



Graduate School of Development Studies

**RESOLVING LAND OWNERSHIP DISPUTES IN A POST-
CONFLICT SOCIETY: THE CASE OF THE REPUBLIC OF
BURUNDI**

A Research Paper presented by:

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(Rwanda)

In partial fulfillment of the requirements for obtaining the degree of
MASTERS OF ARTS IN DEVELOPMENT STUDIES

Major:

Human Rights, Gender and Conflict Studies: Social Justice Perspectives
(SJP)

Specialization: **Human Rights**

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November 2014

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LIST OF ACRONYMS

APA : Agence de Presse Africaine
BNUB: Bureau des Nations Unies au Burundi
CNDD : Conseil National pour la Défense et la Démocratie
CNTB : Commission Nationale des Terres et Autres Biens
FMI : Fond Monétaire International
I.D.P.M: Institute of Development Policy and Management
IDPs: Internally Displaced Persons
IMF: International Monetary Fund
JPO: Judicial Police Officer
NGO: Non-Governmental Organization
OAG: Observatoire de l'Action Gouvernementale.
RFI: *Radio France Internationale*
RNW: *Radio Nederland Wereldomroep*
S.G: Secretary General
UN: United Nations
UNCCPR: United Nations Covenant on Civil and Political Rights
UNCESc: United Nations Covenant on Economic, Social and Cultural Rights
UNESCH: United Nations Economic and Social Council Commission on Human Rights
UPRONA: *Partie de l'unité pour le progrès National*
USAID: United States Agency for International Development
W.D.M.I.P.: World Directory of Minorities and Indigenous Peoples

ACKNOWLEDGEMENTS

I would like to express my gratitude to my supervisors, Dr. Helen Hintjens and Dr. Rachel Kurian for their support and motivation.

Secondly, I thank my loving wife and two sons Suave and Sunny for their patience and support during the period of my master's programme in the Netherlands.

Finally, my warm thanks go to the entire administration of ISS and the World Bank.

May God Bless All of You.

Abstract

This paper investigates the legal and political dimensions of land conflicts in Burundi, in a post-conflict context, looking at the role of the judiciary, transitional institutions and politics in influencing outcomes. The study arises from an interest in how the issue of land conflicts, given its complexity, and sensitivity, can be handled in a just and fair manner. Land disputes are often among the most difficult cases to judge, not only because of the interests involved in gaining control and access to land, but because of political legacies of violent conflicts in the past. These interests are seen to operate in Burundi's case, and some examples are examined in this study. Academically, the relevance of this study centers on three key points: the legal dimensions of land property, the human rights constraints in relation to the problem of land dispute resolution, and the question of what improved practices might look like. This study is based on the hope that some, however modest, lessons could be learned in Burundi in terms of how experiences of ethnic problem from the past affect political options of land dispute resolution for the future.

Relevance to Development Studies

Land is one of the most crucial elements in underpinning social peace in any post-conflict setting, including in Burundi. Land is also vitally linked to the socio-economic development of Burundians in their day-to-day lives. Poor administration and legal handling of conflicting land claims can contribute to renewing violence in future. To avoid this, governments need to undertake all possible and reasonable efforts to ensure that land problems are resolved fairly and efficiently. Only this way can national reconciliation and social cohesion be promoted through land policies and laws. The case of Burundi, as in many neighbouring countries, shows how vital land dispute resolution mechanisms are for the livelihoods of low-income, rural people.

Key words: Land conflicts; Burundi; law; legal mechanisms; politics; political institutions; post-conflict; reconciliation; dispute resolution; Returnees and residents.

CHAPTER 1: INTRODUCTION AND METHODOLOGY

1.1 Problems of land distribution in a post-conflict and ethnically divided context as Burundi

Studies found that “the struggle for land and natural resources remains one of the key factors fuelling instability in Africa” (African Union, 2009: 20). A best part of population in countryside’s areas still earns a living from subsistence farming and their agricultural system is based on traditional techniques. Moreover, the shortage of land is the main origin of conflicts between local populations. With regard to this context, land generates several and consecutive fights over access and ownership which exacerbate open confrontations or new civil wars (Gahama et al., 1999:94).

Similarly, another major factor in many countries, mostly in Africa is a high number of land-related court applications. For this reason, research findings in Burundi noticed an increase of litigations of land disputes in national Courts and the problem was described in the following terms:

“Currently, almost three-quarters of conflicts that are brought before the court in Burundi are related to land. Many of these conflicts end up in High Court after years of judicial procedure and appeals, but even at this stage only few decisions are successfully implemented on the ground. Popular resistance against the enforcement of court rulings is very common in Burundi, and criminal offences like recalcitrance (*rébellion*) or ‘removal of land boundaries’ (*enlèvement de bornes*) are amongst the most important ones in terms of legal statistics”(Kohlhagen, 2011:2).

That said, different aspects of land’s concerns are a good illustration of the problem and fundamental need for future whose solutions must be a priority objective. In light of this, conflicts over land jeopardize social stability in the case the roots of problem can be found in mismanagement and unfair distribution. In such context, if the repercussions of a violence of the past have close ties to land issues and its consequences caused the greatest dispossession and dislodgment of some persons; any attempt to remedy what has become an issue of social injustice might generate into new recurrence of tensions in future(Van der Auweraert and Wuehler, 2013,345).

1.1.1 Conflict and identity: the context of Burundi

The early days of land problem were a continuation of collapsed relationship between Hutus and Tutsis in post-independence Burundi. Before, the monarchical rule attempted to maintain social trust between two groups.

After the country's independence in 1962, the killing of the Hutu newly appointed Prime Minister in 1965, Ngendadumwe Pierre, deteriorated the volatile political situation. Almost all influential Hutus in leading positions, army and business were killed. Subsequently, the presence of Hutus in key areas of the country's life got obviously lessened (W.D.M.I.P., 2005).

In 1966, Captain Micombero Michel led a coup d'état and became the first President of Republic of Burundi and his rise to power facilitated a Hutus' cleansing. The Hutu's mutiny of 1972 aimed at overthrowing the oppressive government of Tutsis resulted in assassination of many Hutus and waves of refugees in neighbouring countries and abroad (W.D.M.I.P., 2005). Because of this, the United Nations asserted the atrocities of 1965 and 1972 in light of elements constituting the crime of genocide committed by a Tutsi regime in Burundi against the Hutu populations.(UNESCH cited in Nindorera, 2003: 4). However, despite the UN affirmation, there was no concrete action to arrest and prosecute the authors of such grave crime (Nindorera, 2003: 4).

In 1976, Colonel Bagaza Jean Baptiste overthrew the government of Micombero with no loss of lives (BNUB, 2014). Although Bagaza was viewed as a reformer, a systematic discrimination of Hutus continued and land policy reform did not redress the unfair distribution of Hutus' properties (BNUB, 2014). In 1987, Colonel Bagaza was dismissed by a coup led by Major Pierre Buyoya. All the same, his accession to power did not reassure a ray of hope as to build a leadership based on ethnic and political balance. In reverse, it reinforced fears which in afterwards undermined the fragile situation of an ethnically fragmented society of Burundi (Nindorera, 2003:4).

According to Nindorera (2003:4), disillusioned by the unwillingness of Buyoya's regime to undertake comprehensive transformations embracing all components of Burundian community in the sense to promote the integration of marginalized groups, in 1988 some Hutus formed a political military movement (PALIPEHUTU) and started a guerrilla in northern part of Burundi which caused the loss of many Tutsis' lives. The government resorted to the extreme retaliatory violence which eliminated thousands of Hutus. Nindorera(2003:4) ascertained that international pressures exerted on Burundi worked quite well. They played a key role in solving the problem of ethnic conflicts. Thus, the government of Buyoya, forced to restructure the political system and to integrate Hutus in public administration, led to the end of discriminatory methods and accepted to open for a democratization process.

Correspondingly, in 1993 the political space was broadened and open presidential elections were held and won by Ndadaye Melchior who became

the first Hutu President of Republic. Unfortunately, three months later after the election, he was assassinated by a group of Tutsis soldiers. As follows, Burundi lapsed back into deadly and destructive civil war which ended with the signing of historical peace agreement of 2000 in Arusha, Tanzania (W.D.M.I.P., 2005).

Outwardly, the Republic of Burundi opened up a new chapter in the history of country which brought to an end a cycle of violence and ethnic killings. It was in fact the beginning of a new page whose extent was promising. As a result, the era of democratizing the country materialised the liberal elections in the history of Burundi in 2005. The new elected government started with a list of difficult challenges among them the issues related to land tenure, especially resolving conflicts between returning refugees mostly Hutus and Hutus' land occupants in majority Tutsis.

To this, a great number of internally displaced persons almost Tutsi population, still lives in internal camps since the civil war started in 1993. Given the history and context of Burundi, the level of trust between two communities, Hutus and Tutsis, remains low. For IDPs, improving confidence and prosecute criminals is one of their requirements before they return back on their villages. They criticize the government of Burundi to not doing enough in light of restoring conditions of peaceful coexistence.

1.1.2 Law and complexity in Burundi: land rights in question

In order to concretize the Arusha peace agreements, a national commission of land and other properties (CNTB) was created. It is mandated to deal with land issues based on the history of ethnic conflicts and tragic events happened in Burundi. This institution is opened to critics of Tutsis who see a tool of ethnic representation, rather than using careful approaches for a fair treatment of land concerns. They feel that it keeps the flame of ethnic hatred burning.

Talking about the complexity surrounding the setting of land problems in Burundi requires first, to emphasize on legal provisions constituting the whole arsenal of legislation that applies in land matters. In accordance with the Constitution of Republic of Burundi containing a bill of rights based on criteria of a democratic society with principles of rule of law, human rights and compliance with international law, international treaties are incorporated into domestic law and have the same force and effect of law.

In this sense, the article 19 ascertains that “the rights and the duties proclaimed and guaranteed, among others, by the Universal Declaration of

Human Rights, the International Pacts relative to Human rights, the African Charter of Human Rights and Peoples, the Convention on the Elimination of all Forms of Discrimination concerning Women and the Convention relative to the rights of child are an integral part of the Constitution of Republic of Burundi. These fundamental rights are not subject to any restriction or derogation, except in certain circumstances justifiable by the general interest or the protection of a fundamental right” (Williams, S.H. and Co. Inc., 2012). In this angle of view, the article 36 protects the right to property. It is indeed affirmed that “every person has the right to property. One may only be deprived of property for reason of public utility, in circumstances and manner established by law and subject to a fair and prior compensation” (Williams, S.H. and Co. Inc., 2012).

Considering the aforementioned provisions, land ownership is meant to be absolute, permanent and exclusive rights. In other words, the owner is entitled to exercise the fullness of obligations and rights over the property. That is the notion of absolute right. All the same, the permanency of a right means unlimited enjoyment in terms of time. In the same way, exclusive rights of landowners avoid third parties to disrupt a peaceful possession of a property except for reason of limitations provided by law (Article 12,21 of Burundi Civil Code).

Looking at land issues from the perspectives of Arusha Peace agreement, the right of repatriates to return in their properties confiscated after they fled the country, was confirmed(Paragraph 25, article 7, Protocol 1). As well, the Protocol 2(article 3, paragraph 19) affirmed the principle of equal right to property for all Burundian people. The mandatory duty of indemnifying fairly and equitably in case of expropriation was emphasized. Regarding the content of Protocol 4(article 2 paragraph h), the Peace Agreement urges to observe all principles of equity when resettling and reintegrating returnees or internally displaced persons as to ensure that there is no attempt to discriminate or favor during the whole process.

Although, the entire legislation shown here tries to clarify the parameters of legal ownership protection, the new laws establishing the national land commission and the special court of land issues raise huge doubts about the approaches of resolving land disputes in post-conflict Burundi. On this matter, the Security Council of United Nations (2014) adopted a resolution asserting the necessity to implement adequate and comprehensive strategies of settling land issues in the aim to create favourable conditions towards durable peace and consistent serenity in Burundian society. The resolution tasked the Government of Burundi in particular via the Land Commission to address this

dilemma in a non-partisan way and to take into account all aspirations of all Burundians in order to promote social inclusion and reconciliation.

According to the statement of NGO based in Burundi about the workings of CNTB, across the country, many were speaking out to denounce inadequacy of the measures taken by CNTB which instead of rebuilding and reconcile, the commission is being used as weapon of revenge of allegedly victims of land dispossession against the presumed authors of spoliation without paying attention to the legality of land titles they hold (OAG, 2013). The OAG's statement warned that CNTB deviates from the goals of Arusha peace agreements. Thus, it failed to translate the purposes for which it was created, into action on the ground. Contrasting with those guidelines poses a major threat so that if suitable actions are not envisaged in the early time in order to moderate CNTB, the country runs the risk of switching back in the cycle of ethnic violence (OAG, 2013).

1.2 Methodology

1.2.1 Objectives

This study aims to show linkage between access to land and human rights. Land tenure and human rights reveal a sort of strong correlation in light to ensure adequacy and effectiveness in the implementation of different strategies that govern land access, land conflict resolution and measures of compensation. With respect to this relationship, their enforcement can be achieved in case all state's institutions designed to deal with those issues, work together as bodies of a same State.

This study also put emphasis on the need to make available effectual mechanisms from which just and fair setting of conflicts contributes to the proper decision-making whose measures alleviate potential risks to the social harmony and peaceable social relations. The well-shaped institutions give advantage to the concerns that might harm social stability particularly in countries emerging from violent conflicts. In such context, the main mandate is to promote the implementation of tools of transitional justice and national reconciliation and the meaning of respecting the rule of law is attached to the reliable non-discriminatory laws.

This study attempts to link the problem of lack of political will and resurgence of conflicts. When leaders fail to investigate and correct the misuse and misinterpretation of legal attributions, then popular resistance follows because of non transparent approaches. The key factor that compromises efforts of peacemaking is just a structural and exclusive dominance of one

group which makes use of states mechanisms for maintaining its biased position. This situation jeopardizes their well functioning and declines the citizenry's confidence. Only, social integration and participation can nurture a fragile peace processes through unified leadership.

1.2.2 Research questions

Therefore, the environment that surrounds actually the management of land disputes in Burundi shows that handling land issues can cause instability. Over the recent past, land tensions increased as a result of disputes in light of restituting land for the benefit of returning refugees after many years in exile. Those disputes based on the legality of land ownership are still dragging down the good neighborly relations and threaten the way of life of both ex-refugees who claim to be unlawfully victims of land dispossession and the occupants who, in most cases, affirm to be the officially recognized land owners. In order to comprehensively tackle these conflicts of land owning, some voices assert that current institutions mandated to address disputes of land are entitled to be reinvented or reformed. Resulting from this, following questions are posed:

Main question

How are land disputes handled and resolved in post-war Burundi? Does the way in which such disputes are handled respond to the priorities of peace and basic needs and land rights of Burundian people?

Sub-questions:

The main question stirs up other questions that arouse our interest, and guide the chapters in this study:

1. How have recent conflicts in Burundi exacerbated land conflicts, especially between returnees and residents?
2. What does legislation on land tenure prescribe in respect of the protection of land rights of citizens in Burundi?
3. What practices do judges and other authority institutions follow in seeking to resolve land disputes? Do such practices contribute to post-war peacebuilding?

1.2.3 Sources of data: methods and constraints

In doing this study, I first became interested in the issue of land, and originally had hoped to work on the Rwandan situation. Due to its complexity, this proved impracticable, and I decided to work on the comparable problems

of land in neighbouring Burundi. As a judge in Rwanda, I had the advantage of having handled land disputes in the past. Methodologically, this meant that the practices of handling land disputes in Burundi, which is comparably to Rwanda, were not completely new to me.

In my experience, land disputes were among the most difficult cases to judge, and this makes their study challenging. This is because of the strong vested interests involved in land control and access in mainly agrarian societies. The same interests can be seen to operate in Burundi's case. There are three key dimensions to this study: the history of conflict; the legal dimensions of land law and institutional arrangements in Burundi; and finally human rights' constraints of land dispute resolution mechanisms.

A number of examples were chosen to try and illustrate the complex contours of decision-making and the political pressures around judgments in relation to land disputes. Since fieldwork was not practical, these examples had to be found from other sources, including internet, secondary literature and cases judgment and decision of the Land Commission (on the same dispute), sent by a lawyer working in Burundi. Advocacy by a student group provided another useful document, a letter about mishandling of land disputes across Makamba Province. It was difficult to find material, and to some extent, the study makes up for relatively small data base, through drawing on professional and personal experience and debates from secondary literature. In the conclusion, some modest lessons are drawn from the Burundi case.

Working on text-based sources will help me to read the core views and key explanations elaborated by different researchers and get the comprehensive knowledge of the central arguments offered in line of the topic of my study. Through divertive discourse, I will be able to make a clear analysis of the land problem in Burundi with emphasis to its human rights aspects and outlining a personal position on what might be the appropriate solutions. As well, this methodology will enable to explore national and international reports or resolutions in order to scrutinize critically and analytically the advices, suggestions and recommendations given in line of dealing fairly with land dispute management in Burundi.

CHAPTER 2: IMAGINING BURUNDI AS A POST-CONFLICT SOCIETY

2.1 Introduction

The notion 'Post-conflict society' has been a magnet of different explanations. To one side, some may assume a complete end to warfare as a result of irrefutable cessation of violence between parties engaged in the conflict. To the other side, theorists concentrate their attention on comprehensive attempts to kick-start processes of state-building after a violent conflict. Indeed, both approaches are realistic and in a certain manner they are strongly correlated. To this extent, Galtung (1969:183) states a negative-positive distinction of peace in regard of two following dimensions: absence of personal violence (negative peace), and absence of structural violence (positive peace).

Nonetheless, to build instantaneous peace in a context of protracted conflicts is not an easy work. To look at this another way, peace is a progressive process from which divided human communities undertake to move from disunity to nonviolent coexistence and establish precautionary measures designed to deter future causes of divisions. The purpose here is to provide a broad understanding of the challenges and contours of post-conflict concept. Thus, the guiding discussion will frame the concept of effective conflicts resolution as a culture of peacemaking.

In connection with this clarification, it is not long Burundi emerged from a long history of warfare and violent clashes between ethnic groups. For this reason, one may wonder whether Burundi fulfils the required criteria so that it may be listed as a post-conflict society. In fact, this relevant issue will be reflected. A key element of this part is the extent to which government in Burundi takes account of local land conflicts arising from the tragic events that have afflicted Burundi in different periods of its history, creating successive waves of refugees. How government policy affects ordinary inhabitants is a question that deserves attention.

2.2 Conflicts resolution and the post-war climate

At first sight, Lederach (2003:3, 27, 29-30) explains the term resolution in line of determining the whole of suitable answers to solve a situation in which further development is impossible. In this angle of view, appropriate responses result from a reflective quest of specific approaches which underpin a finalization of upsetting context by determining the best practices which

might usefully be included in efforts to address the issue. So, being part of the problem, the contribution of all parties engaged can work toward becoming part of the solution. In regard of this, he put emphasis on the notion ‘conflicts settling’ which in his understanding is a corollary of ‘Conflict Transformation’. Accordingly, he gives the following definition:

“Conflict transformation is to envision and respond to the ebb and flow of social conflict as life-giving opportunities for creating constructive change processes that reduce violence, increase justice in direct interaction and social structures, and respond to real-life problems in human relationships” (Lederach,2003:14).

In aforementioned meaning, the word transformation is central. It is the demonstration of the logic of change and its reasons are fully explained in terms of shifting towards a constructive strategy for peace. In this sense, the dynamics of transformation contribute to the design of peaceable means that realize an effective resolution of conflicts.

Tolbert and Solomon (2006: 29-30) underscored that, in the aftermath of warfare, all post-conflict states have certainly differences, but also they draw a lot of similarities which are regarded as priorities to deal with the consequences engendered by a conflict situation. Among them, there is a problem to prosecute grave atrocities committed in the past, rebuilding country’s institutions and addressing rivalries between communities. Moreover, they describe countries languishing in difficult post-war context as facing the main problem which is seemed to be the paucity of adequate living conditions of peoples and failure to establish trustful legal mechanisms of resolving conflicts (2006: 29-30). Adding to this, Hellsten affirms that in many cases, post-war contexts are not able to lay down strong foundations of social interaction and realistically to restructure local communities in order to involve comprehensively in peacemaking. This becomes a challenge to overcome and from this point of view, failures are triggered by a continued oppression of some groups of citizens, segregationist methods in governing system and to not recognize that political isolation in decision-making affects the living conditions of a greater number of population (2006:1-2,12).

That said, the expression conflict resolution appears in the mirror of post-war reconstruction. At the end of warfare, huge needs in different sectors start to be emerging gradually. All damages caused necessitate to be redressed by enhancing the conditions of economic recovery. This view perfectly reflects the reality of post-war time. It is indeed essential to undertake actions for reconstruction so as to put a stop to the imminent revival by building systems of transparent leadership and rule of law as many states emerging from grave

violence often look like stepping backwards. This is the way towards transformative processes in light to make a sustained peace and successful conflicts resolution (Loong, 2012:10).

Above all, Safeguarding social serenity is the basis of government to keep safely its citizens. A State can knowingly be unsuccessful to achieve its duties if the actions taken do not respond to the need of maintaining peace as a way to promote social and economic development. Furthermore, it can fail when to restore social cohesion by supporting the vitality of legal mechanisms is not given a priority. A governments which is strongly attached to the dynamics favoring dialogue in the search of conflicts solutions rather than use of force, succeeds to solve internal conflicts and to engage peoples of all ages to take precautions removing the roots causes of conflicts and wars. To sustain conditions that deter the risks of social distrust, peace as the fruit of justice should guide the policy making.

2.3 Peace-making in the context of post-conflict Burundi

According to Berwouts (2014), in the course of few recent years, Burundi harbored the hope of post-conflict recovery. Taking account the Berwouts's statements, the peace process have concretized the organization of peaceful elections in 2005 achieved after a difficult period of inter-burundian violent and ethnic conflict. In his point of view, international community has recognized and appraised impressively the voting process which was successfully and complied with all standards required. Besides, he noticed that after the armed conflict ended, none of the belligerents has won or got entirely the loser. Adding to this, all these factors certified that only peaceful and honest talks might help the search of sustained peace in Burundi (Berwouts 2014).

While appreciating all efforts deployed for building peace in Burundi after a tragic civil war, Berwouts fully agreed with some voices in Burundi about the concerns that are increasingly fueling fears regarding the political climate in the country. Indeed, current political controversies seemingly can contribute to another war with regard to the deterioration of relations between politicians and political inequity when dealing with relevant issues (Berwouts, 2014).

To look at this another way, one may expect the exactitude of ray of hope. This affirmation is corroborated to the engagement of civil society in building peace. On the basis of a survey in Burundi, (Sebudandi et al. quoted in Vervisch et al., 2013:153-154), it was found that 133 peace-building programs were engaged in the promotion of talks on peace and mechanisms of resolving

disputes. The heed of researchers focused on the relevance of projects and the contribution in boosting individualized transformation of behaviours and attitudes through sessions of counselling. These initiatives served as instruments to foster campaigns of education on reconciliation matters and to nurture sessions of story-telling between neighbours or peoples on villages in order to take them out of the context of conflict, rather to seek their engagement into peaceful dialogue.

In my personal view, given the fact that civil society of Burundi whose the role in peace projects remains obvious, still manages to keep its independence and considering the extent to which internal attempts to establish all post-conflicts institutions as provided by the Arusha peace agreement in order to advance national cohesion, namely the commission of truth and reconciliation and special criminal court; all this ascertains that Burundi is taking two paces forward for the likely effective state-building despite the self-centred political constraints that may challenge this process as Berwouts argued above.

2.4 Regulating land conflicts in Burundi

Disagreement over land policy-making in Burundi raises many questions as to the efficiency and legitimacy of legal mechanisms and political treatment of land issues. In Burundian context, concerns with land disputes resolution have not been subject of many writings as years went by; there are only a few studies which this paper will later introduce. The section is intended as a discussion guide on dispute resolution in relation to land, in the post-conflict setting. We put forward the argument that it is vital to think of different aspects of conflict resolution in order to realise successful handling of land disputes, for example in Burundi.

The quarrels around land, for many years up to these days, have been divisive matters that constrain relationship among peoples, neighbourhoods and public authorities in regard of the need to realize the accessibility, ownership and management of land rights (Van Der Auweraert and Wuehler, 2013: 345). Accordingly, “they are a number of general factors indicating that a land dispute poses a threat to peace”(Ibid, 2013: 346). In their work, Van der Auweraert and Wuehler (2013: 346-347) suggest a trio of approaches: 1) creation of ad hoc post-conflict commissions of land issues. The models of these types of apparatus have been instituted in Bosnia and Herzegovina, Iraq and Kosovo and constitute a good reference; 2) They emphasise on the importance and role of Courts in addressing land claims and 3) using customary or traditional approaches with purpose to seek responses of land constraints in domestic and other practical mode of conflict resolution.

The first two instruments are now working in the case of Burundi where a Commission in charge of land issues was instituted almost ten years ago as well as a judiciary from which recently a special tribunal dealing with only land matters was created. While in Burundi, a customary institution known as 'Abashingantahe' (it is a college of people ethically respected by all members of their communities in villages) is functioning. Thus, to the best of my knowledge, the capacity of this mode is thought to carry out solely informal mediation with no legal effects.

Therefore, where there are cases from which repatriates aspire to claim for a restitution of their land, Theron (2009:5-7) highlights four options, of which three are now considered in detail, as official alternatives for handling land disputes in context of Burundi. Mediation initiatives organised by civil society, are on suggestion of Theron, but are not considered here since they do not operate in Burundi. The three considered therefore are, first courts of law, second Land Commissions and finally traditional mechanisms.

2.4.1 Courts of Law

Peoples returning from exile can fill a claim in tribunals having jurisdiction to rule over land conflicts. All the same, the choice of a mode of judicial settlement is a time-consuming and an asking price procedure which includes a first instance level and different appeal levels. Nevertheless, if the applicant of a claim shows the proof of indigence delivered by the local administration, he/she is entitled to the waiver of application fees. However, the returnee is responsible of further expenses such as paying the transportation in order to attend court hearing and cost of lawyer's services. The advantage of a court's decision is its force of legally binding. As follows, this character should help the returnee to get the enforcement in case he/she wins his lawsuit. Moreover, a favourable judgment will allow the returnee to seek an administrative registration of his/her land.

However, the above-stated discussion does not reflect the reality of the problems faced by returnees. They live in poorest conditions and therefore, they become unable to bear the costs of the trial. By this fact, they do not consider the process as their own. Furthermore, the judicial system is mainly composed by Tutsi judges and this creates a sentiment of suspicion and doubts about the impartiality of courts. The Arusha Peace Agreement prescribed the reform of judicial institutions so that social representation of all citizens of Burundi is fulfilled although to concretize the peace agreement is hindered by discord in politics.

2.4.2 Land Commissions

In order to resolve land issues, a National Commission for Land and Other Properties (CNTB) was established. Among the main missions of CNTB, they are mediation of land disputes, assisting disaster victims to rescue their land rights or claiming for compensation when the restitution of the property is not practicable. The structure of this institution comprises three levels: representation at the level of commune, at the level of province and national level. Complaints are firstly filled to the communal commission, which tries a mediation procedure. In a case of failure, the provincial commission is seized. If the process does well, the mediated litigants sign a compromise with legal effects. In contrary, conciliation is not attained and then the losing party brings the litigation matter in courts. With this in mind, a litigant has to go for courts or CNTB and mostly, returnees select CNTB because is a costless mechanism.

As provided by law, land commission should work in light of a trusting mechanism. Then, it becomes an indicator to test how solving land issues is contributing to peacemaking in Burundi or fuels further hatred between citizens over land ownership.

2.4.3 Customary approaches: *Bashingantabe*

Customarily, the *Bashingantabe* is a structured system composed by judicious persons, elected according to their capability to make good judgment, believed on their wisdom and truth-talking and committed to the logic of integrity and conscientiousness. Unluckily, the colonial system and social context have lessened the trustworthiness of this mechanism. Despite its nature of being a people-based body and easily reachable, currently *Abashingantabe* are accused by some Burundians to serve the politically manipulated and corruptible interests.

For instance, two elements weaken the function of *Bashingantabe*. First of all, it is their tendency to ask for a kickback in exchange to offer positive verdicts. Secondly, the law which previously established the mechanism as a lawful mode of conflict resolution is currently abolished. Therefore, the pronouncement of judgments lacks the legal force of enforcement. Even though, the *Bashingantabe* are today challenged, there is a certain number of individuals who still refer to them and this fact proves the extent to which they value this procedure.

In a few words, after reflecting on the patterns of these mechanisms, it is consequently realistic to identify key concerned individuals of land problem in dimension of post-conflict Burundi.

2.5 Disputed land between returnees and local population

To talk about conflicts over land in post-war aspect of today's Burundi requires to emphasizing on the issue of vast homecoming of Burundians who fled since 1972 and internally displaced peoples to their ex-residences (Van Leeuwen, 2010:753). The height and extent of disagreements in the order of land ownership remains the origin of massive controversies to peacemaking institutions in Burundi. Land laws in force are conflicting and troubles got stuck between returnees and peoples who stayed and occupied the properties of repatriates (Dexter and Ntahombaye quoted in 2005 in Van Leeuwen, 2010: 753). Habitually, the properties of returning refugees have been occupied by others along their absence and when returning home, they decide to settle in the same plots side by side with residents. The reinstatement of both repatriates and internally displaced people and the restitution of lands remain a highly and ethnically political issue (Dexter and Ntahombaye quoted in 2005 in Van Leeuwen, 2010: 753).

As well, a variety of findings show that the homecoming of repatriates has direct linkage to the dilemma of land conflicts and constitutes a serious threat to the national safekeeping. For that reason, International Crisis Group (cited in Van Leeuwen, 2010:755) underscored that the reinstatement of those two groups end up in politically motivated turmoil attendant on misunderstanding between Hutu returnees and Tutsi occupants. Frustrations related to the despair of getting back the previously owned land or unsatisfactory or delaying procedures of compensation in the case of expropriation, come out in the forefront of all debates in Burundi and are likely to provoke further ethnic and violent clashes if adequate actions are not taken rapidly.

In short, the eventual collapse of social distrust between ethnic groups of Hutus and Tutsis over land issues, need to be addressed by the well-shaped mechanisms for the search of solutions in application of appropriate means of conflict prevention. Explicitly, the resolution of land conflicts entails greater elaboration of specific responses. In this regard, the post-conflict arrangements of land problem should be included in the aggregate of matters related or fitting to ideals of the concept of transitional justice from which Teitel (2003:69) defines in terms of the

“conception of justice associated with periods of political change, characterized by legal responses to confront the wrongdoing of repressive predecessor regime”.

2.6 Land problem in Burundi, a matter of transitional justice

The model of transitional justice has been for long a panacea of criminal justice where the aim is to find solutions to the serious atrocities causing losses of human lives and destruction of properties. Thus, one focuses more on punitive conditions towards suspected authors of these damages and restorative approach for restoring the rights of victims. According to the United Nations (S.G's report cited in Arbour, 2007: 4), "justice is an ideal of accountability and fairness in the protection and vindication of rights and the prevention and punishment of wrongs. Justice implies regard for the rights of the accused, for the interest of victims and for the well-being of society at large".

Despite the exactitude of the affirmation, in contrary, the definition lacks to emphasize on economic and social dimensions of the conflict as a matter of transitional justice. Thus, on his side, Arbour (2007, 1-14) states that the neglect of economic, social and cultural rights has an inherent tie to the abuse of civil and political rights. After determining the motives and *raison d'être* of the two covenants (UNCCPR and UNCESC) just after the cold war, Arbour assesses that all those rights should equally be included in the realm of transitional justice.

This conclusion of Arbour reinforces my understanding to set transitional justice as a suitable approach to resolve land disputes in Burundi. In fact, this problem of land is associated with the portrayed ethnic conflict between Hutus and Tutsis, thus the reconciliation cannot be achieved if the divisive land is not re-inscribed in agendas of forthcoming institutions mandated to deal with truth seeking and punishment of grave crimes committed in the past.

In conclusion, the basic cornerstone that underpins the political will of States to realize reconciliation of former disunited people and heal the wounds originating from the unpleasant past is absolutely the creation of socially approved apparatus working in resolving conflicts. Thus, the supreme interests of the whole Nation must be privileged over other self-seeking ambitions of political leaders. To do this, legitimate mechanisms have to be established in order to respond to this ultimate need and thereby laying the foundations of a trustful future. In the specific case of Burundi, the central point of my thought was to think about the ways to solve frequent land conflicts in Burundi. It was seen that the main concerned parties are repatriates reclaiming to repossess former properties that are currently occupied by the individuals who did not move away and this for many decades.

The role of Burundian judiciary and other mediating mechanisms has been underscored with clear emphasis about reluctance of returning refugees who hesitate to trust the available institutions. The explanation of dragging their feet lies on less or insignificant reforms made which are not enough to attract a credibility of all Burundians. In the sense of raising the legitimacy, the process of land conflict resolution should be a concern of transitional justice and thus being encompassed in the whole attempts to determine what might be the truth about the events of the past and all this in purpose to underpin national reconciliation. In this angle, the third chapter will deal with the analysis of land problem in socio-economic context and the impact on peace and security in Burundi.

CHAPTER 3: LAND AND LIVELIHOODS IN BURUNDI

3.1 Introduction

Today, land is seen as one of many crucial elements menacing the social peace in Burundi and threateningly it is linked to the socio-economic aspects of the day-to-day lives of Burundians. The treatment of land-access claims contributes to the violence in the sense that government takes a bad turn instead of undertaking all possible and reasonable efforts as to ensure that the country's acute land problems and relating serious conflicts are solved. As essential and mostly basic means of households' income, land can play an important role in the context of post-conflict like the one of Burundi. Promotion of national reconciliation and social cohesion should not be effective if disdainfully the process does not include all parameters which guide policies for a well-organized use and administration of land inasmuch as it remains on the top of earning means of low-income people.

Indeed, the occurrence of local conflicts is exacerbated because in the context of politics of Burundi, land is identified as an ethnicity-shaped matter. In this regard, to exercise the right of having access to the adequate land and housing is threatened by forcibly dispossession at a large-scale. Currently, the problem of land scarcity and vacillation of political leaders about land-related disputes are causing more than a few deadly attempts which often result in disproportionate use of force by law enforcement officers as indicated by Makamba case in below lines.

3.2 Case finding: Treatment of land issues and use of intimidating force

Three attempts to murder Nifasha Herman (CNDD, 2014): On 6 August 2014, CNTB arrived in a location named Rubimba situated in commune Kibago, Province of Makamba with a purpose to implement its decisions about land disputes between two families of a resident and a repatriate. Compelled to leave the land, Mr Nkurikiye asked the staff of CNTB why their government is forcing them to live as homeless persons. A crowd of compassionate neighbours surrounded the place with strong feelings of anxiety and shock. Following to the rising tide of protest, two sons of Nkurinkiyé, one called Nifasha Herman and the other called Barutwanayo Balthazar were quickly arrested on the spot and jailed after being savagely tortured. Well-willing to react against the arbitrary arrest of two brothers, the inhabitants were threatened by the police shooting of teargas in order to disperse them. A transfer of Nifasha dated August 8, 2014 brought him to the dungeon of Makamba Province and thereafter released by the judicial bail order of 27

August 2014. The detention period of Nifasha Herman was marked by three assassination attempts (CNDD, 2014).

Firstly, the attempt occurred on 8 August 2014 in Police station of Kibago. A non-registered pickup truck came to pick Nifasha and take him to an unknown location. The policeman in charge of the custody's security warned Nifasha, revealing to him that he cannot be delivered without a legally written document. After the refusal of the police officer, his hierarchical authority decided to convey Nifasha to Makamba prison. Luckily, due to the incessant calls from JPO Hakizumuremyi Gilbert wondering the remained time to reach the prison, Nifasha was saved (CNDD, 2014).

A second attempt took place in prison of Makamba Sunday 9 August 2014. In an accusatory tone, a policeman named Athanase stated that Nifasha is the rebelled person who broke his glasses at the moment of the on-site mission of CNTB in Kibago, the day of 6 August 2014. In middle of propagating plentiful intimidations and threats of murder, the JPO in charge of Nifasha criminal file appeared and immediately disarmed the policeman.

Thirdly, the assassination attempt dated back to 11 August 2014. A policeman tried illegally to get Nifasha out of Makamba prison. As Nifasha was in a fellow inmates group, the officer urged him to denounce the instigators of the protest against CNTB and in exchange, he will be released immediately. To his unfortunate surprise, Nifasha rejected his offer. Then, the malevolent intent of the police officer to bring him out of prison, failed.

The tragic moments followed the release of Nifasha on 27 August 2014. Thursday, 28 August 2014, The CNTB Makamba held responsible the prosecutors for releasing the suspect Nifasha while the prosecutor office alleged that the provisional release complied with law. It was reported that almost all staff of commune Kibago fled and the whereabouts of Nifasha were unknown. Besides, the JPO Hakizumuremyi Gilbert who instructed the Nifasha's case was enlisted as the whole officials pursued by CNTB for supposedly mishandling the criminal investigation.

3.3 Case Discussion

This case study situates the problem in the logic of three main dimensions. Firstly, there is lack of collaboration between CNTB and other state bodies. In second place, this case outlines the dominant factor of violence which leads to some extent to the loss of human lives related to the controversial resolution of land disputes. In the end, it is indicative of dimensional weight of land issues in terms of regular escalation of legal proceedings even though all attempts in courts or mediation by CNTB often fail and land conflicts resurrected. The increasing intensity of complaints is

certainly an indicator of deficient modes of redressing in harmonious and legitimate manner, this type of problem.

3.3.1 Crisis of confidence between CNTB and Prosecution office

The President of CNTB in Makamba province ascertains a crisis of collaboration. His allegation relies on frequent release of individuals accused of removing boundary markers implanted by CNTB. Prosecutors on their side, call for dialogue in order to harmonize their divergent views (Félix, 2013).

The fragility of the operational functioning of CNTB is a consequence of its deviating approach which consists in imposing by force its decisions instead of searching at first, an agreed resolution of conflicts. A loss of confidence in such core machinery undermines the public respect for the institution and leads to criminal behaviours resulting from the resistance against unfair taken measures. This disturbs its effective running as long as some citizens do not agree with the methods which show the incapability to exercise a well-mannered land governance role. To be more useful in achieving general interests, it is time to move beyond the polarization of land problem and position-taking and create partnerships with all national institutions, based on mutual reliance with joint commitments to achieving collective targets. Failing this, it is then difficult to imagine how peoples should trust in CNTB or prosecution and respect their decisions if there is a continuing lack of complementarities as national organs. The communal dependence is a major motivation of seeking solutions to land controversies in Burundi.

3.3.2 Unveiled local land-related violence

According to the media report of APA (2009), tensions over land wiped out the wellbeing of Burundian people. The massive return of refugees has exacerbated a nervousness linked to the land ownership and acutely the problem got expanded from the aggressive angle. Indeed, manifold dissensions occurred when returnees decide unilaterally to build small straw houses in their ex-properties and then, striving confrontations result in huge number of wounded victims and houses burned. So, the 2008 report of UN Mission in Burundi (BINUB cited by Huggins, 2008:4) denounced a prevalence of murders with all associated claims about land ownership.

In the same way, civil society organisations expressed great concerns on the evidently rising spiral of violence in most disputed land cases. To that extent, the authorities of Rumonge and Bururi Provinces assented to the expressive signals of increasing land-related massacres. With respect to the dimension of zonal similarity, in commune Nyabihanga of Mwaro Province, land disputes have led to the gross loss of human lives (Ligue Iteka cited by Huggins, 2008:4). As well, in his research, Huggins (2008:4) came across six

persons killed in separately land incidents during a period of one week. Correspondingly, a NGO ‘Search for Common Ground’ (2012) drew attention to a number of eleven extra-judicial killings occurred in relation to the disagreement of land-belonging between returnees and residents. From this point of view, Milner (2014:225) observed that “it soon became clear that responding to the needs of these landless returnees was not only a humanitarian concern but a potential challenge to stability in Burundi”.

Taking into account the social-political setting in Burundi, there is no doubt that major changes took place in the course of past few years. However, the context around the treatment of land-based disputes reveals non-encouraging measures designed to deter the resumption of further forms of violence.

3.3.3 Land ownership and judicial claims over access

The completion Report of USAID (2008:4) asserted that more or less 80% of litigations in Burundian courts are contentions of land. Hence, this percentage lets us seeing how significantly land is believed to be a life and death issue for ordinary citizens of Burundi. In particular, with regard to the landowning complaints related to the return of refugees, it is noticed that repatriates are exceedingly obsessive to secure urgently a re-appropriation of land rights.

Observers agree that it is difficult for someone who returns home to await administrative procedures as long as it takes a while to get a solution. In fact, returns cannot always tolerate to see the ‘stayees’ or other displaced people in their plots of land (APA, 2009). In view of this, IMF suggests to engaging in land disputes settlement by overall and comprehensive approaches encompassing medium and long term responses in order to apply effective concerted actions against unjust community-seeking answers. This consists to the necessity of reinforcing political dialogue for the indispensable regulation of land problems (IMF/FMI, 2010:50-51).

Clearly, the effect of the idea should allow Burundi to set up reasonable land justice based on resolving post-conflict land issues and to ensure that lasting security and opportunities to the creation of a humanist society are easily realizable. The fundamental objective must remain absolutely to make people of Burundi living together in environment that restore confidence and mutual respect. This is the only possibility for them to expect for the improved wellbeing situation.

To conclude, the decisive way to end different kinds of conflicts that wipes out a human society lies in the authority of governments. Every State

shall fulfil its role as a neutral mediator through the setting of strong and independent mechanisms. Such respect of duties and obligations gives hope that available arrangements for the peace returning are promising. The widespread of ill-treatment of land cases affects the majority of the people and constitutes one of the most serious forms of violations. Some people in Burundi are waiting for the awakening of their leaders' conscience in order to grant them the right of fair land justice.

When people lose hope on basis of malfunctioning of public institutions, they resort to any form of mob justice because of a perception of unequal treatment in Courts or other State agencies. This is highly problematic and it generates the collapse of peaceful coexistence. The case of Nifasha is more clearly illustrative. Thus, it might be easy to blame him of being recalcitrant towards competent State officials. However, his attitude was the embodiment of the absence of reassuring measures vis-à-vis the complexity of land problem in Burundi. Only the adoption of non-partisan legislation can constitute a unique path to the effective and responsive approach of settling land disputes between returnees and residents.

CHAPTER 4: POLITICS, ETHNICITY AND LAND LEGISLATION

4.1 Introduction

This chapter identifies a compound of controversies surrounding the dimensions of land legal possessiveness under Burundian laws. With regard to this, the legislation institutes different principles in line to determine the officially recognized owner of land. On the contrary, the same legislation establishes other contradicting provisions that do not guarantee the applicability of those principles. When applied to the reading of the up-to-date diversified provisions, one observes a collection of flawed legal texts impacting on the current weak-willed modes of resolving land disputes. Two cases illustrate the fascinating insight into the dynamics of housing eviction and protest against decisions of National Commission of Land.

4.2. Case N° 1: Eviction of Christa's family

As in the following media coverage of 25 June 2013 reported by the Radio Nederland Wereldomroep (2013) in Bujumbura, the family of Christa has been expelled from the house in which it had lived for several years. A decision of CNTB returned the family dwelling to the ex-owner who is victim of the dispossession occurred after 1972 event. As usual, the implementation of resolution entailed the intervention of police which counteracts the resistance of both expelled family and neighbours. In fact, they deemed that the measure of CNTB was unfair and discriminatory. Christa's father showed documents proving his legal ownership and therefore complained against the reasons of rejection of his claims in this mentioned case, which are in violation of national laws that protect prior and adequate compensation in similar situation.

This case traces an important implication of two distinguished aspects of Burundian land legislation which are raised by all parties and whose meanings vary depending on the context in which they are used.

4.2.1 Case discussion: Claims of compensation and inattention of CNTB

On many occasions, high officials of CNTB fail to show restraint in their public declarations which unveil reluctance to satisfy the demands of necessary compensation. The way in which this issue is being ignored by Commission officialdom is very characteristic of the unbalanced and dangerous turn that its headship is taking. To this, one of the Commission leaders asserted that occupants use to show written evidence of the supposedly legitimated acquirement while their accuracy remains problematic. He wondered how authenticating such documents and valid them inasmuch as they originate from former governments which condemned to death the

owners and thereafter ordered the seizure of their properties (Dieudonné, 2013).

This working approach of CNTB is considerably erroneous as far as it is not in its capacity to value or disqualify administrative and private deeds. Only Courts are competent to carry out this function. Accordingly, the issue of granting or not compensation is not part of its jurisdiction. This is a requirement that should be discussed at the level of legislative bodies or forums of social and political dialogue. The commission is exclusively entitled to promote the usefulness of transparent mechanisms designed to mediate land disputes.

To ascertain accordingly my assertion, I rely on the analyses I got from the research of Gilbert who is an advocate in Burundi and his study concluded that compensation remains a problem in the resolution of land conflicts in Burundi, and can result in landlessness. In view of his findings, the signing parties of Arusha Peace accord agreed on several points and set some guidelines. Thus, they affirmed the principle of restitution of properties previously owned by repatriates and the principle of safeguarding the acquisition-based rights for the current occupants. Indeed, the watchword of the Arusha Agreement was to ensure the right of returnees to recuperate their properties. To this extent, all returning refugees shall primarily recover their land and an alternative restitution of a different piece of land is envisaged when the ex- owned land is not available (Gilbert, 2013:12).

In virtue of this, Gilbert (2013:12) reiterates two possibilities: first of all, a resident has more lands and a returnee demands a part of them. In this case, it would be reasonable to require the first to leave the land on condition to be granted compensation; Secondly, a resident holds a small piece of land, which he/she possesses in good faith, with a large family and a returnee is claiming this land. In this case, it would be reasonable to ask the repatriate to accept another land as reimbursement.

If the commission is to do this, it is to be hoped that responsible attitudes of leaders will be privileged and the eventuality to comply with that kind of hypothesis can help in a consistent manner the settling of land conflicts and the increasing of willingness to abide by the decisions taken by CNTB.

4.3. Case N° 2: Protest against decisions of CNTB

The source of information about the protest is an article titled Burundi- a nation divided over land, written by Esdras Ndikumana(2013) and published by an information agency based in South Africa.

As the article said, Pacifique Ninahazwe, a famous civil society activist blames the Commission of land of being more and more favouring repatriates and Hutu group in general. The chairmanship does not equally consider the exactness and similarity of difficulties experienced by returnees as well as residents. Pacifique argue that if there are no immediate changes, land conflicts will alter the little progress realized so far, at least in the field of national reconciliation (Esdras, 2013).

During an angry crowd in Bujumbura following an action undertaken by the police to throw out a Tutsi family of its habitual habitation where it has lived over 40 years and given back to the repatriated Hutu family, one of tens of thousands of protestors told a journalist that their intention was to contest the arbitrariness of CNTB which is undercutting the peace and harmony of people of Burundi, it was to send out a clear message of justice and determination, to say that the rule of law must triumph over political. The duration of that agitation was not longer than six hours, but twelve persons were injured in the incident and twenty others arrested.

As in the past CNTB had the habit to proceed by land-sharing, a Hutu-led government decided to include it within the Office of the Presidency of the Republic in 2010 and by April 2011, Bishop Bambonanire Sérapion became the newly appointed chair and with regard to the CNTB guiding practices, he remains unapologetic. Bambonanire openly refuted the idea of what he sees as sharing land between spoliators and victims of spoliation. Since, the commission took a step back and reviewed the already-resolved claims. At the present time, this institution is largely accused to make decisions to the benefit of returnees and unfairly disadvantage land title-holders (Esdras, 2013). Another leader from civil society, Samuel Nkengurukiyimana, manifestly optimistic of the achievements and methodology of CNTB, emphasized on the right solution to the dishonest confiscation of lands left by the exiles of 1972 event by the population stayed back in the country. Hence, he found that to turn them back to the earliest deprived owners is the accurate precursor to the realization of national reconciliation (Esdras, 2013).

Further series of different voices spoke out on the implication of the problem. Indeed, forcibly expelled persons express grieves related to the loss of means of shelter or subsistence. Discontentedly, their claims include allegations of improper mediation and lack of compensation subsequent to the lands taken while acquired in good faith. Besides, a representative of one western delegation in Bujumbura alerts that CNTB is commissioned to arbitrate land conflicts and to promote cohesion in Burundi. However, the diplomat noted that the situation is quite different. On its side, the government of Burundi has incessantly welcomed the efforts of the land commission to

overcome resistance and to improve the lives of returnees and its contribution to build a society shattered by many years of constant land problems (Esdras, 2013).

4.3.1 Case discussion: uncertainty in complying with legal concepts

The first point discussed here is the misunderstanding and confusion when it comes to refer to the notions ‘good faith or bad faith’ land occupants. Resulting from this, the nature of acquiring legal rights under the thematic based on land titles enables to understand the concept of ‘good faith’ which is often invoked in every action of expulsion of land occupants in Burundi and in general, plays the central role of considering the appropriate and indisputable ownership of properties. In this logic, one should look in domestic legislation of Burundi, all parameters that give more explanation of that notion and then link it to the objections raised against the supposedly gross illegality in the treatment of land issues between returnees and other local population.

Unfortunately, the Burundi Land Code of 2011 does not define what is meant by the terms good faith or bad faith. Therefore, it is preferable to use the Rwandan Land Code of 2005 even though amended by a new law of 2013 which lacks the same clarifications as to the previous text. Thus, in light of the provisions of article 1 of Rwandan organic law of 2005, is presumed ‘*bona fide or good faith*’ occupant, any person who possesses proof of land ownership, while unlawful or bad faith occupant is a not permitted person who appropriates the others’ assets.

Although the Rwandan version encompasses certain flaws, it has however the merit of being at least more specific on this kind of concern. With respect to the law applicable in Burundi, the content of article 20 of land Code of 2011 lays down the conditions determining whether a possession results from good faith or not. As follows, if a possessor acts with good faith, the landowner must pay the value of materials, plants, buildings and all gains produced by the lawful occupancy. In contrary, if an occupation is based on insecure tenure, there is possession with bad faith and the proprietor is allowed to repossess the land and require the removal of buildings, plantations and other adding works made by the occupant.

Given to conditions faced by many resourceless returnees, the above-said provisions cannot apply in their case. It is impossible for them to reimburse all expenses derived from the value-creation of their occupied properties. To bring about justice, solutions have to be negotiated for the benefit of national awareness related to the relevance of the problem.

In the same context, in June 2013 a brainstorming workshop brought together officials of CNTB, leaders of civil society, churches and political organizations. At the end of the meeting, stormy reactions of participants and population in general appeared, especially about the creation of restitution fund for good-faith acquirers which was differently perceived. Each side expressed its own interpretation. According to the views of Pierre Claver Sinzinkayo, the head of provincial office of CNTB in Bujumbura, good-faith acquirer is an abstract concept. He considered that all contracts concluded in connection with tragic events of the Burundi's past cannot secure land-related rights. Meanwhile, Jacques Bigirimana, spokesman of an opposition political party alleged that, anyone who has acquired legally a property and holds legal titles, is entitled to the restitution of his or her violated rights. Evariste Ngayimpenda, another leader of opposition, wondered whether CNTB was created to unite or disunite (Floribert and Philippe, 2013).

The outcome of this meeting got a similar coverage in the media report and it was revealed that “many complain that the commission is ordering land back to its original owners without paying indemnities to the evicted owners of recent years, who often took over the land in good faith” (Esdras, 2013). In all, the necessity to protect legal permanent status of land ownership must be tackled with precautionary measures in the sense to avoid frustrations all along the process. This notion of good-faith occupants is dividing the Burundi population and all laws in force protect only the returnees and do not meet the needs of lawful holders of disputed lands. It is absolutely meaningless to re-establish rights for some while dispossessing others as this situation is happening in settling land disputes in current Burundi.

The second point of analysis is the disagreement about the legality of the principle of thirty-year limitation period. In fact, it is an ongoing breakdown in resolving land conflicts and raises disparity between returnees and land occupants about applying the principle of acquiring land tenure by prescription which means that a preset period of time has elapsed before gaining the legalized status of owning proprieties.

The reading of the applicable law in Burundi (Civil Code, Art.29) ascertains the prescription period as subsequent to the limitation of the right to litigate in court. To be more specific, the occupier of a real property that belongs to another person for a period of thirty years under which the occupation was deemed peaceful and undisturbed, ipso facto he becomes the lawful owner. In fact, this is a result of prescription. In other words, landowners lose the right to go to court in demanding the return of their real properties. This implies the inaction to sue within the length of a period less than thirty years while they had to know that a third party occupies them. At

this level, occupants insist on this effect of limitation period and raise it as a complete defence to the reclamations of returnees (André, n.d.).

In turn, the returning refugees categorically reject these provisions which legitimise the dispossession of their lands and ignore the major challenge of someone forced into exile to fill a claim in courts of a persecuting government (Charles, 2005:13). This allegation is logically understandable insofar as prescription affects only people who find themselves in circumstances that allow doing something, but due to their explicit passivity, the fixed time limits expire. Similarly, this legislation does not provide suitable solutions. The settling of the issue is realisable through political engagement.

To conclude, the whole of the legal arsenal that governs land issues stays in the heart of turbulent debate in Burundi. Both sides are firmly entrenched in their views and are unable to find any convergence. This process embodies a lot of critics and therefore generates significant adverse effects on the functioning of mechanisms designed for regulating land disputes.

CHAPTER 5: (MIS)HANDLING LAND CONFLICTS IN BURUNDI?

5.1 Introduction

The resolution of land conflicts has been among other urgencies that succeeding governments after the conclusion of Arusha peace agreement, subscribed among their political programs, although it has continued to cause in different ways serious anxieties in minds of Burundian population. A fringe of citizens considers the modes of settlement in light of legal facilities to achieve hidden political calculations and asserts to be in possession of clear evidence showing strong bias of the current settling arrangements. Gilbert (2013:3) highlights that two categories of national institutions are called upon to settle this kind of conflict: the National Commission of land and other properties (CNTB) and Courts. The missions and procedures of each of these institutions, as well as limitations based on their respective jurisdictions, fuel controversies and form continuous subject of discord and potential challenges to the coexistence of ethnic groups in Burundi. Below, the cases illustrated will allow to analyzing two points in regard of the problem of competitiveness-related approach between CNTB and Courts and the issue of dubiousness resulting from the functioning of land commission.

5.2 Case n°1: Ntunzwenimana vs. Rucintango over land dispute

A land conflict broke out between Mr Ntunzwenimana Larson, a returnee and Mr Rucintango Ananias, a stayee. While CNTB decided to give the entire parcel to Ntunzwenimana, the Rumonge Court of Residence on its part revised the decision of CNTB and confirmed Rucintango as the lawful owner of disputed land. The family of Ntunzwenimana fled in 1972. As he lived longtime in asylum, he returned home in 2005 and his arrival shifted everything. Immediately, he claimed the ownership of the land owned by Rucintango, a father of fourteen children who rejected what is considered as Ntunzwenimana's spurious claims. The latter seized the local office of CNTB which decided a land-sharing. Rucintango argued a division into two unequal parts without hearing his allegations and defense witnesses (Dieudonné, 2013). This led Rucintango to lodge an appeal before CNTB at national headquarter. After hearing the two parties, the commission allocated the entire plot to Mr Ntunzwenimana and unsatisfied, Rucintango filed a complaint in the court of first instance of Rumonge which reaffirmed his status of officially recognized possessor. Rucintango believes that the Government of Burundi must bear responsibility for the past actions committed by its predecessors who have harmed the people who fled the country and gave their properties to other stayed population (Dieudonné, 2013).

5.3 Case discussion: Concurrent jurisdiction between Courts and CNTB

This case is more symptomatic with respect to the tricky situation surrounding the settlement of land disputes in Burundi. Since the creation of CNTB, the diametrically opposing decisions between courts and commission became almost a common practice with conflicting results and in the ensuing consequences, two concerned parts do not share the same trust in both institutions.

Under pessimistic concerns, returnees created their own association in order to fight for their rights. In an interview with a journalist, the President of association declared that to get restitution of repatriate's land is not easy as long as the occupants resist giving them back to the legal owners. In this light, he stated that the work of the CNTB is their only chance while a returnee cannot justice in courts of Burundi. He notes that returnees rarely win lawsuits (Dieudonné, 2013).

To better understand the setting of this allegation, the use of contradictory decisions taken by the Commission and courts helps to ascertain a correlation between the case discussed and its analysis herein traced.

5.3.1 Rulings of CNTB and Courts

To this purpose, a decision n° 149/2008 of CNTB concluded on 25 February 2008 a case involving Mukorumbone Feruzi against Magenge Sylvère. The applicant, Murorunkwere, claimed that all land plots left by her family were assigned to the agricultural and dairy farming schemes, only one was available and held by Magenge. After reviewing a summary report of CNTB provincial office in Bururi on land conflict between Mukorumbone and Magenge and the findings of its inquest, CNTB decided in favour of Murorunkwere.

Magenge did not take kindly to the resolution and seized the Rumonge Court of Residence (2007) which ruled the inadmissibility of the case owing to the pending examination of claim before the Land commission. Magenge lodged an appeal before the Court of appeal of Bururi(2012) and the same Court disconfirmed CNTB decision of 2008. The parcel was given to Magenge. Mukorumbone appealed to the Court of Cassation of Bujumbura asking to nullify the decision taken by Bururi Court of Appeal. However, the Court of Cassation (2014) confirmed the ruling of Bururi Court giving the land to Magenge.

The case given above and the all illustrative decisions of CNTB and Courts lead to the reflexion of difficulty embodied in the process to enforce rulings of both institutions. To the side of CNTB, there is strong support of government use of public force. To the side of court rulings, it is problematic.

Another issue raising criticism is the creation of special court to deal with land issues.

5.3.2 Selecting decisions to enforce

In terms of the content of Bujumbura Court of Cassation, it did not rectify the obvious errors committed by Bururi Court of Appeal which violated the rules of procedure. In fact, Rumonge Court of Residence dismissed the complaint of Magenge because he did not comply with the required procedure of seizing the court. It was impossible to adjudicate simultaneously the case in both Court and CNTB. Surprisingly, the Bururi Court of appeal agreed to receive the case and to hear the substantive grounds of the part appealing the case while its merits have not examined at the first instance. Mukorumbone raised this problem and the court did not make a decision for or against it. This issue of irregularity of procedure was very fundamental and the reasons led the court to ignore are not clear while Mukorumbone insisted on it as her defence.

Another confusing point in the rulings of Bururi Court of Appeal and Bujumbura Court of Cassation is the statement saying that the person evicted by the political events should address their concerns to the government in order to be reinstated in other areas. In the language of those courts, holders of lawful documents must be protected, not expelled.

However, regarding the policy of resolving land conflict in Burundi, this approach to involve government in reparation of previous mistakes is not welcomed such as its main concern. On this, the President of the Republic of Burundi underscored that there is no real unity between the author of land despoilment and the victim, as long as the first has not returned the land he spoiled. It would be pure lie (President Office, 2014). So to say, Judges overturned resolution made by CNTB and suggested that one of litigants shall get a land from a government which has a different perception of the problem.

Clearly, these rulings show a bias and cannot be easily enforced following such climate. As far as it is known, decisions of CNTB are executed with the help of public force, contrary to the lesser fate granted to judgments rendered by courts. Few decisions are successfully implemented on the ground.

5.3.3 Creation of a biased special court of land issues

Recently, a special court mandated to adjudicate land disputes was established and the motives of creation might be sought in chosen land governing policy. In that context, a particular attention of current leaders of Burundi is paid to CNTB working on returnees' issues. As the commission lacks the unanimity of all Burundians and in regard of doubts towards existing courts, the government decided to create a special court.

However, some voices already expressed the fear on this. Gilbert who is advocate, rejected the idea of a special tribunal. According to him, the court will further complicate the situation. Since the same political system boosts the work of CNTB, the special court will constitute a further value added for them (Dieudonné, 2013).

By comparison with the jurisdiction of ordinary courts, the new special court is not relevant. The law establishing this special court did not explain why it was necessary to create it. Solely, the article 14 offers the competency to examine at first and last instance, all decisions made by land commission which means no another court in Burundi is allowed to hear land cases. One should think that the special court is made for Hutus who do not trust the other courts deemed to being pro-Tutsi.

5.4. Case n°2: Letter of Makamba locals

In a letter of 7 August 2014 addressed to the representative of Secretary General of United Nations in Burundi, copied to the President of Republic, students from both public and private universities, all inhabitants of Makamba province, denounced a flagrant violation of human rights in decisions of CNTB oppressing a segment of Burundian population and in particular of Makamba province. The letter alerted UN to take immediate actions before the blood is shed and reminded the intention to establish CNTB which was to reconcile the people of Burundi, specifically residents and returnees.

The missive accused the government of Burundi to enact unjust and discriminatory laws veiling agendas to exclude and dispossess land occupants as if they are not citizens of Burundi. After showing different worrying cases, they referred to the Arusha Peace Agreement as to affirm that land commission shall comply with the principles of fairness, transparency and common sense in all decisions. It must ensure that the purpose is not only giving back properties to returnees, to enhance reconciliation and peace in country. As well, the article 36 of Constitution of Burundi protects indiscriminately the right of having a private property and right to compensation in case of expropriation.

Being fruit of inter-Burundian talks, CNTB is on the contrary missing the opportunity to serve as unifying apparatus. At a glance, the weaknesses are sourced in provisions of law creating CNTB. Up to day, there is a degree of popular dubiety about this arrangement.

5.4.1 Case discussion

The law creating the commission limits its jurisdiction to the problems related only to the tragic events devastated Burundi since the period of independence. Thus, the article 3 allocates to the commission, an exclusive competency to examine at first instance land disputes. Then, it is the article 5 which describes the victims of those tragic events as ‘disaster victims’ who are defined by article 1 as repatriated persons, person internally displaced, legal person, widow, orphan and any other person dispossessed by tragic events in Burundi since independence.

With regard to the provisions aforementioned, apart being a mediating mechanism, the commission is regarded to be a shield for only victims. This is a bias linked to the focus put on one side of parties in land litigations. Accordingly, the law does not ensure the impartiality and neutrality of CNTB. In other words, the same law is not clear about the fair consideration for those who hold legalized documents.

In light of article 7, the portrayal of its mandate underlines the dimensions of unilateral character with regard to the treatment of land issues raised up between two groups. Indeed, CNTB is entitled: a) to rule on complaints submitted by disaster victims for restitution of their properties; b) to provide technical and material assistance in order to help disaster victims to recover their rights; d) to examine unsettled disputes in relation with decisions made by previous commissions; e) to evaluate possibilities and modalities to allocate compensation to the disaster victims unable to recover their proprieties and unsatisfied victims of decisions taken by previous commissions and g) to educate and sensitize illegitimate owners and purchasers to surrender voluntarily their unduly possessions and recognize land rights of disaster victims.

According to this article 7, it is specified that disaster victims remain the only persons effectively to take advantages of CNTB decisions in the sense law treats them as underprivileged people who needs unique attention. Then, it seems to me that CNTB was made for the victims of political events who are mostly Hutus. In this respect, it should be noted that those called illegitimate occupants by CNTB are at a large extent, Tutsis whose former governments issued land titles which however are not recognized by CNTB. Besides that, another unfair aspect is brought to light by the CNTB duty to recommend compensation for people affected by dispossession and who did not recover their properties, while the same law is silent as to compensation of occupants of land in good faith and evicted because of land restitution to returnees. In this sense, the law figures out a clear feature of selectiveness.

Since its creation in 2006 up today, the directionality of CNTB remains a divisive matter based on discordant perception of ethnic groups in Burundi. This section focuses on its two presidents who are Reverend Priest Kana Asther and Bishop Bambonanikure Sérapion.

To begin by Kana's term, he was the president of CNTB since 2006 up 2011. He was considered by Tutsis as conciliator and most Hutus did not agree with his approach. In his many statements, the leitmotif was using out-of-court settlement involving all parties concerned (André, n. d). He believed that the best way to resolve a land conflict is to let litigants ending it themselves and intervene whenever the need arises. The Priest used to state a relevant number of disputes settled through amicable arrangements while other cases required deep analysis as to make adequate decisions. He acknowledged the importance of seeking connection between law and fairness and always fully committed to pay attention to all parties in the best interest of realizing peaceful coexistence (André, n.d). As Aster revealed that many returnees insist uncompromisingly to regain their lands, he found their claims quite challenging in consideration with the readiness of some occupants willing to find friendly arrangements to solve conflicts between them. In view of the Cleric, those cases require a lot of discernment on the part of members of CNTB. However, he said, some situations are so complex so that political solutions may play a crucial role (André, n. d).

The other side is Sérapion's term. He is the current President of CNTB since 2011. Bishop Bambonanikure Sérapion is firmly criticized by Tutsis who accuse him to side with returnees regardless the needs of equity and neutrality. Outraged, the president of UPRONA (a Tutsi political party), Mr Niyoyankana Bonaventure asserted that since Bishop Bambonanire became in 2011 the head of CNTB, the situation has changed. He blamed Bishop to be an ill-advisedly person, a trouble maker and the Commission to take systematically decisions favoring returnees. According to his viewpoint, government of Burundi should take responsibility of contributing to war (RFI, 2012).

On his part, Bishop Bambonanikure appreciates the methodology of CNTB and affirmed that their first mission is to restore the land rights of disaster victims. He claimed that even if some people believe in a perpetuation of injustice just to contribute to the reconciliation, he assured that CNTB cannot follow such direction (RFI, 2012: n. p.). Resulting from this, the Kana's approach embodied features that could help the process of dealing with land issues. First of all, involving all parties in search of a consensual mode of settling land conflicts is very fundamental. Secondly, it is the emphasis put on conditions that prioritize the promotion of national cohesion. Thirdly, it is the

recognition to engage political talks in quest of appropriate solutions. The manners of the current President are the opposite.

In short, serious steps towards the improvement of the functioning of CNTB and Courts must be undertaken. This is a matter of growing concern. Readapting the existing mechanisms will appease the demand to start about building more trust-based institutions in Burundi so that land dispute claims can be more justly decided in future. In fact, the current situation is likely to be improper and weakens the efforts at peacemaking, because poorly resolved land disputes can re-emerge as fresh conflicts later on. Realistically, only the government can be tasked to concretize the hope of Burundian citizens for a fairer and most just set of dispute resolution mechanisms for those whose daily lives depend mostly on land.

CHAPTER 6: CONCLUSION AND RECOMMENDATIONS

6.1 Conclusion

The history of Burundi since independence in 1962 is marked by many ethnic cruelties that forced hundreds of thousands of Burundians into exile. Specifically, land problem began in the aftermath of inter-ethnic civil war and the majority of Hutus fled the country in 1972. However, negotiating parties during the peace talks in Arusha, concluded in 2000 determined the mechanisms of settling land disputes after the repatriation of refugees, such as reform of judiciary and creation of a commission in charge of land issues. In 2005, the homecoming's process began and some found their land legally occupied by others.

Despite progress made in the establishment of recommended institutions, the functioning of these apparatus are often sources of social dissatisfaction. Indeed, land occupies a prominent place in socio-economic context of the lives of Burundians and unfortunately, in regard of the racial history of Burundi, the political conflicts get mixed to land's concerns.

Today, the main question is to know how land conflicts are framed in the current context of post-conflict Burundi. To respond to this, it has been necessary to outline first, the basic theories helping to understand the concept post-conflict under its different shapes and secondly, to explain to which extent Burundi is a post-conflict country and the connection to land problem.

This paper has showed that the term 'post-conflict' is understood in two main ways. Some view a post-conflict situation as moving from a status of violent conflict to the permanent end of hostilities. From this point of view, post-conflict settings constitute the foundations of a more lasting peace in the longer-term. Another reflection focuses on conditions that lead to the realisation of state-building; from this perspective, post-conflict peace is not only a concern with stability, rather it embodies the spirit of seeking legitimate governing institutions which are the correlation of sustained development and longer-term peace-building.

To put it theoretically, the notion of conflict resolution was defined in accordance with the whole process of maintaining peace. In this sense, establishing peace requires also to address and resolve various conflicts that break social relations. To relate this framework to the situation of current Burundi, it was found that the country faces a problem of land disputes between repatriates and local population to the extent violent conflicts are likely to restart. It is helpful to discuss the question of whether or not Burundi is presently a post-conflict society.

With regard to different indicators, effective peace does not seem to have been achieved yet in the country. However, looking at the local initiatives of peoples on villages, the engagement of civil society and a close and regular monitoring of international community, there are promising signs of progress. However, the regulation of land disputes in Burundi remains a sensitive issue. Accordingly, three modes of mechanisms have been underlined. That is the judiciary, the commission of land and traditional mediators' committees known as '*Abashingantabe*'. This traditional mode is not an officially recognized mechanism. Consequently, its role in the process of settling land issues is not highly seen. Besides, this study has attempted to link land problem in Burundi with the theory of transitional justice. The purpose was to debunk the myth that disputing a land in a climate of post-conflict must be dealt equally with the criminal matters.

The theoretical approach encompassing the concept post-conflict was complemented by an extended analysis of some available empirical cases. First, the problem of land conflicts was explained in relation to the centrality of land for most people's livelihoods in Burundi. Hence, chapter 2 showed a reality of lethal violence owing to the resistance of some people to complying with decisions taken by land dispute-resolving institutions. One of the factors that underpins this situation is the lack of effective means of dealing with land issues. There is growing disagreement over resolution of land disputes and this can incite even more persistent enmity between returnees and land occupiers.

Similarly, there have been misunderstandings between CNTB and the process of prosecution, as this study revealed. The case analysed related to handling of land disputes in Makamba Province, and unveiled a situation that can be repeated throughout the other districts of the country. Those who refuse to comply with CNTB's decisions may be arrested, but shortly afterwards are likely to be released again on judges' and prosecutors' decisions. This lack of collaboration between official institutions breeds an atmosphere of mistrust that causes problems leading to gross violence. Indeed, considering the relevance of land in light of its important place in terms of source of income for the majority of Burundian people, there is no room for doubt that a high-level of land claims in courts leads to increase conflicts insofar as settling arrangements do not ensure appropriate resolution of disputes.

The fourth chapter emphasized legal dimensions of land problems in Burundi, with particular attention to legislative provisions. Concerns were raised about differential treatment between returning refugees and others who stayed, among the local population. Indeed, the legality of owning land implies the protection of the owner against any kind of trouble or hindrance. With

regard to this, ownership was found to embody three key features. 1) Absolute character which grants the owner the capacity to exercise land-based rights. 2) The perpetual character allows the owner to occupy the land without any time limitation, and 3) the exclusive character protects the owner against any claims about the land ownership.

However, the study found that land legislation in Burundi does not agree unanimously on legal owner between a returnee dispossessed by the tragic events and the occupant who hold legal titles. To one side, some legal provisions recognize the holders of legal titles as the owners of land and assure that they must be protected against any abuse of their rights. This guarantee is also reflected in Constitution of Burundi and international conventions ratified in terms of legal protection of private property. Besides, the law provides specific principles that are applicable in matters related to land and other real properties. Thus, occupation by prescription permits to get land ownership after the expiration of a certain time. In a similar way, the principle of good faith plays a great role in determination of a real owner of land.

To other side, the specific law applied in the context of land conflicts related to the tragic events has a different version. As the practical cases analyzed showed, there is first of all, absence of differentiating between a good faith and a bad faith occupants of land. Secondly, there is denial of claims about necessary and prior right of compensation. All those required to turn back properties to returnees, are not compensated even though they are good-faith occupiers and all along the occasions of evicting occupiers, these legal concerns are evoked.

Thirdly, the fifth chapter examined the problem of mishandling land disputes. In light of legal inconstancies sought in chapter 4, their impacts affect the mechanisms that are available to tackle land issues. Through cases studied, the most difficulty is the concurrence between jurisdictions of CNTB and Courts. This paper discovered a tendency of judges to nullify decisions of CNTB although their enforcement is not an easy task. To its part, public force helps the execution of CNTB's resolutions despite a dislike of many citizens.

It was found that in performing its mandates, the commission of land does not value the binding legal force of land titles. Inevitably, this situation involves the loss of valuable credit and tarnishing of the image of the Commission, which acquires a reputation for disproportion in responding to a significant matter of land in a post-conflict Burundi.

Upon a closer look, it is apparent that these two instruments have not been designed for the same purposes of rendering fairly justice. The concern

that someone may have with them is that either CNTB, either Courts, each of the two, is good depending to whom is serving favorably. The working approach of CNTB is so critical in regard of land restitution for returnees and land eviction for occupants. The commission will continue to face a risk of hostile reactions if people perceive the measures as unreasonable. Indeed, the study found that its approaches aim to re-establish the returnee's rights without giving an adequate attention to the occupier's troubles.

In light of the findings of this study, the failures of the process of resolving land conflict have been outlined. There are still decisive challenges in terms of strengthening legitimate mode of functioning which remains breakable. Also, it was demonstrated that it is only by equity and transparency, the course of sustaining fragile peace processes can be realized. Maintaining inclusive society is an important driver to ensure that they are appropriate system of justice delivered by institutions that ensure the social integration of all disadvantaged groups. Currently, social injustice-land based affects the lives of people in Burundi and in most cases, generates further violence between returnees and local population.

In the same way, one sees that the problem of land is politically manipulated. The current government does not reply satisfactorily to the claims of good faith possessors. To dismiss their arguments, those holders of legal titles are told that previous regimes have committed serious errors by attributing illegally the properties of ex-refugees. This answer is misplaced.

The position of Burundian leaders shows a part of understanding this problem in political dimensions. It is furthermore a strategy to evade its responsibility on the pretext that the government is not the maker of what happened before. In reality, all those who lost their properties in context of racial conflicts should recuperate their rights. In the contrary, this must be done without violating the rights of others.

6.2 Recommendations

In view of the above findings, the following recommendations are formulated:

Firstly, it is advisable to return to the discussion the problem of land between returnees and occupants. The only government policy cannot offer desirable solutions. It is needed to share the ideas of all social sectors in order to include the similarities and differences of their thoughts

Secondly, this study suggests to undertake a necessary harmonisation of land legislation. The law establishing CNTB which confines the resolution of land conflicts into provisions, should consider all principles governing legal owning of real properties as provided by other laws of Burundi. The right of compensation in case of land eviction, acquisition by prescription and the good-faith occupation of land, should be taken into account.

Thirdly, the settling process of land conflicts should always take reference to the provisions of Arusha Peace Agreement which traces the ways towards promoting impartial and reconciliatory land justice.

Fourth, perceptions on relevance of Special court dealing with land issues are not unanimous. A judicial reform should be initiated after national consultations in order to nominate judges who stimulate the trust of all Burundian people.

Fifth, the mandate of National Commission of Land and Other Properties must be reviewed. The commission is a national entity entitled to work for the interest of all Burundian Citizen. Thus, it must ensure that not only disaster victims get restitution or compensation for being dispossessed, but any holder of lawful land titles is protected.

Last but not least, the government of Burundi should reinforce the traditional mediators' committees, the *Abashingantabe* which were discussed in Chapter 2, about whose work no data could be found for this study. Their role in resolving conflicts can be seen as important, despite the lack of attention to these mechanisms. They could play a more central role in future, insofar as they enable claimants to live together, and generally know their cases and the local context better than the formal justice system could do. A law organizing their functioning and competency should be adopted in Burundi as a means to bridge formal law with customary law.

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