The role of land records in support of post-conflict state building – the case of Rwanda

Dimo TODOROVSKI, the Netherlands, Jean Guillaume MANIRAKIZA, Rwanda, Jaap ZEVENBERGEN and Luc BOERBOOM, the Netherlands

Key words: land, land records, administration, land administration, dispute, resolution, post-conflict, state, building

SUMMARY

An essential component of every land administration system are the land records. These records contain information about ownership, value and use of land. Conflict and post-conflict contexts, both in literature and in practice, have shown that land administration systems are mostly affected by the loss of land records and staff. Post-conflict contexts are characterized with: institutional weaknesses, economic and social problems and serious security problems. Based on a case study conducted in Rwanda, firstly the type, the format and the status of land records are discovered, and then those are related with the process of post-conflict state building. This relation is explored in depth in order to determine and describe the role of land records in support of post-conflict state building. Here specific attention is paid to the role that land records have in land dispute resolution in such contexts. Findings from this paper shows that a strong relation exists and that land records play a positive role in support of the post-conflict state building.

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

The role of land records in support of post-conflict state building – the case of Rwanda

Dimo TODOROVSKI, the Netherlands, Jean Guillaume MANIRAKIZA, Rwanda, Jaap ZEVENBERGEN and Luc BOERBOOM, the Netherlands

1. INTRODUCTION

Land records and land administration are always negatively affected during conflicts and in post-conflict contexts. This has been confirmed both in literature and in practice (EU-UN, 2012; Takeuchi, 2014; UN-HABITAT, 2007, 2009; Unruh & Williams, 2013b). If land records and land administration are neglected or not properly addressed after the end of a conflict, they can be a cause for a renewed armed conflict and an obstacle in the rebuilding of a post-conflict society (Todorovski, 2016). It has been shown that the land records are specifically important in support of the resolution of land disputes and claims (UN-HABITAT, 2007; Zevenbergen & Burns, 2010).

The aim of this paper is to identify the role of land records in solving disputes about land ownership and boundaries in support of land administration and post-conflict state building in Rwanda. In section two a theoretical perspective on the two topics (1) post-conflict state building and (2) land administration focusing on land records in post-conflict contexts; this has been elaborated from the available literature. Section three, methodology, presents the case of Rwanda and describes the methodology used for this paper. The case study of Rwanda provides evidence about the role of land records in support of post-conflict state building. The results and discussions in section four identify the important role that the land records have in post-conflict state building. This paper finishes by drawing some conclusions.

One country where the characteristics of post-conflict state building, focusing on land records and land administration, can be further explored is Rwanda. Rwanda witnessed massive and protracted violent conflicts that resulted in large-scale population displacement. The displaced population started to return after the end of the conflict in 1994 when the security and humanitarian situation on the ground improved (Prunier, 1997). In a short period after the end of the conflict, land issues emerged for a large number of people. Tackling land administration where land records were not completely available was a very sensitive activity that required specific attention and an approach that corresponded to the local circumstances (Manirakiza, 2014). The type, the format and the status of land records are discovered, and then those are related with a framework for post-conflict state building. This paper shows that a strong relation exists and that land records have played a positive role in support of the post-conflict state building.

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

LAND RECORDS AND POST-CONFLICT STATE BUILDING

In order to better understand the relation between (1) post-conflict state building and (2) land administration focusing on land records in post-conflict contexts, a theoretical perspective on these two topics is elaborated from the available literature

1.1 Post-conflict state building

The basic idea of conflict can be described as a disagreement between people or groups about something, involving some degree of antagonism. In respect to the causes of armed conflict they are to be found in territory, ideology, dynastic legitimacy, religion, language, ethnicity, self-determination, resources, markets, dominance, equality, and of course, revenge (Heinz-Jürgen, Milososki, & Schwarz, 2006). From the mid-twentieth century onwards the nature of armed conflicts has changed: conflicts have moved inside national boundaries and civil wars and insurgencies are much more common today than wars between states. Instead of involving different countries, armed conflicts more frequently involve governments and opposition groups, and they occur in regions where people depend on land and natural resources for their living (Unruh & Williams, 2013a). The most serious concerns emerging from the armed conflicts are casualties, destroyed infrastructure and houses and displaced population. In those cases displacement is becoming an alarming issue for the states in conflict, the neighboring states, the UN and the international community (Hollingsworth, 2014; Takeuchi, Katayanagi, & Murotani, 2014).

After armed conflicts sometimes a new state is formed or the old one is coming out of the conflict. In both cases a post-conflict state building process should follow. The first challenge that these states are facing is the peace-keeping process. According to FAO (2005) the general characteristics of the post-conflict contexts are death and injury, hunger and starvation, displacement of people, negative social and psychological consequences, changes in values and expectations, destruction of infrastructure and housing, limited government capacity, limited funding and limited national 'ownership' of recovery plans.

Sometimes people experience forced eviction during the conflict. Displaced people often settle on land to which they have no legal claim. There is also an issue that remaining citizens occupy land and houses left by refugees and internally displaced persons (IDP): this type of occupation is called secondary occupation. There is an important legal distinction between refugees and IDPs. Refugees are people who flee their homes for the safety of another country. IDPs are people who flee from violence but remain within their own country (FAO, 2005). The right of all refugees and IDPs to return to their homes and places of habitual residence in their country and/or place of origin is defined in relevant international legal instruments (UN, 1998). The period after the end of a conflict is critical because of the possibility of the return of the displaced population in large numbers and in a short period of time, and this is when the land-related challenges arise on the horizon and a possibility for renewed violent conflict (UN, 1999c).

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

After hostilities have ceased and a peace agreement has been signed, the first challenge that post-conflict states face is the peace-keeping process, which is understood as a situation with absence of armed conflict and a modicum of political process. Peace-building is described as a compound of actions undertaken by international or national actors to institutionalize peace (Call & Cousens, 2008). Peace-building requires some form of doing justice and if justice is required, rule of law becomes one of necessary perspectives for looking at the given post-conflict context (Buyse, 2008). It is recognized that the rule of law is critical to states emerging from a conflict on their way towards stability and long-lasting peace. It is important that the rule of law is not only provided for in the law but that it is also practised by the officials of the state and that it allows participation of the citizens and is enforced by the courts (Rugege, 2013). Having an awareness of what institutions are (e.g. 'rules of the game') would involve the rule of law in the development of institutions.

So: What constitutes the rebuilding of post-conflict states apart from the peace-keeping challenge? The Organisation for Economic Co-operation and Development (OECD) defines state building as 'purposeful action to build capacity, institutions and legitimacy of the state in relation to an effective political process to negotiate the mutual demands between the state and societal groups' (OECD, 2008), or as Fukuyama puts it: 'the creation of new government institutions and the strengthening of existing ones' (Fukuyama, 2004). A related important issue might be that in post-conflict contexts close and unified co-operation between all actors is essential. International actors with available resources and skills should facilitate local processes and create a space for local actors who are the main work force. Together they should define and consolidate their policies in order to build responsive, resilient and robust institutions (Chesterman, Ignatieff, & Thakur, 2005).

In particular, as regards state building in post-conflict contexts, we refer to Ball (2001), who elucidates the rebuilding of war-torn societies and postulates three main characteristics. Firstly, she describes 'institutional weaknesses', like non-participatory and malfunctioning political and judicial systems, strong competition for power instead of attention to governing, a limited legitimacy of political leaders and no consensus on which way society should go. Secondly, she observes 'economic and social problems', like a destroyed or decaying social and economic infrastructure, an increase of the illegal economy, people reverting to subsistence activities, hatred among population groups and conflicts over land and property. Finally, she distinguishes a third element, namely that these societies have to cope with serious 'security problems', such as huge quantities of small arms freely circulating among the population, political influence of the armed forces, demobilization and disarmament. As the characteristics of war-torn societies, as developed by Ball (2001), are widely accepted, we will apply those for this paper as well.

Based on the characteristics identified by Ball (2001), adding a few extra elements from the other concept, Todorovski (2016) further details the three main characteristics with thirteen elements as shown in Table 1: A framework for rebuilding post-conflict states:

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

Institutional Weaknesses	Economic and Social Problems	Security Problems
- Legitimacy of the state / political leaders - Political system - Government structure - Legal framework (Policies, Law and Administration) - Building Capacities	- Displacement - Destroyed properties and infrastructure - Participation / Cooperation International community and local authorities - Citizen participation - Low economic activities - Lost/destroyed state records	- Peace and reconciliation - Conflicts over land and property

Table 1: A framework for rebuilding a post-conflict state (adopted from (Todorovski, 2016))

In the section 'Results and discussions' a framework for rebuilding post-conflict states is used as a theoretical proposition for the discussion of the results from our case study. Land and property issues provide a policy space in which public institutions and local people aim to improve their daily lives (Kato, 2014). It is therefore evident that tackling land and property problems in post-conflict situations cannot be done in isolation but had better be done as an integral part of state building (Takeuchi et al., 2014).

2.2 Land administration focusing on land records in post-conflict contexts

According to the UN/ECE (1996), land administration is defined as 'the process of determining, recording and disseminating information about tenure, value and use of land when implementing land management policies'. Land registration and cadastres form an important part of land administration. Land registration responds to the question of "who and how", while linking person to right (subject-right) and cadastre responds to the question of "where and how", while linking right to parcel (right-object). The concept of land records or land recordation is used to express land registration and cadastre because of the complementarities of these two components (Henssen, 2010).

However, a modern land administration system has four functions: land tenure, land value, land use and land development. For a good and sustainable land administration, all four elements must be integrated within one core cadastre system. The development of a land administration system and its cadastre could also depend upon the social, cultural, historical and political context of any country in order to respond to beneficiaries' needs (Williamson, Enemark, Wallace, & Rajabifard, 2010).

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

During a conflict people are killed, infrastructure and houses are destroyed and masses of people are being displaced. Destruction and displacement have a great influence on issues related to land and property during and specifically in the aftermath of the conflict (Hollingsworth, 2014).

Post-conflict situations lead to a dysfunctional land administration system characterised by: limited prioritisation of land policy, discriminatory land law, poor institutional and regulatory framework which allows the grabbing of public and private land by powerful individuals and groups, poor management information systems for updating records as well as a weak state capacity which is incapable of helping internally displaced people and refugees (Augustinus & Barry, 2006). Land administration systems can suffer in several ways during and after a conflict and the most obvious blow follows from the loss of staff and records, and obviously, full paper-based systems are even more vulnerable since no formal backup usually exists (Zevenbergen & Burns, 2010). If the land records are not tackled as early as possible they become a new emerging source of conflict over land. Therefore, it is very important and it is necessary that appropriate attention is put on land records in order to avoid new emerging land disputes and claims.

Land records contain information about ownership, value and use of land (UN/ECE, 1996). Concerning the ownership, land records describe who owns what as a kind of the adjudication process and clarify the area covered by someone's right. The rights in land may also include: the right to use, the right to manage, the right to transfer, the right to exclude unauthorized people, the right to derive income from the land and the right to get compensation (UN-HABITAT, 2008). The UN/ECE (1996) guideline identifies "good land records" as those capable to prove: the ownership in land to ensure security of tenure; value of land to ensure fairness in land and property taxation and equity in the compulsory acquisition of land for State purposes; and the use of land to ensure efficient resource management.

Land records may be digital or paper-based. From a legal perspective, we call formal land records those that are protected by the law. This is the case in countries that managed to register land and keep all the records in the national registry or at decentralized units. Formal land records are more frequent in developed countries. However, in developing countries we find few parcels recorded in the formal registration system. As regards informal records, we may include all transactions made between parties in private conveyance and not formally recognized by the state or recorded in the system. Land records may also include any document underpinning information about land such as: the land registry, cadastre, maps, possession lists, survey field records, text and graphic evidence, digital backups, paper maps (Todorovski, 2011; UN-HABITAT, 2009). In countries where land is administered through customary bodies, where formal legal systems are not accessible to significant parts of the population, records are kept locally and transactions are recorded through simple sales contracts, witness statements or local knowledge and attribution. Incomplete, out of date or contested land records can pose a threat to tenure security, which is heightened in settings

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

characterized by legal pluralism where statutory law does not recognize the existence of any other valid system of rights (UN-HABITAT, 2009).

According to UN-HABITAT (2009) the issues about land records in post-conflict situations that require appropriate attention are: inadequate land records, fragmented responsibility for land records, lost, stolen or fraudulent land records and women's and children's property and inheritance rights. Consequently, different papers have demonstrated that land records in post-conflict periods seem unlikely to be trusted by users and unable to resolve disputes related to ownership or user's right in land and boundary (Augustinus & Barry, 2006; Zevenbergen & Burns, 2010). Besides that, this paper on the role of land records in relation to the definition of "good land records" needs to see if the evidences provided by land claimants were able to prove the ownership and boundary in such circumstances. In developing countries, only 30% of the populations have managed to register their land using either a Deed or Title system.

Zevenbergen and van der Molen (2004) argue that land records after a conflict need a clear examination in order to check for incidence of fraud which occurred over land and avert the situation whereby people formalize land and property which they have acquired illegally. Land records in post-conflict periods are vulnerable and mostly exposed to different alteration if there are no quick activities to secure them. In this way, it is better to protect land records during and after conflict so that they could later on be helpful during the resolution of a land conflict in the reconstruction phase (UN-HABITAT, 2009).

According to UN-HABITAT (2009) there are two rationales for considering the importance of securing land records in a post-conflict era. Firstly, all the parties who lost in the struggle for power strive to hoard some important files and documents and use them for selfish gains. Secondly, warlords may also use their power to either change a land administration system, enact laws and regulations which enable them to evict land and property of displaced people, force transactions with weakened parties or manipulate the records in the registry.

This section provided an overview of the available literature about the topics (1) post-conflict state building and (2) land administration focusing on land records in post-conflict contexts. From here it could be derived that there is a gap in the knowledge as regards the role of land records in solving disputes about land ownership and boundaries in support of land administration in post-conflict contexts; specifically the roles of land records in support of the overall post-conflict state building process.

2. METHODOLOGY

This section discusses the methodology, the selection of the study area in Rwanda and detailed methods and techniques used for the collection of primary and secondary data. For more details on the methodology and data collection see Manirakiza (2014).

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

Based on the identified gap in the knowledge, the qualitative methodology using the approach of case study is most suitable to be applied to this work. Rwanda was selected as a case study due to the violent conflict which happened in the country and the severe impact that this had on landownership and disputes. This research was carried out in both urban and rural areas. The Gasabo District is one of the three urban districts in Kigali City. Within the Gasabo district, the Jali sector is selected in the rural area and Kimihurara and Remera are selected as sectors to be explored in the urban area. Appendix 1 presents graphical location of the selected study areas.

During the fieldwork primary data were collected using semi structured questionnaires and interviews; other sources of information were secondary data and direct observations. The questionnaires were distributed among different categories of people, including 22 land claimants, 17 local arbiters and 10 land administrators. The information from the questionnaires helped to determine the type the form and the status of the land records. They also contain questions concerning the role of land records to solve disputes over ownership in land and boundaries. Interviews are used to enrich the information gathered from questionnaires about the status and roles of land records. Apart from the Deputy Director General in charge of the Land and Mapping Department and the Land Officer of Gasabo District, the rest of the interviewees were found through different networks of people and by using the advice for suitable experts in the area from the previously interviewed experts. In total 7 employed and formerly employed officers on high positions were interviewed.

Kumar (2005) argues that field observation might complete the information collected through questionnaires and interviews because some informants may feel reluctant to provide good information since they feel concerned by the issue. The direct observation during the fieldwork helped to confirm the information about the physical status and the type of land records that remained after the conflict. During the fieldwork a visit to the archive of Rwanda Natural Resource Agency (RNRA) in one of the offices of Gasabo District was conducted. Photos and check-up of different files and registers supporting land records were made in order to see the content of files with complete information in accordance to what had been highlighted in different interviews and questionnaires.

The secondary data collected concerned laws related to land before and after the conflict, reports of the Gasabo District Land Commission on different issues about land handled in 2010, and few other crucial land claims handled by RNRA. These reports helped to see the documents that the administration gave more importance while settling land disputes. The laws clarified the concept of informal and formal land records.

3. RESULTS AND DISCUSSIONS

This section present the results and discussions with focus on the type the format and the status of land records and documents needed during land dispute resolution process, and

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

thereafter the role of the land records that played a role in support of post-conflict state building. Results presented below are based on the study performed by Manirakiza (2014) for the requirements of a master of sciences research.

4.1 Results

Types of land records: Land records are perceived differently with respect to (1) the location of the land, (2) the development on it, (3) the way land has been acquired and (4) the legal framework.

Based on (1) the location, in rural sector of Gasabo District most of the respondents gave more importance to *acte de Notorieté* and sales agreements. However, in urbanized sectors of Gasabo District most of respondents revealed two important things: the first concerns a formal registered land (such as freehold titles, land lease contract and extract of cadastre) and the second, formal but not registered land records in town which included *acte de Notorieté and* other notary deeds. Here discussed land records were the most important land documents bearing information about ownership of right to land and its boundary during the land dispute resolution.

Based on (2) the development made on the land, most of the respondents from both rural and urban locations highlighted the cadastre land titles (freehold titles) after getting to know from land administrators that the land was used according to what had been signed in the contract.

Based on (3) the way land has been acquired, 8 out of 22 land claimants received land through sales, and put forward land titles and notary deeds as major land records. The other 4 out of 22 got the land from the program of land-sharing and for them deeds and minutes provided by local administration were of high importance. Finally, 8 out of 22 respondents in the same group who owned land from the customary regime prior to that period gave more importance to minutes and the role of elders in recognition of the right they had on their land as a major source of evidence.

Based on (4) the legal framework, most of the respondents interviewed and local arbiters *(Abunzi)* found in urban sectors of Gasabo District, recognize the title, land lease contract, and extract of cadastre as documents, which provided legal information about ownership and boundaries during post-conflict land administration. Few respondents added the *acte de Notorieté* to previous documents already highlighted. Moreover, 17 out of 22 of land claimants have revealed that land records they presented to prove the right they have to disputed land were considered as legally binding (Manirakiza, 2014).

The format of land records: Concerning the format in which land records were kept, 8 out of 10 land administrators and 7 out of 7 interviews with key informants have revealed that land records were paper-based for both urban and rural areas. Several respondents said that the cadastre and domain departments at Ministry level used to keep different land records in files

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

arranged in metal cabinets with folios and index numbers. There were several land registers with records supporting the whole process of registering land starting with the application letter for land acquisition up to the issuance of land lease contracts or freehold titles.

Based on the discovered types and format of land records in both urban and rural areas of Gasabo District, the hierarchy and types of land records is presented in Figure 1 as follows:
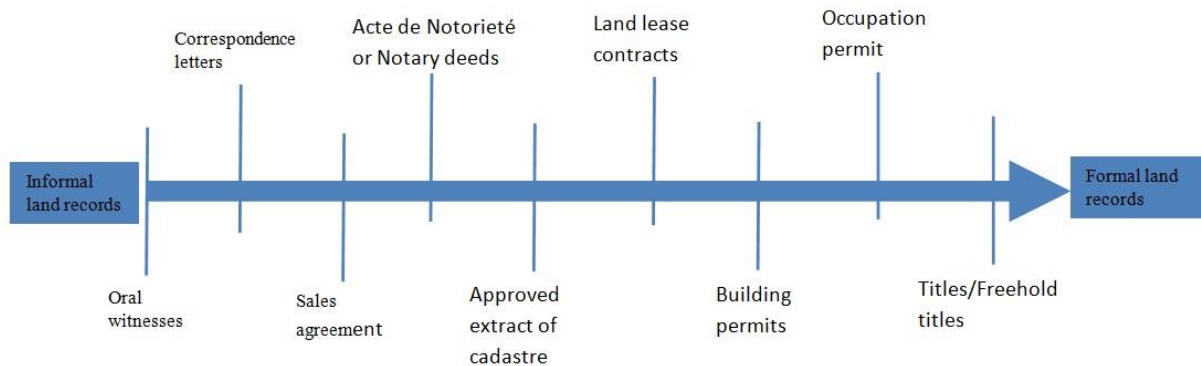

Figure 1: Hierarchy of types of land records found in the study area Gasabo District (Manirakiza, 2014).

Status of the land records after the conflict: According to most land administrators and other key informants interviewed during the field work, the majority of land records had survived. However, few of the respondents said that even if the records remained intact, some records had been manipulated, which was the main cause of disputes over land; double allocation of one plot to many people and/or grabbing the land and properties of both displaced people and state land. Other responses from interviews with key informants revealed that some of the dossiers, which were still on treatment were the first to disappear. However, the main registers containing all input files, processed, signed and issued land documents continued to be physically in good condition after the conflict. One of the interviews with the key informants also highlighted the importance of metal cabinet to protect all survived land records in the archives.

Although the main land registries remained physically in good condition, some key informants during interviews added that few dossiers which were still in the process were exposed to manipulation and few of them were damaged by a bomb which crashed into one side of the archive in the Kimihurura Sector during the fighting period. In addition, some supporting documents disappeared while offices were being cleaned after the war because they were scattered in different offices, and not in their respective files, thus there was a high risk of them being lost in good or bad faith (Manirakiza, 2014).

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

Land registration and land dispute resolution in the post-conflict period: Actors involved in land registration included the applicants, citizens and administrative authorities from the village to the Ministry in charge of cadastre and land administration. In general, information from legal texts and interviews with most of key informants revealed that the land was state-owned. Besides that, most of the respondents mentioned that land registration was done driven by demand, and the actors involved in land registration included the applicants, citizens and administrative authorities from the village to the Ministry in charge of cadastre and land administration. In line with the responses from interviews with key informants, land in Rwanda before and after the conflict was either managed in statutory regime in urban area and other big land and properties of churches and colonial authorities in rural areas or in customary regime in rural areas. A citizen who wanted to hold the land with legal/formal land records, would first of all send an application letter to the Ministry in charge of land in that period. Then, the commission in charge of land allocation processed and the application responded to it. If there was no other person who applied for the same land/plot, land professionals from a centralized cadastre at Ministry level went to the field to make an inventory of the development made on the land by the citizens who held the land in customary regime and thereafter an extract of cadastre was established. If the land belonged to the state, the department of domain prepared a land lease contract renewable in 3 years and delivered it to the applicant. This contract could be ended in case the lessee did not fulfil properly his/her commitment such as the respect of the use of land (residential, commercial, social, industries, etc.). Increasingly, a person who had already got the land lease contract could also apply for the building or an exploitation permit after showing the plans and the costs of the project. Then, the citizen could also buy the land and sign another purchase contract and receive the freehold title if he justified in the department of inspection of Urbanism that the project was implemented according to what had been planned.

The main actors who were intervened during the land dispute resolution encompassed citizens, local authorities, local arbitration committees called "*Abunzi*" and court. The local authorities usually via mediation supported the resolution. Where the mediation was not successful the adjudication method was applied via the three-level land claim committee bodies as official authorities in Rwanda (Manirakiza, 2014).

Availability of land records for the purposes of land dispute resolution: 11 out of 22 land claimants who sent claims over disputes over land, found it easy to get evidence that justified how they got the land in disputes because they were still holding their land records. In fact, they were still kept with them and had not disappeared. For local arbitration committees, 10 out of 17 respondents among local arbiters said that it was not difficult for land claimants to get the proofs of ownership to land which were required during the resolution of their cases. However, 6 out of 17 local arbiters who responded differently compared to their colleagues said that the lack of proofs of ownership right to land during the resolution of land disputes was striking to returnees. Additionally, one key informant mentioned that returnees of 1994 were mostly among the people who did not manage to find the evidence of their land and properties upon their return from inside or outside the country.

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

In the study area the interview with the District land officer of Gasabo District revealed that only 7.7% of the formal land records were available in the District archive until 2008. Who wanted to get information from his/her land or property was asked to send an application letter and pay for the service rendered to him/her. All formal land records for the territory of the Kigali City were scanned in 2002 (Manirakiza, 2014).

Type of land disputes being dealt with using land records: During the survey, 21 out of the 22 persons who responded to the questionnaires had sent one or several claims over land for settlement to administrative authorities, local arbiters or to court. 9 out of the 22 land claimants used land records to claim for the restitution of their land and properties they left when they fled the country. Some key informants during the interviews added that in the aftermath of the conflict some returnees of 1959 and other people who did not flee the country illegally occupied land and properties of new displaced people (IDPs and refugees). Some respondents happened to use more than one land record for different land disputes. Other disputes that appeared frequently concerned boundary overlaps and claims related to ownership rights in land that included disputes about succession within members of families. Types of land disputes are shown in the Figure 2:
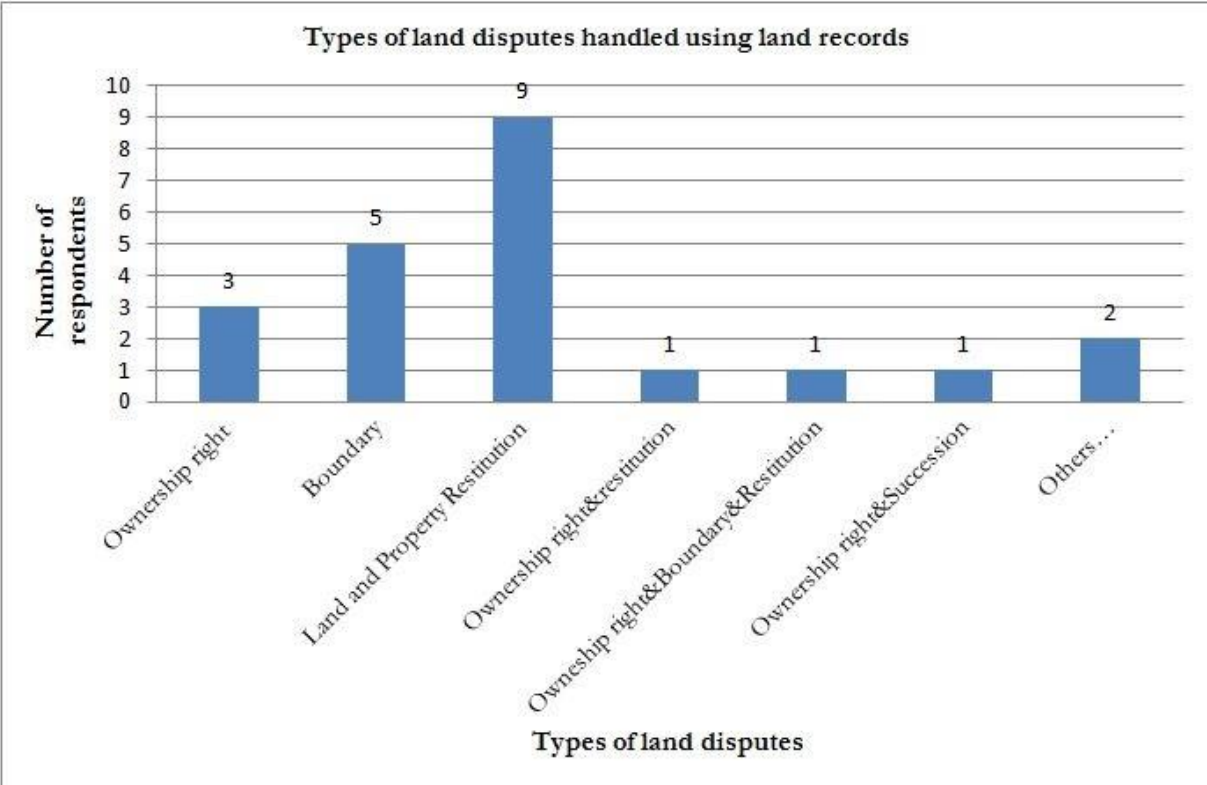

Figure 2: Types of land disputes handled using available records (Manirakiza, 2014)

Evidences of ownership right in land and boundary used during land dispute resolution: According to the responses of land arbiters and land administrators, triggering documents included land titles and valid land lease contracts. They were mostly used to prove the right owner of the land in urbanized sectors of the study area. Other documents like extracts of cadastre, building permits, occupation permits were found in town but were used to trace the history of the land in case the main documents had disappeared. In rural areas, the *acte de notorieté* was an important document mostly found with citizens who paid land taxes after the sale.

During the interviews, some respondents clarified the amount paid in taxes, which was basically equivalent to 6% of the total value of the purchased land. This amount is also found in the secondary data collected during the field work; at the time there was a law established by a ministerial statement Nº 01/2003 of 17/02/2003 in article 15 stating administrative charges paid while leasing or purchasing land. With continuous reforms in the legal framework, the law was revised, changing the title and the fee rate paid. It is entitled with a presidential order Nº 25/01 of 09/07/2012 establishing the list of fees and other charges levied by decentralized entities and determining their thresholds. This information was kept in registers of tax together with other sources of revenue in commune level (administrative entity prior to the early recovery of the post-conflict period in Rwanda). In addition, most of respondents highlighted the importance of *oral testimonies* during the dispute resolution both in rural and urban areas in the study area. In addition to that, 12 out of 17 respondents among local arbiters said that they accepted any sort of documents testifying and illustrating the way both parties claiming the same land had got it (oral sources, *acte de notorieté*, sale agreement, tax invoice, titles/freehold titles).

As regards to people who had disputes over land, 20 out of 22 respondents used any sort of document capable to trace the historical relationship they had on their land and titles, deeds and *acte de notorieté* were among them. Any person could use copies of more than one evidence if he/she was able to get it (Manirakiza, 2014).

Benefits of land records during land dispute resolution and post-conflict land administration: During the survey, 7 out of 7 key informants interviewed and 9 out of 10 of land administrators who responded to questionnaires acknowledged the positive role that land records have played in proving ownership right in land and boundaries after the conflict. One interviewee added: *"Land records that are kept in land registry were most valuable for the processes of land dispute resolution".*

Different interviews with key informants revealed that land records, whatever their levels of hierarchy, have helped to solve land-related issues in the following domains:
- Restitution of land and property of displaced people and refugees,
- Resolution of disputes about inheritance/succession,
- Mitigation of dispute about boundary encroachment,
- Recognition of the use of land in urban planning,

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

- Tracing back the transaction made on the land through oral witnesses, minutes and files in cabinets,
- Recognition of changes in typonyms due to different administrative reforms that occurred in the country.

Additionally the fieldwork research revealed the great level of flexibility that was adopted by the government of Rwanda while handling land disputes using land records. This practice helped to deal with several disputes over land that occurred in the early recovery of post-conflict land administration despite the abiding requirements of the normal court system. Both oral and written evidence from informal land records up to formal land records have helped the land dispute resolution. Consequently, the weaknesses of the old land registration aspects (organizational, legal and technical) in Rwanda were considered as a trigger and a facilitator for the development of different types of land records in both statutory and customary systems. Therefore it is identified that land records played a positive role in the following domains: restitution of land and property rights to returnees, the re-establishment of land rights of vulnerable groups, mitigation of boundary disputes and the resolution of intra-family land disputes.

This sub-section has presented the results from the fieldwork about collected primary and secondary data, and has elaborated in detail the type, the format and the status of the land records in post-conflict Rwanda. This supports the identification of the role of land records which is further discussed in the following sub-section Discussions.

3.1 Discussions

In this sub-section discussions are made on the results from this study in light of the characteristics and the elements of the framework for rebuilding post-conflict states (as described in Table 1).

When one observes the framework holistically one key issue in this peace building and state building conundrum is land and property. Land and property issues and land records in this regard could be found mentioned in second characteristic - economic and social problems, and third characteristic - security problems, of war-torn societies (Ball, 2001); which form a basis for people's lives in many ways.

Herewith the roles of land records and specifically land dispute resolution are discussed: how did they support the post-conflict state building in Rwanda? This is done against each element of the framework for rebuilding post-conflict states (as described in Table 1). These discussions are supported with the analyses and discussions provided in the PhD research by Todorovski (2016).

When we observed the land records (available, newly created and recovered) against the thirteen elements of the Framework it was found that land records were recognized as

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

beneficial as they supported the element 'legitimacy of the state/political leaders'. The elements 'political system', 'governmental structure' and 'legal framework' were not directly supported by land records. However, in the relation to the 'legal framework', governmental officers within the 'governmental structure' in the available 'political system' first developed a Land Policy, then a Land Law which gave directions on creation and definition of land records. When one looks at the fifth element of the group of elements institutional weaknesses our results have shown that, when land records supported 'building capacities' of the state where available and vice versa via the 'building capacities' process, new land records were created within the Land Tenure Regularisation (LTR) Programme (Gillingham & Buckle, 2014). As an element that required appropriate attention in a post-conflict context the 'displaced population', this element was adequately supported by land records, as well as to the element 'destroyed houses and infrastructure'. Land records were adequately used and supported the following three elements: 'participation of the international community, 'national and local authorities' and 'participation of citizens'. As to the report of Gillingham and Buckle (2014) land records improved the element 'low economic activity' supporting activation and increase of the land and property market; here the element of 'lost/destroyed/unavailable state records' were supported in a same manner. Land records consequently contributed to the elements of the third characteristic – security problems: 'peace building and reconciliation' and in regard of 'conflicts over land'.

Todorovski (2016) discovered that land dispute resolution mechanisms play a particular role in the post-conflict state building processes. Since this study addresses the role of land records in support of land administration and land dispute resolution, our results could be used to describe and discuss the land dispute resolution against the thirteen elements of the Framework for rebuilding post-conflict states (as described in Table 1). Our observations show that land dispute resolution mechanisms in the case of post-conflict Rwanda, support and contribute to all thirteen elements of the above-mentioned Framework.

4. CONCLUSIONS

When one looks at this research based on a fieldwork in Rwanda, one finds that this paper first explored the type the format and the status of land records in Rwanda focusing on the post-conflict period. Here, available, newly-created and reconstructed (lost or damaged by the violent conflict) land records were analyzed. Additionally, those records observed within the land administration and land dispute resolution, were related with the process of post-conflict state building in the case of Rwanda. This relation was explored in depth to determine and describe the role of land records in support of post-conflict state building.

Likewise, specific attention was paid to the role that land records have for land dispute resolution in such contexts. Findings in this regard have shown that land records (available, newly-created and reconstructed) within the land dispute resolution processes have mostly supported all previously identified elements for post-conflict state building. Thus, this paper concludes that here a strong and positive relation exists and that land records play a positive

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

role in support of the majority of the elements of which were earlier recognized as essential elements for post-conflict state building in Rwanda.

REFERENCES

Augustinus, C., & Barry, M. B. (2006). Land management strategy formulation in post-conflict societies. *Survey Review, 38*(302), 668-681. doi:doi:10.1179/sre.2006.38.302.668

Ball, N. (2001). The Challenge of Rebuilding War-Torn Societies. In A. Croker, Hampson, F. O. and Aall, P (Ed.), *Turbulent Peace* (pp. 719-736). Washington D.C., USA: United States Institute of Peace.

Buyse, A. C. (2008). *Post-Conflict Housing Restitution: The European Human Rights Perspective with a Case Study on Bosnia and Herzegovina.* (PhD), Leiden University, Leiden, the Netherlands.

Call, C. T., & Cousens, E. M. (2008). Ending wars and building peace: international responses to war-torn societies. *International Studies Perspectives, 9*(1), 1-21. Retrieved from http://nw08.american.edu/~call/Publications/Ending%20Wars%20Building%20Peace.pdf

Chesterman, S., Ignatieff, M., & Thakur, R. (2005). *Making states work: states failure and crisis government.* Tokyo, New York, Paris: United Nations Press.

EU-UN. (2012). *Land and conflict.* Retrieved from New York, USA:

FAO. (2005). *Access to rural land and land administration after violent conflicts.* Retrieved from Rome, Italy:

Fukuyama, F. (2004). *State building: governance and world order in the 21st century.* New York, USA: Cornell University Press.

Gillingham, P., & Buckle, F. (2014). *Rwanda Land Tenure Regularisation Case Study.* Retrieved from Hertfordshire, United Kingdom:

Heinz-Jürgen, A., Milososki, A., & Schwarz, O. (2006). *Conflict – a literature review.* Retrieved from Duisburg, Germany: http://www.scribd.com/doc/47839338/Conflict-Review

Henssen, J. (2010). *Land registration and cadastre systems : principles and related issues* (pp. 72).

Hollingsworth, C. (2014). *A Framework for Assessing Security of Tenure in Post-Conflict Contexts.* (MSc), Faculty ITC, University of Twente, Enschede, The Netherlands. Retrieved from http://www.itc.nl/library/papers_2014/msc/la/hollingsworth.pdf

Kato, H. (2014). Foreword of Confronting land and property problems for peace. In S. Takeuchi (Ed.), *Confronting land and property problems for peace* (pp. xiii-xiv). London, United Kingdom: Routledge.

Kumar, R. (2005). Research methodology: a step-by-step guide for beginners. London: SAGE.

Manirakiza, J. G. (2014). *The role of land records in support of post-conflict land administration: a case study of Rwanda in Gasabo district.* (MSc), Faculty ITC,

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

University of Twente, Enschede, The Netherlands. Retrieved from
http://www.itc.nl/library/papers_2014/msc/la/manirakiza.pdf

OECD. (2008). *Concepts and Dilemmas of State Building in Fragile Situations, from Fragility to Resilience*. Retrieved from

Prunier, G. (1997). *The Rwanda Crisis: History of a Genocide*. New York, USA.: Columbia University Press.

Rugege, J. S. (2013). *Key note speech: Judicial Reform, Public Confidence and the Rule of Law in Rwanda*. Paper presented at the Qatar Law Forum, London, United Kingdom.

Takeuchi, S. (2014). Land and property problems in peacebuilding. In S. Takeuchi (Ed.), *Confronting land and property problems for peace* (pp. 1-28). London, United Kingdom: Routledge.

Takeuchi, S., Katayanagi, M., & Murotani, R. (2014). Conclusion Confronting land and property problems for peace. In S. Takeuchi (Ed.), *Confronting land and property problems for peace* (pp. 242-267). London, United Kingdom: Routledge.

Todorovski, D. (2011). *Characteristics of post-conflict Land Administration with focus on the status of land records in such environment.* Paper presented at the FIG Working Week: Bridging the Gap between Cultures, Marrakesh, Morocco.

Todorovski, D. (2016). *Post-conflict land administration, facilitator of post-conflict state building* (PhD), University of Twente Faculty of Geo-Information and Earth Observation (ITC), Enschede, the Netherlands.   (282)

UN-HABITAT. (2007). *A Post-Conflict Land Administration and Peacebuilding Handbook*. Nairobi, Kenya: UN-HABITAT.

UN-HABITAT. (2008). *Secure land rights for all*. Nairobi, Kenya: United Nations Human Settlements Programme. UN-HABITAT.

UN-HABITAT. (2009). *Land and Conflict; Handbook for Humanitarians*. Nairobi, Kenya: UN-HABITAT.

UN. (1998). *Housing and Property restitution in the context of the return of refugees and internally displaced persons*. Retrieved from New York, USA:

UN. (1999c). *Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, S/1999/779*. Retrieved from New York, USA:
http://www.un.org/en/ga/search/view_doc.asp?symbol=S/1999/779

UN/ECE. (1996). *Land Administration Guidelines*. Retrieved from New York and Geneva:

Unruh, J., & Williams, R. (2013a). Lessons learned in land tenure and natural resource management in post-conflict societies. In J. Unruh & R. Williams (Eds.), *Land and post-conflict peacebuilding*. London: Earthscan.

Unruh, J., & Williams, R. (2013b). *Land and post-conflict peacebuilding. ed. J. Unruh and R.C.Williams*. London: Earthscan.

Williamson, I., Enemark, S., Wallace, J., & Rajabifard, A. (2010). *Land administration for sustainable development*. Redlands, USA: ESRI.

Zevenbergen, J., & Burns, T. (2010). *Land administration in post-conflict areas; a key land and conflict issue.* Paper presented at the FIG XXIV Congress: Facing the Challenges - building the Capacities, International Federation of Surveyors FIG, Sydney, Australia.

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

Zevenbergen, J., & van der Molen, P. (2004). Legal aspects of land administration in post-conflict areas. In P. van der Molen & C. Lemmen (Eds.), *Symposium on Land Administration in Post Conflict Areas*. Geneva, Switzerland: UN-HABITAT and FIG Commission 7.

BIOGRAPHICAL NOTES

Dr. Dimo Todorovski, is course coordinator and lecturer land administration at the University of Twente, Faculty of Geo-Information Science and Earth Observation (ITC), in Enschede, the Netherlands. He holds a PhD from University of Twente and he obtained MSc degree in Geo-Information Management at ITC, in 2006. Over the 19 years of professional engagement (1992-2011) in the Agency for Real Estate Cadastre in the Republic of Macedonia, last 12 years were on different managerial positions (Digitizing, GIS and Geo-ICT departments), and the final year he was Head of the Department for International Cooperation and European Integrations. His research interest focuses on land administration and land management, and on land administration in post-conflict contexts.

Mr. Jean Guillaume Manirakiza MSc, is nowadays pursuing second Master degree at the University of Lille in France in the field of " Aménagement et Valorisation des Patrimoines (Spatial planning and Heritage Valorization)". He obtained a MSc degree in Geo-Information Sciences and Earth Observation for Land administration at Univerisity of Twente in 2014. From 2008 up to 2014, he worked as Director of District Land Bureau (DLB) in Rwanda. His main task and responsibilities were: Coordination of DLB, establishing land titles on simple demand including emphyteutic land lease and certificate of land registration produced during the last campaign on Land Tenure Regularization System (RTLS) occurred in Rwanda, solving local people land disputes, land sharing and land notary related activities. He is interested in the following four fields: Land Management, Spatial planning, environment studies and Heritage inventory and valorization.

Prof. Jaap Zevenbergen is professor in land administration and management at the University of Twente, Faculty of Geo-Information Science and Earth Observation (ITC), department of Urban and Region Planning and Geo-information Management in Enschede - The Netherlands. He holds Master degrees in geodetic engineering and law and defended his PhD on systems of land registration in 2002. He has published several articles and numerous papers about land administration and land registration. He has studied numerous systems of land registration, both as a researcher and as a consultant. He also sits on the board of the Cadasta Foundation and the Foundation to host the 2020 FIG Working Week.

Dr. Luc Boerboom is assistant professor in Planning and Decision making Concept and Methods in the department of Urban and Region Planning and Geo-information Management,

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

Faculty of Geo-Information Science and Earth Observation (ITC), University of Twente, the Netherlands.

CONTACTS

Dr. Dimo Todorovski, Prof. Jaap Zevenbergen and Dr. Luc Boerboom
University of Twente
Faculty for Geo-Information Sciences and Earth Observation – ITC
Department of Urban and Region Planning and Geo-Information Management
P.O. Box 217
7500 AE Enschede,
THE NETHERLANDS
Tel: +31 (0)53 4874329
Fax: +31 (0)53 4874575
d.todorovski@utwente.nl; j.a.zevenbergen@utwente.nl; l.g.j.boerboom@utwente.nl
web site: www.itc.nl

Mr. Jean Guillaume Manirakiza MSc,
55 Rue Robert Schuman, App. 10
59 700 Marcq-en-Baroeul
FRANCE
Tél : +33 (0)60 5550242
jguillman2006@yahoo.fr

Appendix 1

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018
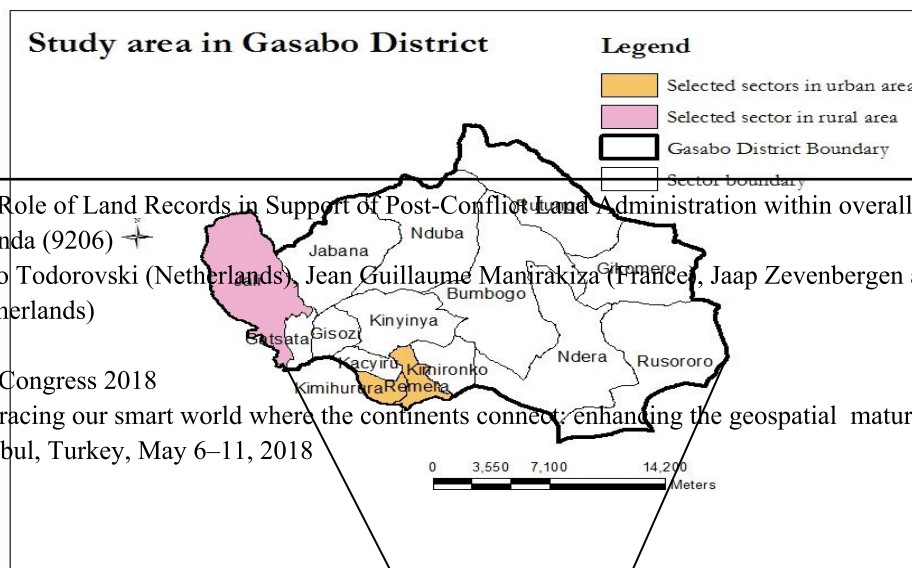
Figure.1: Location of the study areas (Manirakiza, 2014).

The Role of Land Records in Support of Post-Conflict Land Administration within overall State Building – the Case of Rwanda (9206)
Dimo Todorovski (Netherlands), Jean Guillaume Manirakiza (France), Jaap Zevenbergen and Luc Boerboom (Netherlands)

FIG Congress 2018
Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018