the 1994 returnees were also scared of their counterparts in fear of revenge. The government response to this, was to surrender one part of government reserved land and over 70% of Akagera National Park was used as a new settlement area that accommodated mostly both 1959 and 1994 returnees who had not returned to their original place and to those who had many herds of cattle thus need a vast land for cattle rearing.

From emergency period, the country entered another phase of post conflict which is early recovery, for Rwanda, this period varies from 1997 to 2003 (2003 was end of transitional government, Referendum for new Constitution, first ever open Presidential democratic elections), the reason behind this is that, this is a period where a big number of refugees had returned home, displaced people had been resettled again and administrative offices had reopened. During this period the country had started to lay strategies for recovery from the effects of the war with strategic planning for the reconstruction of the country. In land matters, it involves the adoption of sharing principle; Due to the alarming land situation at the time, the government adopted the sharing principle where 1959 returnees were supposed to share with the 1994 returnees and the IDP's. Therefore, the early recovery period here is characterized by land sharing, land redistribution and resettlement of both 1959 and 1994 returnees.

Although this research will explore all post conflict phases some issues that characterized land sharing during this early recovery period needs to be noted down as issues hampering land administration in development phase has its roots in the emergency and early recovery phases which needs to be mentioned in short as I will explain it later. It is during the early recovery phase that I talk of land sharing during which:

- One person per family would get land on the behalf of the family (Mostly the head of a family).
- By law, the land that belonged to genocide survivors were not entitled to share

³ A policy that required a returnee either of an IDP or a refugee of 1959 to share the land with a returnee of 1994 or a secondary occupant on the land he initially owned before 1959.

- 1959 returnees not entitled to repossess their properties
- All unoccupied land was redistributed to new occupants
- In resettlement, government provided places for settlement (Imidugudu settlement)
- Minors were not entitled to share

1.4. Post conflict land reform

The new phase of reconstruction of the country begun with a starting point for the future shape of land administration in Rwanda, as in 2004 the national land policy was adopted; it put a great importance on appropriate land administration system as a key of land tenure security by providing the possibility of registering (FAO, 2005) and transferring and also the possibility of investment in land, the organic land law was enacted that provided for the establishment of a national authority that will be charged with responsibility of administration, use and management of land in the country.

Land reform mentioned here involves the programme adopted by the government of Rwanda which involves the adoption of the new land law supported by a land policy and with which they provide a new tenure system that aims at contributing to tenure security, enhancing food productivity, tax generation, social equity and the prevention of land conflicts. Therefore, one of the fundamental things to create this land governance is to have a good and clear land administration system that should be established first. To achieve this, however, the government has been hampered by unsolved and continued land related claims and disputes whose origin remains a suggestion of how land issue was handled in an emergency and early recovery period of the post conflict period.

1.5. Timeline of events

Below is the timeline showing the events and their effects on land administration in Rwanda's history.


<div style="text-align: center;"> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">≤ 1892</div> <div style="text-align: center; margin: 20px 0;">  </div> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">2013</div> </div>	Timeline	Effects on Land administration
	Pre-colonial era (≤ 1892)	Land belonged to the King (He was a Tutsi)
	Colonial era (1892-1962)	New form of land tenure (Formal tenure)
	1952	Abolition of feudalism and serfdom and introduction of private land ownership
	1959	Ethnic tensions leading to Displacement of Tutsi
	1962	Redistribution of vacant land left by Displaced Tutsi (land of democracy)
	1983	Involuntary repatriation of Banyarwanda Refugees in Uganda by Obote to Rwanda
	1994	Tutsi genocide/Displacement/Returnee of 1959 Refugees
	1996	The mass return of Displaced Hutu of 1994 and overlaps of land rights
	1997	Land sharing
	2004	Land policy
	2005	Organic land law
	2008	Land tenure regularization programme (LTR)
	2013	Land Administration

Table 2: Timeline of events

1.6. Land administration as a facilitator of implementation of the land reform

The post conflict government of Rwanda has envisaged land governance as a contributor of sustainable peace and security as it enhances social equity and prevent conflicts (Debbie, 2007). In embarking on major land reform, it wanted to develop proper land governance that will enable the population to enjoy a more secure form of tenure and bring about proper land utilization, efficient land management, generate taxation income and regulate land market (COHRE, 2003).

In 2007, a national land center and later Rwanda natural resource authority was established and in the period a countrywide campaign for systematic land regularization programme system started registering the land all over Rwanda. Currently, Rwanda's land is registered, many land owners has their land lease certificates, but the questions remained, many land related dispute and conflicts still exists and in more numbers and complicated than even before registration (Shearer, 2013).

1.7. Prior related works

Van de Molen P. and Lemmen C. (FIG 2004) Land administration in post conflict areas: proceedings of a symposium held by FIG commission. The book brings together proceedings of the symposium. It has different articles on land administration in post conflict areas, with some valuable experiences in different countries.

Augustinus C., Lewis D., Zevenbergen J., v.d. Molen P and others (2007) Handbook on post-conflict land administration and peace building: vol. countries with land records. The book assesses how land administration issue is handled mostly in an emergency phase up to the reconstruction phase.

Unruh J. D. and Williams R. C. (2013), Land and post-conflict peace building. The book analyzes lessons in post-conflict peace building. It considers the experience with approaches to post conflict issues in different countries and in varied social and geographical settings.

Pyone M. Thu (2012), Access to Land and Livelihoods in post- conflicts Timor-Leste. The paper analyses how conflicts have produced an array of contesting land claims, informal land use and occupation and social political conflicts. The paper also argues formal land titles are unlikely to resolve the ambiguities and complexities of diverse forms of access to and ownership of land during the post conflict period.

COHRE (2003), The Pinheiro Principles: United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons.

1.8. Research Problem

Currently, Rwanda has a land governance system that allows for strong protection of community-based land right, community consultation and participation with respect to partnership with investors and government and also rights to land for use and investors (P. van der Molen, 2004). However, the implementation of land administration as provided for by the legislations has been slow due to the fact that the capacity of state actors has been hindered by continued land related claims and disputes which has believed to be having roots in the way of how land issue was handled during emergency and the early recovery period. In spite of major land reform in Rwanda, land claims and disputes continue to raise and remain unsolved, for example in 2010, land related cases constituted 90 percent of the total cases dealt

with by the office of Ombudsman⁴ (Mugisha, 2010). Given the fact that many land claims and disputes are not solved suggests these are complex cases as they involve cases of:

- Local people⁵ with claims and disputes that the IDP's occupied their land without authorization. This normally happens because the Country is in the middle of conflict and therefore authorities are unable to negotiate with the local people to acquire their land and use them as a settlement camp for the IDP's and Refugees.
- Returnees with claims and disputes that secondary occupants occupied their land without their authorization. This happens when abandoned land by refugees was occupied by secondary occupants without authorization and upon return they found their land already occupied.
- Also there are Claims and disputes by returning refugees that IDP's occupied their land during their absence without authorization.
- Claims and disputes that land is being occupied by secondary occupants who were moved there by a former government under orders as opposed to an involuntary occupation. Though these are occupying the land that they well know did not belong to them before, their claim is legitimate because they were moved there by government authority and so they are occupying legally with good faith.
- Claims and disputes that 1959 refugees (mainly Tutsi) that their land is occupied by the same Hutu who forced them to flee the country in 1959. Due to 'ethnicity' and political propaganda, some Hutu had participated in the killings that led many Tutsi to flee and leave their land to which these Hutu later occupied.
- Conflicting legitimate claims and disputes created by successive long term occupations by different parties (FAO, 2005). These are a bit challenging due to legal provisions, IDP's and returnees have been displaced and refugees for more than 30 years, the land they left behind were redistributed by the government and others occupied by secondary occupants for more than 30 years which the Rwandan land law provides as a prescription period thus, loss of right to ownership. But the question also remains, on when should the exact period of prescription start counting? The period when they fled persecution? Or when the country was stable and they felt no more threat to their life?

1.9. Research Objective

To know how displacement hampered post conflict land administration in Rwanda

Sub-objectives and Research questions

Sub Objectives	Research Questions
To Know what kind of displacement Rwanda faced	What was the problem of the 1959 refugees and how was the problem addressed in the post conflict period?
	What's the problem of 1994 refugees, and how was it addressed in the post conflict period?
	What was the problem of IDP's?
	How were land claims and disputes processed in emergency period?

⁴ A public institution in charge of fighting corruption and injustices through public education, prevention and law enforcement. The office receives people with different formal claims and complaints arising from mal function of State Civil servants.

⁵ Those whose land was occupied by IDP's during the conflict period in the area they had fled.

To know how land claims and disputes are processed	How were land claims and disputes processed in the early recovery period?
	Who were the actors in dealing with these land claims and disputes?
	How occasionally do this land claims and disputes appear? How many are they? How many are people involved?
To identify the relationship between Displacement issue with the post conflict Land Administration	What is the role of displacement in hampering post conflict Land Administration?

1.10. Hypothesis

Currently, there is a suggestion that the continuous land claims and disputes which is hampering land administration in Rwanda are due to the result of how land issue was handled during the post conflict period especially to land belonging to people who had been affected by displacement. So at the end of this research, we will either confirm or refute the above statement depending on the findings of the study.

1.11. Conceptual Framework

The figure below is the conceptual framework of this research. A conceptual framework is a map of relationships between the main concepts in the topic, required for structuring and designing the research. According to the main objective of the research, the major issues of concern are the concept of Conflict that leads to displacement and this displacement result into IDP'S and refugees. This displacement disrupts the relationship between a land owners and land administration as s/he is forced to leave her/his land for her/his own safety. The land left during the conflict is occupied by secondary occupants and leads to conflict of interests in the post conflict period because of overlapping rights.

However, this is out of the scope of my research, as my research focuses on post conflict land administration. How humanitarian activities in emergency period like resettlement of returning refugees in Imidugudu, and early recovery period activities like land sharing, because there is arguments that activities involving land issues that were carried out in an emergency and the early recovery period affects and hampers land administration in the reconstruction period as they did not re-link the broken relationship between people with their land.

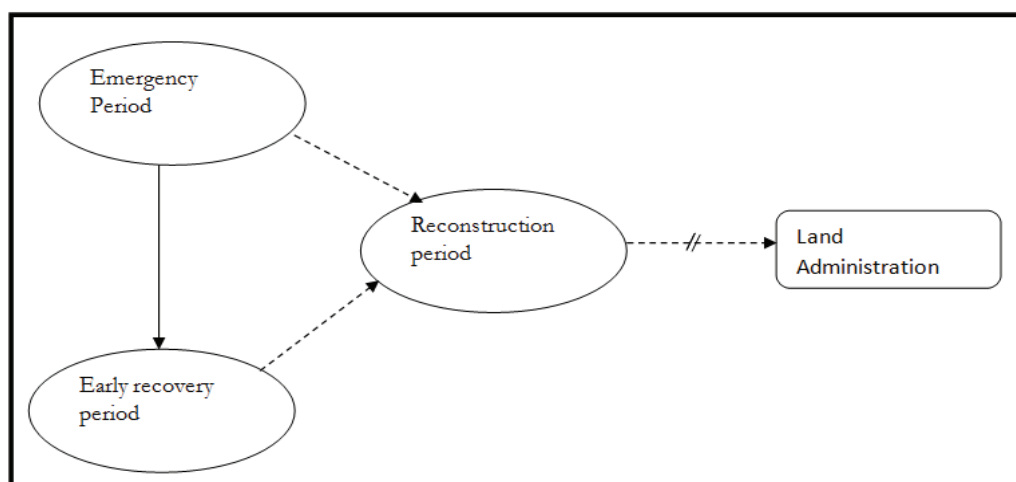


Figure 1: Conceptual (Theoretical) framework

1.12. Research Design

A research design is a procedural plan that is adopted by a researcher to answer questions validly, objectively, accurately and economically (Kumar, 2005). This research will apply a desktop approach making use of secondary data (literature review) related to land policy, land governance, land tenure, land administration, reports on resettlement of IDP's and Refugees in post conflict countries and then also reports, land sharing regulations and villagization policy on Rwanda and then compare the experiences. Apart from desktop approach, I will carry out fieldwork where I will be able to collect primary data through carrying out interviews and use of questionnaires and also secondary data. After fieldwork and data collection, I will be able to analyze data, discuss the findings and make recommendations and conclusions

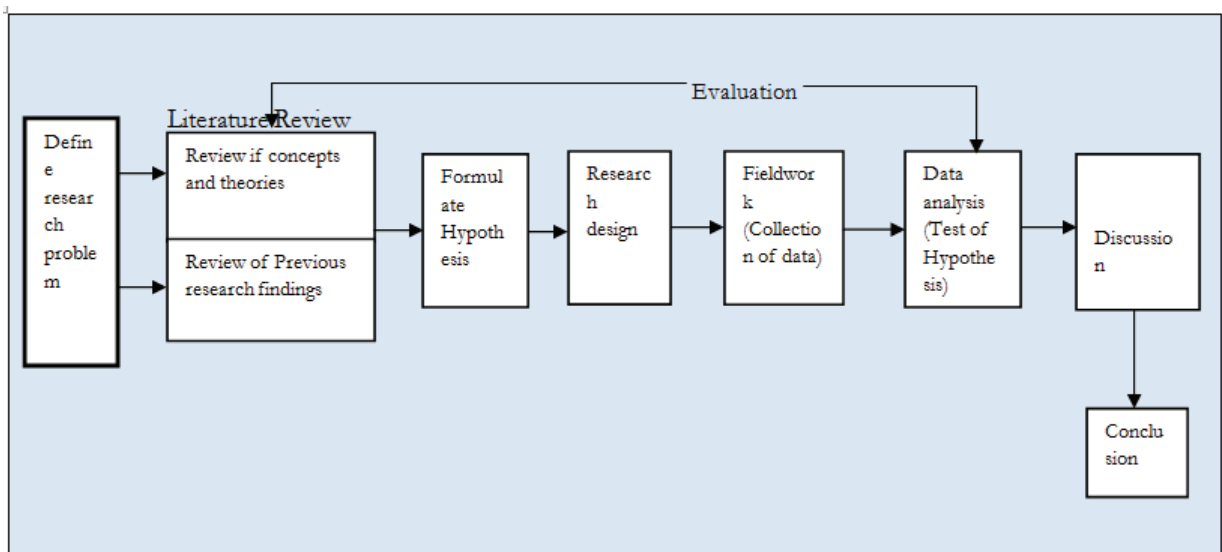


Figure 2: Research design

1.13. Work plan

ID	Activities	Aug. 2013	Sept. 2013	Oct. 2013	Nov. 2013	Dec. 2013	Jan. 2014	Feb. 2014	Mar. 2014
1	Initial Research Proposal preparations	■							
2	Literature Review	■	■	■	■	■	■		
3	Fieldwork preparations		■						
4	Fieldwork in Rwanda			■					
5	Data analysis			■	■	■			
6	Conclusions and recommendations						■		
7	Midterm presentations					■			
8	Final corrections					■	■	■	
9	Thesis Submission							■	
10	Presentation preparations								■
11	Defense								■

Table 3: Work plan

1.14. Thesis structure

Chapter One: Introduction, in this will be consisting of background of case study and justification of the study through research problem, objectives, research questions and methodology to be used.

Chapter Two: contains literature reviews on displacement and land administration in post conflict areas and respond to displacement by introduction on Pinheiro Principles

Chapter Three: Explains the methodology used and it begins by explaining the background of Rwanda's land issue the selection of the study area and methods used to collect data as well as methods used to analyze them.

Chapter Four: Contains the data analysis, depending on data collected during fieldwork in Rwanda

Chapter Five: Contains the Discussion where chapter two and four are used to discuss the existing literatures and compare it with Rwanda's experience depending on the data gathered.

Chapter Six: Conclusions and Recommendations

2. LITERATURE REVIEW

2.1. Introduction

To answer the research questions and achieve the objectives of this research, different prior literatures were consulted; therefore, this chapter describes the theoretical foundation of this research by reviewing the literatures on displacement and land administration in post conflict areas. It starts with the description of key concepts in the research topic, which are displacement in 2.2 where the research explains what is meant by displacement and the result of it being a refugee and IDP, on section 2.3, includes the description of the post conflict period and all three post conflict periods, whereas 2.4 explains what is meant by land administration. The issue of displacement and land administration in post conflict areas in particular is discussed in the section 2.5. Finally, this chapter concludes with section 2.6 which brings in the Pinheiro principles, regarding the housing and property restitution for refugees and IDP's a means by United nations to protect the displaced persons repossess properties they owned prior to displacement.

2.2. Displacement

The term displacement has different meanings depending on the field one is using it that is Physics, chemistry, geology, social science or even sports. In as far as my research is concerned; I will use the term displacement in social science, because in social science, the term displacement can be used to mean forced migration by persecution or violence or it can also be a development-induced displacement to mean the displacement of the people for economic development (Alexander, 2009). As my research is concerned with post conflict period, I refer to the first meaning of displacement which is a forced migration by persecution or violence.

UNESCO (2013) also defines displacement of people as a forced movement of people from their locality or environment and occupational activities. It is a form of social change caused by a number of factors, of which the most being armed conflict, natural disasters and famine. What is clear is that during this displacement, displaced people leave everything behind to begin a new life amidst of uncertainty and fear.

According to Norwegian Refugee Council (NRC), causes of displacement are multiple and complex. People may be displaced by armed conflict, generalized violence and/or human rights violations (IDMC, 2012). Given the above definition of displacement, (UN/HRIDP, 2008) outlines the following as the causes of displacement:

- Armed conflicts within states are fighting between the armed forces of at least two states.
- Situations of violence, this may not be or involve armed conflicts, but involve the use of force and other repressive measures by government agents to maintain public order.
- Violations of human rights which includes transgression of the rights guaranteed by national, regional and international human rights law. For example Persecution because of one's religion (beliefs), race, threat to life, nationality, political opinion or membership of certain particular social group.

These causes may result in both IDP's and Refugees.

2.2.1. Who is an IDP?

According to the UN's Guiding Principles on Internal Displacement, internally displaced person's (IDP's) are 'persons or group of persons who have been forced or obliged to flee or leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations

of generalized violence, violation of human rights or natural or human-made disasters, and who have not crossed an international recognized State border'(UN, 2004).

By analyzing the above definition, iDMC, OCHA *et al.* (2007) highlights the following elements; the coercive or otherwise the involuntary character of movement and the fact that such movement take place within national borders are the important elements that qualify one to be called an IDP. The UN document under Human Rights of Internally Displaced Persons (HRIDP) considering the IDP's definition by Guiding Principles on IDP's puts forward the following categories of persons that qualify as IDP's.

- Internally displaced citizens
- Former refugees who have returned to their country of origin, but are unable to return to their former homes or find another durable solution through social and economic integration in another part of the country
- Displaced stateless persons who have their habitual residence in the concerned country
- Displaced nationals of a country who have lived there for a long time (may be even generations) and have been lost contact with their country of nationality
- Displaced nationals of another country who have their habitual residence in the country concerned because they have been admitted permanently or for prolonged periods of time (UN/HRIDP, 2008).

The reality has nevertheless been that humanitarian responses to IDP crises have overall been characterised by neglect, gaps or failures, given the existence of international conventions for protection of refugees in 1951, and then the guidelines for protection of IDP'S in 2004 (UNHCR, 2010). This is particularly acute in situations of armed conflict during which governments may not be in a position to ensure the necessary protection. The displaced may be in territory over which the authority of the State is absent or difficult to enforce (UNHCR, 2010).

As per Guiding Principles on Internal Displacement, in its principle 18, all IDP's have right to an adequate standard of living including access to food, basic shelter, clean water and sanitation, appropriate clothing and essential medical services. However, as IDMC (2012) remarks, State policies may themselves cause or aggravate forced displacement or hinder humanitarian work. In some circumstances also resource and capacity deficiencies can and usually hinder the ability and scope of the authority to respond (UNCHR, 1992).

Given the fact that IDP's remains within the borders of their country, this means that their own country bears the primary and first responsibility for protecting and assisting them. However, despite this broad consensus that national responsibility is fundamental to addressing situations of internal displacement, in practice governments are often unable or willing to respond effectively themselves or may have actually perpetuated the initial displacement themselves (iDMC, OCHA *et al.*, 2007). In such circumstances where the government have a direct hand leading to displacement, such government tend also to be adamant to acknowledge that displacement has took place to respond to IDP's needs. For example the Mexican government was adamant to acknowledge the existence of displacement related to Drug Cartel violence. The acknowledgement of the existence of internal displacement allows for more targeted planning and response to IDP's needs.

Regions	IDP's at the end of 2011	
Sub Saharan Africa	1,900,000	Mainly in Ivory Coast, South Sudan, Somalia, Sudan and DRC
America	130,000	Mainly in Colombia and Mexico
Europe and Central Asia	0	
Middle East and North Africa	840,000	Due to Arab spring mainly Libya, Yemen and Syria
South and South East Asia	643,000	Mainly in Afghanistan and Pakistan
TOTAL	3,500,000 Million	

Table 4: IDP's per region at the end of 2011, source: IDMC 2012 annual report

According to IDMC (2012), many IDP's in Africa lack access to the basic essentials they needed to survive, and have continued to rely significantly on the resources of host communities or assistance provided in the camp settings by humanitarian organisations. Also people who had been displaced over longer periods in Africa struggle to assert their rights over land and housing which had not been formally registered before they were displaced. The most vulnerable here are widows and orphans who could not recover land that the family of the deceased and parents had possessed (IDMC, 2013). So, the IDP's inability to recover their land frequently prevented them from rebuilding agricultural livelihoods, especially for rural people, as insecurity continues.

Regions	Returned IDP's by 2011
Sub Saharan Africa	1,500,000
America	400
Europe and Central Asia	400
Middle East and North Africa	571,000
South and South East Asia	338,000

Table 5: Returned IDP's by end of 2011, source: IDMC 2012 annual report

The striking issues here for further discussion are to which extent does the Rwandan displaced people meet the above definition? Does the causes of displacement meet those mentioned? access to land, housing, the role of the government in response to needs and protection of vulnerable people like widows and orphans?

2.2.2. Who is a refugee?

The 1951 convention relating to the status of refugees (UNHCR, 1951), defines a refugee as a person who is outside his/her country of nationality or habitual residence; has a well founded fear of being persecuted because of his/her race, religion, nationality, membership of a perpetual social group or political opinion; and is unable or unwilling to avail him or herself of the protection of that country or to return there, for fear of persecution.

Article 1A (2)) of the 1951 convention states that *“As a result of events occurring before 1st January 1951 and owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or owing to such fear, is unwilling to return to it”*.

Within the meaning of the above definition given by the 1951 convention, any person whose state of life fulfills the conditions mentioned in the above definition becomes a refugee. However, these criteria to be based on being preconditioned, they would necessarily have happened before the time at which the refugee status is formally determined. The recognition of one's refugee status does not therefore make him/her a refugee but declares to be one (UNHCR, 1951). One does not become a refugee because of recognition but is recognized because she/he is a refugee (UNHCR, 1979). It is important to note that refugees in their country of refuge or a asylum remain refugees (UN/HRIDP, 2008).

While refugees' status must normally be determined on the individual basis, situations have also arisen in which entire groups have been displaced under circumstances indicating that members of the group could be considered individually as refugees. For example in 1994, approximately 2.5 million Rwandan refugees crossed to neighbouring Democratic Republic of Congo, Tanzania, Burundi and Uganda (Prunier, 1998). In such situations, the need to provide assistance is often extremely urgent and it may not be possible for purely practical reasons to carry out on individual determination of refugee status for each member of the group (UNCHR, 1992). In such case, recourse has therefore, been had to be called "group determination" of the refugee status, where each member of the group is regarded *prima facie* (in the absence of the evidence to prove otherwise) as a refugee (UNCHR, 1992).

In the case of a person who has more than one nationality, the convention says that the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well founded fear, one has not availed himself of the protection of one of the countries of which she/he is a national.

Unlike IDP's who remain citizens or habitual residence in their country, refugees cross the recognized international boundary and become residents of another country. What is important to note here is that refugees are more protected and recognized by international conventions, like the international convention on relating to the protection of refugees, which has a binding force once ratified by a country and it provides refugee status, that once one acquires that status enjoys protection under international law.

When the reasons behind the displacement cease to exist, especially in cases of involuntary or forced displacement due to armed conflict, displaced people tend to return to their original places while others are skeptical to return due to fear of protracted conflicts, completely destroyed properties and secondary occupation of land and properties. As was the case in Mozambique, secondary occupation was common mainly by government employees, soldiers and military officials (Todorovski, Zevenbergen *et al.*, 2013). Immediately after the conflict has ended many institutions tend not to be functioning normally and therefore normal monitoring and enforcement by the state institutions and the society, in regard to illegal occupation is not functioning (iDMC, 2013). Thus, the post conflict situation needs to be given much attention especially during reintegration and repatriation process.

To conclude this section, it is also important to note the important issues that will be used for further discussion which is to see whether in Rwanda case, refugees meets the above definition, determination on an individual or collective basis, the issues of people with one or more nationality, lawful protection, the issue of secondary occupation and functional working institutions. Also important to mention here is that this research will focus to all displaced groups that is IDP's and refugees as in Rwanda case, which is the case study, land issue concerns both groups.

2.3. Post Conflict period

There is no clear definition of the concept of the post conflict period due to the fact that there is seldom a clear defined boundary of when the start and the end of the post conflict period. But as the name indicates, post conflict period refers to that period that follows the end of the conflict in a given country. According to FAO (2005), it is that period that starts when the main hostilities have ceased to the point that international aid can begin. It is that time when there is reasonable degree of security but the situation is not necessarily safe.

In trying to determine the beginning of the post conflict period, Nkurunziza (2008) gives two defining issues determining the beginning of the post conflict period and these are:

- The immediate period following a landmark victory by either of the warring parties. This could be the fall of the capital city – the seat of political power, following a long protracted war. For example, the four bush war in Uganda between the Uganda army led by Milton Obote and the rebel group of National Resistance Movement (NRM), led by Yoweri Museveni ended when Kampala fell on 26 January 1986, in Rwanda, the long war that resulted into the genocide against the Tutsi, between Rwandan forces led by Habyarimana Juvenal and the Rwandese Patriotic Front (RPF), led by Paul Kagame ended after the fall of Kigali on 4th July 1994.
- The second major event to determine the official end of the war is the date of signature of a comprehensive agreement between the warring parties. It is therefore easier to take the date of the signature of the cease agreement as the end of the conflict and the beginning of the post conflict period. For example, in Burundi, the war ended officially when the government signed a comprehensive ceasefire agreement with the main rebel group CNDD-FDD on 29th November 2003.

Once the beginning of the post conflict period is identified, the next question is how to determine its end and Nkurunziza (2008) argues that if the name is justified on the ground that countries emerging from civil war have specific characteristics that differentiate them from peaceful countries, thus, a post conflict period should end in theory when the specific attributes inherited from the conflict cease to have influence. In reality, it is however, impossible to say exactly when a country returns to normalcy from its conflict state – hence the conflict is arbitrarily defined as the 10 year period following the end of conflict (Nkurunziza, 2008). Brown, Langer *et al.* (2011) list a number of possible indicators that can be based upon in order to assess the progress made towards achieving a particular peace milestone where the term post conflict can start to be defined.

Peace processes (Milestone)	Possible indicators of progress
Cessation of hostilities and violence	<ul style="list-style-type: none"> - Reduction in number of conflict fatalities - Reduction in number of violent attacks - Time elapsed since major fighting elapsed
Signing of the political peace agreement	<ul style="list-style-type: none"> - Signing of and adherence to peace agreement - Signing and implementation of a comprehensive political agreement which addresses the causes of the conflicts - Endorsement of peace/political agreement by all major factions and parties to the conflict
Refugee repatriation	<ul style="list-style-type: none"> - Number/proportion of IDP's and refugees that have

	<ul style="list-style-type: none"> - returned home voluntarily - Number of IDP's and refugees still living involuntarily in refugee camps within a country or abroad
Demobilization, disarmament and reintegration	<ul style="list-style-type: none"> - Number of weapons handed in by armed combatants - Number/proportion of armed combatants released from military duty and returned to civilian life - Number/proportion of armed combatants released from active duty and returned to barracks - The number of military barracks closed - Reduction in number of active soldiers - Spending cuts in military procurements and expenditures
Establishing a functioning state	<ul style="list-style-type: none"> - The extent to which impunity and lawlessness has been reduced - The extent to which rule of law is introduced and maintained - The extent to which corruption has been reduced - Tax revenues as a proportion of Gross domestic product (GDP)
Achieving reconciliation and societal integration	<ul style="list-style-type: none"> - Number of violent incidents between groups - Perception of others via surveys - Extent of trust via surveys
Economic recovery	<ul style="list-style-type: none"> - Economic growth recovery - Increased revenue mobilization - Restoring of economic infrastructure - Increased foreign direct investment

Source: adopted from Brown, Langer *et al.* (2011) in Typology of post conflict environments

What is important to note is that activities and interventions aimed at achieving these various milestones, are processes and may experience regress (Brown, Langer *et al.*, 2011). In the case of Rwanda, peace milestone started to manifest in 1993 when there was a ceasefire agreement (cessation of hostilities and violence), there was signing of peace agreement between the government of Rwanda and the RPF and in these agreements, they also agreed on repatriation of refugees. Although, these signed agreements and protocols were not honored and later resulted into another armed conflict and violence, the post genocide government of Rwanda established a functioning state, started demobilization, disarmament and reintegration process, achieved reconciliation and social integration and economic recovery in post genocide period.

Like in many post conflict states, also in Rwanda, many interventions and activities aimed at achieving peace processes (milestones) experienced regress for example, in the northern part of the country where militia infiltration caused insurgents and led many returning refugees to continue to Eastern part of the country where there was peace and stability but also with limited land. On the other hand, this resulted into another challenge of making the land issue in Eastern provinces more complicated, due to the many numbers of people converging there with divergent origins that is from Uganda, Tanzania, DR Congo and Burundi and also IDP's from different parts of the country who were not yet able to return to their place of origin.

FAO (2005) outlines the general characteristics of the post conflict societies/countries which are: death and injury of people with continuing fear of violence, high levels of hunger and starvation, massive displacements that creates large number of IDP's and refugees, unresolved political and ethnic tensions, widespread destruction of infrastructures, high level of environmental degradation, substantial breakdown of government with limited capacity to implement the recovery, discriminatory laws, limited number of trained government staff and large scale destruction of records and information.

The nature of activities within the post conflict period may vary according to the extent to which progress is made. Activities can be characterised as having a focus on emergency relief, and on development and implementation of policy (FAO, 2005). In practice, activities in these periods do not occur in a straightforward process; rather they are likely to overlap. Emergency activities such as peace enforcement may be required in some areas of a country while some degree of may be exists in other parts. As the results, activities related to the development may start unevenly across the country. This post conflict period generally are in three period phases which are emergency, early recovery and reconstruction phase (Todorovski, Zevenbergen *et al.*, 2012b).

2.3.1. Emergency period

This is a post conflict situation that is usually under taken in the immediate aftermath of the conflict and before full-scale mobilization of aid resources has started (UN/HRIDP, 2008). During this period, emergency activities focus on establishing basic governance and providing humanitarian services (UNHCR, 2010), as there is often little or no operational governance and rule of law and extensive destruction of infrastructure. In such situation, food security is always low, there is usually a high possibility of epidemic diseases and exploitation of the population, particularly vulnerable groups that includes women and children, the elderly, sick and injured and ethnic minority (FAO, 2005).

Being a post conflict period, this period succeeds the conflict period that has resulted in the massive displacement of people, creating large number of refugees and IDP's. For example, Timor-Leste 75% of the population were displaced, while the conflict in Bosnia and Herzegovina up to a half were displaced (FAO, 2005). Due to their sorry state, displaced people are always forced to settle on the land which they do not have legal claim (Todorovski, 2011) and often have negative effects to both IDP's and the people within host community. Though stated when the emergency period can begin, it is hard and to clearly state when it ends as the emergency activities always overlap with that of recovery period. For example, in Rwanda, emergency period is three years that is 1994-1997 (Anastase Murekezi, 2011).

For the case of Rwanda, Bruce (2007) states that in Emergency period, government officials at the time and the International community did not seem to understand the land issue. The claims were social and political. The international community was preoccupied with the size of returnees, and how many would have to be accommodated. After the genocide, there was a total loss of focus on the land. There had been plans for land to be identified beforehand, for the refugees and cattle to wait at the border to be provided with food and funds for primary essentials, their animals vaccinated but none of this happened.

2.3.2. Early recovery period

According to United Nations Development Programme (UNDP), early recovery is a multidimensional process of recovery that begins in humanitarian settings – emergency recovery period. It is an integrated and coordinated approach, using humanitarian mechanism, to gradually turn the dividends of the humanitarian action into sustainable crisis recovery, resilience building and development opportunities (UNDP, 2012).

Early recovery period is that transitional phase of the post conflict country in which legitimate local capacities emerge and should be supported with particular attention needed for restarting the economy, including physical reconstruction ensuring functional structures for governance and judicial process and laying the foundations for provisions of basic social welfare such as education and health care, hence social stability (Nkurunziza, 2008).

In the aftermath of the conflict, the government at the central and local levels often have little or no capacity to manage the process of reconstruction. Major infrastructure and development projects are complex, and the problems arise with their planning and management even under stable conditions, such problems are magnified by the limited capacity typically found in post conflict periods (FAO, 2005). Integrating the early recovery approach across all humanitarian actors helps people move from humanitarian relief towards self- sustaining development, makes sure that the humanitarian response emphasizes the importance of building community and skills to strengthen individual and communities' resilience to future disasters, reduce dependence on relief, and where possible helps take steps towards solving some of the issues that contributed to the conflict in the first place (UN-Habitat, 2007).

According to Anastase Murekezi (2011), early recovery period is a period of rehabilitation and reconstruction. For example, in post conflict Rwanda, during early recovery period, the country was at the crossroads moving from humanitarian assistance to a more sustainable development. Progress had been made but challenges were still daunting, as the transitional government of unity and reconciliation embarked on an active, multi-faceted economic recovery and good governance programmes like public service reform to enhance transparency, efficiency and effectiveness in public service delivery, national dialogue on country needs, initiation of the decentralization process and provision of social and physical infrastructures at the local level (Anastase Murekezi, 2011) and adopting and enacting laws and decrees that were a good move into land tenure reform process (Rurangwa, 2013)

2.3.3. Reconstruction period

This is a post conflict that comes after a recovery period where the government's role is for fostering sustainability. It is a time when recovery efforts are consolidated to help prevent the resurgence of conflict. Military actors- particularly peacekeepers – withdraw and the society begins to normalise (NARAGHI & El-Bushra, 2004). Post conflict reconstruction period requires a comprehensive programme that encompasses physical institutional , cultural and other forms of reconstruction (Nkurunziza, 2008).

In Rwanda, the reconstruction phase started since 2002, and the major goal of the government was to transform Rwanda's economy by institutionalizing long term development programme to foster economic growth and sustainability. Among such programmes are Rwanda vision 2020 and Rwanda poverty reduction Strategy programme (RPRSP) (Anastase Murekezi, 2011). It is in this vision 2020 and RPRSP that land reform is mentioned to guarantee people security of tenure. In order to institutionalize land sector, to foster sustainable land reform process, reconstruction period in Rwanda saw the adoption of the constitution of the Republic of Rwanda, the National land policy, land law several to mention.

As the has been explained that the post conflict period overlaps and sometimes challenging to defines when each phase begins and when it ends, given different literatures on the three concepts of post conflict periods, the post conflict period can be summarized in indicated in the figure 3.

To conclude this section, the potential issues for further discussion are to see if it is clear for the beginning and the end of the post conflict period in Rwanda, the applicability of milestones, whether the FAO

characteristics are similar to that of Rwanda, the process and overlap of the post conflict periods (Emergency, early recovery and reconstruction).

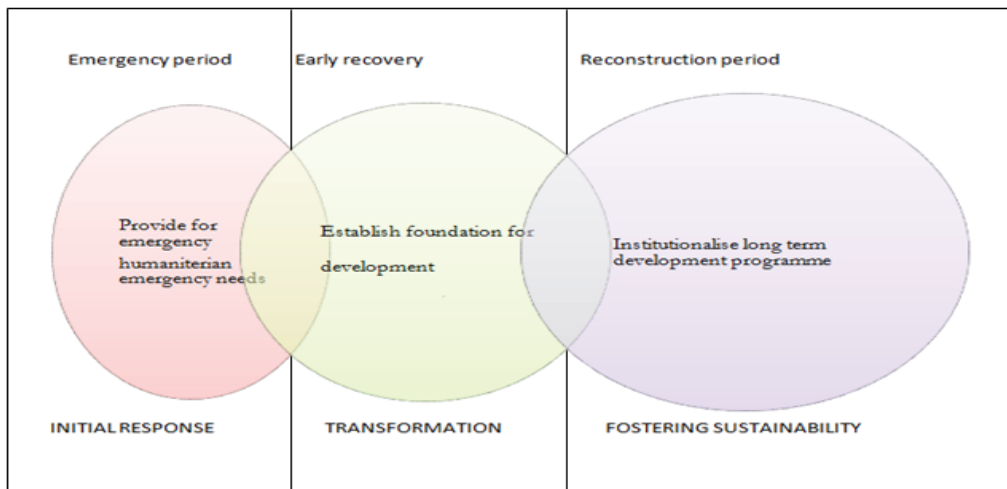


Figure 3: Post conflict overlapping periods

2.4. Land Administration

Land administration (LA) is the process of recording and disseminating information about the ownership, value of land and its associated resources (Williamson & ... 2010). Such process include the determination (sometimes known as adjudication) of rights and other attributes of the land, the survey and description of these, their detailed documentation and the provision of relevant information in support of land market (UN-ECE, 1996).

Dale and McLaughlin (2000) defines LA as a process of regulating land and property development and the use and conservation of the land the gathering of revenues from the land through sales, leasing and taxation and resolving of conflicts concerning ownership and use of land.

While, according to the UN land administration guidelines, LA is the process of determining, recording and disseminating information about value and use of land when implementing land management policies (UN-ECE, 1996).

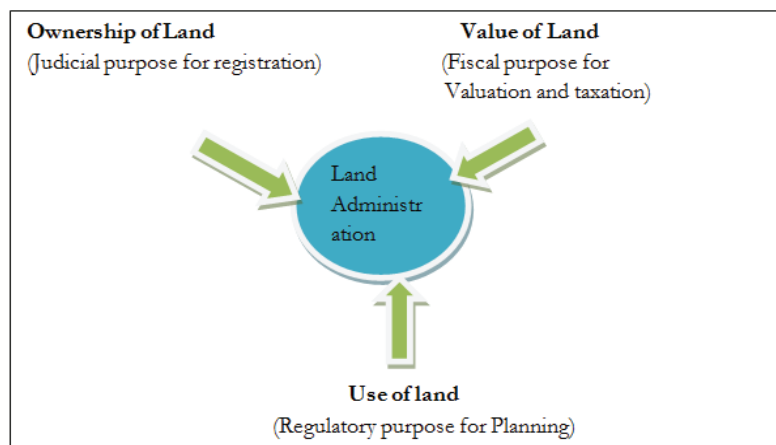


Figure 4: The broad concept of land administration (Source: Todorovski 2012)

FAO (2005) defines LA as the way in which the rules of land tenure are applied and made operational. LA comprise of an extensive range of systems and process to administer the land rights, land use regulations and land valuation and taxation. Land administration includes an element of enforcement to ensure that people comply with the rules of land tenure.

While analyzing the above definitions from different literatures, is thus, imperative to note that land administration is about land ownership, use and value, but in particular about the information system underpinning these as stated in the figure below.

2.5. Displacement and Land administration in post conflict areas

Having explained separately the meaning of these concepts, this sub-section, the displacement and land administration in post conflict areas, the researcher tackles how land issues are handled in post conflict periods depending on different literatures. The end of the conflict provides an opportunity for the displaced persons to return home.

Displacement caused by conflicts especially armed conflicts always result in significant changes to land tenure and land administration, as many people may have been displaced during the conflict (FAO, 2005). This results in secondary occupation, especially to land left by the displaced persons. Host communities also are directly affected as they face unexpected increasing competition on land, especially on issues of access to land, water and forests of which they are at a high risk of environmental degradation due to an increasing number of people in the host communities that need to use forest products – for building, firewood especially in developing countries.

Also due to displacement, land administration may have suffered the loss of persons (staff), land records and facilities (FAO, 2005). Similarly, post conflict period may be in a period where the conflict has resulted in changes to power and this may lead to scramble for land by new regime officials like the army, government staffs (Todorovski, Zevenbergen *et al.*, 2013), and even local people who were pro current regime during the conflict time. The end of such prolonged armed conflict frequently sees a large proportion of the population claiming or reclaiming access to land and land based resources, with important implications of return, recovery and reintegration processes (Pantuliano, 2009).

Whether land was part or the core of the conflict, and when there was population movement like IDP's , refugees and later returnees (when these IDP's and refugees return), there are likely to be new conflicts due to the disputes over the ownership and/or occupation of land (Zevenbergen & van der Molen, 2004). Being a post conflict period, there is often little or no operational government as had said before with plenty of negative effects of the conflict that results in a situation where people needs urgency basic essentials like food, shelter and medical care and clothing. This emergency situation creates opportunities for land grabbers and uses rights by the poor, the rich or the criminal (Zevenbergen & van der Molen, 2004).

In conflicts where among the causes was discriminatory regime, this may have led to infringement of rights of members of certain groups, and once that government is replaced by the new regime which is pro -prior discriminated group, the new group members who have been discriminated against may after change of regime, try to revenge, or get back what previously owned properties outside of recognised legal process (Zevenbergen & van der Molen, 2004). This may result in current occupants to sell their belongings including land due to coercion and fear (Zevenbergen & Burns, 2010) and if this happens in

area/country where land administration system is more or less in place, then the land rights of people who had been displaced (IDP's and Refugees) are particularly vulnerable too such coercion and manipulation.

As Zevenbergen and van der Molen (2004) put forward, there is an urgent need to put mechanisms in place to deal with the situation described above in a proper non-discriminatory way and with the due process, without being overly bureaucratic. Given the fact that post conflict governments are usually with low capacity to deal with land administration issues in post conflict period, there is a need to identify short term actions that can be implemented relatively quickly (FAO, 2005).

Todorovski (2011) argues that land administration in post conflict situation is difficult to (re) establish and it requires approaches that deals with circumstances of the local situation. This is true given the fact that many post conflict situations if not all may involves situations where land records are destroyed for example in Timor-Leste (Todorovski, 2011), former land officials killed or displaced - as was in Rwanda with change of regime and return of displaced people.

FAO (2005) lists categories of people that may have interests in land issues and they include; all displaced people who are trying to get their land resituated, people trying to get their formal rights to land they occupy for example squatters, secondary occupants who occupy land without authorization, people who are trying to get some land – this involves displaced persons who cannot return to their former homes, policy makers, legislators, people in land administration agencies, people in other administrative agencies, local leaders, people in NGO's with an interest in land tenure, some of whom may form on single issues like gender or environment, people in relevant departments of university and people in bilateral and multilateral agencies supporting the recovery and reconstruction periods.

According to Zevenbergen and Burns (2010), there is a growing recognition of the importance of addressing land issues early and effectively at all stages of humanitarian response to post conflict situations. According to UN-Habitat (2007) there has been a critical gap in the humanitarian response to land issues in post conflict situations. It is understood that land issues may trigger secondary or tertiary conflict, it is important for peace building missions to become aware that proposals related to land management in post conflict situations are integral part of efforts to restore peace and stability (UN-Habitat, 2007).

Land administration is only one competent of wider land issues which tend to have a very political nature and extensive land administration activities have been and are currently undertaken in a number of post conflict areas, of which Kosovo, Cambodia, Sierra Leone, Liberia, Ivory coast, Bosnia – Herzegovina, Sudan, Timor-Leste, Afghanistan and Rwanda are the most reported ones (Zevenbergen & Burns, 2010). Acting on land issues in a post conflict situation where people have been displaced from their land, leading to IDP's, refugees and returnees is of a crucial importance in order to support a peaceful transaction from the conflict.

Land related issues that come up in the post conflict environment are: access to land, land administration systems that support tenure security, forced transactions, emergency occupation of land for example emergency camps, settlements for refugees and IDP's and housing, land and property rights (Todorovski, Zevenbergen *et al.*, 2012b), as there is always a high risk of secondary occupation. To these effects, land administration should be incorporated, as an element of peace building because if clearly handled, it plays a fundamental role both in recovering from the conflict and ensuring that further conflict that leads to the displacement of people does not follow again. In the first instance, land administration must deal with the immediate chaos of property destruction and population displacement caused by conflict. Thus, the issue

of returning refugees and IDP's requires shelter and incentives to return to their original areas (Thu, 2012).

Also, post conflict governments must work to create institutions and promulgate laws to meet claims for property restitution. Such claims always come from returning refugees and IDP's, those who acquired title under the previous regimes and those who lost lands under previous regimes (Thu, 2012), claims such as local people with claims and disputes that the IDP's occupied their land without authorization, Returnees with claims and disputes that secondary occupants occupied their land without their authorization, Claims and disputes by returning refugees that IDP's occupied their land during their absence without authorization, Claims and disputes that land is being occupied by secondary occupants who were moved there by a former government under orders as opposed to an involuntary occupation, Conflicting legitimate claims and disputes created by successive long term occupations by different parties, may be common in post conflict period.

When large number of displaced people begun to return to their homes in post conflict period, it quickly become apparent that they faced a host of land related problems, such as illegal occupation by local commanders, disputes arising from the loss and destruction of ownership documents, fraudulent transactions, land distribution by successive government to their political supporters and disputes over water and grazing land (Todorovski, Zevenbergen *et al.*, 2012a). Thus, acting on land issues in a post conflict period, is a crucial importance in order to support a peaceful transition from conflict (Pantuliano, 2009).

As seen above, some of the land related challenges that arise in post conflict situations include loss or destruction of property, secondary occupation, landlessness, insecure use or mobility rights and lack of clarity regarding ownership or use rights. Failure to address these issues can create significant obstacles to humanitarian interventions and early recovery responses and if unaddressed, may contribute to renewed violence (Zevenbergen & Burns, 2010). As Paul van der Molen and Lemmen (2012) states, it is most likely that most conflicts situations different approaches are needed. Apart from the fact that countries differ in history, culture and attitude, post conflict period/situation may differ and require a specific policy (Zevenbergen & van der Molen, 2004). Thus, such situation requires short time emergency actions which would be taken in emergency period, others might allow for less hasty to early recovery and more gradual actions to the reconstruction period.

2.5.1. Post conflict land administration in Emergency period

According to FAO (2005), those involved in the early moments of the post conflict situations with humanitarian intervention, should include tenure and land administration specialists to investigate key issues of access to land and land administration. The land issues to be assessed in post conflict situations should include, types of land tenure, access to land (restitution, land disputes, compensation and eviction, resettlement, land for vulnerable groups, emergency shelter and housing, public and private abandoned land, lands that are free of mines and land that is mined), operational issues (land administration agencies and their mandates), policy framework, inter-agency coordination, communication and source of information (FAO, 2005).

However, due to the prevailing conditions in the post conflict period, it is very clear that the initial assessment of land issues is likely to be hard and may be incomplete. The long conflicts always affect the life of the country, many years may have passed since a census was carried out, and the conflict may have resulted in the displacement of people. Thus, a large number of IDP's and refugees may be moving every day outside of any organized process, and their locations may not be known/noted in most cases. This

dynamic situation of the post conflict will hamper to collect any land data in that period (emergency period).

The analysis during the emergency period may identify a number of interim policies and short term actions that can be implemented to ease the humanitarian actions. This work should form the basis for identification of priorities for the development of land policies (FAO, 2005). Among short term actions to be identified for quick implementation are; establishment of co-ordination mechanisms of the situation, getting land on the agenda, translation of legislation and documents, short term training courses for land administration staffs, refitting of land administration offices, protection of land records, short term suspension of eviction, suspension of new large allocation of land and the assessment of existing allocations, allocation of temporary use rights and temporary measures to deal with land claims (FAO, 2005).

In Rwandan context, as the first wave of returning refugees especially the 1959 refugees started to come in big number without any arrangement made by the government to facilitate them. This was simply due to the fact that all of the pre-arranged plans to repatriate them that have been agreed upon during Arusha agreement had collapsed (Jones, 2003). Other refugees (1994 refugees), mainly Hutu fled Rwanda in fear of retribution of genocide, and this resulted in leaving behind an unoccupied land, that many returning Tutsi found their former land available for them even if they had been occupied by Hutu for more than 30 years (Bruce, 2007). In chapter 5, the effects of this on land administration will be discussed in details.

2.5.2. Post conflict land administration in the early recovery period

This period comes when conditions of life within the country improves that security is calm, displaced people had returned, no more emergency needs and thus, attention can be shifted from carrying out humanitarian emergency activities to the development of policies. Policies to be developed should be facilitating access to land and its administration (P. van der Molen, 2004). It should be political, social, cultural, economic and environment priority for any country in post conflict setting.

Among policies to be developed, land policy should be among the priority ones and through land policy, land related issues that characterize post conflict countries should be tackled. Such as provision of emergency shelter and housing, development of a housing strategy for returning refugees and IDP's, temporary land allocations for vacant public and or abandoned private land for government and commercial operations, and for returning refugees and IDP'S, prevention of illegal occupation of land and buildings by warlords and criminals, development of an agricultural and rural development strategy for returning refugees and IDP's, restitution of land to its lawful owners through the establishment of mechanisms to resolve land claims and disputes, establishment of procedures to compensate people for whom restitution is not possible, establishment of fair procedures for eviction of unauthorized occupants and roles and responsibilities for land administration agencies and its staffs (FAO, 2005).

In the Rwandan context also, the early recovery period reached when the country was trying to come out of conflict and try to re-establish its economy and build a peaceful society, land issue had to be addressed especially in a country like Rwanda where land had a historical grievance over land, so in this period there was a high pressure of demands for redress. As Bruce (2007) there was a challenge of providing land access for returning refugees and internally displaced persons. And the challenging issue was whether the 1959, will get back their land they left behind through the restitution process or whether they will be resettled on alternative land and where will that alternative land come? And finally there was a general demand of land policy that will provide good and secure land tenure.

The Arusha peace agreement signed between the government and the Rwandese Patriotic Front (RPF) states that each person has a right to reclaim his/her property upon his or her return, but then goes on to recommend that in order to promote social harmony and national reconciliation, all refugees who left the country more than ten years ago should not reclaim their properties, which might have been occupied by other people. According to Jones (2003), the ten year rule was painfully negotiated primarily as a pragmatic (and political) solution for achieving peaceful return. This ten year rule clearly shows that the 1959 refugees were excluded from repossessing their properties as they are the one who had been out of the country for over ten years according to the Arusha accords.

When the 1994 refugees started to return in 1996, some returnees started to reclaim their land that have been occupied by 1959 returnees, faced with the returning of 1994 refugee land holders, most of 1959 refugees who had occupied their land shifted into the early Imidugudu (collective settlement), as did some 1994 refugees who had failed to find accommodation elsewhere or reclaim at spot the land they formerly occupied (Bruce, 2007).

With the returning of refugees both 1959 and 1994, there was a challenge of land access, and local officials tried to negotiate access to land for returnees especially for 1959 refugees who were not allowed to reoccupy their former land (Bruce, 2007). The government brought the policy of land sharing and encouraged it to allow the 1959 refugees to get a piece of land in order to earn a living. However, Jones (2003) indicates here that in doing so, the government was violating not only Rwanda's obligations under international agreements but also of the new constitution's property guarantees. This is because Rwandan constitution states that private property is inviolable and thus, ordering people to share with others their private property (land), was violation of the constitutional rights of former land owners.

2.5.3. Post conflict land administration in the Reconstruction period

In this period, rebuilding of a society and the physical infrastructures is proceeding (P. van der Molen, 2004). Government in a post conflict situation are likely to need revenue and land tax can be an important source (UN-Habitat, 2007) and for this to succeed, land administration in a country needs to be well administered. Planning and financial management is a key aspect of reconstruction projects, as these typically make heavy demands on resources. These activities should take place within a country with that is recovering from conflict with a functioning authority to develop policies that will help monitor and evaluate the implementation of policies related to access to land (FAO, 2005).

As said earlier, developing of land related policies in early recovery period, in the reconstruction period much attention will focus in the implementation of those policies and in land matters, implementation of developed policy on access of land should be indicated by land legislation, adjudication procedures for land claims and disputes, existing land administration systems, housing strategies, eviction procedures, administration of state-owned land, administration of private abandoned land and transparency (FAO, 2005) and there should be monitoring and evaluation of signal that the developed policies are implemented.

Among the laws and policies that are worth mentioning here are the Constitution of the Republic of Rwanda of 04/06/2003, National Land Policy of February 2004, Organic law determining use and management of land in Rwanda of 14/5/2005, the Expropriation law in the public interest and other different decrees and orders among which will mention the order relating to modalities of land registration and then the recent new Organic law repelling Organic law of 14/5/2005 determining the use and management of land in Rwanda.

The reconstruction period in Rwanda brought some remarkable changes in matters concerning land as there was a new land policy, the constitution and the organic land law, Bruce (2007) outlines different issues tackled by the new land policy and the organic land law among which two are mentioned here and they are;

- Customary holdings are recognized, but they are to be converted to leaseholds held from the State and abolished the customary tenure and continued to cancel all customary feudal incidents within the country.
- Registration of land became mandatory
- The State is responsible for giving land to persons who were denied their property rights.
- Land sharing that has occurred since 1994 -2005, is explicitly validated, and those who received land are recognized as having the same rights as other customary holders
- The law recognizes that the 30 year occupation of land by a private user or the State gives rise to rights to be leasehold, but excludes occupations initiated by violence or fraud and makes it clear that what is acquired is not ownership but leasehold right on State.

All of these later raised many land claims and disputes and later hampered land administration. The details will be discussed in chapter 5.

To conclude this section, it is important to note that land administration and the underpinning systems in the post conflict area mentioned above are important in that a proper LAS gives reliable information about who owns what, so that ownership responsibility, use responsibility and possession is recognised especially in post conflict periods (emergency, early recovery and reconstruction) and this can be helpful through protecting owners who still occupy their property against returning refugees and IDP's and grabbers, provide evidence of ownership for returning IDP's and refugees. This protects registered land and makes it difficult for the secondary occupiers to grab land and helps the post conflict nation in reconstruction especially economic recovery as for example tax collection will be easy by knowing who will pay and what will he/she pay.

2.6. Pinheiro Principles

The Pinheiro principles contain 23 principles divided into 7 sections which are scope and application, the right to housing, overarching principles (right to non-discrimination, right to equality between men and women, right to be protected from displacement, right to privacy and respect for the home, the right to adequate housing and right to freedom of movement) , the right to voluntary return in safety and dignity, legal, policy, procedural and institutional implementation mechanisms (compatibility with international procedures, institutions and mechanisms, accessibility of restitution procedures etc), the role of international community including international organisations and interpretation (COHRE, 2003).

These are principles regarding housing and property restitution for refugees and IDP's to return to their homes and to recover their property that was adopted in 2005 by the UN-Commission of Human Rights. They are called Pinheiro principles because they were drafted and developed by Paulo Sergio Pinheiro⁶. They are non-binding principles that provide guidelines for one durable solution to IDP and refugees crises of returning displaced persons to their homes. These principles provide a demanding set of rights that includes, granting right to restitution for the lost homes and land to victims of dispossession with limited exceptions (Attanasio & Sánchez, 2012).

⁶ A Brazilian born diplomat and a legal scholar who worked with United Nations in different section such as being a special rapporteur on situation of human rights in Burundi and Myanmar, member of sub-commission on protection and promotion of human rights and several other responsibilities within UN system.

The principles provide specific policy guidance regarding how to ensure the right to housing and property restitution in practice and for the implementation of restitution laws, programmes and policies, based on existing interventions, human rights, humanitarian, refugees and national standards (iDMC, OCHA *et al.*, 2007). These principles reflect some of the most useful provisions from various national restitution policies, programmes and practices including those developed for Afghanistan, Bosnia-Herzegovina, Burundi, Cambodia, Cyprus, Guatemala, Iraq, Kosovo, Rwanda, South Africa and Sudan (iDMC, OCHA *et al.*, 2007).

The broad scope and application of these principles apply to all displaced persons who were arbitrarily or unlawfully deprived of their rights. Principle 1.2 states that housing and property restitution for refugees and displaced persons apply equally to all refugees, internally displaced persons and to other similarly situated displaced persons who fled across the national borders but who may not meet the legal definition of refugee (hereinafter “refugees and IDP’s”), who were arbitrarily or unlawfully deprived of their farms, land, properties or place of habitual residence, regardless of the nature or circumstances by which displacement originally occurred (Attanasio & Sánchez, 2012).

The above said principle shows how the Pinheiro principles apply in all cases of involuntary displacement resulting from international or internal armed conflict, a gross human rights violations such as ethnic cleansing, development projects, forced eviction and natural and manmade disasters (iDMC, 2013). So, whenever a person or a community is arbitrarily displaced from their homes, the principles can be used as guidance.

As stated in principle 2.1, all refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore as determined by an independent and impartial tribunal. According to this principle, there is no room for exception to limit the implementation of this principle on the restitution of claims based on the age of the claim. Thus, Pinheiro principles does not announce any limit on the time in which a person dispossessed may claim restitution (Attanasio & Sánchez, 2012).

2.6.1. Challenges and Limitations of Pinheiro principles

To Attanasio and Sánchez (2012) the demanding nature of the principles has led some to conclude that while the principles contain appealing standards, there are substantial challenges to designing a programme that can satisfactorily implement those standards in a situation of mass dispossession. Achieving a durable solution through the return of displaced persons to their places of origin presents a number of challenges like balancing victims choice with incentives to return, ensuring equality of access and procedural fairness in the restitution process, and reforming an unstable and unjust pattern of land distribution (Attanasio & Sánchez, 2012), to secondary who had been occupying that land for a long period time, and who in some cases have been moved there to occupy that land involuntarily by the government, as was the case in Rwanda (Jones, 2003).

Since the Pinheiro principles aims to restore, all things as they were prior to the displacement, its implementation faces substantial challenges to securing a durable solution to restitution of properties to all rightful owners. Because it is difficult to establish the correct balance between promoting return and leaving IDP’s free to choose their solution. The restitution programme is likely to suffer from administrative problems that interfere with its ability to adequately restore land and support return (Attanasio & Sánchez, 2012). Thus, any programme aimed at implementing the Pinheiro principles that does not provide comprehensive support to promoting return and let displaced remain with the right to

choose to return or stay, may fail to change circumstances of those returning in a way that makes return stable.

Principles 2.1 and 21.2 emphasizes on providing the displaced persons with restitution of their property, regardless of their intent to return. Biding by these principles, States may strike a poor balance between encouraging return and protecting victim choices, and a restitution programme that fails to motivate the displaced persons to return will also fail to resolve or assist in the resolution of significant displacement problems (Attanasio & Sánchez, 2012), an issue that a post conflict country/government will not be willing to support.

Also, Pinheiro principles advocates for individualized property restitution – return to each individual of the particular lost property. This poses a number of challenges for administration and implementation, as individualized restitution requirement may create problems of fairness because restitution can only be accomplished through separate, individualized proceedings in each case (Attanasio & Sánchez, 2012). This restitution requires individualized adjudicative decisions to determine whether individual claimants had rights to particular goods (iDMC, 2013).

Since the Pinheiro principles advocates for restoration of pre-displacement period, by resituating all properties to their rightful owner, they are likely to fail to adequately transform the unequal land distributions, across both gender and socioeconomic classes, which may exists in many States that have suffered from mass dispossession (Attanasio & Sánchez, 2012), and even continue to require that State fully restore all dispossessed property to its owners without taking into consideration the means through which they had acquired those properties or if they are wealthy and this will create unequal benefit of which will be a challenge to a post conflict government, to deal with landless and a reason to block the displaced landless and the poor to return most especially if the reasons behind displacements were conflict based on land issues.

The implementation of these Pinheiro principles may require restitution of all disposed property and this brings an enormous strain on public funds in the extent that it could be effectively impossible to satisfy the claims of all the concerned displaced person (victims) and satisfy other state demands (Attanasio & Sánchez, 2012), bearing in mind that implementation of these principles is always in post conflict period or post disaster where the State is trying to heal wounds and clear wrecks left by the causes of displacement.

To sum up, a successful implementation programme of Pinheiro principles, as Attanasio and Sánchez (2012) states, requires a programme for land restitution and return for victims of forced displacement that respects the Pinheiro principles. For that fact, such programme to succeed, it is essential that it adequately preserve victim choice while motivating them to return, provide for the fair and adequate administration of restitution and return and enable returning victims to have more secure land tenure than when they were displaced. In further discussion, the researcher will assess whether they fit the Rwandan context and how Rwanda handled the land issue in post conflict periods clearly fits the requirements of these principles and if challenges outlined above also are found in Rwanda case.

In conclusion, therefore, different topics have been covered in this chapter in order to give a detailed coverage of displacement and land administration in post conflict areas. In the due process, different points for further discussion in chapter five were popping up and they include verification of extent through which Rwandan displaced people meet the given definitions of IDP's and refugees, the issue of secondary occupation, restitution of properties, the functional working of institutions, check if post

conflict characteristics given by FAO resembles the Rwanda post conflict situation, the detailed explanation of post conflict land administration in Rwanda especially in emergency and early recovery and the possible application of the Pinheiro principles in the post conflict land administration and its challenges. These topics will be discussed in details in chapter five where they are related to collected data from fieldwork (chapter four) to give detailed information on how Rwanda dealt with displacement issue and land administration in the post conflict period.

3. RESEARCH METHODOLOGY

This Chapter gives the brief background of the location of the selected study area, details of how the research was conducted, the methods used in data collection, and collection of data and it also explains techniques used for data presentation and to be used in the data analysis.

3.1. Selection of study area

Kumar (2005) defines case study as a detailed examination of a single social phenomenon using individual case such as a person, an episode, village, a family or an organized group of people. To be able to complete my research, Eastern Province of Rwanda has been chosen as a case study, thus two districts (Kayonza and Ngoma) in this province are chosen as an area for data collection as they are inhabited mostly by both 1959 and 1994 IDP's and refugees.

Kayonza District is located in the East of the province and borders with Gatsibo district in North, Rwamagana in the east, Ngoma in the South –west, Kirehe in the south-east and the Republic of Tanzania in the East. It covers the average area of 1,954 Km², with population size of 346,751 (NISR, 2012) people, living in 12 sectors, 50 cells and 421 villages (Imidugudu).

Ngoma district is also one of seven districts that make up the Eastern province. It is subdivided into fourteen (14) sectors, sixty four (64) and four hundred and seventy three (473) villages (Imidugudu). The district covers area of 86,774 km². It borders Rwamagana district in the North-West, By Kayonza in the North-East, Bugesera in the West, Kirehe in the east and by the Republic of Burundi in the South. It is inhabited with 338,562 (NISR, 2012) inhabitants.

So, Eastern province was chosen as a case study because it is one of the places in the country that did receive a massive number of returnees from Uganda, Tanzania and Burundi. This was due to its location, being in entry point of the three countries and due to security reasons, as this is the place that RPF had captured before other places. So, many refugees did not wait for any announcement declaring the return of refugees, instead they organized themselves and started to flow in the country, occupying places conquered by RPF. Therefore many of them settled in the Eastern province, and because of this, the province had a number of returnees who needed land, that led to land sharing as we will see in chapter four.

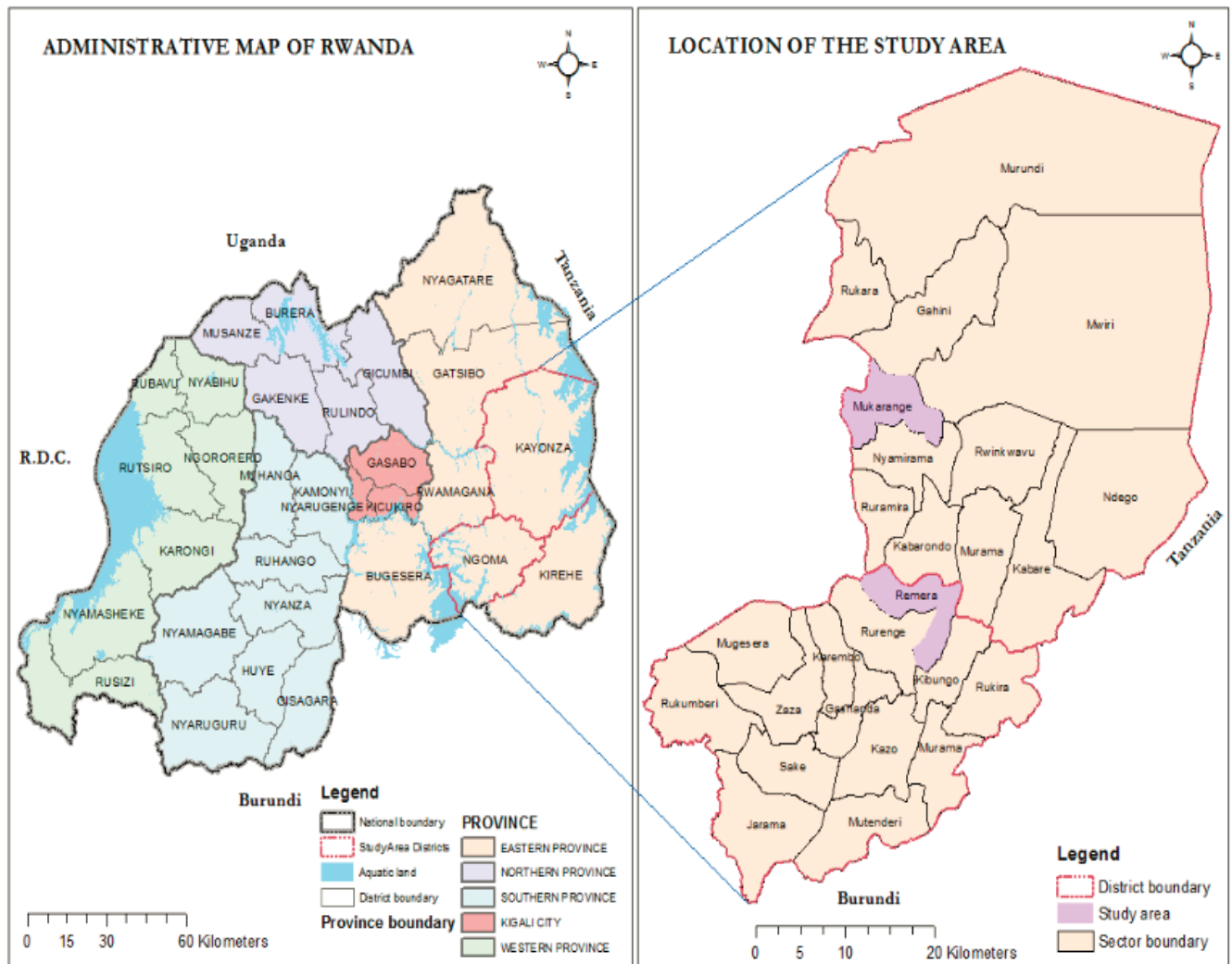


Figure 5: Study area

After the consultation of district officials on the access to the sectors and population, two sectors were chosen, a sector per district where interviews will be carried for data collection and thus, in Kayonza, Mukarange sector was chosen while in Ngoma district, Remera sector was also chosen. More to that, a stratified random sampling method was also used to chose respondents for the target groups which include the 1959 refugees, 1994 refugees, IDP's and Survivors of Tutsi genocide. These four groups mutually form the IDP's and the refugees that have been mentioned in chapter 2.

In Kayonza district Mukarange sector, a snowball sampling method was applied to reach respondents, this was because the settlement pattern of Mukarange sector favored moving from a house to another after getting information on the location of other member of the same target group whom they know and continued the interview by using a pre-planned interview questions until there was data saturation. In research, data Saturation is when the interviewer is no longer hearing new or different information from interviewee/respondents (Debbie, 2007). However much snowball sampling is useful and important in research, especially in areas where members of the target groups are difficult to locate, this method is hardly likely to lead to representative sample as the research is not in control of whom s/he needs to interview but instead whom s/he is directed to. Nevertheless, during this research, it was the best method available given time and financial means.

It is also important to note that the arrangement and the content of the interview questions were designed to contain some questions that needed dichotomy type of answers (Yes or No) and also open ended types that required the respondents' awareness, perception and attitude in reference to his/her life experience. It is also these open ended type of questions that was designed for respondents who are currently in government positions and former leaders, it was also designed to let them give their opinion and experience they have got while handling land matters in the post conflict period.

3.2. Data source and Acquisition methods

The research is based use of literatures and both primary and secondary sources of information collected. Primary data were collected through interviews and focus group discussion and field observations. While secondary data was collected from governmental organizations at sector level, mediation committee, district, Office of Ombudsman, Rwanda Natural Resource Authority and National Secretariat for Mediation committees.

3.2.1. Literature review

The use of literatures will be of great importance as it will help us to broaden and explain more the concepts commonly used in this research and how the issues of displacement and land administration in the post conflict period have been dealt with in different areas. This will facilitate to compare my findings with Rwanda's experience which is the research case study.

3.2.2. Primary Data

Most of the data required to answer and validate the research questions so as to achieve the objectives of this research were from primary sources. Therefore, to get data from primary source, interviews, focus group discussion and field observations were employed. These methods were used to collect data related to know if the respondent was once displaced, if yes, when, where did he/she settle, who facilitated, when did return, did they have land before, did they reoccupy their land after return, was their land occupied by others, if yes, who are they?

3.2.3. Interview

Interviews with the selected 31 respondents (see table 7) from both four targeted groups that is the 1959 refugees, 1994 refugees, IDP's and Survivors of Tutsi genocide were conducted and the necessary was obtained. Such information includes how these people were displaced, when they were displaced, how their land was occupied by others, how claims and disputes were resolved in the post conflict period.

Through interviews, government officials and former government and local leaders (see table 6) were also interviewed and information needed from them and obtained was related to how the government dealt with land issues in the post conflict period, how land claims and disputes are processed and how these claims and disputes hinder land administration despite government's effort to solve these claims and embark on long term policy for land reform.

Organization	Position	Number
Kayonza District	Mayor	1
Ngoma District	Vice Mayor	1
Remera Sector	Executive Secretary	1
Kayonza	Director of Land Administration	1
Central Government	Former Minister of Local	1

	Government, <i>Prefet</i> of Former Kibungo Prefecture and a member of Repatriation Commission	
Kayonza District	Former Councillors	3
Ngoma District	Former Councillors	12
		20

Table 6: Interviewed Leaders and Former Leaders

No	Targeted groups	Respondents from Mukarange sector	Respondents from Remera sector
1.	1959 refugees	4	5
2.	1994 refugees	4	3
3.	IDP's	4	3
4.	Survivors	4	4
		16	15
		31	

Table 7: Number of Respondents and their respective sectors

3.2.4. Focus group discussion

Focus group discussion involves bringing together people with similar experience or background to discuss a specific topic of research interest. The group participants are guided by a moderator or a group facilitator who introduces topics for discussion and helps the group to participate in a lively discussion amongst them (Debbie, 2007). To create a focus group discussion, as a researcher, I had to bring subjects or the targeted groups together, initiate the discussion topic and then observe their interactions as they explore specific issues in the given topic.

The important strength of focus group discussion relies on bringing together and allows participants to agree or disagree with each other so that to provide the researcher with an insight into how a group thinks about an issue and then researcher can record the range of opinion and ideas.

Thus, during my fieldwork, a focus group discussion was held in Ngoma district Remera sector where with the help of district officials time to meet the target group was established, categories and the number of needed participants to be invited and the location was chosen. Thus, 12 former leaders were gathered in two different sessions each with 6 participants and a discussion was held on how they handled the issue of returnees in the post conflict period, especially on issues related to land that belonged to 1959 refugees and on how they handled land claims and disputes. In addition to this, executive sector of the said sector (Remera) was interviewed to enrich information collected from this focus group.

In Ngoma district, focus group discussion was chosen due to the fact that it helps to gather more data in a relatively short time than could be collected in an individual interview and this was also the best method to reach the former leader given the settlement partner of Ngoma district which could not favor other methods like snowball sampling method given a limited time and the transportation mode in the Remera rural area.

However, even though focus group discussion can be important in research as explained above, it has also shortcomings, since it is held in public that is with the presence of other people, it lacks confidentiality and

anonymity and this may suppress some useful information. It is therefore important to note that focus group discussion cannot provide information that can be generalized to a broader population, other methods of data collection needs also to be applied.

3.2.5. Secondary Data

The secondary data collected were mainly referring to reports on how land claims addressed to the governmental institutions were handled. So the secondary data were collected from the sector level, mediation committee, District, Office of Ombudsman, Rwanda Natural Resource Authority and National Secretariat for Mediation committees.

No	Type of Data	Year	Data Source	Format	Comment
1	Reports on land sharing	1997-1998	Sector level	Scanned copies	Listing of names of beneficiaries and size of land
2	Reports on claims addressed to authority	2010-2013	District	Soft copy word documents	This report is in Kinyarwanda
3	Reports on minutes of resolved claims by authority	2012-2013	District	Soft copy word documents	This report is in Kinyarwanda
4	Reports of claims received	2010-2013	Office of Ombudsman	Printed hard copy	This report is in Kinyarwanda
5	Land under disputes during LTR	2008-2010	RNRA	Soft copy in excel document	
6	Report on performance of Mediation committees	2012	NSMC	Soft Pdf document	
7	Abunzi capacity Assessment	2012	NSMC	Soft Pdf document	This document was prepared by USAID LandProject

Table 8: Source of secondary data

3.3. Data Preparation and Processing

3.3.1. Data preparation

The primary data collected through interviews was written down and entered after fieldwork in excel data sheet and a group discussion was entered into a word format while secondary data obtained from different governmental institutions in both hard and soft copy formats were arranged and changed into an appropriate format for research analysis.

3.3.2. Data Processing and Analysis

Processing and analyzing both primary and secondary collected data involves a number of operations which are performed with the purpose of summarizing the collected data and organizing them in a manner that they achieve the research objectives and answer the research questions.

So through processing the collected data, summary tables are used and the survey results on the related topic or question or question asked are presented in a single table line that make it easier for the viewer to look at its proportions in percentages (in%). Also, additional and supportive secondary data collected at the different governmental institutions some are presented in tables to show proportions in numerical number and percentages which is also important in observation and analysis.

3.3.3. Qualitative analysis

Qualitative analysis involves making sense of social observation. It is a method of data analysis that examines research data without converting them to numerical format (Debbie, 2007). The importance of using this method of data analysis is that it allows a continuing interaction between data collection and theory. Thus, in using qualitative data analysis, both data collection, analysis and theory (literatures) are intimately intertwined to produce a good discussion chapter.

As Kumar (2005) puts forward, for qualitative data analysis, a researcher needs to go through content analysis where a researcher analyses the contents of an interview in order to identify the main themes that emerge from that responses given by the respondents. So, since my primary data were got through interview, I had to carefully go through the descriptive responses given by respondents to each questions in order to understand the meaning of what the respondent wanted to mean. These responses become the basis for analyzing the collected data through unstructured interview.

After thoroughly study and having an overview of what the respondent meant per response given, the researcher had to count the number of times each response has occurred/reappear as per the same question in the interview. This involves selecting of responses to open-ended questions and identifies similarities in the responses from different respondents. This process is done to each response of each question asked during the interview till a saturation point is reached and a decision of what was a response to each question is identified.

Finally, having identified responses per each asked question, the next step was to integrate the data into the text for data analysis and discussion where verbatim response (using exactly the same words as were originally recorded) was used to keep the feel of the response.

Conclusively, throughout my fieldwork, it is important to note that collecting data through interviews and focus group discussion requires conducting field research responsibly; this is due to the fact that in the due process, the researcher involves confronting several ethical issues that arise from the researcher's direct contact with the respondents/subjects and finally, after conducting my field work, I observed that field research survey generally have more validity (access to first hand information) but less reliability (representation).

4. FIELDWORK RESULTS AND ANALYSIS

As the previous chapter explains and describes the research methodology and the research area, this chapter will focus on the fieldwork findings. Results from the fieldwork are from two districts that are Kayonza and Ngoma where the targeted groups of displaced people were found and interviewed. In this chapter, three important issues related to the objectives of the study are discussed here. They include the mode of displacement Rwanda faced, how the land was handled in post conflict Rwanda that is in an emergency, early recovery and development phase. To know and answer questions the researcher had before fieldwork, targeted groups of interviews were classified into two categories that administrative authority and the people (displaced people).

4.1. Survey on Displacement in Rwanda

While one of my main objectives was to know the kind of displacement that Rwanda faced, led me to ask questions to my respondents related to whether they were once displaced and when were they displaced, and what the events behind their displacement, when displaced where did they settle and if they got any facilitation from the host countries (refugees), or host community/their government to IDP's. Also question to know when they returned and if any facilitation was got. From this perspective, the result after 31 survey questions revealed that among the respondents interviewed, 100% have been displaced (This was not a surprise to me because these people were chosen on criteria of once displaced persons but only wanted to know reasons behind their displacement and issues related to land) and all by effect of armed conflicts in different periods as it is depicted in the table below.

No	ASSESSMENT TOOLS	RESPONSES	FREQUENCIES (N=31)	%
1	Whether ever displaced	Yes	31	100%
		No	0	0%
2	By armed conflict	Yes	31	100%
		No	0	0%
3	When displaced	1959	09	29%
		1994	22	71%
4	Where did s/he settle	Settlement Camps	23	74%
		Villages and towns	8	26%
5	Was s/he facilitated in settling	Yes	23	74%
		No	8	26%
6	Who facilitated?	UNCHR	23	74%
		Host Countries	0	0%
		None	8	26%
7	When did s/he come back?	1994	09	29%
		1996	22	71%
8	Was he facilitated	Yes	0	0%
		No	31	100%

Table 9: Results of fieldwork on displaced person

As stated in chapter 1.2, the ethnic uprising in 1959 and later the liberation war and the genocide against Tutsi was the main reasons behind the displacement of people in Rwanda and thus, this answers the question, the researcher had posed before about knowing what kind of displacement that Rwanda faced, so the research confirms that the displacement faced was forced eviction.

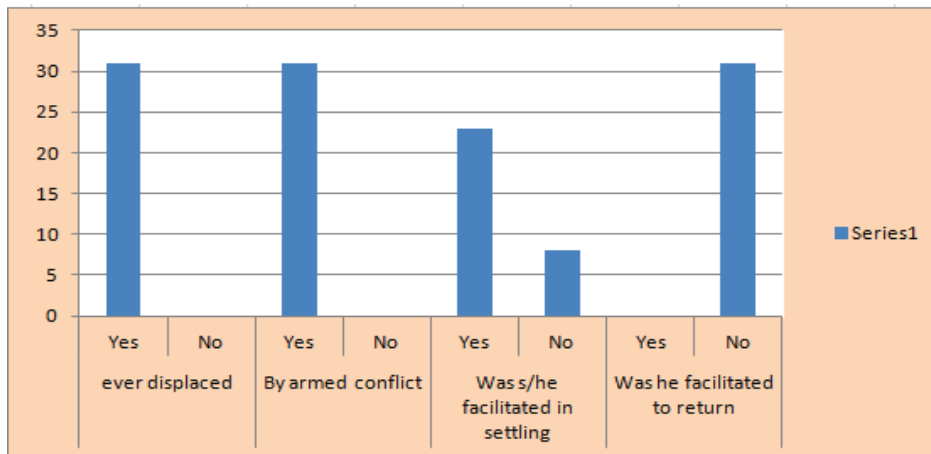


Figure 6: Fieldwork analysis on displacement of people

As stated in the figure above, 26 respondents out of 31 which are 74% of people interviewed were facilitated in the settlement during displacement and for transport at return after the conflict, while they were displaced and settled in camps under the facilitation of UNHCR, while 8 respondents out of 31 which are 26% of interviewed persons were not facilitated during their period of displacement and they settled in villages and towns.

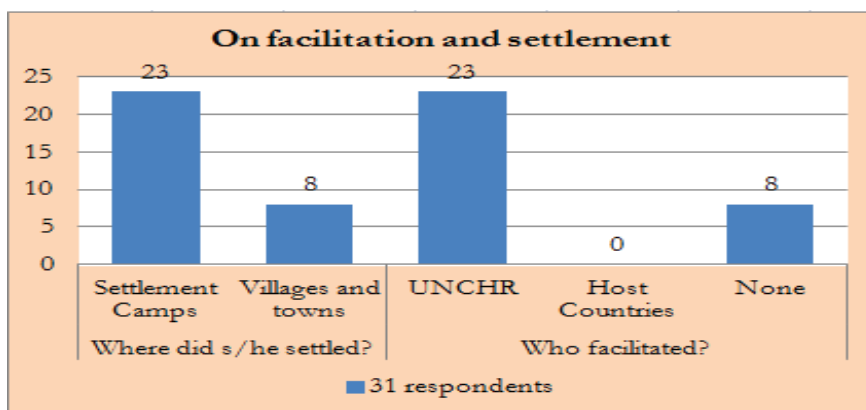


Figure 7: Fieldwork analysis on settlement of displaced people

As already explained in chapters one and two, Rwanda faced two different armed conflict and both led to displacement of people, resulting into refugees and IDP's, throughout the interview period, all responds had either been displaced by 1959 civil unrest or 1994 genocide against the Tutsi. As earlier explained in chapter 1.3 about the return of refugees, displaced people also returned in different waves, the displaced people who had been in exiles for more than three decades returned in the aftermaths of the genocide; which is 1994 and those who had been displaced in 1994, due to the war to stop the genocide, returned in 1996 as the figure below shows.

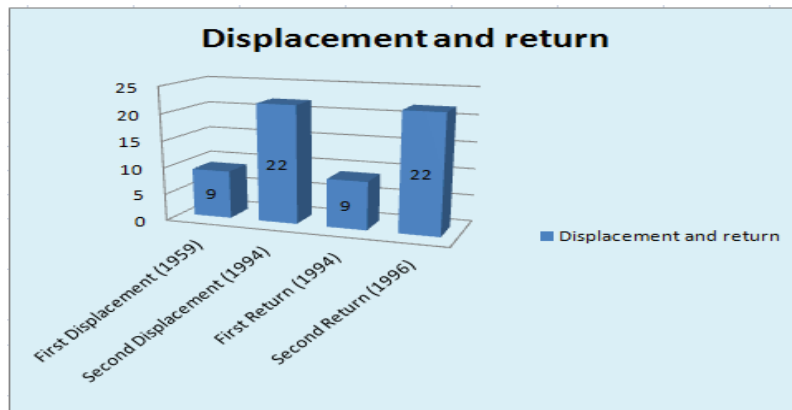


Figure 8: Displacement and return of displaced people in Rwanda

As seen in figure 8 above, the refugees of 1959, were at the same time returnees of 1994 and also the refugees of 1994, are the returnees of 1996. On the issue of how displaced people were repatriated in the aftermaths of the conflict, many respondents responses were related and at almost similar. To returnees who were refugees of 1959, repatriation was simple, the 1959 refugees returned in the after months of July 1994 after the fall of genocidal regime. They organized themselves and returned without waiting for any official announcement. On this issue, one respondent confirmed that the role of government was rare since 1959 refugees started to come before even the fall of Kigali, so they were all eager to come home, so after the war many 1959 refugees returned in large numbers.

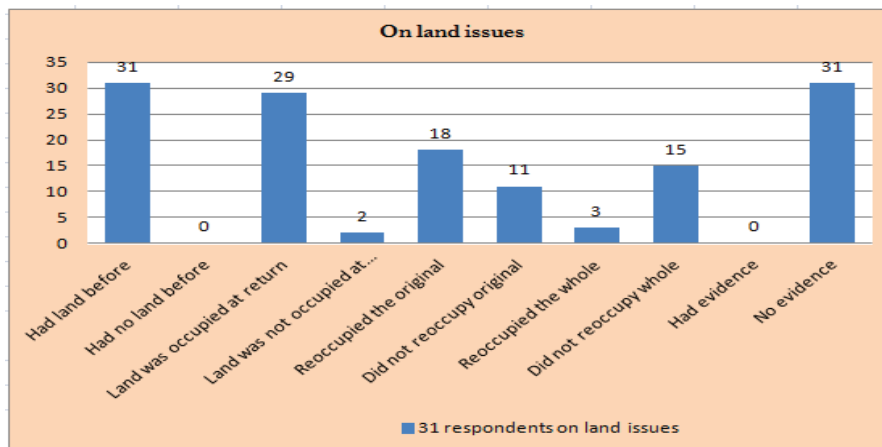


Figure 9: Fieldwork analysis on land that belonged to displaced people

On the issue of knowing the role of the government and authorities in repatriating these displaced people, respondents also confirmed that the role of authority during repatriation was a simple facilitation because the government at the time had no resources, the only facilitation was provision of security and since the country was a meeting point of people from different countries with different cultures, together with Tutsi-Hutu suspicion, the role of the government for these people to settle together was mobilization and civic education to encourage these people to live together in peace and harmony.

Many respondents also affirmed that the authority did a little during repatriation process, for example, like 1959 refugees, 100% of respondents claimed to have repatriated themselves, there was no any single support offered to them, many of them were financially stable and could cater for themselves. Local

authorities at the time only directed them to areas where they could occupy abandoned houses and land for shelter. One respondent from the administrative authority had this to say “As an authority we had no means, to help in repatriating them, we only had guns for providing security, but nothing else, so it was security that we brought to them and provide a favorable environment to assure them that the country is safe”

On the issue of knowing if the displaced people had land prior to the displacement, questions aimed at knowing whether the displaced persons had land prior to displacement were asked. Such questions aimed to include whether they reoccupied their land upon return and if reoccupied did they reoccupy the whole or the part? Was the land occupied by others? , and if yes, how long did it take them to repossess it from secondary occupants? Who were those secondary occupants? The responses received were similar and varied depending to which group of displacement a respondent belongs in, that is to say respondents who are 1959 refugees always had similar experiences in issues related to land like no right to restitution, land occupied by others and both admitted for no formal evidences as a proof for ownership. The results from the interview are listed below:

No	Assessment tool	Responses	Frequencies	%
1	If had land before	Yes	31	100%
		No	0	0%
2	If land was occupied by others when he returned	Yes	29	94%
		No	2	06%
3	On who had occupied it	1959 Returnees	9	31%
		1994 Returnees	2	7%
		IDP's and other people	13	45%
		State	3	10%
		Church	2	7%
4	If reoccupied their original land	Yes	18	62%
		No	11	38%
5	Reoccupied whole	Yes	3	17%
		No	15	83%
6	On how long it took to reoccupy it	Below a month	14	78%
		Above a month	4	22%
7	If they had evidence	Yes	0	0%
		No	31	100%
8	On how they proved	Witnesses	9	29%
		No proof needed	22	71%

Table 10: Fieldwork results on land owned by displaced persons

Since in the interview criteria, the primary target was the people who had ever been displaced and not those who had land before, through the interviews, it came to the researcher's knowledge that 100% of the respondent had land before. Among these respondents, 62% reoccupied their former land upon return in the post conflict period. However, only 38% reoccupied the whole of the land they owned before, while only 17% regained the whole of the land, others did not reoccupy theirs instead they shared with others and a few were given land by government.

Eastern province was the first place to be captured by the RPF forces. Given its location for neighboring three countries (Uganda, Tanzania and Burundi) that harbored many 1959 refugees, was a sole part of the country that the returning refugees would expect safety in the aftermaths of the genocide. So their return and settling in Eastern province mainly in present districts of Kayonza and Ngoma was accidental, whoever got the unoccupied or abandoned house, could occupy it.

When asked about land restitution and its possibilities in the aftermaths of the conflict, all respondents from displaced group admitted on the complexity of the situation at the time. One respondent summarized the situation as “this area had many people returning from different countries with different background, each suspicious of the other, all wanted land to settle and all had a single place they called home, by that time, you would find that, there are many families/claimants are calling it theirs, and in legal matters each claimant had a reason. So, the authority had no any other alternative, there was no formula to apply that would be possible to fully satisfy both claimants, so negotiation where possible and unconditional authoritative decisions had to be taken in some circumstances”.

In 1994, the country had over three million refugees and returnees of 1959, so the authority at the time did not repatriate them, but instead laid the conditions for them to repatriate themselves especially those of 1959, and then embarked on repatriating the 1994 refugees. The returning of 1959 refugees was in the aftermath of the 1994 genocide and the fall of Habyarimana regime, but their coming also saw the mass fleeing of 1994 refugees in fear of revenge, who also returned in 1996.

As seen above in figure 9, 94% of respondents found their land occupied by others upon return, these shows degree at which serious the issue of secondary occupation was in the post conflict Rwanda, and the secondary occupants were not only fellow countrymen, as they also involved the government and the church. This was a challenging issue in a post conflict period where all respondents' claims to have been with no any formal evidence to prove their rights to ownership of land, due to the land administration system the country had at the time. This shows how International non government organizations were necessary to intervene in such situation to facilitate in advice and support.

Normally, in the post conflict period, international NGO's tend to intervene for humanitarian assistances to the displaced and those affected by the conflicts, according to responses got from respondents, NGO's played an important role in the post conflict Rwanda as they helped in imidugudu settlement. This is even evident through personal observation while travelling in the countryside, one sees that some Imidugudu settlements are named after NGO's that facilitated and financed their establishment for example UNHCR, RED CROSS, LWF etc.

The role of the NGO's is also recognized by the local authority, as among the respondents on the role of NGO's in facilitating returning refugees, one responded had this to say “They (NGO's) helped us in transporting these (referring to returnees) people from the Prefecture and Commune to their respective sectors and cells where we (local authority) could pick and settle them (returnees) to their place of origin”. He continues and states that “They (NGO's) were involved in many things even than the government, remember the country had spent almost four year in fierce fighting, a genocide, fleeing of people etc, so all fields had no food, many houses destructed, so NGO's were involved in providing food and sheeting for shelter”.

Depending on responses from different respondents, NGO's were involved as many were there to monitor how the authority was going to handle these challenges. Another administrative respondent recounts “Given the time we (referring to the authority) were in, we were in need of any assistance

whatsoever, so we had to collaborate with them (NGO's) to help, especially in convincing these refugees, especially the 1994 refugees to return home as some were so scared of revenge and they even provided transportation, food and shelter". Provision of supports mainly in logistics during the repatriation process was the best role of NGO's.

From this note, one can also confirm that there was a close collaboration between the government and the NGO's as they were the financing agency, as one respondent from an administrative authority recalls, "we had no state budget, no any finance even to provide basic needs to returning refugees, so we worked hand in hand with NGO's and they did provide logistics especially food and shelter for the returnees. We had people and they had money and logistics to give to people so we used to direct them to where these people were the needier than others etc."

One can conclude here that there was a close collaboration between the government and NGO's during repatriation process and resettling of returns, especially after the introduction of the imidugudu settlement, as this time, these NGO's were suspicious of RPF, thinking that there will be revenge, so the government had to involve them in whatever move that involved dealings with returning refugees especially in repatriating and settling them.

4.1.1. The 1959 returnees' vs Arusha peace agreement

Having seen that all respondents of 1959 none of them did reoccupy his/her former land, owned before 1959, almost all 1959 refugees interviewed attributed their failure to repossess their former land to Arusha peace agreement. On this issue, many claim that they were asked before by RPF cadres not to reclaim their land left in 1959. One respondent among 1959 returnees noted that "the land was occupied and my father never wanted to go back because the people who had occupied our land are the same person who had killed my grandfather, and my father never wanted to face them again, we decided to leave that place not to return there"

However, other respondents who were once 1959 refugees believes that the reasons for not reoccupying their land was the provisions of Arusha peace agreement, yet at the other side, respondents who were 1994 refugees attributes the reason for not reoccupying their land to secondary occupation, by claiming that their land was occupied by the 1959 returnees. One respondent among the 1994 refugees remarked that "the land was occupied by 1959 returnees who was also claiming right to it, so I had to go and settle with other relatives in the neighboring cell, until the government decided that we should share"

Mr. Black left the country in 1959 after the massacre of his father and grandfather, they had 30 hectors of land with a forest and a house in it, and the land was redistributed to other local people by the then government in 1962. Black returned back in 1994, and found that those who have been occupying the land had also been displaced. Mr. Black re-occupied his land, during 1997 land sharing, he opposed the sharing of that land with anybody claiming it to be a family land to all descendants of his Late grandfather Late Brown. As the country regained stability many of the people who had acquired and occupied that land returned and started to lodge claims to the authority over the right to the same land. In an attempt to solve the issue by 2009, there were 37 claimants, all claiming rights to that land.

In spite of what is claimed above by one respondent from 1959 group, that the Arusha peace agreement did prevent repossession of land, the administrative side disagrees with them as one respondent put forward that "the Arusha Peace agreement did not prohibit the 1959 refugees from reoccupying their land, the principle was that, personal land was inviolable, it was only an exception where it was said that the

1959 refugees will be requested not to reoccupy their land, so it is not like that that they were not allowed to occupy it, they were allowed to reoccupy it but due to political reasons, two parties decided to add that, to request them to accept being compensated by the government”.

This response led me to re-read the Protocol of Agreement between the Agreement of the Republic of Rwanda and the Rwandese Patriotic Front on the Repatriation of Rwandese Refugees and the Resettlement of Displaced persons in its article 4, where it states that: *“The right to property is a fundamental right for all people of Rwanda. All refugees shall therefore have right to repossess their property on return”*. However, the protocol continues and states that *“the two parties recommend, however, that in order to promote social harmony and national reconciliation, refugees who left the country more than 10 years ago, should not reclaim their properties, which might have been occupied by other people. The government shall compensate them by putting land at their disposal and shall help them to settle. As for estates which have been occupied by the Government, the returnee shall have the right for an equitable compensation by the Government.”*

What was observed here is that, respondents interpreted this agreement differently, but what is true, according to responses from many respondents is that 1959 refugees were not allowed to repossess their land after return, with the claim that the Arusha agreement did not permit it, as all respondents who were 1959 refugees, none did ever repossess his/her land s/he possessed before displacement.

To conclude this subsection, some priority elements have been observed for further discussion, they include the reasons behind displacement, the fate of land abandoned by displaced IDP's and refugees, where these refugees settled during displacement and who facilitated them, the role of the government and the NGO's in repatriating these refugees and the prior activities aimed at arranging the procedures and better way of repatriating all Rwandese refugees (Arusha peace protocol) and IDP's.

4.2. Addressing of land claims and disputes in Post conflict Rwanda

As stated in the research objectives, to know how Rwanda handled the land issue in the post conflict period, the researcher had to ask the respondents on who were the actors in handling land issues during this post conflict period. To achieve this objective, administrative authorities were among researcher's target. Among the questions asked was on how the displaced people were repatriated, how the administrative local authorities handled land issues in cases where there was secondary occupation and why there is a continued land claims and disputes despite government efforts to reform the land sector and how these land claims and disputes are hampering land administration in the country. To know how land claims and disputes were in post conflict Rwanda, the researcher has decided to tackle each post conflict period separately, that is emergency period, early recovery and reconstruction.

4.2.1. Emergency recovery

After the war and genocide, many 1959 refugees returned in a big number and occupied the land that had been left by fleeing Hutu. By that time the authority decided to locate these returning Tutsi to houses and fields that had been abandoned by the Hutu, and after 2 years when the 1994 refugees returned, then authority convinced them to share. More to that, in 1994, after the genocide, many 1959 refugees returned and later in 1996 the 1994 refugees also returned, all sector authorities, were called at the *commune* (district) to pick their people and escort them to their respective villages.

Although some respondents did mention that local leaders in the cell and sector level were in charge of land issues, many respondents agree that by that time, nobody was concerned with land issues, that

everybody was concerned with the safety of the returning refugees where they could sleep and where to get what to eat. So there was no land complains or issues at the time. One respondent among local leaders had this to remark “By that time, we (local authority) were not concerned with land issues, what mattered to us as an authority was food and shelter for returning refugees, and because of that, some individuals used that governing crisis and went on to grab land that was left vacant by 1994 refugees. By this time, the challenge the government had was not land issue, what was so challenging was to let these returnees have food and shelter”

Finally, it is clear that in emergency period, there was no government body in charge of land, all local authorities was regulating all issues, including land issues, but the only settlement issue, everybody was grabbing for example they used to call this grabbing exercise *gufata* literally translated as "Occupied or taken". Thus, the emergency period in post conflict Rwanda is characterized by dealing with emerging social and political challenges like the number of returning refugees and how will they get food and shelter and their security. During this period, none did think of land as a priority issue.

4.2.2. Early recovery

As previously explained that in emergency period there was no land issue or land claims, as the situation was starting to stabilize, claims and disputes started to emerge, so a question on how these land claims and disputes were addressed in early recovery period was asked where among respondent’s answer, the common response appeared was that, the authority addressed the issue before it could raise, as by that time, many people were still fearing each other so they had to keep quiet and wait for the regulations from the authority.

After repatriation of these refugees of both 1959 and 1994, the country had entered an early recovery phase of post conflict state, life had turned to normal, government institution started working but also land issue was complex, and claims and disputes was at its peak. So, the researcher wanted to know how the authority handled the land issue after the repatriation of these displaced persons and respondents’ answers all confirmed the complexity of the situation as one respondent from the administrative group put it forward “It was a challenging moment, with no legal direction to solve different overlapping rights to land by different people from different groups of returnees, so we gave local people chances to search for a solution themselves”

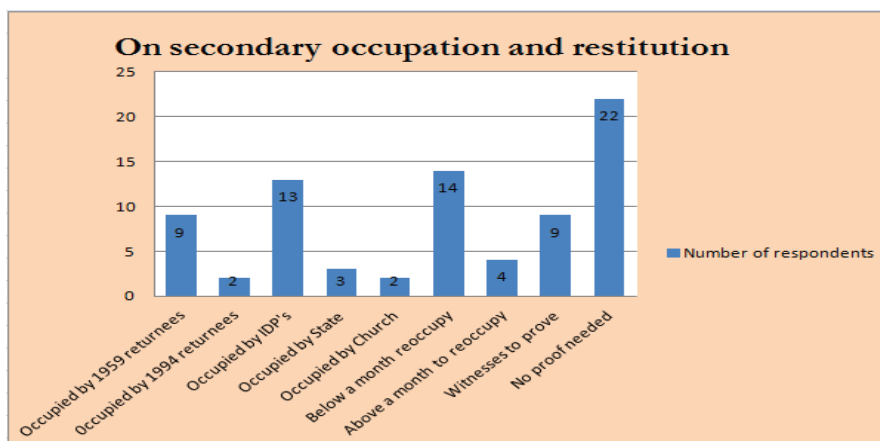


Figure 10: Secondary occupation and restitution of land in Rwanda

After the return of both displaced persons (1959 and 1994 refugees), there was a complex situation with complicated land issues, as a parcel of land would be having different claimants varying between two to four, all claiming rights to ownership, of which many had genuine reasons to claim. So, there was no any

other option but to let them all share, so the authority had to let all these people share that portion of land as one respondent and a former leader stated “We had no clear and legal formula to solve the claims of these people, so we gathered local leaders for 8 days and gave them the task to find the solution and the outcome was “land sharing” because it came out as the only approach that would cop with the situation of solving land issue and at the same time to be used as a political achievement during national campaigns for unity and reconciliation.”

Also, many respondents confirmed to the researcher that through Arusha peace agreement, the 1959 refugees were not allowed to regain their land, and continued to worry that “when you look at the way these people were expelled, you would see that it will be unfair not to allow them resettle in their place of origin” So the authority decided to let these people reoccupy their land and share with the others that had acquired it. As seen above, secondary occupants varied from local people (occupied land whose owner had been displaced) 1959 returnees (occupied land left by fleeing Hutu), 1994 returnees (They were claiming right to land they had occupied since 1959), IDP’s, State and the Church. Since it was confirmed to me that the majority of 1959 refugees did not reoccupy their land as none among the respondents of 1959 refugees claimed to have reoccupied his/her former land, the question on how the government reacted to solve different claims and disputes that arose in that post conflict period was on my mind and through interviews got different answers from different respondents.

The respondents had different views, but all agreed that the government had to take a stand to solve these claims. For example, respondents of 1959 refugees claim for forced eviction and thus call the occupation of the land they left illegal. On the other side, the respondents of 1994 refugees claimed legal possession as their occupation based on time elapsed on the fact that the government had legalized their right. Thus, the solution to different claims was that the government forced itself to control land given the land tenure the country had at the time, so sharing principle was brought and people had to accept it because they had no alternative. Other respondents noted that “the government reaction was to forge a solution which it opted for land sharing of complaining parties especially the 1959 and 1994 claimants”.

In the perspective of the government’s role and on how it intervened to regulate the issue, one respondent among the displaced respondents had this to note “the government was the cause, it is a government in 1959 that led to 1959 exiles and even the 1994 refugee is blamed to the government, as same as genocide, so it was also the government that was responsible to settle again all that mess, so it had a challenge on how to handle these two conflicting groups especially on land issue where each claimed right to land, so we had to forge and force land sharing”

The government had to convince two different groups to share the land and settle together, government had to surrender one part of Akagera National park as a way of getting land for the 1959 returnees who were not going to reoccupy their former land as a compensation by the government and a solution leading to peace and harmony as described in the Arusha peace agreement, authority did this for two reasons, first was to create a big land where these returnees with their herds of cattle would settle and the second was to convince these 1959 returnees not to go on and reclaim their former land and in doing this the government was able to create a situation where allocation of land and access to it by all groups of Rwandans was perceived as just, thus the social justice felt served. However, this was on the big cost of environment.

Apart from the government policy, many of the raising claims were handled by local authorities. Respondents confirmed that all local authorities of the time were in charge of solving claims by local people, so all local authorities could hear these claims. The Councilor of the Sector was almost the top man on land issue during that period; cases would begin from the cell, but in most cases, they would

continue to the sector and the Councilor's decision would be the last and final. One respondent who happened to be a leader at the time had this to say "At first there were no claims nor disputes because each group was skeptical of each other, but we were seeing it as authority that something needs to be done to avoid future claims, disputes and conflicts" thus, during that period, such land disputes were addressed to local leaders and the complicated ones were forwarded to high authorities.

On the issue of who were the actors during land sharing process, the respondents confirmed to the researcher that, local people were tasked to implement it themselves supervised by their local leaders, and to do so, a committee of four people were chosen representing the three groups, that is one representing the 1959 refugees, the 1994 refugees and the survivors of the Tutsi genocide, all supervised by the Cell Chairman. Each cell reported to the sector councilor. One respondent from local authority answered that "as we were still in a period of mistrust and suspicion, we choose committees from different groups that is one person from 1994, one from 1959, one from genocide survivors, one from IDP and the head of the cell as the representative of the authority"

However, what was observed is that this sharing policy was an informal policy and was implemented differently in different sectors, depending on the prevailing conditions per each sector. For example, one sector Rwinkwavu, currently in Kayonza district the approach chosen was to dismiss any private right to land and began everything afresh, where it was determined that nobody owns land, and they started to share the land on an equal basis. The very different approach was used in Mukarange sector, both from the same district of Kayonza where the principle owner of land was a 1994 returnee or an IDP and the 1959 returnees were regarded as landless and thus, beneficiaries to land sharing. In Rwinkwavu, each beneficiary of land had to share equally, this is different from neighboring sectors, especially Mukarange where, one would get depending to the land he/she had shared, that is, if the person one was going share with was big, that means that the beneficiary will also get a big land and vice versa.

Given the historical background of Rwanda, having known the land tenure at the time, one had to wonder whether there was any proof to determine who owns what, during land sharing, so as to avoid fraudulent acts, but depending to the common response got from many respondents, it was clear that, there was no any formal proof to determine right to ownership and where there was any doubt, only witnesses and were used and physical features were too used to determine the boundaries.

Many of the claimants had no proofs to prove their ownership, only witnesses and due to different groups, so there were different witnesses depending to the group each claimant belongs, that is a 1959 returnee will be having witnesses who are all 1959 returnees and a 1994 refugees will also have witness who are also of 1994 refugees, and at the end of the day, such cases were always complicated to know who is right and who is wrong, so the only solution is to force the sharing policy to both parties. As one respondent from local authority group noted "we did not determine the owner of the land, what we considered was seeing these two groups share that portion of land than claiming ownership" another one recalled "It was not easy to determine the owner, as we only based to what people told us, some may even lie to us, but the issue here was not to know the owner of land instead how conflicting parties settle and stop claims before they could turn to disputes and conflicts"

After facing the complex situation of the land issue, as one interviewee narrated, local authorities from the cell and the sector level were summoned and the provincial level for an eight day seminar and among the point to discuss was land issue, and among the decisions taken was land sharing, where it was agreed upon that local authorities will execute this themselves. This process was done at the cell level by sharing committee member chosen from 1959 and 1994 refugees and survivors, supervised by cell chairman and reported to the sector councilor. Asked about actors during land sharing process, former sector councilor

responded “It was a committee of people chosen from different groups that is 1959 returnees, 1994 returnees, IDP’S and Survivors and this committee was headed by *Responsible* (Head of the Cell)”

Another point to note here is that, the 1959 returnees who got land through land sharing, were sharing with the Hutu who had remained in the country, IDP’s and those who had fled in 1994 and returned back in 1996-9. For survivors of genocide, their land was not eligible to land sharing, but many of them lost their land to government through imidugudu settlement, schools and even sharing in any case one happened to be absent or where old people had been all dead and the surviving member of the family is still a minor. Below is an example of the cases with such claims.

Mrs Xaverine⁷ and 2 brothers are orphans of genocide against Tutsi, their parents had 5 hectors of land, during the genocide, she had 14 years, after the genocide, and two brothers were taken to a government orphanage in Kigali, in 2010, they had attained the majority age and thus, went to request for their land in Rwinkwavu, but it was not possible, their land had been distributed for collective settlement and over 80 houses were on that land in question.

On the issue of whether the sharing process started when all displaced had returned, the response was that many had returned but not all. One respondent had this to say “They were around because when we returned in 1996-9 they had already returned. We had to accept, the government was puzzled by the big number of returnees, each with legitimate complain over the land, so there was a need for a formula to solve that puzzle, so the only way found was land sharing, and even though some wanted to oppose it, it was not possible, the government was determined to implement it whatsoever complains, as long as the policy was solving the problem of landless and land complains to a big number of people”. Below is an example of such claims.

Jean and Pierre are brothers, they owned 3 hectors of land before displacement, and Pierre returned immediately after the end of war and the stopping of the genocide, during the land sharing, the land was shared with another person (Mark) a 1959 returning refugee. Pierre returned in 2000 and asked Jean for his part of which he did not have, instead he asked his brother to come and they share his land he had acquired during the land sharing, but Pierre could not believe it, he lodged a complaint through mediation committee against Mark but Pierre lost the case, and decided to turn to ordinary court against the state.

Having got information related to the land sharing process in the early recovery post conflict period, the researcher wanted to know the perception of the people over this activity. Although, many respondents’ responses were that they were satisfied, some went on with some critics. One respondent from the displaced group who later shared land when asked whether he was satisfied with the process, he noted “that is the difficult question, people who were given parcels in my land were my fellow neighbors, they are not 1959 returnees, they had their land, so they were not supposed to freely be given my land without due compensation but because it was a government policy, I had nothing to say. With such a statement, one understands that sharing was not voluntary but rather administrative policy executed by local people.

While some were unsatisfied with whom they had shared with, other were unsatisfied by the fact that they were not allowed to reoccupy their ancestral land while another respondent on satisfaction of the policy was that “that is a relative question, some are satisfied others are not, that is why some even refused RPF

⁷ This is not the real name

call not to claim their land they had left in 1959 and went ahead to reoccupy them and others even went to court over the same issue”. Another went on to justify reasons for dissatisfaction that “Some are satisfied but others are not. Imagine having born in place, you call your home and after 30 years, someone claims right over that place and you are encouraged to share with him; do you feel how hard that situation is? But we had failed to figure any other solution, so we swallowed it and as time passes by, we are satisfied and happy”.

While for local people all interviewed, none had any problem with land sharing, the only problem all was putting forward was Imidugudu policy that came later, amidst the sharing process and this was confirmed by some authorities who confirmed that many complaints are against the State than individuals that they shared with. This shows that people have no problem amongst themselves, but against the policy imposed to them. The example below shows the nature of such claims.

“Mr. Janvier a refugee who was displaced in 1994, had 2.5 hectors of land, the land was later occupied by Mr. Moses and Madam Margret who were 1959 returning refugees, and during the land sharing in 1997, they shared the land each one hector and the remaining 0.5 was taken by the government and turned into collective settlement (Umudugudu), Mr. Janvier returned in 2009, only to find that all the land he had, is occupied by others, and was only given a plot by local authority in Umudugudu where he will be able to construct his house, with no land for cultivation, he lodged a complaint versus the state at the district but he did not get a fruitful response and then decided to challenge those occupying his land in the court”.

4.2.3. Reconstruction period

As the country was stable, the country embarked on institutionalizing long term development programmes to foster economic growth and sustainability, among them was a national land reform programme that involved adoption of a national land policy, new constitution, promulgation of organic land law (law governing use and management of land), and establishment of a public institution task to oversee the management and use of land in the country.

While this period was on fostering economic growth by implementing land reform as determined for by the land policy and organic land law, authorities faced the challenge of rising land claims and disputes. These claims were arising from emergency and the early recovery period and based on how land issues were handled. Many land issues were more about family related issues (complaints between family members) but with the roots of what happened during land sharing. One respondent from the mediation committee had this to say “almost all of the claims are family, but mostly related to land sharing”. Throughout the research and interviews conducted, the responses from different interviewees, one can conclude that many of the complaints received, are related to the Tutsi -Hutu conflicts of 1959 and 1994, others are related to land sharing of 1996-2003, others are related to genocide survivors land, especially orphans occupied by others or by the state, others related to family members due to how land sharing was handled and others are related to land taken by imidugudu settlement.

The researcher wanted to know the number of land claims and disputes related to displacement that are received monthly by administrative authorities and the response from one respondent was that “currently, they have reduced due to land registration but still they do exist, in past 3 years, such cases were at its peak, the reasons behind this is that during the early years of post genocide, many Hutu who owned land, were guilty of genocide and were so scared of coming up to contest against land sharing policy, 15 years

after the genocide, they started to regain confidence as the country had established itself with stable public institutions”

Although many respondents attribute land claims to poor governance that led to the displacement of people, many respondents attribute the continued land claims and disputes to post conflict period on how land issues were handled. A respondent from the administrative group stated “We receive such claims, but not related entirely to displacement but on how land issue was handled after displacement especially in land sharing”. While observing secondary data received from the National Secretariat for Mediation Committees, it is observed that many of the cases handled by these committees are land related, and given the responses received from respondents, many of the cases received are related to displacement.

One respondent currently working in the land bureau noted that *“they are received and it varies from season to season, from 30-50, in rainy season, there are few since all farmers are tilling their land and claims double in the dry season as they are not tilling now, they have time to follow such claims”* This is a clear evidence to believe that land claims and disputes are still at large and more needs to be done to solve them for once and for all, after analyzing their origin and the cause.

According to the general report of Land tenure regularization, the report noted 0.13% of demarcated parcels with complete information to be under disputes and thus remained unregistered as per LTR regulations. In addition to land that was under disputes, not registered were also 1,494,943 (14% of demarcated land) parcels whose information were incomplete due to the fact the true owners had either been killed and no next kin to take over land or were displaced and never returned.

	Demarcated	Complete information	Incomplete Info	Disputes
General Total	10,480,871	8,866,199	1,494,973	11,809
Percentages			14%	0.13 %

Table 11: Showing general report of LTR on disputed land

Disputes x %/ Complete information = Percentage of Land under Disputes

$$= \frac{11809 \times 100}{8866199} = \mathbf{0.13\%}$$

Incomplete information x %/demarcated plots= Percentage of Land with incomplete information

$$= \frac{1494973 \times 100}{10480871} = \mathbf{14\%}$$

On the issue of land that was under claims or disputes during LTR process, such parcels were skipped and registered in claims registrar, where by claimants were directed or referred to competent authorities or court, and if a decision was taken then such parcel would be registered again with true owner. One respondent responded as follows *“During LTR, we had claims register where we registered that that was in conflict, of which no owner of that land will be registered on it, until an administrative document is produced by the either party proving the true owner or court decision”*

To sum up all, this subsection discusses how land claims and disputes were addressed in post conflict Rwanda that is in an emergency, early recovery and reconstruction periods. Thus, the priority elements here for further discussion includes the occupation of land abandoned by the fleeing Hutu in 1994 by the returning Tutsi, the return of all refugees and rose of claims, the government intervention with the

adoption of sharing policy and the collective (imidugudu) policy and then the government's resolve to reform the land sector for better land administration through LTR.

4.3. Relationship between Displacement issue and post conflict land administration

Also one of the research objectives is to know, the relationship between displacement and post conflict land administration, through this, the researcher wanted to identify the role of displacement in hampering post conflict land administration. To achieve this, questions related to the nature of the claims brought forward by claimants were asked, with intention to why continued land claims and disputes in spite of land reform? Eager to know was whether these claims and disputes hamper land administration?

Authorities were asked about what are the mechanisms that have been laid down by the government to solve these claims and dispute and on how they handled these unsolved claims and disputes during LTR. Among the responses many that respondents agreed upon was land sharing and the long term mechanism which was government policy on nationwide land reform that led to new land policy, land law and hence new land tenure system that all led to LTR. One of the administrative respondents remarked "There are different mechanisms being laid, some are political and others are legal, we are registering land to give confidence and legal proofs to these landowners, we have put in place a legal framework to regulate land administration and management, with formal proof, no one can ever think of illegal dispossession of somebody's land"

Asked the above question, many respondents from displaced group and local authorities agreed that it is a combination of factors, but they are mostly related to the 1994 genocide as of today the country is still dealing with the effects of genocide itself. While other admitted that the land issue is a complicated thing, and it cannot be solved in a single day, whatever effort employed, it will be a gradual process and this LTR will facilitate to reduce a lot of them. Also, different reasoning was put forward by some displaced respondents, that the country has people who have been in prisons for 15 to 20 years, people who are still returning from exiles, and children who are orphans of genocide that are turning majority age and need their family land. The land which was given away when they were still young or sold by their family members, taken by imidugudu issues which is still also a challenging issue. Some are related to what law stipulated for example 1959 repossessioning their land, survivors land not eligible for land sharing, imidugudu settlement considered as a public land etc all these each created different complain. However, when all analyzed, many of these causes have their roots back to the early recovery period on how land issue was handled.

When asked about whether the disputed parties are the former displaced persons of 1994 and 1959, the response many parties agreed upon confirmed that although not many, but some claims are there and between those groups, where one party opposes sharing with the other accusing it for having been involved in sending them to exile and took control of their properties. While others response attributed it to another cause of complaints where they believe that the claims are not related to oppose sharing, but with a related complaint, for example where one claim that his partner whom s/he shared the land with had another land in a neighboring district. In such cases, one felt cheated because s/he was forced to share land with someone who has another land instead of sharing with landless as sharing principle stated.

On the issue of how these claims and disputes are solved, depending to the responses got from interviewing; most cases that relate to land sharing are solved by mediation committees. However, the 1959 cases are solved by administration as they are always complex to be handled by local mediation committees and few are solved by the courts. Another respondent from displaced group noted that

before, mediation committees used to solve many of them, but with the increase in value of land, many cases are brought to administration and courts, as mediation committees do not deal with land cases worth three million Rwandan Francs. Also, some respondents confirmed to the researcher that some cases are solved by the court, where in Kayonza district land 15 land cases were in court, after failing to get solved by both mediation committee and the administration.

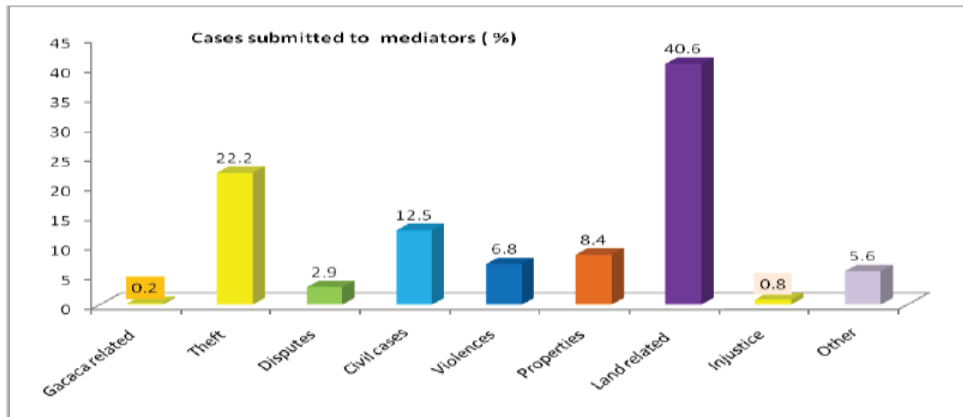


Figure 11: Variations of cases submitted to mediators in a cell 2012

Having seen that some cases are solved by courts, the researcher was eager to know whether court decision are easily implemented, and response from respondent was that court decisions are not easily implement because courts follow laws and laws do not reconcile people because there is always a loser and a winner and thus, in such case two parties will never be together again, so authority prefer to let two conflicting parties to settle such complains amicably without court order to keep harmony in the society.

One respondent when asked whether court decisions are easily implemented, had this to say “take an example A left his land in 1959 let say 20 ha since Tutsi had a big land by that time, in 1962, that land was given to Hutu peasants by the government they used to call it “*Amasambu ya demokurase*” literally translated as (land for democracy), now in 1994 that person came back and reoccupied the whole of that land, given the population density of today, 20 ha is accommodating 80 families, now imagine if the court rules out in favor of that person, how can you execute it?” He wondered. Below is an example of related cases.

Mr. Martin a grandson of Mr. Marko a former chief, who was forced to leave behind his land in 1959, the government legalized the secondary occupation in 1962, when Mr. Martin returned in 1994, he wanted to reoccupy the land that formerly belonged to his grandfather (former chief), when the local authority intervened to solve the issue, the land Martin was claiming was occupied by 87 families, some claiming to have got the land from the former regime, others claiming inheritance while others were buyers of “good faith”

After having seen that some court decisions are not implemented, the researcher wanted to know how many court decisions that are not implemented because of its complexity. In Kayonza, 7 cases were not executed and were referred to higher authority for advice; the reason given was that executing the court decision will lead many people to landless.

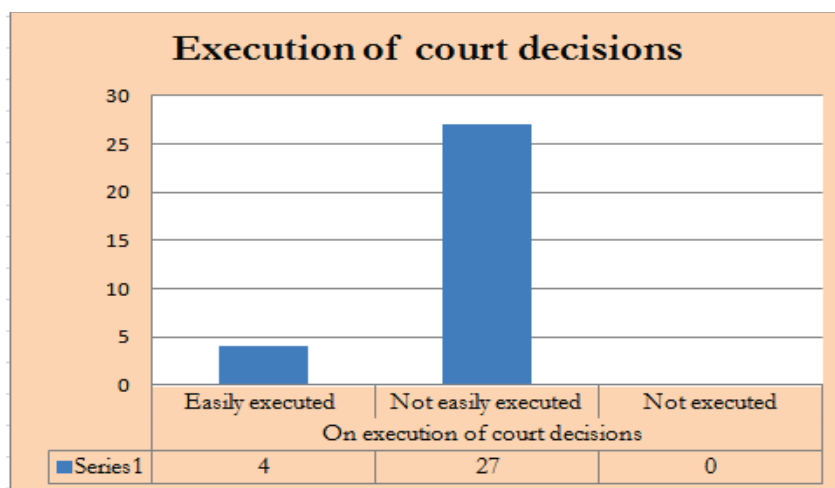


Figure 12: Fieldwork analysis on execution of court decisions

During LTR, whenever the surveying team met these claims and disputes, such land would be demarcated given an identification number, but would remain with no other details like the names of owners, thus, the country's goal of registering land all over the country is hampered, that land will remain with no recognized owner, no taxes will be paid and the security of land the government was advocating for during LTR is not achieved as wished.

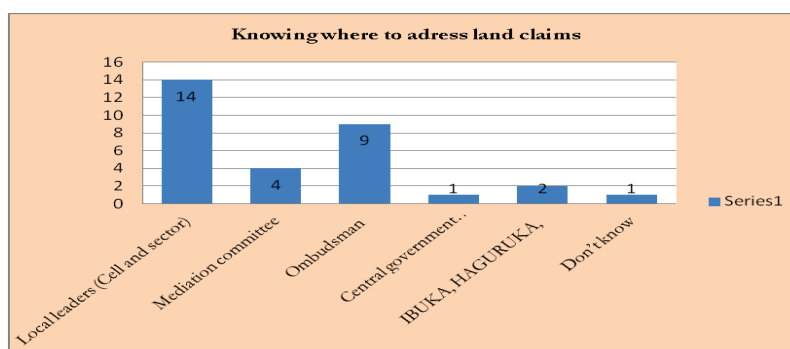


Figure 13: Fieldwork analysis on where local address their land claims

Another respondent observed that when these claims and disputes continues and are not solved, people do not concentrate on what they are doing instead spend a lot of time in courts and in authorities than till their land, nor develop the land as there is no guarantee that he will win the case, and the result is that no land use and finally management of that land will remain in question.

Finally, to conclude on this subsection, it is important also to mention some priority elements that will be used for later discussion. These priority elements include the background of the unresolved claims and disputes related to land, institutions responsible for resolving land claims, especially on how their decisions are implemented and the challenges they face in implementing such decisions like court decisions due to the role the prior government had played in complicating land issues, where it had legitimized the secondary occupants' rights through "land for democracy" campaign. These challenges have halted and hampered the land administration as one respondent said "the ideal and the goal of the government to have a registered land all over the country is not attained not because of financial means, but because of unsolved and continued land disputes" and another one remarked "our goal of having a 100 % registered land with their certificates out to its owner cannot be reached if these unsolved cases continue to exist".

5. DISCUSSION

In the previous chapter, this research analyzes the fieldwork results on how land issues were handled in post conflict Rwanda. This chapter performs the discussion based on priority elements of facts collected from fieldwork in chapter four by linking them with the main points mentioned in the chapter two about the existing literature. The findings are also explained with respondents' views, connected literatures and similar situations where it is applicable based on research analysis.

Accordingly, the chapter starts with displacement in Rwanda in order to know what kind of displacement Rwanda faced, the post conflict Rwanda where the research discusses how land issue were handled in post conflict periods (emergency, early recovery and reconstruction periods), the role of displacement in hampering land administration in post conflict Rwanda and the chapter ends with a discussion on the provisions of Pinheiro principles versus Rwanda's experience.

5.1. Displacement in Rwanda

As one of research's objective was to know what kind of displacement that Rwanda faced, given the fieldwork findings as seen in figure 6, where all the respondents were once displaced and all by armed conflicts, it is clear that in displacement was caused by armed conflict, while revising chapter 2.1 where displacement may be forced migration by persecution or violence or a development-induced displacement., having seen reasons behind displacements in Rwanda both in 1959 and 1994, one can easily conclude that Rwanda's displacement issue was forced migration due to persecution (1959) and violence or fear of violence (1994).

On the issue of refugees, as seen in figure 6 that some refugees were helped by host countries and in chapter 1.2 and 1.3, we can see that some displaced Rwandans crossed internationally recognized boundaries and people who crossed to other countries after fleeing their homes and their country of habitual residence are referred to as refugees as seen in 2.2.2. A need to see whether in Rwanda case, displaced people meet the definition of refugees as stated by 1951 convention relating to the status of refugees where it is stated that “a person who is outside his/her country of nationality or habitual residence, has a well founded fear of being persecuted because of his /her race, religion, nationality, member of perpetual social group or political opinion and is unable or unwilling to avail him or herself of the protection of that country or to return there for fear of persecution is a refugee and should be accorded a refugee status”.

Given the incidents that resulted in 1959 displacement and refugee issue, mostly Tutsi left the Rwanda, their country of nationality and habitual residence with well founded fear of persecution because of their membership of a perpetual social group (being Tutsi) and were unwilling to avail themselves of the protection of Rwanda or return there for fear of persecution as some of their relatives had been massacred. The same applies to 1994, people left the country as RPF took control of power. Many people (Hutu) also feared the persecution by the returning Tutsi, who had been in exile for more than 3 decades. All of these displaced people who crossed the Rwanda boundary to another country as most went to Uganda, Tanzania, DR Congo and Burundi qualify to be refugees and thus, refugee status and lawful protection as stated in the international convention relating to the status of refugees.

As earlier stated that by 1964, the UNHCR reported adjusted figure of 498 000 Rwanda refugees, mainly Tutsi who had crossed Rwandan boundaries in fear of persecution and also 2.5 million Rwandan Refugees

in 1994 ordinary Hutu and their leaders that had crossed to neighboring countries after the massive return of 1959 refugees, it is and was not easy to determine refugee status based on an individual basis, due to the extreme need of assistance of these people. Thus, the practical way was to determine their refugee status by using group determination of refugee status where each member of the group was regarded *prima facie* as a refugee. This is due to the fact all respondents interviewed during my fieldwork confirmed that they were facilitated by UNHCR in areas of settling, provision of foods and other necessities without any individual consultation in asking reasons behind their fleeing of the country.

When Tutsi was forced to flee the country in 1959, their land was distributed to other local mainly the ordinary Hutu, this act cuts the link between the displaced Tutsi and their abandoned land. After the fall of the government that blocked the return of 1959 refugees, many of them returned in a mass wave and their return also triggered another mass wave of Hutu fleeing the country in fear of retribution for the genocide and this resulted in availing land left by Tutsi in 1959, even though, they had been occupied by Hutu. Thus, the land was now available for returning 1959 refugees for reoccupation which complicated the land issue worth when the 1994 Hutu refugees returned due to overlapping rights.

5.2. The post conflict Rwanda

After a thoroughly explanation of post conflict period and land administration in post conflict areas, given the information gathered and collected during the fieldwork, the linkage of the two is the foundation for discussion on how land claims and disputes were addressed in post conflict period especially in emergency and early recovery period that later affected the reconstruction period and became a stumbling block for the implementation of post conflict land administration especially during Land Tenure Regularization System Programme (LTRSP).

As stated earlier in chapter 2.3 the characteristics of post conflict societies, also post conflict Rwanda was characterised by people with continuing fear of violence because of the worst they had seen, some had seen the 1959 massacre while others had seen the 1994 genocide against Tutsi, high level of hunger and starvation because many people had been displaced and left their land, crops destroyed and animals slaughtered and there was no tilling of land to cultivate and plants some food crops, the massive displacements that created large number of IDP's and refugees especially the 1994 refugees after the fall of genocide regime, unresolved political and ethnic tensions especially in early days of post conflict, widespread of destruction of infrastructures and properties, high level of environmental degradation, limited capacity of government to implement the recovery due to economic breakdown, limited number of train government staff as many had been either killed in the genocide or displaced and large scale of destruction of records and information like land records mostly in urban areas. However, to this was not all Rwandans, it was a different issue to some especially the 1959 refugees as for them they were celebrating for having returned home.

More to that also, the nature of activities within post conflict Rwanda varied according to the extent to which progress was made. Some of activities were focused on emergency reliefs like refugee repatriation, establishment of a functioning state and provision of humanitarian services to the returning IDP's and refugees, while others were aimed at establishing a foundation for development like development of policies for economic recovery, achieving reconciliation, demobilization and reintegration and finally institutionalized a long term program for implementation of these policies to foster sustainability. All of these were done in both three post conflict phases. However, like in many other parts of the world, activities involving these post conflict periods do not occur in a straightforward process; instead they are overlapping.

5.2.1. Land Administration and Addressing of land issues in Emergency period of post conflict Rwanda

Different scholars and international community have recognised and admitted that early moments of the post conflict situations humanitarian intervention should include tenure and land administration to investigate key issues of access to land and land administration. This was a different story in Rwanda, as stated in chapter 2.3.1 Bruce (2007) analysed the situation that after the genocide, there was a total loss of focus on land, even government officials at the time and international community did not seem to understand the land issue and claims at time were social and political. This is true when one is referring to the emergency period. Because in chapter 4.2.1 fieldwork results confirmed that there was no government body in charge of land during this period. The government and the international community were preoccupied with the size of returnees and on how will they be accommodated and fed, so talking of land administration in emergency period in Rwanda case, always one refer to the occupation of abandoned land of the fleeing Hutu by the returning Tutsi.

Since all of the pre-arranged plan that had been agreed upon during Arusha peace accord to repatriate refugees had collapsed as stated in chapter 2.5.1, the fieldwork results show that the massive return of refugees caught a less prepared government and international community by surprise, with no time to include among their plans issues related to access to land and land administration. This massive return of 1959 refugees and at the same time massive fleeing of 1994 refugees led to the occupation of land left by the later. Some returning Tutsi (1959 returning refugees) went on to reclaim and reoccupy land they previously owned more than three decades despite the fact that Arusha accords prohibited it, while others occupied land they just found vacant or/abandoned.

As stated in chapter 2.5, Todorovski (2011) argues that land administration in post conflict areas is difficult to re-establish. This was a similar challenge in Rwanda, as stated in chapter 4.2, When the 1994 refugees returned back in 1996, still the government was still trying to stabilise the country and had not taken a stable stand on how to address the land issue; hence a new challenge a rose. The returning Hutu refugees of 1994 found their land occupied by returning Tutsi of 1959, though the government was not caught by surprise on, it had not yet got ready to be in a position to handle and address such complex issue. The long conflict and genocide had affected negatively the life of the country, conflict had resulted in displacement of people and many IDP's and returning refugees were moving everyday outside of any organised process and even their locations were at sometimes not known or noted. This dynamic situation reduced the capacity of the government to deal with land issues involving many claims of secondary occupation in post conflict emergency period.

Todorovski (2011) states that post conflict situations requires approaches that deals with circumstances of the local situation. This is similar to Rwanda's case as stated in chapter 4.2.2 the government responded to the situation by letting the 1959 returnees surrender the land that belonged to 1994 returning refugees even though some once owned the same land. But because they had nowhere else to be allocated at the time, the local authority convinced the two groups to settle together for the time being in the same parcels that is a returning refugee of 1994 and that of 1959, on condition that the latter had to occupy the house as he/she was a true owner / builder. Although this decision had a positive political benefits (convincing many Hutu to return back home and also have confidence and trust in the new government) and social benefits (paving a way for future reconciliation), some returnees of 1959 were not happy with the decision given the fact that different claims started to emerge in post conflict periods of early recovery and reconstruction, especially those who had reoccupied the land they once owned, and hence future challenges and claims.

5.2.2. Land Administration and Addressing of land issues in Early recovery in post conflict Rwanda

As the conditions of the life within the country started to improve, security was calm, displaced people had returned, no more emergency needs; the attention of the authority and partner NGO's shifted from carrying out humanitarian emergency activities to the development of policies aimed at transforming the country towards recovery. Among the policies developed, was settlement policy commonly known as Imidugudu settlement and administration regulations regarding land sharing that was later too referred to as land sharing policy.

The development of these policies was an effort by the government to tackle issues related to provision of emergency shelter and housing to homeless people, development of a housing strategy for returning refugees and IDP's whose homes and houses had been destroyed, provision grounds for access to land by returning IDP's and refugees, prevention of illegal occupation of land by none beneficial or illegal occupants, restitution of land to its "lawful" owners by establishment of mechanisms to resolve land claims and disputes and finally establishment of fair procedures of fair for eviction of unauthorised occupants.

The Imidugudu policy⁸ required all people to build and settle in a grouped settlement (nuclear settlement) and therefore all new houses that was to be built due to the high need of emergency shelter and housing was supposed to be in Imidugudu. The policy provided that the imidugudu land belonged to state and therefore plots were given to people by the state to build on and thus, a private person would build a private house on state land. Although this eased the perception of people towards imidugudu and encouraged them to join the imidugudu, it created a challenge later during Land tenure Regularisation System Programme (LTRSP).

On the other hand, where NGO's also provided support in the building of houses, the government's duty was to provide land. From this point, therefore, there are two issues that need to be discussed more, the land that the government was allocating for Imidugudu settlement, though sites were chosen by local people, after the confirmation of the site, the land would become a state land without any compensation to the owner and the beneficiaries would start to build without also giving any compensation to the former holder of that land on claim that the land belongs to the state and it is thus, a state given land.

Since the Arusha peace agreement prohibited the 1959 refugees from repossessing the land they previously owned, reserve only if one finds his/her houses still in existing and a forest he/she planted, there was a challenge of providing land access for these returning refugees and IDP's who could not return to their place of origin and among the challenging issue was restitution of 1959 returnees their land or stick to Arusha peace agreements even though it seemed the agreement were no longer valid and whether they will be resettled on another alternative land and if so, then where will that alternative land come from?

In response to this, the government developed the land sharing policy where all parties (1959 and 1994 returning refugees and IDP's) had to share the same parcel of land and also provide the part of government land in Umutara for the returning refugees mostly 1959 returning refugees who had not went further to reclaim their former land and also to the 1994 returning refugees and IDP's who land had either been occupied by either fellow countrymen or government projects. This was important in that, it created a big land where many returning 1959 refugees with their herds of cattle settled and also reduced their pressure on government to reclaim their land but also it led to some 1959 returnees to challenge the

⁸ Imidugudu or Umutugudu for singular is a grouped or collective settlement.

government by claiming their land and argued the government to allocate the new land to those who had occupied their land.

However, many, many returning Tutsi were convinced with what they got either through land sharing and government given land in Imidugudu and Umutara, some continued to file claims for the restitution of their land they previously owned. Also, sharing policy did not solve the whole puzzle of land problem the country had, that is, being an informal regulation, there was no formal and uniform guidelines for implementation and thus, the policy was implemented differently all over the country see chapter 4.2.2. As stated also in chapter 4.2, among the sharing policy rules was that, all vacant land whether private or public had to be shared, minors were not allowed to share a piece of land and this rule later proved to be a challenging issue, when these kids of survivors of genocide whose parents had been killed and whose land has been shared by others on ground that the land was vacant or abandoned and had now turned the majority age and requested for restitution of their land, that has been either distributed to other people or used as Imidugudu settlement, yet by sharing policy rule, land belonging to genocide survivors was not among the land to be shared.

This led to sharing of land that belonged to survivors of genocide in many parts of the country since many people who had majority age had either been killed or displaced and had not returned back. There was no representation in sharing process, and thus, beneficiary was based on physical presence. The result from this was that many people missed the opportunity to reclaim their land while others missed a chance to access land. All of these led to the rise of different claims and disputes especially in reconstruction period after the promulgation of organic law relating to use and management of land in Rwanda.

5.2.3. Land Administration and Addressing of land issues in Reconstruction period of Post conflict Rwanda

As P. van der Molen and Lemmen (2004) stated, in this period, rebuilding of a society and the physical infrastructure is proceeding and therefore government in post conflict situation are likely to need revenue and land tax can be an important source. Rwanda, like any other post conflict country wanted to rebuild itself through developing policies that will contribute to sustainable peace and security within the country and maximise all sources of revenue, among which land sector was envisaged as a potential source of future conflict due to claims and disputes if not dealt with and also if well managed, it could also be a source of revenue and for land tax to be achieved and also bring peace and stability, land reform that will lead to proper land administration in the country needed to be well administered.

So when talking to the land sector in the reconstruction phase, it is essential for one to refer to it as a land reforming period. The country wanted sustainable peace and stability, yet had different land claims and disputes, the country wanted revenue and land sector was among potential source of revenue, so there was development of policies and programmes that will help the government to achieve that among which, will mention the vision 2020 and the Rwanda Poverty Reduction Strategy Programme (RPRSP). To achieve these, Rwanda embarked on developing policies and activities leading to land reform and thus develops proper land governance that will enable people to enjoy a more secure form of tenure. In action, different laws were passed in favor of the secure form which is formal tenure.

Initially, in the post conflict period, the development of land related policies in the reconstruction period, much attention focused on the development and implementation of policies on access to land and this should be indicated by land legislation, adjudication procedures for land claims and disputes, existing land administration systems, housing strategies and eviction procedures for illegal occupants. In Rwanda context, land laws promulgated and land policy developed were aimed at developing proper land governance as earlier stated. Although much credit is given to the government of Rwanda for these laws

and the policy and political commitment, the implementation of what are provided for by these laws have been a challenge due to the number and persistent land claims and disputes related to land that have been raising from period to period in each part of the country.

5.2.4. Provisions of laws and Claims and disputes in Reconstruction period that originates from Emergency and early recovery

As land reform programme started in Rwanda during the reconstruction period, different land related laws were passed, aimed at improving the rights of persons in regard to land. However, the implementation of what was asked for by the law meet some challenges, many people who had some concerns on their land especially issues emanating from emergency and early recovery rose and started to lodge different claims that became a challenge to the government to solve them, given their nature, number and complexity and henceforth became a stumbling block in the systematic land registration (SLR), a programme that the country had developed in order to register systematically all land all over the country.

The constitution of the Republic of Rwanda states that every person has a right to private property, and it adds that private property, whether individually or collectively owned is inviolable (art 29), while article 30 states that private ownership of land and other rights related to land are granted by the state. The Organic Land law (OLL) of 14/5/2005 provides that a very person or association with legal personality that owns land either through custom or who acquired it from competent authorities or who purchased it, are allowed to own it on long term lease (art 5), land for collective settlement was regarded as a public domain (art 17), registration of land a person owns is obligatory (art 30), prescription in land is 30 years when occupied with good faith and states that no one can invoke the interest of the right to prescription when he/she had occupied somebody's land by force or through fraudulent means (art 69-72), land sharing that was conducted from the year 1994 is recognised by the organic law and that holders of such land shall enjoy the same rights as those under customary holdings and that it is a responsibility of the state of giving land to persons who were denied their rights by this sharing (art 87 and art 68 New OLL) and there shall not be compensation in case of land sharing (art 68 New OLL) and finally the order determining modalities of land registration where any appearance of claims in the due course of registration will affect the registration until the caveat is lifted.

With the provision of article 87 as stated above, many people whose land were distributed to others during the land sharing and did not get anything, could not request new land sharing with the beneficiary, neither could they claim their land again, instead they could only file their claim with the government at the district level requesting for land. Although, the government tried to listen to such claims and tried to find solutions by getting land for such people, with increasing number of claims, districts were unable to get land for these people and the result, the claimants turned against those occupying their land to challenge the sharing policy notwithstanding that they are now protected by the law. As we have seen in chapter 4.2.2 the example of Mr. Janvier, there are many people who belong in that category and have related claims. Since the land law does not permit recourse against decisions made during land sharing, this has resulted into many claimants lodging claims against the State.

Another challenge was also related to land sharing, during land sharing, there was no representation and thus, the act needed physical presence of for one to get land, although this was aimed at limiting any fraudulent acts with ghost beneficiary on interest of some, it also created another challenge. For example for family members who collectively owned the land and during displacement period some family members were displaced while others remained or returned before others, the present person (s) were only allowed to share and a plot of land for themselves without representing his/her or their relatives, this became a challenge and different claims and disputes arose when the remaining family members returned and claimed right to land that now belongs to other people. The example of the case of Jean and Pierre in

chapter 4.2.2 clearly explains this. In that case, it is therefore important to note that the root cause of such claims was planted during land sharing where former owners of land were not considered simply because they were absent at the moment.

Still on land sharing, it was clear that minors or children who had yet to attain the majority age, were not entitled to land sharing chapter 4.2.3, and in post conflict Rwanda, with the effect of the war and genocide against the Tutsi, there was many orphans whose parents were all killed, these kids were either in state protected orphanages or under relative tutorship and thus, never got the chance to take part in land sharing. During the reconstruction period, many of these kids had turned the majority age and were requesting for their land, of which it's the same land that were distributed to other people mainly returning 1959 refugees and Imidugudu settlement. A case in point here is the issue of land that belongs to orphans of genocide. For example, Kayonza district had 120 cases related to land that belonged to orphans of genocide by 2010, through which all originate from land sharing that was carried out in emergency and early recovery period. This is similar to what Zevenbergen and van der Molen (2004) concluded on as stated in chapter 2.5 that post conflict land administration needs to put mechanisms in place to with the existing situation in a proper non-discriminatory way and with the due process. Thus, failure to do may result into secondary disputes.

As earlier stated, land sharing had no formal regulation and thus, was implemented differently in most sectors all over the country, one case to mention is in Kayonza, Rwinkwavu sector, where all people were called to put everything a side and share a fresh and equally, although this was a good a approach on the side of equal sharing of land as a resource of production in the country, it became a challenge on the other side for those who had not returned back from exile or displaced ones who had not returned and also to minors who had later attained the majority age yet their parents land were no longer in their possession.

Another challenge was on Imidugudu case, as stated, that collective settlement land belonged to the state, the way or method through which that land became state land was inappropriate in many cases, only local people would choose a place suitable for Umudugudu settlement and the local authority would survey the land and distribute parcels/plots for housing construction to surrounding people without due compensation to the owner of the land. This was done in emergency and the early recovery period when the political focus on emergency action was to find shelter for returning refugees and IDP's rather than find efforts to re-establish land property system. Referring to the case of Xaverine in chapter 4.2.2, with her brothers, they could not regain their land due to land law (article 87), yet they could not also ask for compensation from the new beneficiaries, since they claimed to be state land.

The ministerial order determining modalities of land registration of 01/04/2008 gives the right to any person claiming ownership of the land or any real right over the land, whether under an unregistered instrument or otherwise to lodge a caveat against the exercise by the registered proprietor the proprietor of the right to dispose of or otherwise deal with the land (art 61 (e)). This provision has resulted in many claims leading to many caveats during the land registration process and thus recording of a large number of lands under disputes.

5.2.5. Role of Displacement in hampering post conflict land administration in Rwanda

The national land policy provides that the system of land administration in Rwanda will be based on a reformed cadastral system, including land mapping, recording of all land related data and land titles. To implement this, the organic land law of 14/05/2005, which state that land registration, is statutory and mandatory and affects both customary and those with formal holdings – hence applying this article means abolishing of the customary land holding. The government of Rwanda adopted Land Tenure

Regularization Programme (LTRP) and with the use of systematic land registration, the whole land all over the country was registered.

Although, LTRP has registered considerable success, thanks to the government's efforts to develop an open, inclusiveness and decentralized process which has been achieved to a large extent, some challenges were also encountered among which continuous land claims and disputes of which as discussed originate on how land issues were handled in the post conflict period of emergency and early recovery period.

As provided by order determining modalities for land registration, no transfer, transmission or any other transaction with respect to the land, under whatever cause may occur before the caveat is lifted or prescribed date with the law expires and if this claim would surface during the adjudication the caveat would also be lodged and the land in question would be written under disputed land until the claim is solved by competent authority or court.

So, in any case where claims and disputes or caveat were lodged during the systematic land registration process, the registration of that land would be postponed until the claim or the disputes are solved. Given, the complexity and the number of claims of claims and disputes, a considerable number of parcels were left unregistered and thus, the government objective of having all registered land all over the country where each land owner shall enjoy full security of tenure without any disturbance was not attained. So having seen the causes of this continued claims and disputes as the result of displacement that Rwanda faced, one clearly sees that displacement has hampered land administration in Rwanda in one way or the other.

Finally, as stated in the final report of SLR, 1,494,973 parcels were recorded as having incomplete information and this was due to the fact that the true owner was either dead (most of the people died during the genocide 'conflict') and have no next kin to reclaim the land or was displaced and has never returned back, with no any next kin to take care of the parcel and 11,809 parcels registered under disputes. All these have hampered land administration as the said parcels has remained with no land certificates issued and thus, the government's goal of registering and issuing land certificates all over the country for proper land administration is hampered by displacement.

5.2.6. Pinheiro principles versus post conflict land administration in Rwanda

With the adoption of Pinheiro principles by UN-Commission of Human Rights in 2005, some scholars have come to relate these principles to the Rwandan situation regarding post conflict land administration. Many have ended up with similar finding with view that some of the solutions to land issues brought forth by the Rwandan government have raised valid concerns but still non of all these critics have ever been able to propose any convincing alternative solutions to the country's land issues that would lead to sustainable peace and stability and helps in reuniting people through unity and reconciliation of the Rwandan society that have been torn apart by politics of ethnicity where land played a role.

Considering the principles 1.2 of the Pinheiro principles applies to all to all refugees, IDP's and to other similarly displaced persons who fled across the national borders but who may not meet the legal definition of refugees or IDP's but who were arbitrarily or unlawfully deprived of their farms, land, properties or place of habitual residence, regardless of the nature or circumstances by which displacement originally occurred. In Rwanda case, this applies to all people who were displaced either in 1959 and also those of 1994. Now the challenging issue that involves the application of these principles in the Rwanda case becomes a paradox.

Despite the fact that Pinheiro principles were adopted in 2005 yet many of the Rwandan land issues had been dealt with, the application of these principles as mentioned in chapter 2.6 would not have solved the Rwandan challenges, instead they would aggravate its complexity. With reference to the example of Mr. Black in chapter 4.1.1, allowing Black to reoccupy his former land as the Pinheiro principles suggests would have left 37 families landless. Given the fact that there were similar cases, implementation of these principles would have caused more challenges to the country than solutions. We therefore support the stand taken by the Rwandan government to impose land sharing.

Given the issue of land scarcity in the country, many of these claimants have been landless yet they depend on agriculture (subsistence farming), so with the provision of the Pinheiro Principles, Mr. Black deserves the right to be reinstated to his land and then the government had to take care of the rest. With this, it is hard to say who needed restitution, or who needed compensation, putting into consideration that the Mr. Black's family were forced to leave their land through forced displacement and by effect, in legal matters no prescription that would have applied, he had found his father's house and grandfather's forests, so he had all rights to repossess the land. On the other side, however, the ruling authority in 1962 had legitimized the occupation of abandoned property, meaning these people also had a legal claim and thus deserved legal protection.

With reference to the Arusha agreement on the issue of "10 year rule", where all refugees and IDP's who have been outside Rwanda for more than ten years not to claim the land, they previously owned. The Pinheiro principle goes on to provide no room for exception to limit the implementation of these principles on restitution of claims based on the age of the claim. So, according to these principles, the "10 year rule" contravenes international standards. However, with personal analysis, the Rwandan government preferred the 10 year rule as the best way, putting into consideration both political and social reasons. This was a complex situation to choose between 10 year rule and restitution as required by international instruments and thus Rwanda chose ten year rule because it was more tolerant of the situation. Over this issue, I sympathize with the government position because in such challenging circumstances of choosing between two evils, you chose the lesser one.

Since the Pinheiro principles aim to restore all things as they were prior to the displacement. Its implementation faces substantial challenges to securing a durable solution to restitution of properties to all rightful owners, especially in a country like Rwanda where there were two different but related, but related conflicts both leading to displacement of people and at the same time, the ruling authority legitimizes the secondary occupation. With reference to Pinheiro principles in Rwanda case, it was not easy to determine the true owner, so restitution would not be possible in a situation where land owner would easily be determined.

Pinheiro principles advocate for individualized property restitution, that is return to each of the particular lost property. In Rwanda case, this would pose a number of challenges for the administration and implementation, as individualized restitution requirements would create the problem of fairness because restitution would only be accomplished through separate individualized proceedings. Given the number of people who had returned, and the post conflict situation the government was handling, they would neither get the manpower to do the work nor the approach solves the land problem and challenges related to land people had. Some of them did not even remember their place of origin, especially the 1959 refugees, there were no land records that would prove the true owners since there was no formal records and restitution would lead many people to become landless.

The example of the case of Martin as in chapter 4.3 shows how Pinheiro principles would lead to unequal distribution of land. This is because Pinheiro principles advocates for restoration of pre-displacement period by resituating all properties to their rightful owners, they are likely to fail to adequately transform the unequal land distribution across both gender and socioeconomic classes which may exist in many States that have suffered from mass dispossession. This was the case in Rwanda, where restitution of the properties as it was in 1959 or 1994, will create many landless people, while others would get big land and thus, unequal distribution of the country's resources which would also create other conflicts and widen any chances for unity and reconciliation.

So, with the application of Pinheiro principles in such situation, it is essential that other prevailing factors needs to be considered, that is Rwanda case, it is too hard to determine who is a victim and who is not. It was unconventional by the government to legalize the occupation of other people's land, so to deal with such situation; there was a need of unconditional measure and decisions to deal with it again.

Finally, the implementation of the Pinheiro principles that requires restitution of all disposed property or compensation in cases where restitution seems impossible, in Rwandan case, this would bring an enormous strain on public funds in the extent that it would have been impossible to satisfy the claims of all concerned displaced persons (claimants and victims) and satisfy other state demands, bearing in mind that the post conflict Rwanda – the war and genocide against has destroyed country's life including economic sector.

6. CONCLUSIONS AND RECOMMENDATIONS

This final chapter of this research provides conclusion and presents the main results of this research as per research objective 6.1, recommendations in 6.2 and an overview of possible further research in section 6.3.

6.1. Conclusion

The research objective is:

“To know how displacement hampered post conflict land administration in Rwanda.”

To achieve this objective, three sub-objectives were drawn from this main objective among which the first was to know what kind of displacement that Rwanda faced. Through this sub-objective, the research answered the research questions which are knowing the 1959 and 1994 displacement problems and how Rwanda did handle them in the post conflict period. In chapter 5.1, it is clear found that Rwanda’s displacement issue was forced migration due to persecution (1959) and fear of violence (1994).

The conflict in Rwanda that resulted into 1959 Tutsi displacement and 1994 genocide against Tutsi, though, was politically influenced, affected the social and economic life of the people in particular and the country in general. Many people were displaced, some turned up as IDP’s while others became refugees. In a political move for land administration in 1962, the then government distributed the land of the displaced Tutsi to the local Hutu, in a political move commonly known as “land for democracy”.

The return of 1959 refugees led to another displacement of other refugees and IDP’s mainly Hutu in fear of retribution of genocide and this resulted in leaving behind an unoccupied land, which once belonged to the returning Tutsi. Upon return, many of the 1959 returning refugees reoccupied their land while other occupied many of vacant land that has been abandoned by fleeing Hutu. So, after the return of all the displaced persons (1959 and 1994) after the country had stabilized, land administration became a challenging issue due to land related issues to the returning IDP’s and refugees came on the horizon. Multiple land claims and disputes were a big challenge to the authority in whatever move they tried to solve land related complaints.

In the post conflict Rwanda, especially emergency period; there was a total loss of focus on the land. Even the government officials at the time and NGO’s working in Rwanda at the time did not seem to understand the land issue given the fact that there were many social and political issues and claims, than land. So, the lack of technical knowledge in such period later had an effect as the country tried to organize the land sector for the better land administration. Land issue, therefore, remains as a gap in the international response in the post conflict countries, especially during the emergency and early recovery periods. It has therefore been proved that, when not appropriately addressed by the government, it affects the reconstruction period.

The second sub objective of this research was to know how land claims and disputes were addressed in post conflict Rwanda, through this research objective, different questions were drawn and they include how were land claims and disputes addressed in emergency and early recovery of post conflict Rwanda and who were the actors in dealing with Land administration in this these mentioned post conflict period (emergency and early recovery periods). All of these questions have been answered in chapter 5.2, in emergency period of post conflict Rwanda; there was a total loss of focus on land issues due to political and social issues the post conflict government had to deal with including security and the size of returnees

(for their food and shelter). In the early recovery period, the government turned to focus on land issues and in order to deal with the challenges in the land sector that involved restitution of land occupied by others, the government adopted two policies mainly land sharing and Imidugudu policies.

The government of Rwanda identified land as a very important element for the future development of post conflict Rwanda, where the land issue came very high on the political agenda with a nationwide land reform. Since then, a lot of developments in legal, institutional and organizational aspects have been recorded. There is a national systematic land registration programme aimed at registering the whole land all over the country; although the programme had been applauded for its success, it faced some challenges of recording a number of lands under disputes (0.13%) and 14% whose fate is not yet determined due to insufficient information. All of these have hampered the land administration to be at the level the national land policy required it to be.

The third research sub-objective was to identify the relation between displacement issues with post conflict land administration. Through this sub-objective, the researcher wanted to know the role of displacement in hampering post conflict land administration in Rwanda. In section 5.2.5, this question has been answered, due to displacement a considerable number of land has been unregistered because of lack of complete information (as their owner is either displaced and not returned, the owner not known or all died in the conflict) or under disputes (due to successive secondary occupation and the legitimization of secondary occupation by authority).

After facing the challenges mentioned in this work, the government of Rwanda adopted policies and laws to deal with them. Although there has been some critics of the approach of Rwanda on the path to deal with land issues, none of the critics have ever produced any convincing theory and approach that would have solved the Rwanda's land issue and bring about sustainable peace, stability and unity and reconciliation in Rwanda and the people of Rwanda. The international instruments like Pinheiro principles should be applied in situations where they seem applicable, but it is clear that each country and each conflict exhibit differences and also do their attitudes, history and social cultures. So, it is illogical to draw up a general specification of approach while dealing with land administration in post conflict country instead each country would be left with right to draft the best approach that very much fit the prevailing situation.

Regarding the hypothesis, it is important to note that the reconstruction period land administration in Rwanda faced different challenges of land claims and disputes all emanating from conflict that led to the displacement of people. However, the post conflict land administration in emergency and early recovery was not technically handled and thus, the re-emerging of different claims and disputes in the reconstruction period. Therefore, having seen the origin and causes of these continued claims and disputes, it is worth noting that the findings of the research actually confirmed the hypothesis. Rwanda's continued land claims and disputes that are being met during reconstruction period of post conflict Rwanda are due to how land issue was handled in an emergency and early recovery period of post conflict Rwanda.

6.2. Recommendations

On Rwandan government

Based on the findings in chapter 4.2.3 during SLR, there were a high number of parcels whose fate was not yet determined due to incomplete information on them and thus, they remained unregistered as there

was no information on who owns such parcels. This is because the owners of these parcels/land had either died or left no next kin or have fled during the conflict/genocide and did not return back with any next kin to take care of the abandoned land. Therefore, we do recommend the Rwandan government to promulgate the law that should govern the fate of such land. It is important to note that, the Rwandan government has realized this issue and currently it is drafting law that will govern the abandoned property and this law will help in meeting challenges regarding the management of properties/land that were abandoned by the rightful owner.

Based on research findings as stated in chapter 5.2, most of the land related claims and disputes are as a result of displacement due to conflicts, legitimization of secondary occupation by the government and the government's inaction in land related issues during emergency period of post conflict Rwanda, we recommend the government of Rwanda to adopt or create a specialized judicial institution. Through creating specialized land tribunals, there is a speed up of the resolution of land disputes. These land specialist tribunals should reflect an attempt to ensure judicial expertise on land issues, thereby promoting conformity in decisions that in turn allows for reasonable expectations for future claimants.

To International Community

Having seen that lack of land administrators for providing technical assistance during the post conflict period that would play an important role to ensure that issues of land access in such period remain on the agenda is necessary, we recommend the post conflict countries with the help of partner NGO's or International Community need to hire land administrators as advisors to the post conflict government. These land administrators can help in gathering relevant information on access to land and land administration, report the characteristics of access to land to the government and identify critical issues on access to land that might require immediate response from the government and finally ensure that the issue of access to land in the post conflict is treated within a framework of reconciliation.

Taking Rwanda's example, it's important to note that the application of international standards in the post conflict land administration, especially in dealing with restitutions, claims and disputes need a thorough understanding of the history of the country in question, its land claim history and a realistic appreciation of what is politically possible, in that case, some may need an unconventional approach to deal with post conflict challenges. So, Rwanda's post conflict state building needed unconditional policies, and yet these unconditional policies have been criticized for noncompliance with international standards. We therefore recommend the international community to consider the realities and circumstances of the situation than universal principles.

6.3. Further research

- Based on the findings of this research, especially in chapter 5.2.6, further study on the displacement and Restitution of properties in post conflict land administration is necessary, in this research, the issue of when should restitution be possible and when should not be possible can be recommended and when should secondary occupants be legitimized.
- Having seen that some cases are complex and court decisions are not easily executed due to their complexity, further study on, how can these land claims and disputes be resolved is necessary and this study should come up with possible solutions to the execution of court decisions.

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APPENDICES

Appendix 1: Letter in support of fieldwork in Rwanda



UNIVERSITY OF TWENTE.

TO WHOM IT MAY CONCERN

FACULTY OF GEO-INFORMATION SCIENCE AND EARTH OBSERVATION

DATE
30 September 2013

PAGE
1 of 1

OUR REFERENCE
LA/13211/WdV/jm

SUBJECT
Request for support

Dear Sir or Madam,

We herewith certify that Patel Jossam is registered at the University of Twente, Faculty of Geo-Information Science and Earth Observation (ITC), the Netherlands, as a student attending an 18-month Master of Science course in Land Administration (LA). ITC has more than 60 years of experience and develops and transfers knowledge in the field of Geographic Information Systems and Remote Sensing.


As part of the MSc course, Patel Jossam will be doing a research titled Displacement and Land Administration in Post Conflict Period- Case of Rwanda. The research will include a 'fieldwork' consisting of secondary and primary data collection, which will tentatively take place in Rwanda specifically Kayanza and Ngoma from 28 September to 25 October 2013.

The research mainly concerns how displacement hampered land administration in post-conflict period in Rwanda. It's hoped that this research will contribute to handling of land issue in post-conflict areas for better and future land administration.

ITC highly appreciates your support in providing him the necessary information during the stated fieldwork period.

We guarantee you that the information, that would be made available to Mr Jossam will only be utilized for the research objectives and not for any other purposes. Besides, Patel Jossam will make proper acknowledgement and reference to the source of the information in the final document.

Yours sincerely,



UNIVERSITY OF TWENTE.
FACULTY ITC

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Appendix 2: Interview guide questions for displaced persons

UNIVERSITY OF TWENTE FACULTY OF GEO-INFORMATION SCIENCE AND EARTH OBSERVATION

Introduction:

My name is Jossam Potel. This interview is part of data collection exercise for my Msc Land Administration course at the University of Twente, Faculty of Geo-information and Earth Observation, The Netherlands. The Msc thesis for which interview is conducted is titled as “Displacement and land administration in post conflict areas: Case of Rwanda” Through my research, I shall give your responses the utmost confidentiality. I am therefore counting on your cooperation and your assistance are highly appreciated.

Thank you a lot for sparing your time for this interview.

Age:

Name:.....

Sector& District:.....

Displaced persons

1. Were you displaced during the conflicts?

☐ Yes

☐ No

2. When you were displaced, where did you settle?

I. Camp

II. Town/urban

III. Rural

IV. Relatives

V. Others -----

3. Who facilitated you to settle there?

- Government
- UNHCR
- Other, specify.....

4. When did you come back?

5. Were you facilitated by UNHCR to return home?

6. How did you come back?

7. Did you own land before you were displaced?

8. If yes, when you came back, was your land occupied by other people?

9. If yes, did you regain your land at the moment you arrived?

10. Was your land occupied by:

- i. 1959 returnee
- ii. 1994 IDP's
- iii. Others, specify -----

11. How long did it take you to regain your land?

12. Did you have any evidence to prove that the land belonged to you?

13. Did you regain the whole or a part of the land you owned before conflict?

14. If yes, what type of evidence did you have?

15. If no, how did you prove to the authority that the land belonged to you?

16. If your land was not occupied by other people, did you re occupy it immediately?

17. If no, what hindered you from reoccupying it?

How were land claims and disputes processed in early recovery period?

18. If you were not restituted the land you owned before, When did you get this land?

19. How did you get it?

- Land sharing
- Given by State
- Given by relative
- Others, specify -----

20. If, it was through land sharing, who were the actors during the sharing process?

21. Who did you share with?

22. Was s/he around? How was her/his reaction?

23. Are you satisfied with this?

24. Any idea on what should have a better solution to that problem?

What is the role of displacement in hampering post conflict Land Administration?

25. When you have a claim, whom do you address it to?

26. When you are address those claims to authorities, how long did it take to be solved?

27. Are they solved through mediation or by courts decisions?

28. If it is through court decisions do authorities implement them?

29. Are these claims and disputes related to the displacement of people in 1959 and 1994?

30. Would you tell me briefly what should be the root cause of these claims?

Appendix 3: Interview questions for Administrative group (Mayors, land officials and former State officials)

UNIVERSITY OF TWENTE
FACULTY OF GEO-INFORMATION SCIENCE AND EARTH OBSERVATION

Introduction:

My name is Jossam Potel. This interview is part of data collection exercise for my Msc Land Administration course at the University of Twente, Faculty of Geo-information and Earth Observation, The Netherlands. The Msc thesis for which interview is conducted is titled as “Displacement and land administration in post conflict areas: Case of Rwanda” Through my research, I shall give your responses the utmost confidentiality. I am therefore counting on your cooperation and your assistance are highly appreciated.

Thank you a lot for sparing your time for this interview.

Title/ Position or former position: _____

Organization's name: _____

How were land claims and disputes processed in emergency period?

1. Briefly would you tell us how displaced people were repatriated in the aftermaths of the conflict?
2. What was the role of authority during the repatriation process?
3. What was the role of humanitarian organizations in repatriating these displaced people?
4. Was there any collaboration between these NGO's and Government?
5. If yes, how?
6. If no, how did you both work?
7. Who were the actors in handling land issues during this period?

How were land claims and disputes processed in early recovery period?

8. After the repatriation of both 1994 and 1959 displaced persons, how did you handle the land issue?
9. Why did the 1959 refugees not allowed to regain their land?
10. What was a government reaction to different claims and disputes?
11. How were land claims and disputes addressed?
12. Who were the actors during land sharing?
13. Did the authority have any land record to determine the land owner?

How occasionally do this land claims and disputes appear? How many are they? How many are people involved?

14. How many land claims and disputes related to displacement do you receive a monthly?
15. Are conflicting parties' people who shared land during early recovery?
16. Or the disputes are between the displaced persons of 1994 and 1959?
17. How did you determine the owner of land disputed between 1994 and 1959?
18. Do they appear with any proof to prove their rights over claimed land?
19. If yes, of which type? How many do come with proofs?

What is the role of displacement in hampering post conflict Land Administration?

20. What mechanisms have you laid to solve these claims and disputes?
21. How did you handle these unsolved claims and disputes during LTR?
22. What is the nature of these claims?
 - i. Between family members

- ii. Neighbors
 - iii. Between Displaced persons of 1959 and 1994
 - iv. Others, specify-----
23. Do these claims and disputes related to displacements of 1959 and 1994?
 24. If yes, what are the grievances brought forward by these claimants?
 25. Would explain to us why these continued claims and disputes still exists irrespective of government interventions to solve these issues in post conflict?
 26. How many cases are solved by administration through mediation?
 27. How many are solved by court decisions?
 28. Are court decisions easily implemented?
 29. If no, how many cases that court decisions were not implemented? And why?
 30. Are these unsolved cases hampering your land administration system?
 31. If yes how? If no, why bother to solve them?

Appendix 4: Summary of Minutes from Focus group Discussion

Questions	1959 Returnees	1994	Survivors and IDP
1. Were you displaced during the conflicts?	Yes	Yes	Yes but remained in the country
2. When you were displaced, where did you settle? <ul style="list-style-type: none"> • Camp • Town/urban • Rural • Relatives Others	camps	camps	Rural areas and in hiding
3. Who facilitated you to settle there? <ul style="list-style-type: none"> • Government • UNHCR Other, specify	UNHCR	UNHCR	Former RPF Soldiers
4. When did you come back?	1994	1996-7	Immediately after the stopping of the genocide
5. Were you facilitated by UNHCR to return home?	None	UNHCR and The Government	None
6. How did you come back?	We boarded our cars and other came on foot with their herds of cattle	On foot	On foot
7. Did you own land before you were displaced?	yes	yes	Yes
8. If yes, when you came back, was your land occupied by other people?	Of course yes	yeah	Yes
9. If yes, did you regain your land at the moment you arrived?	Some occupied their former land but when these refugees of 1994 returned, we were asked to surrender the houses and land to them	Yes, most of us regained our land but we were later asked to share with these returnees of 1959	Some regained their land but others did not because local authorities had used the advantage of absence and a pretence that we are dead, and distributed our land
10. Was your land occupied by: iv. 1959 returnee v. 1994 IDP's Others,	Most of the land we left, were occupied by the Hutus who remained in the country during 1959, after we were kicked out of the country	It was occupied by 1959 refugees who had returned	Hutus who had not fled and some 1959 returnees whom government had settled their, in their imidugudu policy
11. How long did it take you to regain your land?	We did not regain it, because Arusha agreement did not allow us	Mostly it was between weeks and two months at the time of arrival	Some whose land were not taken by imidugudu reoccupied their land immediately, but those

			whose land was taken by imidugudu, some are even still following their land and claiming for compensation
12. Did you have any evidence to prove that the land belonged to you?	What evidence are you talking of? In 1959? How many schools did we have in the country? Just go there at the village and ask some old people, they will tell you what you want to know	No, written evidence but all neighbours knew who occupied each piece of land	No, each neighbourhood knew where their land begins and where it ends
13. Did you regain the whole or a part of the land you owned before conflict?	Most of us did not reoccupy our former land, for example here in our two sectors, only one person regained his land	A part because I had to share with others	Some reoccupied their land but others did not since they were taken by Imidugudu settlement
14. If yes, what type of evidence did you have?	None	We had no written evidence	No
15. If no, how did you prove to the authority that the land belonged to you?	Why prove? Yet we were not allowed to reoccupy our land? But some who had some permanent buildings and houses or forests reclaimed them	There was no need of evidence because, the authority had told us that nobody owns land but the government	Neighbours knew that each land and whom it belonged
16. If your land was not occupied by other people what hindered you from reoccupying it?			
17. If you were not restituted the land you owned before, When did you get this land?	Got it in 1997	Some got it in 1997 and others later in 1999-2000	
18. How did you get it? - Land sharing - Given by State - Given by relative - Others, specify	Land sharing and others State given	Land sharing	Government through compensation
19. If, it was through land sharing, who were the actors during the sharing process?	It was a committee of people chosen from different groups that is 1959 returnees, 1994 returnees, IDP'S and Survivors and this	As said	Agreed on the actors

	committee was headed by Responsible (Head of the Cell)		
20. Who did you share with?	Those who got through land sharing, were sharing with the Hutu who had remained in the country, IDP and those who had fled in 1994 and returned back in 1996-9	With the returnees of 1959	Their land was not eligible to land sharing but many of them lost their land to government through imidugudu settlement, schools and even sharing in any case one happened to be absent or where old people had been all dead and the surviving member of the family is still a minor
21. Was s/he around? How was her/his reaction?	Yes, land sharing started when they had returned, and where a head of family had not returned, at a member of the family had to be around. It was a government policy we all accepted it the way it was.	They were around because when we returned in 1996-9 they had already returned. We had to accept, the government was puzzled by the big number of returnees, each with legitimate complain over the land, so there was a need for a formula to solve that puzzle, so the only way found was land sharing, and even though some wanted to oppose it, it was not possible, the government was determined to implement it whatsoever complains, as long as the policy was solving the problem of landless and land complains to a big number of people	
22. Are you satisfied with this?	That is relative question, some are satisfied others are not, that is why some even refused RPF call not to claim their land they had left in 1959 and went ahead to reoccupy them	Some are satisfied but others are not. Imagine having born in place, you call your home and after 30 years, someone claims right over that place and you are encouraged to share with him; do you feel how hard that	

	and others even went to court over the same issue	situation is? But we had failed to figure any other solution, so we swallowed it and as time passes by, we are satisfied and happy	
23. Any idea on what should have a better solution to that problem?	As an individual with personal interests, I would answer that 1959 refugees were supposed to reoccupy their land but reconsidering the benefits of the country, I would say No. Before they were talking of creating separate place where all returnees of 1959 will be concentrated, but did not happen because the Arusha agreement was not implemented, however it was a blessing in disguise because it would have created a situation of two nations in one.	No any other way. Many of us who had acquired “Land of democracy” (land left by Tutsi in 1959), none of us wished them to come back, because we were told that they are coming to retake our land. So, after they had come, and the government asked us to find a solution, none of us had any, because you would not say that they should go back to where they are coming from or say let vacate their land because you too had nowhere to go, so land sharing was the based solution, though with its short comings too.	Apart from those extremists, there was no any other solution, any attempt to create a new settlement for returning Tutsi would have created a Tutsi land and a Hutu and any attempt for reconciliation would have yielded nothing
24. When you have a claim, whom do you address it to?	To the local authority and then they direct you to either mediation committees or give you an advice	That is it	We even use IBUKA if our cases are not solved by these institutions
25. When you are address those claims to authorities, how long did it take to be solved?	Not so long, but when its related to claiming 1959 land, then it will take years and years	Not so long, weeks or even a month	Years and years
26. Are they solved through mediation or by courts decisions?	Both depending to the nature of cases/claims	agree	Mediation committee solve simple cases not hard cases like the issue of land that belongs to orphans of the genocide, such cases goes to

			central level of administration
27. If it is through court decisions do authorities implement them?	Some are implemented but others are not, especially the 1959 cases are not easily implemented	They are implemented but with challenges or with government interventions	
28. Are these claims and disputes related to the displacement of people in 1959 and 1994?	Yes of course	yes	
29. Would you tell me briefly what should be the root cause of these claims?	The cause is what we have been talking all along, the 1959 issue and that of 1994 are the key causes of current land claims and disputes	That is it	Poor politics based on ethnic divisionism

Appendix 5: An example of land sharing report from Rwinkwavu sector

Sefure Gihinga		2013/1998	
		ABANTU BAKATIWE	
1 SHYI RAMBERE HAAWE ISAMBUL	IFITEMETERO 150	SEN SHIMIYI MANA HAAWE ISAMBUL	IFITEMETERO 100
2 GENASIJA HAAWE ISAMBUL	IFITEMETERO 150	32 GASHUMBA HAAWE ISAMBUL	IFITEMETERO 72
3 DUSABIMBA HAAWE ISAMBUL	IFITEMETERO 150	34 MUKAZITONI HAAWE ISAMBUL	IFITEMETERO 28
4 SEBAHIRE HAAWE ISAMBUL	IFITEMETERO 150	35 SHYI PABAGWIZA HAAWE ISAMBUL	IFITEMETERO 100
5 MUKABUTARE HAAWE ISAMBUL	IFITEMETERO 150	36 MUSHUMBA HAAWE ISAMBUL	IFITEMETERO 100
6 SHYI RABARATETA HAAWE ISAMBUL	IFITEMETERO 150	37 RWABUHUNGU HAAWE ISAMBUL	IFITEMETERO 100
7 MUKARUSHEMA HAAWE ISAMBUL	IFITEMETERO 150	38 SHAZI NTWALI HAAWE ISAMBUL	IFITEMETERO 100
8 BIZIMUNGU HAAWE ISAMBUL	IFITEMETERO 150	39 KACINDA HAAWE ISAMBUL	IFITEMETERO 150
9 SHYI RABARAME HAAWE ISAMBUL	IFITEMETERO 150	40 GUTETE HAAWE ISAMBUL	IFITEMETERO 60
10 GAKWERERE HAAWE ISAMBUL	IFITEMETERO 150	41 RIBERAKURUPA HAAWE ISAMBUL	IFITEMETERO 100
11 BIZURU HAAWE ISAMBUL	IFITEMETERO 150	42 BAMBONIGABA HAAWE ISAMBUL	IFITEMETERO 150
12 KATIHA BWA HAAWE ISAMBUL	IFITEMETERO 150	43 SARONGO HAAWE ISAMBUL	IFITEMETERO 100
13 MUTABARUKA HAAWE ISAMBUL	IFITEMETERO 150	44 UWAYESU HAAWE ISAMBUL	IFITEMETERO 100
14 GAKWAYA HAAWE ISAMBUL	IFITEMETERO 150	45 KAGARURA HAAWE ISAMBUL	IFITEMETERO 100
15 MUWAMBACI HAAWE ISAMBUL	IFITEMETERO 150	46 BAKUKETI HAAWE ISAMBUL	IFITEMETERO 100
16 KACISA HAAWE ISAMBUL	IFITEMETERO 150	47 HANGIRA JONGE REWE	IFITEMETERO 100
17 NAKURE HAAWE ISAMBUL	IFITEMETERO 150	48 KANYENESA HAAWE ISAMBUL	IFITEMETERO 100
18 MUBESA HAAWE ISAMBUL	IFITEMETERO 150	49 MUKAKHIMBEI HAAWE ISAMBUL	IFITEMETERO 100
19 BIZIMANA HAAWE ISAMBUL	IFITEMETERO 150	50 BIZIMANA HAAWE ISAMBUL	IFITEMETERO 100
20 BIZIMANA HAAWE ISAMBUL	IFITEMETERO 150	51 MUKAKHURANGA HAAWE ISAMBUL	IFITEMETERO 100
21 BYI 20 HAAWE ISAMBUL	IFITEMETERO 150	52 BUBAKARI HAAWE ISAMBUL	IFITEMETERO 100
		53 KATERUWE HAAWE ISAMBUL	IFITEMETERO 100
		54 KAMPIRE HAAWE ISAMBUL	IFITEMETERO 100
		55 KAMPIRE HAAWE ISAMBUL	IFITEMETERO 100