



BUILDING VIABLE COMMUNITY PEACE ALLIANCES FOR LAND RESTITUTION IN BURUNDI

**Submitted in fulfilment of the requirements of the degree of Doctor of
Philosophy in Public Administration – Peace Studies**

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DECLARATION

I Theodore Mbazumutima declare that

- a. The research reported in this thesis is my original research.
- b. This thesis has not been submitted for any degree or examination at any other university.
- c. All data, pictures, graphs or other information sourced from other sources have been acknowledged accordingly – both in-text and in the References sections.
- d. In the cases where other written sources have been quoted, then:
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Dedication

I dedicate this work to my dearest wife Christine Ndayihimbaze. You have been to me a source of encouragement and I find a great pleasure having you as my wife. ***Imana iguhezagire***

ABSTRACT

Following the determination to consolidate peace and deal with the legacies of civil war in Burundi, it was proposed by the Arusha Peace Accord that there was need to instigate a process of transitional justice. In part, this was recognition of the need for mechanisms that could grapple with the challenges around land and other property restitution. However, political elites hijacked the land restitution process such that localised land conflicts at the grassroots have coloured national political conflicts. In particular, there has been strong evidence of violent alliances between the opposition and second occupants of the land on one hand, and the ruling party and returnees on the other.

This thesis is based on qualitative research, using action research as its key strategy. Research was carried out in Nyanza-lac Commune, Makamba Province in southern Burundi, between May and December 2017. The aim was to understand the nature of alliances within the land conflicts and determine the extent to which violence is used as a means of coercing and mobilizing followers in line with these alliances; to explore the possibility and/or training needs for potential mobilisation to establish community peace alliances capable of addressing land conflicts; to help establish these mechanisms; and then to evaluate their impact.

The study found that the second occupants, often with direct or indirect support from the opposition, use direct or indirect violence against the returnees in order to keep the land which originally belonged to these returnees. They also use direct or indirect violence against (The CNTB) National Land Commission officials during their routine activities of restituting land to the returnees. At the same time, opposition politicians use indirect violence to sustain an alliance between themselves and second occupants of the land in order to get political support from them and oppose land restitution which could have direct consequences for these politicians. At the same time, the CNTB has an alliance with the returnees, and the Commission uses direct or indirect violence against second occupants to compel them to abide by the CNTB's decisions. In this strategic alliance, returnees expect to get land and continue to support the government, while CNTB officials, by executing the government-given mandate, keep their jobs.

The research showed the positive role which dialogue can play in helping affected ordinary people to resolve and transform complex conflicts with incompatible interpretations in a context where the law has failed to address them. Involving the action team and the ordinary people in property restitution built their self-esteem and capacity to contribute to the understanding of their problems and to plan and implement suitable solutions as well as to constructively reflect on their intervention. Thus, they adopted dialogue as a valuable and effective means of addressing the land restitution conflicts and this dialogue led to the finding of a common understanding between the conflicting parties. Furthermore, this allowed for the peaceful resolution of land conflict and the building of broken relationships.

TABLE OF CONTENTS

DECLARATION	i
ACKNOWLEDGEMENTS.....	ii
ABSTRACT	iv
LIST OF ABBREVIATIONS	xi
LIST OF TABLES	xii
LIST OF FIGURES	xiii
APPENDICES.....	xiv
PART I.....	15
CHAPTER 1: INTRODUCTION AND OVERVIEW OF THE THESIS	15
1.1 Introduction.....	15
1.2 Context of the research	17
1.3 Research problem.....	20
1.4 Research aim and objectives	21
1.5 Peace theories	21
1.5.1 Transitional justice theories and practice in peace-building.....	21
1.5.2 Conflict Transformation.....	23
1.6 Research methodology	24
1.7 Delimitations	24
1.8 Thesis overview	24
PART II: THEORETICAL FRAMEWORK.....	25
CHAPTER 2: TRANSITIONAL JUSTICE THEORIES AND PRACTICE IN PEACE-BUILDING	26
2.1 Introduction.....	26
2.2 Background and definition of transitional justice	26
2.3 The pillars of transitional justice	28
2.3.1 Truth recovery	29
2.3.2 Justice and trials	31
2.3.3 Reparation	32
2.3.4 Institutional reform	34
2.3.5 memorialisation.....	34
2.4 Reconciliation	35
2.4.1 Reconciliation in the South African Context.....	37
2.5 Transitional justice and its effectiveness.....	39
2.6 Summary and conclusion.....	41

CHAPTER 3: TRANSITIONAL JUSTICE IN BURUNDI AND ITS ROLE IN PEACE-BUILDING.....	43
3.1 Introduction.....	43
3.2 Historical overview of the conflicts in Burundi.....	43
3.2.1 Pre-colonial period: A kingdom with harmonious co-habitation?	44
3.2.2 Colonisation of Burundi: The Hutu-Tutsi antagonism shaped.....	45
3.2.3 Post-independence Burundi: The hardest test for nationalism and democracy	47
3.2.4 1972 Hutu massacres: A reference for Hutu memorisation	48
3.2.5 The second republic and silent Hutu oppression	50
3.2.6 The third republic: A difficult beginning and an attempt to restore democracy	50
3.2.7 A decade of civil war and socio-political confusion.....	51
3.2.8 Buyoya comes back to power.....	53
3.2.9 Pierre Nkurunziza wins the elections and the Arusha Peace and Reconciliation Agreement is tested.....	53
3.3 Looking beyond the events	55
3.4 Transitional justice in Burundi	58
3.4.1 Burundian cultural insight into reconciliation and transitional justice	58
3.4.2 Historical overview of transitional justice in Burundi.....	60
3.4.3 The introduction of multi-party democracy and the fate of transitional justice	62
3.5. Conclusion	66
CHAPTER 4: PROPERTY RESTITUTION IN BURUNDI	68
4.1 Introduction.....	68
4.2 Setting the stage.....	68
4.2.1 The Hutu land is taken away and the land problem is politicised.....	69
4.3 The State's responsibility.....	72
4.4 Property acquired in "good faith" and restitution	75
4.5 A question of sequence of events	78
4.6 Land reclamation: A hard battle to win.....	79
4.7 Alliances between the politicians and the beneficiaries	84
4.8 Conclusion	86
CHAPTER 5: COMMUNITY PEACE ALLIANCES AND CONFLICT TRANSFORMATION.....	88
5.1 Introduction.....	88
5.2 Conflict transformation	88
5.2.1 Defining peace and violence.....	88
5.2.2 Conflict transformation	89
5.3 Community alliance for peace.....	91
5.3.1 The Kenyan experience.....	91
5.3.2 Factors for successful alliances.....	93

5.3.3 What is meant by a community peace alliance in Burundi?	95
5.4 Violence and non-violence theories	96
5.4.1. Using violence for change.....	96
5.4.2 Non-violence works	99
5.5 Conclusion	101
PART III RESEARCH METHODOLOGY.....	102
CHAPTER 6: RESEARCH DESIGN, DATA COLLECTION METHODS, DATA ANALYSIS AND ETHICAL CONSIDERATIONS	102
6. 1 Introduction	102
6.2. Research design	102
6.2.1 Qualitative research	102
6.3 Research strategy	104
6.4 Data collection methods.....	108
6.4.1 Focus Group Discussions	110
6.4.2 Interviews	113
6.4.3 Observation	115
6.5 Data analysis.....	116
6.6 Two major tools	118
6.6.1 Dialogue.....	118
6.6.2 RBM (Results-Based Management) action planning tool.....	120
6.7 Validity and reliability	127
6.8 Ethical aspects	129
6.9 Limitations of the study.....	131
6.10 Conclusion	131
PART IV DATA PRESENTATION AND ANALYSIS	134
CHAPTER 7: THE NATURE OF CURRENT ALLIANCES AND THE ROLE OF THE COMMUNITY	134
7.1 Introduction.....	134
7.2 Data collection - focus discussion groups and interviews	137
7.3. Experiences and opinions	138
7.3. 1 A slow and frustrating land restitution process	138
7. 3.2 Politicisation of land restitution and the use of violence	143
7. 3.3 Perceptions concerning the work of the CNTB.....	148
7. 3.4 Is a peaceful land restitution possible?	152
7. 4 Analysis	155
7.4.1 The CNTB is not independent and is more political than humanitarian	156
7.4.2 Politicians have built expectations which are very hard to meet	158
7.4.3 Land is not just an economic asset.....	159

7.4.4 Violent actors and their aspirations	160
7.4.5 The role of traditional leadership	164
7.5 Conclusion	166
CHAPTER 8: COMMUNITY PEACE ALLIANCES: PLANNING USING RESULT-BASED MANAGEMENT.....	169
8.1 Introduction	169
8.2 The action team	169
8.3 Dialogue session 1: Establishing the baseline	171
8.4 Second dialogue session: establishing the intervention road-map and adopting the tools	176
8.5 Dialogue sessions 3 to 7: Training on RBM and planning	177
8.5.1 Establishing the national and Nyanza-Lac contexts	177
8.5.2 Problem analysis	179
8.5.3 The objective analysis	181
8.5.4 Stakeholders' analysis:	183
8.5.5 Risk analysis and measures to manage risk	184
8.5.6 Monitoring and evaluation	185
8.5.7 Logical Framework	185
8.6 Conclusion	187
CHAPTER 9: IMPLEMENTATION OF A COMMUNITY PEACE AGENDA	189
9.1 Introduction	189
9.2 Revisiting the context	189
9.3 Story sharing sessions	193
9.3.1 Returnees feel dehumanised as a result of not getting their lands	194
9.3.2 We second occupants are victims like you	196
9.3.3 Common understanding	198
9.4 What can we do in order to improve our situation?	200
9.5 Informal dialogue	203
9.5.1 Practising informal dialogue	204
9.6 Outcome of formal and informal dialogue	206
9.7 Challenges	210
9.8 Conclusion	211
CHAPTER 10: OUTCOME, EVALUATION AND REFLECTION	212
10.1 Introduction	212
10.2 Outcome	212
10.2.1 How best did we achieve the results we had set?	216
10.3 Lessons learnt	217
10.4 Reflecting on the process	219

10.4.1 Was it involving, ethical, democratic and collaborative?	219
10.4.2 Was it reflexive and dialectical?	221
10.5 Personal reflections	226
10.6 The exit strategy	227
10.7 Conclusion	230
PART V	232
CHAPTER 11: SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS	232
11. 1 Summary of the findings.....	232
11.2. Limitations of the dialogue between the returnees and the second occupants	236
11.3 Three Recommendations	236
11.4 Conclusion	237
Appendix.....	260

LIST OF ABBREVIATIONS

1. AU: Africa Union
2. BANCOBU: Banque Commerciale du Burundi
3. BCB: Banque de Crédit du Bujumbura
4. CNDD: Conseil National pour la défense de la Démocratie
5. CNDD-FDD: Conseil National Pour la Défense de la Démocratie –Front Pour la Défense de la Démocratie
6. CNTB: Commission Nationale des Terres et autres Biens
7. CSTB: Cour Spéciale des Terres et autres Biens
8. CNRS: Commission Nationale pour la Réhabilitation des Sinistrés
9. EU: European Union
10. FRODEBU: Front pour la démocratie au Burundi
11. ICC: International Criminal Court
12. ICG: International Crisis Group
13. ICGLR: International Conference on the Great Lakes Region
14. IDPs: Internally Displaced Persons
15. IRRI: International Refugee Rights Initiative
16. JRR: *Jeunesses Révolutionnaires Rwagasore*
17. MP: Member of Parliament
18. NGOs: Non Government Organisations
19. OAG: Observatoire de l'Action Gouvernementale
20. OHCHR: Office of the United Nations High Commissioner for Human Rights
21. PALIPEHUTU: Parti Pour la Libération du Peuple Hutu
22. PIA-RUBUBU: Projet d'Intensification Agricole en communes Rumonge, Burambi et Buyengero
23. SHT: Site d'hébergement temporaire
24. SOSUMO: Société Sucrière Moso
25. SRD: Société Régionale de Développement
26. SRDR: Société Régionale de Développement de Rumonge
27. TRC: Truth and Reconciliation Commission
28. UN: United Nations
29. UNDP: United Nations Development Programme
30. UNHCR: United Nations High Commission for Refugees
31. UPRONA: Union pour le Progrès National

LIST OF TABLES

Table 6.1 Student admissions per tribe at the prestigious school of Astrida-Rwanda between 1946 and 1954.....	32
Table 6.2 Comparison between qualitative and quantitative research	85
Table 6.3 Five principles for quality validation in action research	110
Table 8.1 The action team	153
Table 8.2 SWOT analysis.....	167
Table 8.3 Logical Framework (log frame)	168
Table 9.1 Actors Mapping.....	183
Table 9.2 Target mapping and means of reaching them.....	184
Table 9.3 Presentation of the 15 cases resolved	189
Table 10.1 Planning table for exit strategies	208

LIST OF FIGURES

Figure 6.1 Chart visualizing the problem tree and the dialogue	104
Figure 6.2 Problems transformed into objectives	106
Figure 6.3 Chain of results.....	108
Figure 8.1 Stakeholder analysis chart	166
Figure 9.1 The bridge between Kiderega and Buheka burnt by the second occupants	173

APPENDICES

Appendix 1: Letter to Rema Ministries	238
Appendix 2: Interview guiding questions to the focus groups	240
Appendix 3: Focus Group Discussion Evaluation Form	241
Appendix 4: Individual in-depth interview guide	243
Appendix 5: A guide to Dialogue	244
Appendix 6: A guide to the Evaluation of the Intervention	245
Appendix 7: Letter to the Ministry of Home Affairs and Patriotic Education (Translation of the French version).....	246
Appendix 8: Letter of information	248
Appendix 9: Consent form	249

PART I

CHAPTER 1: INTRODUCTION AND OVERVIEW OF THE THESIS

1.1 Introduction

Burundi is one of the poorest countries in the world. It is landlocked between Rwanda in the North, Tanzania in the East and South, and the Democratic Republic of Congo in the West. With the highest population density on the continent, Burundi is inhabited by around 11 million people, most of them being young people and children, with 90 % of the population living in rural areas.

For most of its post-independence history, Burundi has been dominated by a struggle for political power between the Hutu majority (about 85%) and the Tutsi minority (about 14%), while the Twa (1%) have played a less important role. The Tutsi, preferred by the Belgium colonisers for public service, dominated most of the pre- and post-independence socio-economic and political management of the country, while the Hutu struggled to get to power. Most of the attempts by the Hutu to come to power were violently crushed by the exclusively Tutsi army, which carried out repression targeted at the Hutu population. Lemarchand (2016) believes that it is the 1972 selective genocide against the Hutu which should be a major reference in the effort to understand subsequent crises – especially the current one. The 1972 crisis produced hundreds of thousands of refugees whose return is regularly referred to in this thesis as having ushered the country into a new phase of conflict following challenges over property restitution.

The Hutu came to power in 1993 when the first democratically elected Hutu president, Ndadaye Melchior, overwhelmingly won the general election. However, he was killed by a Tutsi-dominated army after only three months in office. This led to a civil war that saw hundreds of thousands of civilians killed, while hundreds of thousands more refugees crossed over to neighbouring countries, adding to the 1970s group. Thereafter, Burundian refugees were counted at around 500,000 people.

Therefore, the ethnic aspect of property restitution can be understood against this long power struggle between the Hutu and the Tutsi. The majority of those fleeing in the 1970s and 1990s were Hutu. They lost their land and other property to second occupants or private and public institutions close to the then Tutsi-dominated government. They also lost their property to their family members and neighbours who had had been left behind. In both cases, the government did little to protect the

refugees' property. Instead, in many cases, the government formalised the property ownership by the second occupants in what can be seen as punitive measures against the refugees, who were tagged as criminals. Reference can be made here to the decision RMP.48.229/OC of the *Conseil de Guerre* (military court) in its audience on the 6th May 1972 which, without giving the accused the right of defence, condemned and immediately executed them (the accused) and took over their land and other property, which they redistributed to their perceived supporters (Bambonanire 2012: 3).

It was the Arusha Peace Agreement signed in 2000 under the mediation of President Nelson Mandela and other subsequent protocols which brought this civil war to an end by introducing a power-sharing deal among the Hutu, Tutsi and, to some extent, the Twa (Nantulya 2015). However, the current government of CNDD-FDD did not participate in the negotiations that led to the Arusha Peace Agreement and, therefore, did not sign it. Instead, they signed the 2003 Pretoria Protocol on Political and Defence Power Sharing, which generally acknowledges the validity of the Arusha Peace Agreement. Therefore, it has been clear that the current CNDD-FDD government is not always comfortable with the Arusha Peace Agreement and its applicability has not been an easy exercise (Vandeginste 2009a: 72).

The Arusha Peace Agreement introduced, as part of the peace-building mechanism, the Truth and Reconciliation Commission (TRC). However, following the delay in establishing the TRC (which was supposed to be established by the Transitional Government and the Transitional Assembly no later than six months after taking office – refer to protocol, article 5. 4.), refugees started returning; hence, needing to recover their land and other property. The government instituted, first, the CNRS (National Commission for the Rehabilitation of *Sinistrés*), and then its sub-commission CNTB (Land and Other Property Commission), with the mandate of facilitating the recovery of their land on the part of returnees and other *sinistrés* (vulnerables), in keeping with the spirit of 'reconciliation' among the original property owners and the second occupants.

Many post-conflict countries, including Burundi, have utilised transitional justice mechanisms as an important phase in peace-building. However, a number of research activities on the effectiveness of transitional justice in consolidating peace in different African countries have led to worrying conclusions: too often, these transitional justice mechanisms have failed to deliver what they promised, especially with regard to reparations and restitutions (Ware 2014: 1).

Similar disturbing conclusions are being made on the land restitution process in Burundi following the massive return of refugees. As argued below (see section 1.3 and, indeed, throughout this thesis), it is

fair to say that this process has been hijacked by politicians: strong signs of alliances have been observed between the opposition and the second occupants on the one hand, and between the ruling party and the returnees on the other, in a manner that has produced considerable violence and which could potentially threaten national peace and social cohesion.

1.2 Context of the research

The genesis of this research is my interaction with the CNTB's (*Commission Nationale des Terres et autres Biens* – Land and other Property National Commission) work of making restitution of land to Burundian returnees four decades after they lost it, following what has been described as “ethicized land politics” (Van Leeuwen and Van Der Haar 2016: 99). This restitution was taking place in a context in which land is a unique source of wealth that is often the sole “*raison d’être et de vivre*” (the only reason for being and living) (Bambonanire 2011). On the eve of the repatriation of nearly 500,000 refugees, and in the face of a regular land law which, by and large, was going to protect the new land owners and take less care of the rights of returnees to own land, politicians proposed, as part of transitional justice, a land commission (the CNTB) – which was supposed to deal with land conflicts resulting from the civil war and reconcile parties in these conflicts (Republic of Burundi 2000: Protocol IV, Chapter 1, Articles 3b and 8) in a context where the regular court could not practically and reasonably address them to the satisfaction of the different beneficiaries.

As a peace theory, the aim of transitional justice is to prevent the repetition of past atrocities by working on new policies and revising corrupt public institutions, ensuring protection for all, providing reparation to the victims, making known the truth about what happened and refining the judiciary (Forsythe 2011: 555).

For the first five years of its activities, the CNTB adopted the principle of land sharing between the returnees and the second occupants. However, research by the International Refugee Rights Initiative, Rema Ministries and the Social Research Council in 2009 (International Refugee Rights Initiative, Rema Ministries and Social Science Research Council 2009b: 1) found that most returnees and refugees were disappointed with the notion of being forced to share what they considered to be their land. As a result, violent reactions were observed on both sides and the report concluded that most returnees echoed the sentiment expressed by one woman living in Bukemba SHT (*Site d’hébergement temporaire* — temporary housing site): “We are forced to share our land but deep down in our hearts we feel bitter

and angry about the sharing. Two people can't share the same pair of shoes: neither really profits since it becomes useless."

The extent to which returnees were unhappy with the situation is reflected in a letter sent in 2011 by a group of returnees to the President of Burundi complaining about land related problems (Returnees 2011). In the letter, they clearly condemned the manner in which the CNTB was settling land and other property issues, especially the principle of making people share their land and the seeming indifference to tackling cases related to other properties. The second occupants were also not happy with sharing. (Madirisha 2011) reported what Laban Ntacobirukira, a "resident", said in reaction to the CNTB ruling to settle returnees on his land: "... they will never be settled on this land before I die." Alternatively, they simply appealed against the CNTB's decisions to regular courts that used different laws from the transitional mechanism under which the CNTB operated. In regular court cases, almost every returnee lost their case, making the situation even worse than the sharing they were complaining about.

The government of Burundi tried to change the system under which the CNTB operated by a double revision of the CNTB law in 2009 and 2011 – a decision which saw thousands of returnees accessing their land while the opposition and the second occupants opposed it (Falisse and Niyonkuru 2015) – consequently threatening the stability of the institution. The land conflict as it relates to returnees has now served as the basis for a power struggle by political elites in a way that has shaped the land conflicts *in situ* to bear the colours of national political conflict (Van Leeuwen and Van Der Haar 2016: 99), which is a recipe for an even larger conflict.

Research has been done to try and understand the different facets of tensions over land in Burundi, and why there is a persistent land-related conflict. Most "classic" causes of land conflict have been established in the case of Burundi. For instance, the competition over land as a scarce commodity in a very highly populated country has been identified as one of the major triggers of violence (Jengo 2013: 112). From a legal perspective, it has been shown that the security of land tenure has been weakened by the inability of the Burundian Government to ensure proper land governance to the satisfaction of the different groups in society (Falisse and Niyonkuru 2015). Both the scarcity of land and loose land governance have been created, by and large, by past politically unjust decisions (Van Leeuwen and Van Der Haar 2016: 99) leading to illegal dispossession of private land — especially land belonging to refugees.

At a more innovative level, Van Leeuwen and Van Der Haar (2016: 98) carried out research that led to the alliance and framing theory in Burundi in order to explain how alliances and framing provide an additional and important understanding of land conflicts. They base their discussion on Kalyvas' theory of the way in which alliances during civil war are often between supra-local (often political and national) and local/private actors. As they argue, although they may not have the same goals, every actor in the alliance benefits from it: the supra-local provides the local with the force they need to win a local advantage, while the local gains local control of resources, support and information as well as the capacity to recruit and motivate supporters. Violence is used to coerce and mobilise support (Kalyvas 2003: 486).

Building on these ideas, this research established the nature of these alliances and how they are expressed in land conflicts between second occupants and returnees. The research also determined the extent to which both groups have used violence as a means to coerce and mobilise followers.

1.3 Research problem

The attempt to capture the transitional justice agenda in general and the land restitution programme in particular by politicians and local actors for political and private gain is a threat to peace in Burundi.

In Burundi, strong signs of alliances have been observed between the opposition and the second occupants on the one hand, and between the ruling party and the returnees on the other hand, in a way that has produced a considerable amount of violence which could potentially threaten national peace and social cohesion (Van Leeuwen and Van Der Haar 2016: 100). The nature of these alliances, their violent means, and the possibility of positively transforming this conflict formed the basis for this action research.

This research was done in the context of other concluded research initiatives. For example, the competition over land as a scarce commodity in a very highly populated country has been identified as one of the major triggers of violence (Jengo 2013: 112). From a legal perspective, it has been explored that the security of land tenure has been weakened by the inability of the successive Burundian governments to ensure proper land governance to the satisfaction of the different groups in society (Falisse and Niyonkuru 2015). Both the scarcity of land and loose land governance have been created, by and large, by unjust decisions in the past (Van Leeuwen and Van Der Haar 2016: 99), leading to illegal dispossession of land belonging to refugees.

Most previous research has stopped at the level of explaining the context of, and factors leading to, land-related conflict in Burundi. The distinctiveness of this research lies in the fact that it has an action component to it, aiming to show how community-based initiatives might positively contribute to the national transitional justice agenda.

A major assumption of this research is that for post-conflict countries to consolidate peace, there is the need for some form of transitional justice. And for any transitional justice to be successful, it must recognise the ability of local communities and populations to fully participate in the process. Therefore, it is my conviction that the victims of the land conflicts in Burundi can be capacitated and empowered to participate in bringing about lasting change (Ozanne and Saatcioglu 2008).

1.4 Research aim and objectives

The aim of the research was to assess the possibility of setting up viable “community peace alliances” to promote peaceful land restitution in Burundi.

The objectives of the research were to:

1. Establish the nature of current alliances between politicians and local land actors in Burundi, and to determine the extent to which these alliances use violence as a means of coercing and mobilizing followers;
2. Explore the mobilisation and/or training needed to establish community peace alliances capable of addressing land conflicts;
3. Establish community peace alliances, and to build their capacity to implement a community peace agenda.
4. Evaluate the outcome of the establishment of community peace alliances in bringing peace.

The research contributes to the debate on the place of transitional justice in post-conflict peace-building by drawing from lessons learnt from the action research. In particular, factors contributing to the success or failure of community peace alliances in the context of Makamba-Burundi were explored.

1.5 Peace theories

1.5.1 Transitional justice theories and practice in peace-building

According to Forsythe (2011: 555), regardless of the nature of the background to the conflict, the aim of transitional justice is to prevent the repetition of past atrocities by working on new policies and revising corrupt public institutions, ensuring protection for all, providing reparation to the victims, making known the truth about what happened, and refining the flawed judiciary.

To use Dyzenhaus' (2012: 183) analogy, the concept of transitional justice "assumes that the problem is to escape from the legacy of T1 (the bad regime) by addressing it in T2 (the transitional regime) in order to get to T3 (stable, liberal democracy)."

Dyzenhaus questions the core idea of ascribing a specific theory of justice to every society trying to successfully shift to stable democracy and lasting peace (T3) (Dyzenhaus 2012: 184). Likewise, the Sudanese scholar, An-Na'im, believes that transitional justice, as applied in many African states, is nothing less than "neo-colonialism," which takes the local justice process as a barrier to the "grand modernizing mission" of the west, aiming to bring every other society to adopt the kind of justice acceptable by the "international community" (An-Na'im 2013: 197). Ware's (2014: 18) analysis of the experiences of African truth commissions following the famous Truth and Reconciliation Commission in South Africa concluded that truth commissions could not deliver lasting peace because they relied on international support, advanced an unrealistic religiously-influenced promise of reconciliation, and raised high expectations of reparations which they could not fulfil.

Other researchers view transitional justice more positively. Fischer (2011: 422) for example, believes that it is imperative for post-war societies to go through legal and judicial accountability, recover the truth, compensate war victims, reform the institutions involved in the past atrocities, and restore trust in order to foster relation-building and healing. International organisations, such as the Institute for Justice and Reconciliation, are based on a belief that transitional justice involving "truth telling, criminal trials, reparations and guarantees of non-recurrence, memorialisation, and institutional reform" is essential for lasting peace (Ngari 2012: 3).

What is clear from the reading of the theories of transitional justice is that, while scholars agree on the need for some process which post-war states must go through in order to stabilize their democracy and build long-lasting peace, they disagree on its effectiveness in delivering lasting peace. What has been less discussed are the factors that determine whether or not transitional justice is 'successful' inasmuch

as it delivers peace. It has been particularly interesting for this study to explore how local peace initiatives in Burundi can contribute to the national transitional justice process.

1.5.2 Conflict Transformation

The major contribution of this research on the land conflict in Burundi lies in the fact that it had an action component aiming at the transformation of land conflicts. Action, or participatory action, research is a democratic principle which brings together action and reflection, and theory and practice, in a participatory way. The researcher works together with all the stakeholders on a problem in order to understand it and find solutions (Morales 2016: 159).

Therefore, a major assumption of this research was that victims of land conflicts in Burundi can be capacitated and empowered to participate in bringing about change (Ozanne and Saatcioglu 2008). In action research done in Matabeleland, Zimbabwe, which focused on what came to be known as the Gukurahundi violence, Ngwenya and Harris (2015: 12) established that it was possible for people to heal and move on on their own — in the absence of an official initiative. Building on this notion, this research tested the possibility of establishing a victim-centred peace agenda for the community through peace alliances, in a way that is not necessarily dependent on the national land restitution mechanism.

Specifically, a conflict transformation approach was being used during this action phase. As Lederach defines it,

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)

Therefore, in this context, the action team and myself engaged in direct interaction in order to seek a peaceful land restitution that went beyond mere land restitution and explored the bigger questions of livelihoods and relationships. In particular, dialogue was a fundamental tool that this research used in order to achieve this objective (Lederach 2003: 21), in a context where national mechanisms to deal with land conflict can be said to have achieved only partial results (Maddison 2015: 1014).

1.6 Research methodology

The research design in this study was qualitative. Unlike quantitative research which assumes that there is a single reality, qualitative research assumes that there are multiple contextual realities (Davis 1992: 605). Specifically, this study was qualitative with a transformative world view (Creswell 2014: 9).

The thesis begins by exploring the meaning which different actors give to land restitution-related conflict in Makamba. It then uses action research which aims to contribute to the transformation of land conflicts “as part of the research process itself” (Walker *et al.* 1998: 240). Hence, it discusses how conflicts in Makamba can be transformed by bringing people together for action and reflection, theory and practice in a participatory and involving way in order to understand the problem and to propose solutions (Morales 2016: 159). The choice of the action research comes from the desire to transform the problem as knowledge is generated (Susman and Evered 1978: 586).

Finally, there is an evaluation of both the process and the outcome of the action. This implies “checking for changes in consequences (effect of action) over and above what might otherwise have been expected, learning what seems to work best, what the barriers are, and modifying the action...” (Gorard 2013: 153).

1.7 Delimitations

The study was conducted in Makamba province, located in the southern part of Burundi. Within Makamba province, the research was done in Nyanza-Lac commune and, due to the qualitative nature of the research, which involved using great detail, data was collected from only ten people, both men and women, returnees and second occupants, from different ethnic groups affected by land and other property restitution processes. Therefore, while every care was taken to ensure that the findings of this study are helpful to other contexts, proper precautions are taken while generalising the findings beyond the geographic and social context of the current research.

1.8 Thesis overview

This thesis assesses the possibility of setting viable “community peace alliances” to promote peaceful land restitution in Burundi. **Part I** introduces the thesis and comprises Chapter 1, which introduces and presents the research. After discussing the context of the research, it then discusses the research aims and objectives and concludes by considering briefly the peace theory and methodology used in the research.

Part II deals with the literature review. It comprises: Chapter 2 which discusses the transitional justice theories and practice and other related theories in peace building, especially the conflict transformation theory; Chapter 3, which evaluates transitional justice in Burundi and its role in peace-building in Burundi; Chapter 4, which discusses the nature of the property restitution problem and its politicisation

process, especially alongside the alliance and framing theories, and Chapter 5, which introduces the concept of community peace alliances.

Part III (Chapter 6) tackles the research methodology and discusses the research design, the sampling procedure, and the methods for data collection and data analysis. It concludes by discussing the validity and reliability of the study as well as the ethical issues around this research.

Part IV covers the data analysis. Chapter 7 analyses the nature of current alliances between politicians and local land actors in Nyanza-Lac and how they were established; Chapter 8 discusses how the mobilisation and training/dialogue needs for establishing community peace alliances were determined and how these community peace alliances were established; and Chapter 9 discusses in detail how the dialogue was conducted. Chapter 10 evaluates the outcome of the intervention and presents the personal reflections.

Part V (Chapter 11) presents the conclusions and recommendations for further research.

PART II: THEORETICAL FRAMEWORK

Part II presents, in chapter 2, an overview of literature on transitional justice as it relates to peace-building. It then evaluates, in Chapter 3, the role of transitional justice in Burundi and specifically its role in peace-building in that context. In Chapter 4, there is a detailed discussion on the nature of the problems around property restitution and the way in which it has become politicised; this is analysed within the framework of alliance and framing theories. Chapter 5 introduces the concept of a community peace alliance and conflict transformation theory as utilised in the thesis.

CHAPTER 2: TRANSITIONAL JUSTICE THEORIES AND PRACTICE IN PEACE-BUILDING

2.1 Introduction

This chapter will discuss transitional justice in general, with a specific focus on understanding the potential for specific mechanisms to instigate and enable peace-building in post-conflict contexts. Starting by defining transitional justice, the chapter briefly discusses five different pillars of transitional justice and its potential to promote reconciliation. Finally, it presents a number of different views on the effectiveness of transitional justice.

2.2 Background and definition of transitional justice

Transitional justice is primarily linked to human rights as understood by the International Human Rights Project (Nagi 2008: 658; Mutua 2015: 2). The concept of transitional justice can be traced back to the years following the Second World War when tribunals in Europe and Asia started to judge war crimes otherwise known as crimes against humanity (Chitsike 2012: 1). More recently, transitional justice has been linked with the end of the Cold War in the early 1990s and the coming of the democratization process (Anders and Zenker 2014: 395). With the advent of democratization, many Latin American and African countries went through the challenge of how to deal with past autocratic regimes which had committed widespread human rights abuses (Anders and Zenker 2014: 398). At that time, transitional justice debates focused on the advantages and disadvantages of each country's transactional process, which ranged from granting of amnesty to old dictators, to truth commissions and court trials (Anders and Zenker 2014: 399).

In Latin America, as in multi-party democratic Africa, the dilemma, therefore, was around the need to maintain peace by giving amnesty to old political and socio-economic criminals who could potentially bring their countries back to the old dark ages, and the need to fight impunity by persecuting these criminals – a debate which was, at least in theory, balanced by the introduction of Truth Commissions (Anders and Zenker 2014: 399)

But what is transitional justice? To begin with, it is acknowledged that there is no single agreed-upon definition of transitional justice (Nagi 2008: 276). According to Forsythe (2011: 555), regardless of the nature of the background to the conflict, the aim of transitional justice is to prevent the repetition of past atrocities by working on new policies and revising corrupt public institutions, ensuring protection

for all, providing reparation to victims, knowing the truth about what happened and refining the judiciary.

Thus, to use Dyzenhaus' (2012: 183) analogy, the idea of transitional justice "assumes that the issue is to escape from the legacy of T1 (the bad regime) by addressing it in T2 (the transitional regime) in order to get to T3 (stable, liberal democracy)". Therefore, transitional justice deals with the T2 stage, during which a number of gross human rights abuses and injustices perpetrated in T1 must be addressed to ensure that the country finally gets to the stable stage. And, because some elements in the previous autocratic government might still exist and be holding onto a great deal of power, and are thus able to pull the country back to the old system — especially if they feel threatened by changes taking place in the transitional period — it might be prudent, for the sake of peace, not to promote punitive measures against them (Dyzenhaus 2012: 183), but perhaps pursue more 'restorative' forms of justice. While it is hard to have one definition which faithfully represents the concept of restorative justice, it can be said that it is an idea whereby, *"those with a stake in a crime (typically a victim, an offender, and their supporters) come together to discuss the offence and its impact, and they decide what to do to 'repair the harm' to the victim and perhaps also to a larger collectivity"* (Daly 2002).

Therefore, if the legacy of the South African transitional justice experience is anything to go by, transitional justice calls for Restorative Justice as an alternative theory for the kind of justice required for criminals in the regime pre-transition (Dyzenhaus 2012: 183). As such, transitional justice is cynical to a "winner-takes-all approach" and ensures, from a post-tyrannical government context, justice to the oppressed while securing a place in society for the oppressor, thereby trying to strike a balance between avoiding impunity without advocating for revenge (Mutua 2015: 2).

The United Nations (2004: 4) has defined transitional justice as comprising,

the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.

Therefore, the Office of the United Nations High Commissioner for Human Rights (2009: 2) understands the ambition of transitional justice to be that of transforming "oppressed societies into free ones by addressing the injustices of the past through measures that will procure an equitable future." The

dimension of looking back to the past in order to shape a future which assures both the oppressed and the oppressor becomes an important agenda for transitional justice.

It is clear from the few examples above that transitional justice is not necessarily understood the same way by all, at least if we take note of the details of each definition. What seems to be commonly agreed is that transitional justice applies to post-conflict situations in need of a special justice system, an idea which seems to suggest that Restorative Justice is for transitional and not liberal democracies (Dyzenhaus 2012: 183). The second idea which seems to be commonly shared is that transitional justice claims that it is important for post-conflict countries to retrieve truth, to compensate victims of past conflicts, and to reform public institutions which perpetrated injustice if these societies are to achieve reconciliation (Lemaitre and Sandvik 2014: 244).

However, what should not be assumed is that scholars agree on the effectiveness of the transitional justice process to achieve peace and stability. Before considering this argument in detail, an overview of the important pillars of transitional justice is in order.

2.3 The pillars of transitional justice

Chitsike (2012: 4) argues that, generally speaking, transitional justice focuses on five pillars, namely: “truth seeking and fact-finding; trials; reparations; institutional reform; and memorialisation.” Along the same lines, Impunity Watch identifies four pillars: “Truth, Justice, Reparation, and Non-Recurrence (TJRNR)” while the memorialisation (identified as a fifth pillar by Chitsike — and the Institute for Transitional Justice, for that matter) speaks to each one of them (Impunity Watch 2015: vii).

2.3.1 Truth recovery

The truth can be recovered through different means, including commissions of inquiry, truth commissions, justice proceedings, historical re-writing commissions, research activities and reports, and others. The Office of the United Nations High Commissioner for Human Rights (2006d: 1) explains that, although truth commissions are not intended to replace the need for prosecution, they do offer some degree of accountability for past atrocities, especially in situations where mass prosecutions are not practically possible.

The need for truth commissions in post-conflict countries is explained by the fact that the public have the right to have information on past crimes and the circumstances under which these crimes were committed. It is also an opportunity for the victims to have a space to be listened to. Truth commissions also help to build consensus on contested views, while they work, for example, as a

preventive tool to avert repetition of crimes by recommending institutional reform (Office of the United Nations High Commissioner for Human Rights 2006d: 1-2). Chitsike (2012: 5) argues that, “truth-seeking and fact-finding is an essential element of transitional justice because, if left untouched, past violations have the potential to undermine a new government and to reinforce the efforts of those determined to bring a repressive government back into power.”

The truth commission is an “official body, supported by either an international body or the government, that has a mandate to investigate all human rights abuses that took place in a certain country in the past. In addition, it must publicly report its findings on a specified date” (Allan and Allan 2000). Like a tribunal, truth commission enquiries rely heavily on the testimonies of victims and perpetrators in a process which either compels or asks them to volunteer to give those testimonies (Allan and Allan 2000: 460).

A study on the link between the “publicness” of truth commissions and the democratization process in post-conflict countries revealed that the more public truth commissions are, the more they have a positive influence on the democratization process (Taylor and Dukalskis 2012: 681).

However, what is less clear is whether or not truth commissions lead to reconciliation (Office of the United Nations High Commissioner for Human Rights 2006d: 2). Ware (2014: 4) does not think truth commissions have been successful, especially in circumstances where the former perpetrators are still powerful and coexisting with their victims. In fact, she does not even believe that truth and justice are always a pre-requisite to peace, especially in the African context (Ware 2014: 4). She thus suggests that anyone advocating for truth commissions in Africa runs the risk of having a commission which will simply fail or even make things worse — because, in most cases, truth commissions’ findings and recommendations are not acceptable to one side or the other (Ware 2014: 18). Despite these criticisms, however, the South African Truth and Reconciliation Commission was an important tool that contributed to the healing of individuals, especially where these individuals embraced a Judeo-Christian culture and African traditional values (Allan and Allan 2000: 475).

It seems to be agreed by the international community that truth recovery is very important and has the potential to unlock a promising future, especially in terms of ensuring non-repetition of past atrocities. For this reason, the right to know the truth is not just a good moral obligation for post conflict societies, it is a right coded and acknowledged by international law,

including Article 32 of Protocol I of the Geneva Convention that establishes ‘the right of families to know the fate of their relatives’ and also Article 24 of the 2006 Convention for

the Protection of All Persons Against Enforced Disappearances culminating in the International Day for the Right to the Truth of Victims of Gross Human Rights Violations and for the Dignity of Victims, inaugurated by the United Nations on March 24, 2011 (Sarkin 2015: 124).

Therefore, the advantage of truth recovery and the truth commissions is their ability to provide alternative and possibly collective stories to the legal and official oppressors' narratives (Impunity Watch 2015: 19) that hide past injustice enforced upon the victims by these oppressors. This, of course, can only work where there is the political will from all actors to implement the change and embrace democratic principles. And, since recovery of both truth and justice are complementary, it makes sense to analyse what justice (as another pillar in transitional justice) is.

2.3.2 Justice and trials

As a peace-building student, not a law student, I limit my legal analysis to how justice issues interact with peace. The underlying issue here is whether post-conflict governments should proceed to prosecute former criminals once their identity and criminal acts have been revealed. Could the fear of prosecution negatively affect peace-building, as former criminals might try to resist change and bring the country back to its former state?

The Office of the United Nations High Commissioner for Human Rights (2006c: 1) states that prosecution is a very important component to transitional justice as it ensures there is no impunity for perpetrators of gross human rights abuses. However, there is a danger that prosecutions could be motivated by vengeance (Office of the United Nations High Commissioner for Human Rights 2006c: 3) and, therefore, prosecution should not be an opportunity for the new power-holders to punish the former ones.

A paradox which transitional justice must deal with is that, sometimes, the former persecutors are the ones driving change and administering prosecutions (Mutua 2015: 2). In this case, punitive justice sometimes becomes a lost game before it is even played out. It seems logical to say, therefore, that even if retributive justice is important, political concessions need to be made in order to assure both the victims and the perpetrators of a place in the new society (Mutua 2015: 2). The concessions are often made as a sacrifice for peace, as less assured perpetrators still have the power to put the system on hold. Furthermore, an issue is frequently raised as to who really profits from prosecutions and especially the role which they play in improving the lives of the victims (Mutua 2015: 5).

The prosecution of massive international crimes like genocide, war crimes and crimes against humanity has become a global concern, such that international courts were created to deal with such crimes (Roht-Arriaza 2013: 383). Whereas mechanisms of international criminal justice have been viewed positively by some, not least considering the fact that many post-conflict countries lack an adequate justice system to deal with past crimes, a number of scholars have raised serious misgivings about their impact. Dissatisfaction with the international justice apparatus ranges from it taking too much time and resources but achieving little and overshadowing and replacing the local justice infrastructure (Roht-Arriaza 2013: 383), to its being politicised, as it is seen to target African leaders (Guardian 2017).

The Guardian continues to say that, “The trust which African governments have in the international justice system has been lacking to such an extent that a number of African countries such as Burundi and Kenya are threatening, or have started the process, to withdraw from the whole process, while some voices have been calling for the African States to withdraw *en masse*. This is affecting the credibility of elements of the International Justice system such as the International Criminal Court (Leathem 2015: 3). The unsuccessful prosecution of the Kenyan President and his Vice President, and the clear resistance by African states (recently South Africa and Rwanda, for example) to arrest the Sudanese President, is a clear sign of such a divorce between African leaders and the international justice headquarters at the Hague (Leathem 2015: 2).

It is not always easy to evaluate the added effect of retributive justice against former human rights criminals. Beyond prosecuting criminals and locking them up, the major issue here is to change a former culture that tolerated oppression into a new one that upholds human rights values (Daly 2001: 74). As such, prosecution all too often does not profit the victims but ends up becoming a good opportunity for society to take revenge against the perpetrator (Mutua 2015: 5). The report of the African Union Panel of the Wise (2013: 11) argues that this dilemma comes up as a result of a misconception of the peace process to narrowly mean ending violence while viewing justice in its retributive sense. Once well defined, peace and justice are complementary.

Therefore, it seems what is critical to transformation and, hence, to peace-building is the ability of every state to contextually design the kind of justice that fits it (Daly 2001: 78) and to ensure a society where victims and their oppressors can look forward to building a new and just society.

2.3.3 Reparation

Reparation is often aimed at acknowledging that the harm done to victims under oppressive regimes is unacceptable, and that perpetrators should be aware that their actions have consequences (Chitsike 2012: 5). It is internationally accepted that victims have the right to reparation, which can take the form of compensation, rehabilitation, restitution and reparations (Chitsike 2012: 5). The Office of the United Nations High Commissioner for Human Rights (2008: 7) has categorized reparations as follows:

1. *Restitution*, which refers to the effort of restoring the victims to their original state, including the recovery of one's original property, identity, citizenship, and other rights;
2. *Compensation*, which has to do with some economic token given to victims who lost opportunities to build their lives and who endured moral damage;
3. *Rehabilitation*, which includes "medical and psychological care as well as legal and social services";
4. *Satisfaction*, which is "a broad category of measures, ranging from those aiming at a cessation of violations, to truth-seeking, the search for the disappeared, the recovery and reburial of remains, public apologies, judicial and administrative sanctions, commemoration and memorialisation, and human rights training"; and
5. *Guarantees of non-repetition*, which basically looks at institutional reform.

Reparation, therefore, is an effort to bring together justice and the needs of victims — in other words, to create a form of victim-centred justice (Office of the United Nations High Commissioner for Human Rights 2008: 2). As such, reparation — if done carefully — stands the chance of having a direct, immediate and positive impact on the victims (Office of the United Nations High Commissioner for Human Rights 2008: 3). However, one of the major challenges with reparation has to do with how victims are identified. The modalities of qualifying who is and who is not a victim are often found wanting: for instance, it has been a significant issue in the Tunisian reparation programme (Carranza 2015).

What should be noted is that no single form of reparation can satisfy the victims, the reason being that a combination of different forms of reparation may be required to deal with the victims' pain to a certain degree (United Nations: Security Council 2004: 19). At the end of the day, there is a sense in which reparation remains a symbolic explanation of the recognition of the dignity of victims.

2.3.4 Institutional reform

Following past conflicts, a new government typically inherits dysfunctional public institutions that are generally oppressive and corrupt, and that cannot facilitate the transition to a stable democracy. Institutional reform, therefore, aims at rebuilding trust between the public and the new governmental institutions. Institutional reform covers such initiatives as revising or redrafting the legal framework in response to oppressive or discriminatory former laws, rebuilding the judiciary and reforming the security sector (which are the main institutions used by former oppressors against their victims), and vetting aimed at removing individual oppressors from public office (Chitsike 2012: 5). The major impact of a successful institutional reform is basically the assurance of non-return to former dictatorship practices by having more fair and efficient public institutions capable of supporting the transition process to democracy (Office of the United Nations High Commissioner for Human Rights 2006a: 3).

The institutions affected by oppressive regimes might also include civil society organisations. These organisations are often too exhausted, or do not physically exist in the country having been forced into exile, and need to be re-energized (Office of The United Nations High Commissioner for Human Rights 2006b: 5). On the other hand, international non-governmental organisations (INGOs) have been criticized for bullying smaller NGOs to implement their own agenda which, in turn, originates from the INGO's sponsors who are mainly the western world (Seba 2014). During transitional justice, the place which civil societies hold is very important, and can be very influential in shaping the direction of the process. The question which must always be asked is whether they are representing the people's interests or whether they are serving the donor's agenda (Hovil and Okello 2011: 334).

2.3.5 memorialisation

memorialisation aims at honouring and commemorating the dignity of victims, both living and dead, who struggled against the old oppressive regime in order to help with the national healing process and the re-defining of the historical narrative of the oppressor (Chitsike 2012: 6). Impunity Watch (2015: 17) defines memorialisation

to mean any activity that aims to commemorate or enhance understanding of a conflictive past, including – but not limited to – the erection and maintenance of memorials and monuments, the operation of museums and exhibits, traditional ceremonies and rituals, musical and theatrical performances on relevant topics, the running of educational, awareness-raising, dialogue and remembrance programmes, the teaching of history, and the gathering and preservation of information.

memorialisation activities can lead to many advantages, including enlightening the public regarding the truth about past atrocities, constructing a new national identity, addressing structural violence, educating the public in ways that encourage non-recurrence, while at the same time, fighting against impunity, and creating space for public dialogue (Impunity Watch 2015: 17).

memorialisation, therefore, is naturally complementary to the reparation of victims as it can be seen as a symbolic and collective reparation to the victims (Impunity Watch 2015: 22). As such, memorialisation, and especially collective memory, is now recognised as a tool that can help societies learn how to deal with their difficult and violent past in order to move on to the more positive future of a reconciled nation (Barsalou 2014: 5). Therefore, memorialisation becomes a “historical claim that speaks to present space” (Impunity Watch 2015: vi).

2.4 Reconciliation

It is assumed that a fully implemented transitional justice process leads the nation almost automatically to reconciliation. For example, truth commissions in a number of countries have been set up with an assumption that they will drive the nation into reconciliation – that is, knowing the truth about the past directly leads to reconciliation as the oppressor acknowledges the harm they imposed upon the victims (Office of the United Nations High Commissioner for Human Rights 2006d: 2).

This argument underlines that, for any post conflict society to move forward, it must understand that reconciliation is based on a shared belief that unjust relationships must be dealt with, because “justice is written into reconciliation’s DNA” (United Nations Development programme 2015: 6). In recent years, international diplomacy has been urging warring parties to end conflicts through negotiated settlements – a situation which led to serious debate about whether peace and justice objectives can genuinely be met in such contexts (African Union Panel of The Wise 2013: 10). The dilemma comes about as former perpetrators demand immunity as a pre-requisite to stopping violence and having peace and reconciliation (African Union Panel of The Wise 2013: 10). Ware (2014: 4) goes even further, and states that the business of reconciliation is religious and has a meaning only for people who have faith — and especially the Christian faith.

Yet in reality, reconciliation is an extremely difficult concept to define. Weinstein (2011: 6) says that, “the problem lies in the multiple meanings of an imprecise term.” He goes on to say that what makes reconciliation a difficult concept to understand is the questions it raises. That is, questions around the subjects of reconciliation, the time that reconciliation takes (is it an event or a process?), and other

concepts that go with it, including restorative justice and forgiveness. He concludes by saying that trying to define what constitutes reconciliation is “searching for a concept that defies clarity” (Weinstein 2011: 7). It is clear that Weinstein (2011: 8) is very sceptical concerning the possibility of setting reconciliation as a goal in any project. Indeed, he calls this, and other concepts like closure, illusions and myths, not worth spending energy and money on.

Considering Weinstein’s argument, there is need to find a definition and understanding of reconciliation that takes into account the many confusions attached to this concept. The United Nations Development programme (2015: 9) rightly argues that, “Focused on building just relationships between erstwhile enemies, the concept of reconciliation ... is about transforming relationships between people and groups in society, as well as between society and the state, towards a future goal based on political, social and economic inclusivity and fairness.” Therefore, reconciliation is,

fundamentally future oriented (although not to the exclusion of dealing with crimes of the past), justice oriented (though not to the exclusion of providing for accommodation, negotiation and compromise between enemies), gendered (though not to the exclusion of other identities), locally-owned (though not to the exclusion of international engagement) and comprehensive, that is multi-agency, multi-levelled, and multi-phased (though not to the exclusion of a clear, focused understanding of reconciliation across these areas of engagement) (United Nations Development programme 2015: 5).

2.4.1 Reconciliation in the South African Context

It is important to turn to the reconciliation agenda in the context of South Africa. This is necessary because the South African reconciliation experience has influenced, to a great extent, a number of African countries’ truth and reconciliation commissions. Specifically, this was the case for the Burundian Truth and Reconciliation Commission, which resulted from the 2000 Mandela-led Arusha Peace and Reconciliation Accord (Republic of Burundi 2000).

If the South African experience is anything to go by, Nelson Mandela’s reconciliation agenda was based on the understanding that the future of the oppressor and the oppressed were interdependent and, therefore, that the country needed to achieve justice for all (Du toit 2015: 4). The South African Truth and Reconciliation Commission was set up in order to deal with the apartheid atrocities which ranged from racial oppression, torture, massacres and forced disappearances to economic deprivation (Reta 2017: 398-399). One of the mandates of the Commission was to promote “national unity and reconciliation in a spirit of understanding which transcends the conflicts and divisions of the past” (Reta 2017: 399).

In South Africa, some commentators give credit to the Truth and Reconciliation Commission (TRC) for establishing the truth of what happened by allowing the victims to give testimonies, and by inviting perpetrators to disclose the truth on condition of amnesty (Van Zyl 1999: 657). Therefore, knowing the truth about the wrongs that happened and building national consensus that these were wrong and that they should never happen again was one of the many achievements of the TRC (Van Zyl 1999: 658). To this is added the fact that the work of the South African TRC contributed to the building of a democratic South Africa with strong democratic institutions as it played a delicate role between the “morally ideal and the politically possible” (Jardine 2010: 18, 63).

However, the South African TRC has also been criticized on a number of issues, in particular, its inability to address the economic disparities inherited from the apartheid era. Miller (2008: 277) says that the TRC did not meet the expectations that this institution would foster social justice and economic redistribution in order to acknowledge the illegitimacy of apartheid and the “collective responsibility of the apartheid privileged.” Transitional justice has “historically excluded issues of economic inequality, structural violence, redistribution and development,” possibly because of the partial understanding of conflict origins, the failure to imagine structural change due to the focus on reparation, and the possibility for renewed violence following the inability to address the place of inequality in violence (Miller 2008: 266). Miller argues that, “to effect a binary separation between the economic and justice realms by barring discussion of the former in the latter reveals a particular politics practised in the constitution of the new post-transition state” (Miller 2008: 267-268).

Likewise, the 2013 SA Reconciliation Barometer Survey (Wale (2013: 7) calls for a radical reconciliation that focuses on the relationship between economic inclusion and reconciliation. For this to happen, economic justice, the vectors of exclusion such as race and class, and the divisive nature of political parties, must be tackled.

Two years later, the 2015 Reconciliation Barometer report (Hofmeyr and Govender 2015: 1) then argued that, “while most South Africans agree that the creation of a united, reconciled nation remains a worthy objective to pursue, the country remains afflicted by its historical divisions.” Among the factors accounting for this division is income inequality, where a majority of those who were disadvantaged under apartheid remain poor. It is important to highlight some of these key findings in this report (Hofmeyr and Govender 2015: 1):

- South Africans generally believe that the country has made progress on the road to national reconciliation since the end of apartheid (59.2%), and are convinced that the country has to continue to pursue it as a national objective (69.7%);
- Most, however, believe that this objective will remain impossible for as long as those who were disadvantaged under apartheid remain poor. Inequality remains the most frequently mentioned source of social division within South Africa;
- A majority of respondents (61.4%) feel that race relations since 1994 have either stayed the same or deteriorated. Only 35.6% of the sample indicated that they experience no racism in their daily lives. Moreover, trust between the country's historically defined racial groups remains low – 67.3% of all respondents noted that they have little to no trust in their fellow citizens of other racial groups.
- Most inter-racial interaction between South Africans occurs in public spaces, such as places of work and study and shopping centres. Interaction in more intimate spaces, such as private homes and social or communal gatherings, is limited. Citizens who are materially better off report higher levels of inter-racial interaction than those who are worse off;
- Although South Africans primarily associate with their own race and language groups, 75.5% of respondents noted that they regard being South African as a very important part of their identity;
- Most respondents (71%) believe that it is important to strive for the creation of a united South African nation.

Two years later, in 2017, the Reconciliation Barometer reported that South Africans still believed that the Truth and Reconciliation Commission set a strong ground for reconciliation, but they still felt that poverty resulting from the economic injustices remains the major hindrance to reconciliation and that “the most divisive aspects of apartheid-era laws – namely, racial segregation and socio-economic divisions – persist as divisions today” (Potgieter 2017: 24).

This picture shows how complicated and elusive reconciliation can be, and that it can be very difficult to blame the lack of reconciliation only on the Truth and Reconciliation Commission. For example, the TRC recommended reparations and the prosecution of those who committed human rights abuses and who did not ask for forgiveness, but the government chose not to follow up on these recommendations. Some believe that the South African political context at that time forced the government to accept some form of amnesty — thereby being content with just the public shaming of the perpetrators (Van Zyl

1999: 661-662). Hence, amnesty was granted despite the fact that some victims could not come to terms with this kind of arrangement (Van Zyl 1999: 663). Thus, the reasons for a lack of progress in reconciliation may lie with the South African government rather than the TRC process itself.

2.5 Transitional justice and its effectiveness

Transitional justice is criticized for equating stable societies with non-transitional ones yet, in fact, every society is in transition in one way or another (Dyzenhaus 2012: 183). Dyzenhaus (2012: 184) questions the effectiveness of ascribing a specific theory of justice to every society trying to successfully shift to stable democracy and lasting peace.

The Sudanese scholar, Abdullahi Ahmed An-Na'im, does not hide his discontent with transitional justice in Africa, particularly Sudan. In his view, the major assumption behind transitional justice is that the society under examination from the international community is on a journey moving from state A to state B by maintaining an acceptable level of justice as understood by this international community (An-Na'im 2013: 197). Therefore, the ultimate purpose of those who work with and promote transitional justice is to promote a certain level of acceptable justice as they transit to their standardised justice brand capable of facilitating a peace agenda (An-Na'im 2013: 197). He concludes by saying that the major problem with transitional justice is that it is dictated from outside and ignores the possibility of a home-grown justice process (An-Na'im 2013: 197). He believes that transitional justice, as practised in many African states, is nothing less than "neo-colonialism," which takes the local justice process as a barrier to the grand "modernizing" mission of the west aiming to bring every other society to adopt the kind of justice acceptable to the "international community" (An-Na'im 2013: 197). Therefore, the final legacy of transitional justice as practised in many former western colonies, could be that everybody will conform to this universal justice model in a way reminiscent of former colonialism, and which intentionally kills the local initiatives (An-Na'im 2013: 198).

Likewise, Ware analysed the experiences of truth commissions in different African countries following the famous Truth and Reconciliation Commission in South Africa. Her conclusion is that the truth commissions, basically, could not deliver because they relied on international support, advanced an unrealistic religious-influenced promise of reconciliation, and raised high expectations for reparation which they could not fulfil, while naively claiming that truth and justice are a prerequisite to lasting peace (Ware 2014: 18). Therefore, the truth commission as experienced in South Africa is a unique experience (whose success can still be questioned) and cannot be reproduced in a different context (Ware 2014: 18).

Gready and Robins (2014: 340) qualify the results of transitional justice as ambiguous and disappointing. They suggest the move from transitional justice to transformational justice, which they define as, “transformative change that emphasises local agency and resources, the prioritisation of process rather than preconceived outcomes, and the challenging of unequal and intersecting power relationships and structures of exclusion at both the local and the global level.”

Transitional justice has not just been under attack: others, like Fischer, see its role as more positive – indeed, as vital. Fischer argues that for any post-war society, it is imperative to go through legal and judicial accountability, recover the truth, compensate war victims, reform the institutions involved in the past atrocities, and restore trust in order to foster relation-building and healing (Fischer 2011: 422). International organisations such as the Institute for Justice and Reconciliation, believe that transitional justice as involving “truth telling, criminal trials, reparations and guarantees of non-recurrence, memorialisation, and institutional reform” is essential for lasting peace (Ngari 2012: 3).

Nagy (2008: 275) believes that transitional justice “entails an insistence against unwilling governments that it is necessary to respond to egregious violence and atrocity” while it (transitional justice) offers a framework for the international community to assist new and fragile governments to deal with difficult and violent pasts and to usher their countries into stable democracy. The African Union Panel of The Wise (2013: 4) recommends that the African Union “should guarantee that transitional justice issues are at the centre of the new continental legal architecture, with special attention focused on the right to truth, justice, and reparation.”

2.6 Summary and conclusion

What is clear, therefore, is that scholars agree that there is something broadly referred to as transitional justice that many post-war (and post-authoritarian) states go through in order to stabilize their democracy and build long-lasting peace. They agree (with some differences) that transitional justice covers both truth recovery and some form of justice (whether restorative, punitive or both), memorialisation, and reparation and that some countries have opted to remove one component or two depending on the context (Ware 2014: 18). What they do not agree on is the effectiveness of transitional justice as a process of bringing peace and stability in post-war states. I believe that the challenge to the effectiveness of transitional justice resides in its contextualisation. Countries are either not free, or are unwilling, to work out a transitional justice brand that responds to their needs. Whether one calls it transitional justice or transformational justice, what matters a great deal is for the post-

conflict society to find a way to build a just community and fair institutions capable of re-inventing themselves to the satisfaction of all the genuine needs of the different groups of that society.

This chapter has argued that there is no agreed-upon single definition of transitional justice. The major idea behind most definitions is that transitional justice involves different steps which post-conflict countries go through as they journey towards stable democracy. Therefore, depending on the context, a country may need to work on issues of truth recovery, justice, reparation, institutional reform and memorialisation. The major aim (at least in theory) of transitional justice is therefore to avoid repetition of human rights abuses and assist in building a reconciled and just community looking forward to a nation where the former victims and oppressors have space to build their nation. The following chapter will evaluate transitional justice in Burundi, and the role which it has played in peace-building over the last few decades.

CHAPTER 3: TRANSITIONAL JUSTICE IN BURUNDI AND ITS ROLE IN PEACE-BUILDING

3.1 Introduction

In light of the transitional justice literature outlined in the previous chapter, the following chapter will focus on the potential for transitional justice in the Burundi context. The chapter will give an historical overview of the conflicts in Burundi with a view to arguing that there is a need for some level of transitional justice process in this country which has been plagued by successive civil wars. In particular, the chapter discusses the pre-colonial conflict context in Burundi and develops the discussion towards showing the impact of colonialism in shaping tribalism in the country. The discussion then analyses the post-colonial socio-political development, and considers how Burundian politicians engaged in ethnically charged politics which had a major and permanent impact on the lives of ordinary Burundians. The attempt to introduce democracy and how this impacted on Burundian ethnic groups is also given consideration. The chapter concludes by evaluating the challenge of transitional justice in Burundi.

3.2 Historical overview of the conflicts in Burundi

Burundi is one of the poorest countries in the world. It is landlocked between Rwanda to the North, Tanzania to the East and South, and the Democratic Republic of Congo to the West. With the highest population density on the continent, Burundi is inhabited by around 11 million people, most of them youth and children, while 90 % of the population lives in the rural areas.

For most of its post-independence history, Burundi has been dominated by a struggle for political power between the Hutu majority (about 85%) and the Tutsi minority (about 14%) while the Twa (1%) played a less important role. The Tutsi dominated most of the pre- and post-independence social, economic and political management of the country, while the Hutu struggled to get to power. Most attempts by the Hutu to come to power were violently crushed by the exclusively Tutsi army which carried out repression targeted at the Hutu population. But, in order to understand the conflicts in this country, it is important to go back a few decades before independence.

3.2.1 Pre-colonial period: A kingdom with harmonious co-habitation?

Pre-colonial Burundi was a kingdom with a powerful monarch from the Baganwa¹ clan at the top, harmoniously heading up a kingdom with all of the three tribes worshipping the same God (Imana),

1. ¹ The Baganwa have been claiming to be a 4th ethnic group alongside Hutu, Tutsi and Twa. To a large extent, they have been progressively assimilated with Tutsi and are seen as a sub-set of the Tutsi group

having the same culture, speaking the same language (Kirundi) and sharing life in the same neighbourhood (Mpawenimana and Oladimeji 2015: 298). It is largely believed that the pre-colonial differences, if any, between these three ethnic groups were based on socio-political and economic issues, and not cultural or ethnic ones (Mpawenimana and Oladimeji 2015: 298).

Therefore, Mpawenimana and Oladimeji (2015) explain that pre-colonial Burundi was organised harmoniously with resources equally distributed and people lived off subsistence agriculture with the king as the symbol of unity and the mediator between Burundians and God and, therefore, administering land, cows, riches, justice, peace, and so on. on behalf of God to all Burundians (Mpawenimana and Oladimeji 2015: 301).

Similarly, Lemarchand (2002) argues that pre-colonial Burundian society had a royal family with absolute power, while the three ethnic groups were equally involved in the social and political life of the country, without any single tribe being given a privileged status. He concludes that, apart from political conflicts between the two royal sub clans (*“Abatare”* and *“Abezi”*), it is an incorrect reading of history to think of tribalism in pre-colonial Burundi, which hardly reported any ethnic conflict (Lemarchand 2002).

Nevertheless, Ndarubagiye (1996: IX-XIV) blames the Burundian conflict on the systematic Tutsi mismanagement of the country in a way that methodically excluded Hutus well before the colonial period. He mentions the example of the feudal system, where a system of land and cow clientship existed in which the king (and later Tutsis) would give land and/or cows² to Hutus (and their descendants) who would then swear eternal allegiance to their new master (Ndarubagiye 1996: 17). It is this feudal system which gave the Tutsi minority an upper hand over the majority Hutu (Wingert 1974: 22-23).

Mbazumutima (2007: 25) believes that, while colonialism cultivated and popularised the Hutu/Tutsi conflict, its roots lie well before the coming of colonialism. In particular, he believes that the feudal system, which many qualify simply as a socio-economic arrangement in this society, has a degree of ethnic manifestation simply because this political and socio-economic bargain was between the two major ethnic groups – Hutu and Tutsi (Mbazumutima 2007: 28). However, he agrees that this ethnic inclination did not exist to the degree that ethnic confrontations were experienced (Mbazumutima 2007: 28).

² The cow and land were the only signs of wealth in the Burundian society

Therefore, we can conclude that the ethnic balances in the management of the country were well administered by the king and that any important conflicts resulted from colonial manipulation, as we shall discuss in the following paragraphs.

3.2.2 Colonisation of Burundi: The Hutu-Tutsi antagonism shaped

With the coming of the Germans in 1890, and then Belgians from after the First World War until 1962 (a date which coincides with the independence of Burundi), political conflicts with ethnic dimensions widened. When the Germans arrived, they found a very well-organised kingdom with a society which was gradually being structured into socio-economic classes (Mbazumutima 2007: 29). They, and later the Belgians, adopted indirect rule – a policy which reinforced the power of the elite over the majority Hutu peasants (Mbazumutima 2007: 29).

The political signatories of the Arusha Peace and Reconciliation Agreement for Burundi, Protocol I, chapter 1, article 2 argued that the colonial masters introduced the “divide and rule” system which condemned Burundian society to a racist vision based on unrealistic physical characteristics; privileged some groups (Tutsi) over and against the other groups (Hutu and Twa); introduced identity cards based on ethnic background; destroyed cultural values which were sustaining national unity; and sought to systematically pit ethnic groups against one another, especially on the eve of independence (Republic of Burundi 2000). The Tutsi were classified by colonisers and missionary ethnographers as intelligent and with exceptional leadership qualities and, therefore, were placed by them at the top of Burundian society, being followed by Hutu Bantu peasants and the Twa pygmies respectively (Gahama 2002: 4).

Furthermore, Ndikumana (2005: 415) argues that one possible explanation of the Hutu-Tutsi antagonism is the introduction of ethnicity as a determining factor for accessing power. He points out that the 1929 Belgian reorganisation of the territorial administration resulted in Hutu being marginalized in politics and administration (from 20% of Hutu in 1929 to 0% in 1945) – a context which was not fundamentally changed after independence, and which was consolidated after the 1972 Hutu massacres (Ndikumana 2005: 415). Ndikumana takes care to clarify that the problem is not just ethnic, but political, as the southern Tutsi and Hima³ politicians exploited ethnic identity to obtain power and exclude others, while

³ The Hima is a clan within the Tutsi ethnic group. This clan is known to have taken power from the king in the 1960s and, therefore, ran the country on two divisive principles: tribalism (which put the Tutsi in general and the Hima in particular at the top of the management of the country) and regionalism (which privileged Bururi Province-South over other regions).

those left outside power activated ethnic solidarity in order to accede to power and, therefore, ethnicity ended up being used as a means to an end (Ndikumana 2005: 415).

Gahama (2002: 5) went further and explained that this injustice against the Hutu majority was anchored in education, as only the royal family and Tutsi children were sent to the prestigious school which prepared administrators and civil servants, thus forming a Tutsi elite which looked down upon the Hutu and Twa who, in turn, were expected to offer blind obedience. The following table by Lemarchand (2002) represents the admission of students from different tribes, both Rwandan and Burundian, to the “*Groupe Scolaires d’astrida*” between 1946-1954. (My own translation from the French):

Table 6.1 Students admissions per tribe at the prestigious school of Astrida-Rwanda between 1946 and 1954

Year	Tutsi	Hutu Rwanda	Hutu Burundi	Congolese
1946	44	1	8	
1947	42	2	10	
1948	85	2	11	2
1949	85	5	9	
1953	68	3	16	
1954	63	3	16	3

Burundi became a typical example of how injustice and unequal distribution of resources can easily lead to unprecedented violence (Uvin 1999: 253). It is simply because the discrimination was done along ethnic lines that violence took ethnic colours too (Uvin 1999: 253). Thus, post-independence Burundi would inherit this virus.

3.2.3 Post-independence Burundi: The hardest test for nationalism and democracy

The ethnic struggle for power continued even after independence, and it seems Burundians failed to deliver themselves from the snares of ethnic hatred and domination. Although both Hutus and Tutsis united behind Rwagasore – the independence hero – in order to fight for independence, this unity did not last long after his assassination in 1961, which is believed to have been orchestrated by the colonial masters unhappy with losing their Burundi colony.

In 1965, three years after independence, Hutu politicians who were possibly encouraged by the Rwandan model,⁴ organised an unsuccessful coup against the monarch and, consequently, many Hutu elites and politicians lost their lives while the Tutsi politicians consolidated their military and political power in the subsequent years. The whole context led to mutual hatred between the two communities (Gahama 2002: 6).

On 28th November 1966, the first republic was established after a successful Tutsi (Hima) coup against the monarch and, thereafter a government, a territorial administration, and an army with an overwhelming Tutsi majority from the south, were established (Lemarchand 2008: 2). UPRONA (*Union pour le Progrès National*) became the only party, and ruled the country through the “*centralisation*” of the economy and the political system, and “*penetration*” in order to control the masses to the lowest level (Ndikumana 2005: 416-417). Lemarchand (2008: 2) explained that the 1965 and the 1969 crises left the “Hutu leadership virtually decapitated.” Therefore, this serves as background to the 1972 Hutu mass killings in Burundi.

3.2.4 1972 Hutu massacres: A reference for Hutu memorisation

Frustrated young and militarily less-experienced Hutu organised a rebellion in the south which lasted for several days and saw a good number of Tutsi, especially in Rumonge and Nyanza-Lac, killed (Lemarchand 2008: 3). The government retaliated with excessive force, killing hundreds of thousands of Hutus, not only in the south, but in the whole country (Lemarchand 2008: 3). Lemarchand (2008: 3-4) argues that the then Minister of Foreign Affairs, Artémon Simbabaniye, conceived a Hutu mass killing plan while high-ranked military men, together with the ruling party youth militia JRR (*Jeunesses Révolutionnaires Rwagasore*), systematically executed Hutu with additional support from the Rwandan Tutsi refugee camps.

As a result of this retaliation, 750 Hutu army officers and 300 Hutu *gendarmes* were executed by their commanders, almost all Hutu civil servants, businessmen and those at university and secondary schools were either killed or escaped to neighbouring countries, and thousands of peasants were killed or forced away to refugee camps outside Burundi (Lemarchand 2008: 5). It is estimated that between 150,000

⁴ 1959 is known as a date where Rwandan Hutu carried out what they called “the Hutu revolution” by overturning a Tutsi-dominated government. Connections have always been made between Burundian Hutu attempts to come to power with this historical Rwandan experience.

and 300,000 (mostly Hutu) were killed, while a similar number crossed the borders of Burundi, mostly to Rwanda, Tanzania, or Zaire (today Democratic Republic of Congo).

Therefore, refugees lost their land and other properties to government institutions and individuals close to government, which took them without any form of compensation in what has been described as punitive measures by the government towards the victims who were being referred to as “*abamenja*” (traitors) by their oppressors (Bambonanire 2011).

It is these lands and other properties lost at this time that form the backbone of this research. To be clear, on the 6th May 1972, a decision, RMP.48.229/OC, by a war court condemned thousands of Hutus to death and took their property in what Bishop Bambonanire (2012: 3) described as a clear manoeuvre by a section of the population (mostly Tutsi) to eliminate another section of the population (Hutu) and grab their land and other property. To use Ndikumana’s (2003: 39) words, “The apparently ‘planned annihilation’ of a substantial segment of Hutu society gave the carnage an ‘unequivocally genocidal quality.’”

The survivors of the 1970s civil war who did not flee went through an incredible amount of trauma, as in the early days of the crisis they were not informed of the deaths of their loved ones and were thus left to believe in the official government’s narrative that they were being questioned about their alleged involvement in the aborted rebellion (Mbazumutima 2012: 40). Later, it was apparent that their loved ones were killed. The orphans and widows were not allowed to mourn for their deceased, who were tagged “enemies of the nation” (Mbazumutima 2012: 41). Thus, the 1972 Hutu victims were condemned to total ignorance as to why their loved ones were killed, where they were buried, and why they were not allowed to mourn for them.

At the same time, refugees – especially those in Tanzanian refugee settlements – saw themselves as a suffering nation in exile going through “an oral trajectory of trials and tribulations that would ultimately empower them to reclaim (or create anew) the ‘homeland’ in Burundi” (Malkki 1995: 3). A future conflict was forming with those who remained in Burundi grabbing everything belonging to refugees, with the blessing of the government, while those in exile were constructing a narrative that charged them with the impulse and urgency to claim back their land. Indeed, Hutu politicians went ahead and created the PALIPEHUTU (*Parti Pour la Libération du Peuple Hutu*) – a party for the liberation of the Hutu population.

Hence, Lemarchand (2016) believes that it is the 1972 genocide against the Hutu which should be a major reference in the effort to understand subsequent crises. Along the same line of thought, Gahama (2002: 6) believes that the 1970s crisis “has remained engraved in the collective minds of the two communities,” and that it remains a major “determinant of the attitude and daily behaviour of each one of them.” Until 1976, President Micombero’s government continued to oppress the traumatized Hutu who had since shied away from reintegrating in schools which were seen as places of Hutu carnage following the killing, which had clearly targeted the Hutu elite and students.

3.2.5 The second republic and silent Hutu oppression

Micombero was replaced by his cousin Bagaza (also from the south), a change which Tita (2003: 46-47) described as “a new wine in an old bottle” and which did nothing less than consolidate the “Tutsi apartheid.” Tita explains that, during the second republic, Hutus were systematically excluded from social, political and economic decision-making processes – a context which “crystallized their ethnic frustrations” (Tita 2003: 47). It should be mentioned here, however, that Bagaza did away with the “*ubugererwa*” and “*ubugabire*” which was meant to free Hutus from being squatters and servants of Tutsi through the practice of land and cow clienthood respectively (Mbazumutima 2012: 41).

Although the Bagaza regime managed to keep the two communities from open conflict, it was by and large as a result of Hutu suppression which had continued from the 1970s. Therefore, it is believed that the factors which contributed to the 1988 violence in the north of the country (see below), just one year after President Buyoya took power, had mostly to do with these long-term unresolved Hutu frustrations which the Hutus had to endure during the Bagaza regime (Gahama 2002: 6), and which were met with high anxieties by Tutsis who feared losing power (Ndikumana 2003: 119).

3.2.6 The third republic: A difficult beginning and an attempt to restore democracy

President Buyoya⁵ came to power in 1987 at the height of a politico-religious conflict opposing Bagaza and the Catholic Church. Barely one year had elapsed when, in 1988, only in the communes of Ntega and Marangara, tens of thousands of refugees escaped to Rwanda while an estimated 15,000 Hutu once again died at the hands of the Tutsi-dominated government’s retaliation against a very small Hutu rebellion in that area (Malkki 1995: 260). This sad event put to serious test the claims by Buyoya to reconcile Burundians. This new violence, though physically confined to two communes, came as a bitter

⁵ Buyoya, like Micombero and Bagaza, came from the south – Bururi province in Rutovu commune.

reminder of a long nightmare which the Hutu had had to endure for many years. It widened the wounds which had been left unnursed for years.

In addition, 22 Hutu intellectuals wrote an open letter to Buyoya on the 22nd August 1988 in order to denounce the killings and injustice that were being perpetrated against the Hutu (Tita 2003: 55). Most of those who signed the document were subsequently either exiled or imprisoned. In 1991, a small Hutu rebellion led by PALIPEHUTU in Bujumbura was quickly disbursed by the government and it became clear to Buyoya that the journey ahead was going to be difficult.

There were efforts by Buyoya's government to reconcile Burundi through a national unity pact of non-aggression between the two ethnic groups, voted in through a referendum held on the 5th February 1991. There were also considerable efforts to improve on the educational system which allowed more Hutu students to go to secondary school, while a major effort was made to include Hutu in the civil service (Reyntjens 1993: 564-565). However, it should be mentioned that these changes were not seen in institutional reform, and the main institution which remained almost mono-ethnic was the army (Reyntjens 1993: 565). The Hutu political elite continued to fight for their socio-economic and political space and, together with the international community, pressed for a multi-party democracy which was finally accepted by Buyoya. In 1993, there was a general election which brought to power the first Hutu President: President Ndadaye of FRODEBU (*Front pour la démocratie au Burundi*). He was the first Hutu president to accede to power after overwhelmingly winning the general election. These political changes brought high hopes to Hutus in general and Burundian refugees in particular, as some of them started to repatriate (Malkki 1995: 261).

Three months later, President Ndadaye and most of his dignitaries were brutally killed by the army which was controlled by Tutsi politicians from the UPRONA (*Union pour le Progrès National*) Party, which had just lost the elections. This event triggered ethnic massacres of Tutsi by Hutus in revenge, while the Tutsi army killed hundreds of thousands of Hutus in retaliation (Agbalajobi 2009: 4). Half a million Hutu refugees crossed over the borders to neighbouring countries.

3.2.7 A decade of civil war and socio-political confusion

The crisis, which ran on for over a decade, was the longest which the country had experienced. Uvin (1999: 263) believes that, in Burundi, the cause of violence throughout history has been fear – and thereafter the urge to revenge. In the 1990s, the main reason why Hutus attacked Tutsis was fear that

the 1972 scene might repeat itself, while the Tutsi army retaliated for fear of losing power (Uvin 1999: 263).

However, perhaps besides mere fear on both sides, the real issues had to do with socio-economic and political injustice. In a situation of horizontal inequality, those from the oppressed group who feel that they have the highest productive potential but which cannot be fulfilled because of oppression, are prone to leading rebellion against the oppressive regime (Samii and West 2015: 2). Horizontal inequality refers to “a context in which groups are acutely unequal in their access to resources and opportunities” and where this inequality is “often maintained through repression, thereby inducing sentiments of relative deprivation” among members of repressed groups when they compare their situation to that of less repressed groups or to what they could achieve were repression lifted (Samii and West 2015: 2). Therefore, the Hutu elite in 1993 and the years that followed took the lead in what they called a war of freedom.

The following years were managed by successive coalition governments in which FRODEBU (*Front pour la démocratie au Burundi*) and UPRONA (*Union pour le Progrès National*) participated as it was practically impossible to organise credible elections during this extreme crisis. Meanwhile, an unprecedented civil war ravaged the country for years. Under pressure from the international community and resistance from the Hutu members of FRODEBU, it was impossible for the Tutsi members of UPRONA to hold onto power on their own. Therefore, the first post-Ndadaye government was headed by another FRODEBU President, Cyprien Ntaryamira, inaugurated on 5th February 1994 after being elected by the parliament. Even if he was believed to be capable of bringing back the Hutu pride that was lost with the killing of President Ndadaye, Ntaryamira was also killed, in the same plane as President Habyarimana of Rwanda, on 6th April 1994 after just two months in office.

The killing of these two Hutu presidents prompted the genocide in Rwanda while, in Burundi, Hutus were growing impatient and started looking for a means to create a rebellion to fight the mono-ethnic Tutsi army which was not loyal to the Hutu Presidents. This explains why, under President Ntibantunganya who replaced Ntaryamira, the international community proposed a foreign military intervention to stop the violence which President Ntibantunganya could not prevent (Tita 2003: 91). However, this military intervention was refused by the Tutsi community, while on the other side, Hutus led by Nyangoma of the CNDD (*Conseil National pour la défense de la Démocratie* – National Council for the Defense of Democracy) and another group led by PALIPEHUTU organised rebellion on two different fronts, thereby generalizing insecurity in the country (Mbazumutima 2012: 44).

3.2.8 Buyoya comes back to power

In June 1996, President Buyoya came back to power after a coup against President Ntibantunganya – an act that was interpreted as a sign that he (Buyoya) was the main character behind the killing of President Ndadaye (Ndarubagiye 1996: 88). The years following Buyoya's coup were characterized by civil war, in which the Hutu rebel groups of CNDD and PALIPEHUTU continued to oppose the government army.

It was the Arusha Peace and Reconciliation Agreement signed in 2000 under the mediation of Presidents Julius Nyerere and Nelson Mandela, and other subsequent protocols, which brought this civil war to an end by introducing the power-sharing deal among the Hutu, the Tutsi and to some extent the Twa (Nantulya 2015). However, the current government of CNDD-FDD did not participate in the negotiations that led to the Arusha Peace and Reconciliation Agreement and, therefore, did not sign it, but rather signed the Pretoria Protocol on Political and Defence Power Sharing of 2003, which generally acknowledges the validity of the Arusha Peace Agreement. Therefore, it has been clear that the current CNDD-FDD government is not always comfortable with the Arusha peace and Reconciliation Agreement, and its application has not been the easiest exercise (Vandeginste 2009a: 72.)

3.2.9 Pierre Nkurunziza wins the elections and the Arusha Peace and Reconciliation Agreement is tested

The Arusha Peace and Reconciliation Agreement was finally translated into the constitution in 2005. This coincided with the accession to power of Pierre Nkurunziza of the CNDD-FDD to serve his first term, after being elected by the two chambers of parliament. He went on to win his second term in the general elections organised in 2010, which were boycotted by the opposition after losing in the first round of local elections. However, these elections were largely acknowledged by the international community as free and fair. During President Nkurunziza's first two terms, many refugees came back to Burundi and found that their land and other property had been taken away – a situation which sparked off another big conflict. (A detailed discussion on this conflict will be given in the subsequent chapter.)

In 2015, the current president decided to try for another term, arguing that the 2005 constitution allowed him to do so – an argument which was supported later by the Constitutional Court and arguably the East African Court. The Constitutional Court's decision was highly contested by the opposition which argued that the judges had been influenced by the executive, especially after the exiled vice-president of the Court claimed that they were under pressure to rule in favour of the president (Aljazeera 2015). The opposition and some civil society organisations took to the streets in what they called the "Arusha

movement” (Nantulya 2015) – a coalition of the opposition political parties, some civil society organisations and the private media – who claimed to peacefully demonstrate against President Nkurunziza for abusing the Arusha Peace and Reconciliation Agreement. In what seemed to be a repeat of the Burkina Faso experience (Vandeginste 2015: 5), a failed military coup on the 13 May 2015 was to complete the action started by the demonstrators weeks before. The coup, like the demonstrations, was broadcast by the private media. Consequently, the failure of the coup signalled the end of demonstrations which had become increasingly violent, the silencing of the media (Frère 2015: 4), and a progressive “return to control” by Nkurunziza’s government, accused of using excessive power against the opposition.

It was in this tense context that the general elections were held, after several postponements as requested by the international community, who cited the problem of a “non-conducive environment.” The Burundian government was categorical that they could no longer push the election dates forward lest they create a constitutional vacuum. As expected, most of the opposition parties and the national and international independent observers boycotted the elections (Vandeginste 2015: 7).

Within days of the elections, parts of the opposition were already armed and engaging the government in a low-scale war, localized in some neighbourhoods of the capital, Bujumbura. As a result of this crisis, around 500 people died, and around 200,000 were forced to escape, predominantly to Tanzania, Rwanda and DR-Congo. The European Union cut aid, while the African Union proposed a peacekeeping force of 5,000 which the Burundian government was not ready to welcome.

3.3 Looking beyond the events

Perhaps the most important question is to try and unravel some of the issues involved in the current crisis. Let us start with the legal debate. According to the opposition, the question of whether or not President Nkurunziza was allowed to stand for another term must be discussed and dealt with if Burundi is going to have peace (KANEZA and SSUUNA 2016). However, it is becoming clear that the international community accepts Nkurunziza as *de facto* president. Most African countries, and other countries such as China, the Seychelles and Russia actually acknowledge the current government as democratically elected (Havyarimana 2015). Although the Arusha Peace Accord is clear that no single president will rule for more than ten years, the Burundian constitution entertains ambiguities that needed to be resolved by a competent body – in this case, the Constitutional Court. In countries where there is an independent judiciary, the decision of the Court would have been final and accepted by all.

In the absence of an independent judiciary trusted by all, as is the case in Burundi, the right question to be asked by politicians should be how they can get institutions to be trusted by everybody. The project of transitioning from war to stability needs strong institutions – especially the judiciary – to manage it.

The Arusha Peace and Reconciliation Agreement needs to be discussed again. Vandeginste (2015: 1) argues that the Arusha Peace Accord is the basis for any analysis of the current context, such as the ambition of the current president to contest another term, as well as the larger context connected to the whole political transition process. A flashback into history reveals that most members of the current opposition parties opposed the Arusha Peace Accord, but was largely signed because of intense pressure from the international community and the mediation by Nelson Mandela (Vandeginste 2009a: 70). A good number of them signed the document, but with numerous written reservations.

As was mentioned above, the CNDD-FDD is not always comfortable with the Arusha Peace and Reconciliation Agreement which they did not negotiate. It is not surprising, therefore, that some politicians found in the negotiations for power-sharing a means to access power, especially when they are not likely to do well in elections (Vandeginste 2015: 11). One can conclude, therefore, that the Arusha Peace Accord is being implemented selectively, and primarily in ways that make politicians from both divides feel comfortable. This explains why, for example, the Truth and Reconciliation Commission was not established until 2014 although it was supposed to be established within the first six months of the transitional government, as clearly stipulated in Protocol V article 5.4. (Republic of Burundi 2000).

The different peace agreements gave politicians a blanket amnesty for all those years of violence with the consequence this has for the possibility of committing more crimes, as we see today. Hence, it is important to note the urgency of evaluating the validity of the Arusha Peace Accord for the current context. For example, the Accord seems to say little about economic issues while discussing in detail the political issues. The major problem here lies in the fact that losing elections almost always means losing the only source of income since the government is almost the only employer. Can Burundians be assured of a living even after losing the elections? This question urgently needs a clear answer.

This point ushers us automatically to a discussion of the place of young people in the crisis. Speaking about an earlier political crisis in Burundi and how young people who are looking for an opportunity to earn a living find it difficult to make a purposeful choice out of “a matrix of contradictions” (Berckmoes 2015: 16) argues that, while young people are expected to take sides for or against a political position, they still risk being misunderstood by the other politicians they did not side with. In this case,

Berckmoes (2015: 16) suggests that even remaining “neutral” could be doubly dangerous, as one risks being attacked from both sides. In either case, deciding on the action to take becomes very difficult and one must try to benefit to the greatest possible extent or lose to the least possible extent after making one’s choice. This has been the case with the current crisis where many Burundians – and especially the young people – were expected to choose between supporting or going against the president’s third term. The case of the youth *Imbonerakure* (“those who see far”) attached to the ruling party and the *abajeunes* (“the young people”) fighting the government alongside the opposition is a good example of this difficult choice of allegiance. The choice is dictated by complex considerations. Once again, the issue of equal distribution of resources and how this plays back into peace-building must be re-examined.

Therefore, the strategy of cutting aid to Burundi, for example, should be questioned as to whether or not it produces the desired results: that of “putting pressure on an illegitimate government.” On the contrary, it might be possible that cutting aid creates more poverty which pushes young people to extreme means of survival, including recourse to violence.

Nor should the place of the media in the crisis go unnoticed. Frère (2015: 4) believes that most of the independent media (apart from Rema FM which was destroyed by the opposition and the coup plotters) was destroyed by the government following the failed military coup. Frère (2015: 4) also claims that the wave of displacement can be attributed to the closure of the independent media. However, it should be noted that most refugees actually left the country following very alarming information which they were getting from the media, rather than because of a lack of information, as Frère suggests. This implies that the place of the media in Burundian post-conflict peace-building likewise needs to be revisited.

Finally, beyond the borders of Burundi, the role played by the region – and especially Rwanda – should not be overlooked. Rwanda is being accused by the current Burundian government of supporting the armed opposition. This is evident from the report by Refugee International about the recruitment and training of combatants from the refugee camp of Mahama in Rwanda (Boyce and Vigaud-Walsh 2015: 3). The government of Burundi has complained several times, mentioning Rwanda and some western countries such as Belgium, about fomenting insecurity in Burundi. During his last visit to the United States, Willy Nyamitwe (2016), the president’s senior communications advisor, accused Rwanda of being hostile to Burundi by training and hosting the rebels who regularly disturb peace and security in the country. He went on to mention that Burundi is facing foreign aggression.

Whereas Rwanda has officially not recognised the legitimacy of the current Burundian government, the Tanzanian government is perceived as supporting Nkurunziza's government. Pham (2015) argues that behind Rwandan President Paul Kagame's opposition to Nkurunziza is an ethnic dimension to the crisis as Kagame (a Tutsi) feels called to protect his Burundian Tutsi counterparts.

At the international level, it is also clear that the members of the Security Council are divided with, on one side, China, Russia and some African countries supporting the idea that the Burundian crisis is an internal problem which should be resolved internally. On the other hand, the European Union and the USA argue that things will escalate if the international community does not get involved and stop the killing in Burundi. The Government of Burundi, on several occasions, has accused the western powers of activating, for political reasons, the International Criminal Court to look into war crimes and crimes against humanity in Burundi (Nahimana 2016: 2). As a consequence, the government of Burundi decided to withdraw from the Rome Statute (Nahimana 2016: 1).

As these dynamics make clear, it is important to think carefully about the concept of "regional reconciliation" as discussed by Murithi (2013: 2). He posits that there is a need to apply a regional lens to reconciliation (Murithi 2013: 6), since more than half of the violent conflicts in Africa go beyond the national borders and spill over into the neighbouring countries (Murithi 2013: 5).

3.4 Transitional justice in Burundi

3.4.1 Burundian cultural insight into reconciliation and transitional justice

Traditional Burundians did not take reconciliation between parties in conflict lightly. The following Burundian legend (my own translation from the original French) by Father Jean Baptiste Ntahokaja (1976: 153-154) leaves no doubt that reconciliation between two warring parties was acknowledged as being an intensely complex issue:

Once upon time, a woman was married into a family and her in-laws plotted to kill her brother, which they did after some time. From that day the two families became enemies forever. Both families told this story to their members and descendants, so that the offending family would always take care, while the victims looked for every opportunity to revenge their member who had been killed. Eventually this woman became pregnant and gave birth to a fourth child. Both families met to celebrate the birth of this baby. However, the victim's family made sure they did not drink a lot while the offending family kept drinking and got heavily drunk. This woman and her family decided to revenge their member. She laid down her baby alongside the other three older children of hers. They waited for other members of the offending family to go to bed, including her mother in-law. She closed the house in which her husband and her children (children would be

understood as part of the man's family, especially if he had paid dowry) were in and torched it, burning to death her husband and four children. The other members of her family were busy burning the other houses, but left the one in which her mother-in-law was sleeping. As this woman ran away from the scene, she was heard by her mother-in-law to say, 'You killed my brother; I have killed your son and grandchildren.'

Siméon Sabuzi (19th September 2011), a student of Father Ntahokaja during the 1980s at the University of Burundi, commented on the legend and said that from that time, the victim's family became the offending family and vice versa. He continued that, in cases when these families were tired of vicious circles of revenge and counter-revenge, they would choose a few representatives of their families, meet in a given place for peace negotiations, cut their skin for blood and mix this blood with milk which they would all drink. From this time, the reconciliation story would be shared across the two families and they would be reconciled. The biggest and visible sign of reconciliation, Siméon argues, would be to resume intermarriage between the two extended families.

This story leaves us with a number of lessons which cannot be ignored. Burundians did not think that reconciliation between two families or two communities in conflict was an easy thing. Any act of violence and injustice was repaid, no matter how long it took.

In fact, sayings like *"ubike imbuto nanje mbike imbeba"* (keep seeds and I will keep rats) between two people in conflict still hold salience in Burundi. The metaphor of seeds and rats is of great importance in understanding the concepts of revenge and reconciliation. Seeds are an important property that a family owns, both historically and today. They give the family hope for tomorrow as they will assure the family of harvest after plantation. No respectable family would eat seeds under any circumstances.

Rats, on the other hand, can come and eat the seeds, this being the reason why seeds are kept in such a way that rats cannot eat them. However, rats do everything to get to the seeds before they starve to death. So literally, the saying means, "If you have wronged me, I will keep rats that will eat your seeds and thus put your hope to an end." Burundians will always hide what makes them uncomfortable, especially in times of injustice, so as not to spoil the revenge opportunity or scare the enemy into taking more action against the victim. The killings perpetrated by Tutsis against Hutus in 1972 were instrumental in Hutus killing Tutsis almost four decades later in the 1990s.

3.4.2 Historical overview of transitional justice in Burundi

A history of impunity

Vandeginste (2009b: 5-6) summarises issues related to transitional justice in Burundi throughout the history of the country in eight major points:

1. The magnitude and complexity of the degree of victimisation throughout Burundian history makes it a challenging task to establish responsibility and deal with reparations.
2. Any transitional justice mechanism mandate would have to take into account the long period during which violence took place and the interconnectedness between the different violent crises in the country.
3. Therefore, and connected to the previous point, each episode of violence can be understood as taking place either in retaliation for previous events or in fear of repetition.
4. Throughout history, most violence is political – that is, control of governance functions and access to resources by creating ethnic, regional or clan alliances.
5. This violence had, as its political contexts, the authoritarian one-party rule and failed democratisation process.
6. The pre-2005-elections political transition came about as a negotiated settlement among politicians.
7. This transition and political settlement was also as a result of an active involvement of the international community from the early 1990's, including the United Nations, the African Union, the European Union, and regional initiatives.
8. The framing process of all these events has been done to fit different purposes – and sometimes competing ones – to such an extent that truth recovery cannot rely just on the written accounts.

Vandeginste (2009b: 6-7) goes on to explain the following difficulties, throughout the pre-democratic history of Burundi, of having a meaningful transitional justice system:

1. The pre-1993 transitional justice system was designed by the then government with very limited international involvement.
2. In instances such as 1965 and 1972 and at other times, military tribunals were created to replace civil ones, and randomly prosecuted military men and civilians.
3. One-sided amnesties were declared generally to benefit the perpetrators close to government and, thereafter, purposely blocked the possibility for any truth recovery. "Reference can be made here to amnesty laws of 1 September 1962, 27 November 1967, 30 August 1990 and 9 September 1993".
4. On several occasions, trials were influenced by the executive in order to target the political opponent victims of the same government.

5. Crimes such as the 1965, 1972 and 1988 massacres against Hutu victims were transacted with total license, thus creating a culture of impunity.
6. Until the coming in of multi-partyism in 1992, the government, generally speaking, has drafted laws allowing it to control most institutions, especially the judiciary.

Do not cry for the “umumenja” (“traitors of the nation”)

Until very recently, after the Arusha Peace and Reconciliation Agreement in 2000, the 1972 Hutu survivors were not allowed to remember their loved ones who had perished at the government’s hands, simply because they were seen as being the “traitors of the nation,” *abamenja* (Vanderlick and Batungwanayo 2012: 12). The government (who were the perpetrators) achieved this through a system of controlling information, destroying important documents that could inform the public about what had happened, and silencing all the victims from ever discussing what had happened in the past (Vanderlick and Batungwanayo 2012: 12).

Therefore, the Arusha Agreement recognised the need to build a monument in remembrance of all war victims since independence, to institute a national Remembrance Day for those victims, and to identify all mass graves so that victims could be buried with respect (Vanderlick and Batungwanayo 2012: 12). Apart from this monument, which was built in Gitega in 2010 by the government, initiatives by victims to remember their loved ones through associations and other means remains an area in which the government is not interested – indeed, it is even one which the government tries to oppose (Vanderlick and Batungwanayo 2012: 14). Thus, remembrance efforts by private groups remain a “private matter,” which sometimes divides the public because of the historical nature of these initiatives. Hence, it remains difficult for such initiatives to help retrieve uncontested truth or serve as a reference for calling for justice.

Vanderlick and Batungwanayo (2012: 18-22) have identified in more detail the major memorial events, symbols and associations, ranging from public to private, annual and once-off events. What is very clear from this list is the absence (apart, perhaps, from the independence and democracy heroes) of a national agreement on the significance and importance of these symbols and events which have been often used as a way to accuse the other, and for victim self-proclamation.

Either way, the victims continue to develop a deep sense that they are not worth consideration by the government; thus, the probability increases of them taking things into their own hands and going their

own way (Taylor 2011). Therefore, peace-building is also about allowing people, and especially the victims, to publicly voice their deep frustration and shame, and to seek reparation and justice.

3.4.3 The introduction of multi-party democracy and the fate of transitional justice

Provisional immunity and impunity

The unsuccessful Burundian transition to multi-party democracy in the early 1990s became a major hindrance to transitional justice, which could have put right past atrocities in this country. The coup against the democratically elected President Ndadaye not only put an end to the effort to repatriate refugees and recover their property, but it also signalled the beginning of a series of pacts of impunity for politicians and army members who had been, and who would continue to perpetrate violence in this country (Vandeginste 2016: 3).

This impunity has been clothed in the so-called “temporal immunity” which politicians have been giving to one another in the “interests of peace”. For instance, the Arusha Agreement granted immunity to politically motivated crimes committed before 2000; another temporal immunity was granted to parties following the ceasefire agreement between the CNDD-FDD (and other smaller rebel movements) and the transitional government; this was followed, three years later, by another temporal immunity exchanged between the FNL rebels and the CNDD-FDD government (Vandeginste 2016: 5). In all three cases, what was intended to be temporary turned permanent, with politicians giving excuses that such war-related crimes were going to be sorted out by the Truth and Reconciliation Commission and the subsequent formation of the Special Tribunal for Burundi – which was never established (Vandeginste 2016).

Although one should understand that, in the words of Vandeginste (2016: 3), “immunity has been considered a ‘necessary evil’ for those situations in which a negotiated settlement (rather than a military victory) is the only viable option” as was the case for Burundi, when temporal immunity becomes permanent, then we start talking of impunity (Vandeginste 2016: 10). Barutwanayo (2015: 74) believes that it was the impunity that characterised the criminal governments prior to 1993 that led the country into two decades of civil war following the killing of President Ndadaye.

The Burundian political elite, past and present, have chosen to impose “historical silences” on past Burundian events, thus regressing peace-building efforts because of their involvement in the crimes committed (Nkurunziza 2015: 2). Nkurunziza (2015: 2) believes that responsibilities have never been established, and victims remain unknown and not compensated or allowed to seek justice.

Furthermore, the failure to establish the Truth and Reconciliation Commission on time, as decided in the Arusha Agreement; the absence of consensus among different political parties; and differences of opinion around its initiation in 2014, is likely to lead to its failure to successfully achieve its mandate (Nkurunziza 2015).

According to the Arusha Agreement Protocol II, Chapter II, article 8 (Republic of Burundi 2000), the Truth and Reconciliation Commission was given several mandates. The first mandate was to investigate and classify all crimes (apart from acts of genocide, war crimes and crimes against humanity) committed from 1st July 1962 to the date of the signature of the Arusha Peace Agreement. The Commission was also to determine the perpetrators' responsibility and their and the victims' identity. The second mandate of the Commission was the establishment of institutions or measures to promote reconciliation and forgiveness and the restitution of property. The third mandate was to clarify the entire Burundian history in order to inform Burundians about their past.

For Nkurunziza (2015: 3), the failure to initiate the Truth Commission within the implementation period of the Arusha Agreement, coupled with the apparent unwillingness to significantly boost the Burundian post-conflict economy, was a predictable move that largely benefited the political elite at the expense of peace-building efforts. It seems, therefore, that the objective of reaching a negotiated political settlement following armed conflict has outweighed the transitional justice agenda (Vandeginste 2009b: 2). Consequently, the truth about past atrocities has not been told, with practically no one being held responsible (Vandeginste 2009b: 2).

In 2009, as it is today, the government narrative about transitional justice was that it was to promote reconciliation and forgiveness – leaving criminal justice to those individuals and groups who would be adamant in following through this reconciliation process (Vandeginste 2009b: 2).

Some progress noted

However, all was not lost in the delay to establish the Truth and Reconciliation Commission. The Commission was finally established in 2014, with predominantly religious members who are all Burundi nationals (Barutwanayo 2015: 79). The mandate of the Commission is to “(1) establish the truth about mass atrocities between 1962 and 2008; (2) identify and map mass graves; (3) promote reconciliation and forgiveness; (4) propose a reparation to the victims “ (Vimberg 2015: 35). This mandate is slightly different from the one provided by the Arusha Peace and Reconciliation Agreement. The government

explains the updated mandate as resulting from nationwide UNDP-sponsored consultations held in 2009 and 2010 (Vimberg 2015: 33). The opposition has argued that the government selectively applied the recommendations of this consultation, leaving out issues to do with the prosecution of criminals (Vimberg 2015: 36).

The task for this Commission was not going to be easy following the lack of support from different actors which put into question the credibility of this important institution. For example, the very members of the Commission were approved by the parliamentary session which had been boycotted by the opposition in a vivid protest against the “lack of consultation” in establishing this Commission (Vimberg 2015: 35). The other challenge had to do with the absence of the international expert as proposed in the original document, as well as the lack of reference to the possibility of a criminal court, leading civil society organisations to be sceptical of this Commission (Vimberg 2015: 35).

Yet another important challenge which this commission was going to meet had to do with finances, as the major donors seemed not to support the process. Even more challenging has been the security situation following the 2015 political crisis which displaced around 250 000 people as refugees, and left hundreds of people dead. Thus, the mandate before this Commission seems almost impossible in the light of difficult political timing and economic hardship.

Nevertheless, the Commission has started to collect testimonies and is slowly getting started with very meagre resources and little support from the opposition. It could be that the level at which the current political turmoil will be resolved will directly influence the outcome of the Commission.

Perhaps the most successful transitional justice mechanism has to do with institutional reform. Both the Arusha Agreement and the 2005 Constitution reinforced the need for a power-sharing democracy in which every ethnic group, region and gender would be represented. Therefore, for the sake of peace, Tutsis – although believed to be 15% of the population – would be represented up to 40% in public administration and 50% in the defence forces, leaving the remaining positions to the Hutu majority (Barutwanayo 2015: 79). The Twa were to be co-opted as need and opportunity arose, while women have to be represented in not less than 30% of positions. In the Arusha Agreement for Burundi, Protocol I, Chapter 1, Article 6, 16. (c), the Senate was given the mandate “to conduct inquiries into the public administration and where necessary recommend action, to ensure that no region or group is excluded from the delivery of public services” (Republic of Burundi 2000).

In article 8.6. of Chapter 1 and Protocol I, it was granted to the political parties who managed to secure more than one-twentieth of the seats in parliament the right to the same proportion of ministerial posts in government (Republic of Burundi 2000).

Furthermore, Burundi has been able to successfully merge the former rebels and the governmental armed forces into one national force. Therefore, military integration was the backbone of peace-building (Samii 2010: 18). Public institutions such as the judiciary, the executive, the parliament, the senate and the administration have made commendable progress towards achieving social cohesion and ethnic, regional, and gender representation.

This process helped to do away with the “win-lose” mentality and cultivated, to some extent, a “win-win” scenario where parties realise that, while they may have different objectives, those objectives are fundamentally inter-dependent (Wolpe *et al.* 2004: 459). This realisation helped to build trust among the former enemies who started subordinating their group interests to the national ones (Wolpe *et al.* 2004: 459).

Finally, although property restitution is another area where significant progress (though with much controversy) has been noted, I will not discuss this here at length as this will be the major subject under discussion in the following chapter. What should be mentioned here is that the desire by those close to the 1970s Burundi government to grab Hutu refugees’ land and the struggle to keep it forever could be one of the reasons that explains the repetitive conflicts which the country has experienced for decades (Atuahene 2010: 67)

3.5. Conclusion

In this chapter, I have argued that conflict in Burundi is generally political with an important ethnic inclination. Although some earlier origins of this politico-ethnic conflict between Hutu and Tutsi can be traced before colonialism, the major shaping of this ethnic antagonism in Burundi was done by the colonial masters, and especially Belgium, while the national post-independence leadership seated this divisive political practice in most of its governance strategy. The effort by Hutus to access the power that was in the hands of the Tutsis produced unspeakable suffering for the Burundian population who endured wars, death and displacement for most of the post-independence period, as Tutsis worked hard to retain this power. In most cases, the political authorities protected the perpetrators of these crimes, while at the same time, preventing the victims from claiming their rights. Although the Arusha Peace and Reconciliation Agreement proposed some transitional justice mechanisms, its implementation

leaves us with very little tangible result apart from some level of success in institutional and security sector reform.

CHAPTER 4: PROPERTY RESTITUTION IN BURUNDI

4.1 Introduction

This chapter discusses the nature of property restitution in Burundi and its politicisation process, especially alongside the alliance and framing theories outlined above. It will discuss the genesis of the property problem and the process through which it was managed from the years following the 1972 “selected Hutu genocide”, by the *Commission Nationale des Terres et autres Biens* (Land and other Property Commission, hereafter referred to as CNTB).

4.2 Setting the stage

Property restitution in Burundi has its genesis in repetitive violence from independence to date, which pushed many Burundians outside the country as refugees or made them internally displaced persons. The report of the workshop organised by the office of the President through the CNTB indicates that, following the major displacements of Burundian refugees in 1972, the then government, in a repressive decision, attributed land and houses belonging to refugees to other occupants (République du Burundi 2013b: 2). The report also cites many cases of refugee property that was taken by individuals who had remained behind and who were hand-in-glove with the then government (République du Burundi 2013b: 2).

A military council of war sat to judge all the defendants⁶ on 6 May 1972, and took two important decisions, namely: to pronounce capital punishment on all the Hutu defendants, and to provisionally seize their property, which would be given to Tutsi families towards the damages and other interests following the rebellion by a group of Hutu on 29th April 1972, against the Micombero government, which saw Tutsi families in and around Rumonge and Nyanza-lac Communes executed by these rebels (République du Burundi 1972: 1-3). This judgement explained that a list of all the condemned was attached (République du Burundi 1972: 3), but it became clear that that annexed list was never found. Instead, every Hutu whose house or life was taken away was, in effect, added to this imaginary list.

⁶ The defendants were never given the opportunity for a fair judgement as they did not defend themselves, nor were they given the right of appeal.

4.2.1 The Hutu land is taken away and the land problem is politicised

Subsequent to this judgement, the Minister of Justice wrote a letter (No 560/153) on 29 March 1973 to the Attorney General detailing the measures taken by the government concerning the reparation of the Tutsi victims. Among the measures taken was to sell the Hutu rebels' vehicles and houses (the government being privileged to buy them), and transfer the funds to the Victims' Compensation Fund ⁷ (Republic of Burundi 1972a: 1). This decision by the government was executed throughout the country by all the Provincial Public Prosecutors following a letter (No 616/RMP.48.229/BUJA) to them by the Attorney General in which he gave them all the details pertaining to how they should execute the governmental decision (Republic of Burundi 1972b: 1-2). Specifically, he emphasised that houses would be bought by the government and that, in cases where they were not needed, individuals would buy them and deposit the money into Account no. 6655⁸ opened with the BCB (Banque Commerciale du Burundi), opened for the 29 April 1972 victims (Republic of Burundi 1972b: 2).

On 26 November 1974, President Michel Micombero, in a presidential decree, declared that all the condemned should have their houses returned to them, with the exception of those houses that had been vacated completely (République du Burundi 1974: art.1.). The explanation given for this "humanitarian" decision was the fact that the President wanted to mark his second term as the head of the single party state, and this decision was to serve as a sign of national reconciliation and unity (République du Burundi 1974). So, in reality, the so-called "humanitarian act" was as much about celebrating a political position as it was about restoring the victims' rights.

Although this decree was very clear in ordering that these houses, belonging mostly to Hutu, be restored, the order was not executed. Instead, most houses belonging to Hutu refugees or widows were distributed to individuals close to the government. The same phenomenon was observed with the land left behind by refugees. Their land was redistributed to people close to the government while the remaining land was targeted for public development services without compensating the owners. During this difficult political crisis, even family members and neighbours of the refugees took their land, while the government silently assisted or even actively facilitated this land and other property grabbing.

⁷ The CNTB has tried to search for this Victims' Compensation Fund but it has never been located.

⁸ The CNTB has mentioned, on several occasions, that this account could not be traced. The best guess is that the money collected by selling Hutu property was distributed among powerful government individuals.

Therefore, most Hutu killing by Tutsi was related to the need to recover their property and keep power, rather than being driven by some form of intrinsic tribal antagonism.

Later, when President Bagaza had taken over from Micombero, he signed a decree on 30 June 1977. This decree was with regard to the reintegration, in their right, of people who had left the country following the 1972 and 1973 “events”⁹ (République du Burundi 1977: 1). Article One of this law said (my own translation): *“Any occupation, detention, and exploitation of the property and rights left vacant by refugees following 1972 is against the administration’s directives”* (République du Burundi 1977: 1).

In order to help refugees recover their property, the decree created the National Commission for Returnees so as to help to manage all the property related conflicts (over both land and houses). Its decisions were directly executable and could not be challenged in court (République du Burundi 1977: 1-2). However, this commission, known also as *“Commission Mandi”* (The Mandi Commission) dealt only with cases raised by returnees (République du Burundi 2013b: 35) who were generally very few, because many refugees could not come back as they still feared for their lives. The Mandi Commission proceeded by dividing the returnees’ land into two parts – one part going to the returnee and the other to the second occupant (International Crisis Group 2003: 4).

The International Crisis Group (2003: 4) believes that what the Mandi Commission did was nothing less than legitimising land grabbing, because the land division legitimised the loss of part of the returnee’s land to the second occupant who now legally owned it. Furthermore, the Mandi Commission authorised Tutsi families from Mugamba and other places to occupy the land and houses in the fertile areas of Imbo left by refugees and other victims who had not left the country. This turned the former landlords into the veritable landless, having to buy palm oil beans from the new land owners and reselling the beans in order to put food on the table (International Crisis Group 2003: 4). Moreover, even though the law clearly warned against the retention of refugees’ property, most second occupants (including the government) did not return this property to the original owners and, with time, it became business as usual once again. The frustration of Hutu refugees in Tanzania could not be contained, and thus became one of the major reasons for an intensive political mobilisation with the hope of refugees returning

⁹ The government of Burundi, in an effort to negate its responsibility in the abuse of human and property rights, and the subsequent loss of lives and property during the early 1970s civil war, consistently referred to what, for many, qualified as the 1972 Hutu massacres or even “selected genocide,” as just “events.” As such, the government diminished the gravity of its implication in abusing the right of its citizens by simply referring to a crime against humanity as an “event.”

home to get their land (International Crisis Group 2003: 4). In this way, the land problem gradually became a motive for various political agendas (International Crisis Group 2003: 4).

After Bagaza, President Buyoya (during the 3rd Republic) signed a decree (no. 1/01) on 22 January 1991 putting in place a commission in charge of reintegrating returning refugees (République du Burundi 2013b: 35). Again, this commission did not accomplish a great deal as refugees were not coming back as expected. With the process of democratisation, and after President Ndadaye had won the elections in 1993, many refugees returned and a new commission in charge of reintegrating these refugees was created. This commission was effective in restituting land to returnees, and there was much hope among the returnees who had started getting back their land. However, this hope did not last for long as President Ndadaye was killed after only two months in office; thereafter Burundi entered a deep crisis and a civil war which was to last for over a decade (International Crisis Group 2003: 5).

The newly returned refugees took the exile route again, leaving their property behind and this was reclaimed by those who had just lost it following the 1993 Commission (International Crisis Group 2003: 5). Once again, the coup leaders, who were mostly direct political descendants of the former regimes of Micombero, Bagaza and Buyoya, blessed this new land grabbing. It has been argued that land could have been one of the causes of President Ndadaye's assassination, as Tutsi politicians found an excuse to achieve their political objectives by setting up the second occupants and the Tutsi community who feared losing their property against Ndadaye's government – perceived as pro returnees (International Crisis Group 2003: 3). Therefore, the land conflicts in Burundi could no longer be divorced from the political inclination of the powers of the day.

Another massive population displacement occurred in 1993 during the civil war following the assassination of President Ndadaye Merchior. Hundreds of thousands of refugees left the country while massive populations were internally displaced. Although these refugees did not lose their land and houses to the government in the same way as happened to those who had fled in the 1970s, it is important to note that some sites that hosted internally displaced persons were located on the land that belong to refugees that had crossed the Burundian borders to neighbouring countries (République du Burundi 2013b: 2).

In the Arusha Agreement, the question of land was given considerable attention. For instance, the Arusha Peace and Reconciliation Agreement for Burundi, protocol IV, chapter 1, article 3, mentions that the government of Burundi will undertake the following activities:

a) Establishing and constituting a National Commission for the Rehabilitation of *Sinistrés* (CNRS), which shall have the mandate of organising and co-ordinating, together with international organisations and countries of asylum, the return of refugees and *sinistrés*, assisting in their resettlement and reintegration ... and (b) Establishing and constituting a Sub-Commission of the CNRS with the specific mandate of dealing with issues related to land as set out in article 8 (j) of the present Protocol (Republic of Burundi 2000).

So, on 13 December 2002, the National Commission for the Rehabilitation of *Sinistrés* (CNRS) was created by the president (République du Burundi 2002). Subsequent to this Commission was the creation of the CNTB on 4 May 2006 by Law no. 1/18, revised consecutively thrice by the Laws no. 1/17 of 4 September 2009, no. 1/01 of 4 January 2011, and no. 1/31 of 31 December 2013, which still registers the current CNTB team (Tabu 2013: 5).

4.3 The State's responsibility

One of the most contested issues has to do with the state's responsibility in dispossessing refugees and other Hutu communities of their land and houses and redistributing them to new owners. The government of Burundi has been accused of manipulating the legal provisions protecting individuals' rights to property ownership (Kohlhagen 2009?: 2) with a view to dispossessing them of their property and either utilising this property for public projects or redistributing it to new individual occupants close to the then government. The refugees' land was also seized by their neighbours – most often with government officials giving them documents sealing the right of ownership of these new occupants (Kohlhagen 2009?: 2); see also (International Crisis Group 2003: 4).

Such documents, which are the ones often presented to the CNTB to claim ownership by the second occupants, were generally given by the administration (the provincial governor, the communal administrator or others) in total violation of the right of ownership by the refugees or the descendants of those executed following the 1972 massacres (Sinzinkayo 2013: 2).

There are many cases of houses and land that were taken by the neighbours of the original owners or cars and land that were transferred to government institutions such as military camps, while others were simply auctioned – although it has been impossible for the CNTB to trace the money which was supposed to have been transferred to the compensation funds (Sinzinkayo 2013: 4). The vehicles and houses were finally registered under the new “owners” names without any proper transaction process (Sinzinkayo 2013: 4). All this was done with the complicity of the local, communal, provincial and national administration.

The other documents presented to the CNTB to substantiate the ownership of property by the second occupants include sales declarations whereby the second occupant declares that they bought a property from a refugee or a deceased person, and the administration verified these declarations (Sinzinkayo 2013: 5). They also include gift certificates whereby the deceased or refugee agrees to voluntarily give a property to another person (generally unknown to him) and this person sells the property (the transaction being approved by the administration) to another third occupant (Sinzinkayo 2013: 5). In most cases, the CNTB has realised that most of these “transactions” were done between people without any witnesses and that the second occupants went ahead and received title deeds for most houses without any additional documents to certify the history of acquisition of the property (Sinzinkayo 2013: 6).

Until 1986, the right of ownership of property in Burundi was regulated by customary law. In 1986, the first land code was introduced, with a thirty-year prescription at Article 29. Although the acquisitive prescription is commonly found in many countries with civil law, the thirty-year prescription in the Burundian land code was very provocative in this context (Kohlhagen 2010: 70). The discussion above has shown that most of the property, especially land, was illegally taken away from the refugees and redistributed to new owners by the government. By the time these refugees began to come back *en masse* from 2005, the prescription was seen to guarantee the right of ownership to the second occupants in lieu of the different defective documents. Although many law specialists, such as lawyer Déo Ndikumana (2013: 3-6), have shown that the thirty-year prescription could not have applied to the property that once belonged to refugees, the Burundian courts used this legal provision to make sure that the original occupants almost always lost their cases in favour of the second occupants.

The majority of land grabbing by the government was done through large development projects. These were projects like palm oil plantation schemes by *La Société Régionale de Développement de Rumonge*, (SRDR – the Regional Development Society of Rumonge) especially in Rumonge and part of Nyanza-lac which took refugees’ and Hutu’s fertile lands without due compensation in violation of refugee laws (International Crisis Group 2003: 4). The original argument by the government was to re-organise these lands, replace the older and less productive palm oil trees with a new variety and reconstitute these lands back to their owners afterwards. But this promise was never kept, as the Society restituted only part of the original land to the owners who were present there, and distributed the rest to individuals close to the government (International Crisis Group 2003: 5). In the case of refugees who were away and whose

land had already been taken by individuals, the new “owners” were the ones considered by the new scheme, thus leaving the fate of refugees to history.

The *Projet d’Intensification Agricole en communes Rumonge, Burambi et Buyengero* (PIA-RUBUBU – “Project for agricultural intensification in Rumonge, Burambi and Buyengero communes”) was another project which took some people’s land in the same way as described above (International Crisis Group 2003: 5). Such cases as the *Société Sucrière Moso* (SOSUMO – “Moso sugar factory”) and most of the *paysants* (land developed by government for agricultural use) were developed on people’s land, including that of refugees, without equitable compensation.

Therefore, the very fact that the government, from the start, has been involved in land grabbing and redistribution makes the whole land problem more of a political process than a humanitarian one (Hovil 2012: 30). Hence, any peace-building effort aimed at transforming land conflict must understand the political twists attached to this process.

4.4 Property acquired in “good faith” and restitution

It is because the second occupants inherited the property that once belonged to refugees, with the knowledge of the government – which either offered supporting documents or quietly allowed this occupation – that these second occupants believe they should keep the property for themselves or at least be given compensation if they have to return it to the original owners. The question becomes even more complicated in cases where the property has changed hands through different owners. The argument here goes that these owners are the “*acquéreurs de bonne foi*” – *bona fide* acquirers – (République du Burundi 2013b: 13) since they acquired the property in good faith. The good faith in this case is said to have always animated most of the property acquirers and, therefore, that their acts could not have been malintentioned. Opposition politicians, such as Thacien Sibomana, as quoted in the *Iwacu Journal*, believe that those who acquired their property in good faith should be compensated in cases where they are asked to reconstitute that property (Bigirimana and Hakizimana 2015).

The second occupants, supported by the opposition leaders, then developed a strategy to resist this restitution. With time, it appeared that every second occupant claimed to have acquired land or other property in good faith and opposed themselves to the land commission’s (CNTB’s) decisions to reconstitute land and other property (Bigirimana and Hakizimana 2015). At the time they argued that the least they could accept was to share the property with the original owners.

For the first five years of its activities, the CNTB's classic judgement on land disputes between returnees and the host population currently owning the returnee's land had been to divide the piece of land in dispute into two pieces (not necessarily of the same size) so that both the new and old owners ended up with part of what they believed to be their land. It is this principle of "not victimising" either of the parties which, in the understanding of the CNTB, would lead to reconciliation, because neither of the parties would feel completely left aside. This way, the reconciliatory mission given to the land commission would be fulfilled (République du Burundi 2009: Article 9).

There are many good reasons that can account for this initial approach of the CNTB. One of the reasons worth mentioning here is the complexity surrounding the land problem in Burundi, where the CNTB found itself having to resolve situations that the government itself had created, in taking immoral and judicially irrational decisions in grabbing land and other properties belonging to the victims of the state, especially during the 1972 crisis, in what can clearly be evaluated as a politically negative calculation against the victims (Bambonanire 2011) .

However, this solution of dividing the land was not appreciated by the beneficiaries who already had small portions of land or who had simply no land (International Refugee Rights Initiative, Rema Ministries and Social Science Research Council 2009a: 30). The returnees argued that they cannot share with somebody who took their land after exiling them: from a cultural point of view, a family's land is indivisible, especially if it comes to the point of including people who are not members of the same family. "We have been refugees for too long. We want to live together again as a family," said a returnee in Kibago-Makamba (International Refugee Rights Initiative, Rema Ministries and Social Science Research Council 2009a: 33).

Today, the CNTB argues that good faith, as a subjective notion, cannot be opposed to restitution because it is inconceivable to build competition between the owner and the acquirer, even if the latter may have acquired the property in good faith (République du Burundi 2013b: 13). And the CNTB concludes the argument by suggesting that, in the current situation, it is impossible to sustain the argument of good faith especially since the government has, in two instances, produced laws¹⁰

¹⁰ On 26 November 1974 President Michel Micombero, in a presidential decree, decided that all the condemned should have their houses returned, while on 30 June 1977, President Bagaza signed a decree saying that any occupation, detention, and exploitation of the property and rights left vacant by refugees following the 1972 civil war is against the administration's directives.

expressing that the victims must be given back their property – it thus being in order to argue that the second owners kept the victims’ property at their own risk (République du Burundi 2013b: 14).

A Burundian lawyer, Ndikumana (2013: 8), explains that both the constitution of the Republic of Burundi, the Universal Declaration of Human Rights, the Arusha Peace and Reconciliation Agreement for Burundi, and other international legal instruments support the principle that none can be dispossessed of their property except for public interest, in which case a just compensation is given in advance.

Indeed, the Arusha Agreement also makes mention of compensation only to the returnees who would not be able to recuperate their property for various reasons (Republic of Burundi 2000). In Protocol IV, Chapter 1, Article 8 b), c) and d), the Arusha document says, “All refugees and/or *sinistrés* must be able to recover their property, especially their land; if recovery proves impossible, everyone with an entitlement must receive fair compensation and/or indemnification” (Republic of Burundi 2000). On the subject of compensation, it is curious that the Arusha Agreement on Burundi does not mention anything about the eventuality of compensating those who acquired property in good faith.

In a regional instrument, the Pact on Security and Development in the Great Lakes Region, Protocol 13 on Property Rights of Returning Persons, the signatory states (including Burundi) undertake in (a) to “adopt legal principles whereby the Member States shall ensure that refugees and internally displaced persons, upon returning to their areas of origin, recover their property with the assistance of the local traditional and administrative authorities” (International Conference on the Great Lakes Region 2006).

It is apparent, therefore, that the principle of restitution is the norm, and any other claim such as acquisition in good faith is to be treated as an exception to the principle. However, it appears that, in a situation like the one in Burundi, where land and houses have exchanged hands through selling or inheritance, the notion of good faith is not to be ruled out completely. Nevertheless, good faith should never be invoked to oppose property restitution to victims. A very careful definition of cases that could be considered under the notion of acquisition in good faith should be undertaken, but the general classification by the opposition of most second property occupation cases as done in good faith is simply malicious towards the victims. One more issue which should be looked at is the possibility that the second occupants, who do not have somewhere else to go, should not end up being landless. Restitution can only be a peace-building tool if it does not lead to landlessness.

4.5 A question of sequence of events

The Arusha Peace Agreement signed among Burundian politicians stipulated the need to create the National Truth and Reconciliation Commission. In Protocol 1, Chapter 2, Article 8 b) among the functions assigned to the Commission were arbitration and reconciliation:

To this end the Commission shall, upon completion of its investigations, propose to the competent institutions or adopt measures likely to promote reconciliation and forgiveness, order indemnification or restoration of disputed property, or propose any political, social or other measures it deems appropriate” (Republic of Burundi 2000).

However, the truth commission which was to be established by the 2003 Transitional Government and the Transitional Assembly not later than 6 months after taking office was not initiated until 2014 (Republic of Burundi 2000) for various reasons; the major one (as discussed in Chapter 3) being the decision by politicians to impose “historical silences” on the past for fear that their involvement in human rights abuses might come to light.

Meanwhile, more than 500,000 refugees returned following the 2003 ceasefire and the successful 2005 general elections, and they needed to recover their land and other property. Recovering their land after nearly four decades in exile was never going to be straight forward. In reality, returnees who were not able to find their land quickly were left to stay in the open near the communal offices for many months – or in transit centres for the more fortunate ones (Rema Ministries 2012: 25). This situation contributed to the vulnerability of the returnees as they were staying in the most inhumane conditions (Rema Ministries 2012: 25). Hence, the government instituted the CNTB (Land and other Property Commission) with the mandate of assisting the returnees and other *sinistrés* to recover their land and other property (République du Burundi 2006a: chapter 4, articles 4-5).

Some opposition members, including the Honourable Francois Bizimana (Bwiza 2012), have stated their dissatisfaction with the CNTB mandate, saying that the commission was established before the Truth and Reconciliation Commission (TRC) and, therefore, the CNTB was doing the work which was supposed to be done by the TRC. He argues that establishing the truth is one of the mandates of the TRC, and it is only sensible that CNTB would come in after the TRC has established the truth about property dispossession (Bwiza 2012). Binder and Murithi (2013a: 5) echo the same idea with regard to the problem of carrying out restitution before truth recovery, “Attempts to provide reparations without a ‘truth-base’, a body of facts verified, shared and recognised by all major parties to the conflict and citizens in general, has in several situations proved disastrous.” They actually believe that reparation

should be carried out as a result of a recommendation from the Truth Commission (Binder and Murithi 2013a: 5).

The government argues that, faced with a poor returnee who needs somewhere to sleep and cultivate, the government had no option but to put first things first. The question needed some practical solutions. For Burundi, truth commissions are very expensive to run. In other words, the Truth Commission was not a priority. Even for countries that are able to finance them, it is not evident that their recommendations will not simply be shelved after raising too many unrealistic expectations from the victims (Ware 2014: 18).

The core question of this research, therefore, is: What does it take for a peaceful and just property restitution to happen? Truth commissions are undoubtedly helpful and they can sometimes lead to shared truth, but it takes more than just knowing the truth around the acquired land for a second occupant to give back that land to the original owner. In the Burundian case, it is not so much a matter of truth as it is a matter of livelihood and identity issues based on the disputed property.

4.6 Land reclamation: A hard battle to win

Although there were some returns in the late 1970s and in 1993, most refugee returns (about 570,000) were from 2005 following the successful democratic election which brought President Peter Nkurunziza and the CNDD-FDD party to power (Leeuwen 2010: 754). For the refugees to be able to return, access to land was the major point under consideration. Thus, those refugees who decided to come back did so because they believed they were successfully going to get back their land, while those in exile in Tanzania who decided to take up the Tanzanian government's offer of naturalisation based their choice on the possibility of accessing land and other means of livelihood in Tanzania (Maniraguha 2011: 52). During their visits to the refugee camps ahead of the official repatriation, the Burundian government officials promised to help the refugees to recover their land and the confidence which refugees had in this promise contributed to their decision to become repatriated (International Refugee Rights Initiative, Social Science Research Council and Centre for Study of Forced Migration 2008: 26).

Upon their return to Burundi, the government recognised that the land reclamation exercise was going to be slow and uncertain, and therefore, the reintegration of these returnees was considered a highly political issue with significant potential ethnic implications (Leeuwen 2010: 754). The first significant government action to assist returnees to recover their assets was the establishment of the CNTB in 2006 under the office of the 1st Vice-President (Zeender 2010: 5). The first CNTB team was composed of 26

members with a mandate to deal with all the land-related conflicts resulting from past civil wars (République du Burundi 2011a: 2-3).

For the returnees, the process of land restitution was largely facilitated by the local administration, with the assistance of the CNTB and sometimes non-governmental organisations and the traditional courts of *abashingantahe* (International Refugee Rights Initiative, Rema Ministries and Social Science Research Council 2009a: 25). But, these administrative structures including the governor, the communal administrator, the zonal chief, and the village leaders, together with the community elders called *abashingantahe*, the NGOs, the CNTB, and regular courts of law were all dealing with reintegrating refugees to their land in a way that confused returnees as to which authority was competent to assist them (International Refugee Rights Initiative, Rema Ministries and Social Science Research Council 2009a: 25).

The needs were numerous, and with 23 CNTB commissioners who were all based in Bujumbura, the commission became inefficient, and many refugees ignored the work of this organisation that was supposed to settle their cases. This was the genesis of an administrative principle to give refugees 50m by 50m from their former land while they waited for the CNTB's decision, which took up to six years in some cases (International Refugee Rights Initiative, Rema Ministries and Social Science Research Council 2009a: 25).

Thus, the returnees relied on the good will of the second occupant to co-operate with the local administration – which was in some cases corrupt – and restitute either the total or part of the land with the hope that, one day, the CNTB would validate this transaction (International Refugee Rights Initiative, Rema Ministries and Social Science Research Council 2009a: 26). With time, the CNTB, which was clearly not independent of the influence of the office of the 1st Vice President,¹¹ opted to unilaterally apply the principle of dividing the land into two equal pieces, given to both the returnee and the second occupant – a practice which legally validated part of the land ownership by the second occupants in a way that was reminiscent of the Mandi Commission during President Bagaza. One of the explanations given to

¹¹ In Burundi, the 1st Vice-President from the opposition-UPRONA party, a party which was leading the country when the refugees' land was grabbed by and the government and individuals close to the government. In such a situation it makes sense that this office was not going to facilitate the restitution principle.

the practice of dividing the land was the need to uphold the reconciliation mandate which was given to the CNTB (République du Burundi 2006a: article 9).

Even in such cases, many second occupants decided to take the CNTB's decision to court and, in most cases, returnees lost the cases because they did not have enough courage, language, and financial means to battle their cases through the court system. For those who tried and went to court, they almost always lost their cases to the second occupants because the court evoked the 30 years prescription of the 1986 land code (International Refugee Rights Initiative, Rema Ministries and Social Science Research Council 2009a: 28-29). The 30-year prescription is a disposition within Burundian law which confers the right of ownership to somebody who has acquired and exploited a property for 30 years (République du Burundi 2013b: 14). The CNTB argues that this prescription could not stand in the case of property acquired illegally, even if the new occupants exploited it for more than 30 years (République du Burundi 2013b: 14). Furthermore, against somebody who cannot act (refugees in this case), the 30-year prescription cannot stand (Tabu 2013: 9).

The 2006 CNTB law was revised in order to address some of the challenges identified above (République du Burundi 2009). Therefore, the new 2009 law instituted a number of changes, including increasing the number of commissioners from 23 to 50 members while creating 17 provincial delegations which became the first instances where CNTB decisions were taken (Ntamazeze 2017). Consequently, this meant that it was possible for those who were not satisfied by the provincial decisions to appeal against them at the national level (Ntamazeze 2017). The decisions of the CNTB (at national level) could still be appealed against in the Court of Justice, but they remained applicable until all the possible court appeals had been exhausted (Ntamazeze 2017).

Once again, even with the revised CNTB law, the court system continued to judge based on the 30-year prescription, a situation which made the returnees almost always lose their cases against the second occupants. As a result, all the CNTB decisions that had restituted land to the returnees and been appealed against were annulled by the court. They (returnees) lost their land again to the second occupants, and it became difficult for the returnees and the tax payers to understand the meaning of the existence of a commission whose decisions were going to be nullified by the court.

So, on 4 January 2011, the CNTB law was once again revised, and this time it was put under the office of the President so that he might give the Commission the muscle it needed to finally reconstitute the property rights of returnees (République du Burundi 2011b). The CNTB worked hard, and returnees

were able to get back the totality of their land and some houses. However, the opposition was not happy and they continued to claim that the second occupants of these properties had occupied them in good faith and that, therefore, they should be compensated if they had to reconstitute the returnees' property. The second occupants then took their cases against the returnees to the courts and these almost always ruled in favour of the second occupant, quoting once again the 30-years prescription. Masumbuko Athanase, representing the returnees, stated that "no returnee would win a case against the second occupants" (Nzorubonanya 2014).

In his circular no. 550/66/CAB/2012, addressed to all the senior staff of his Ministry and copied to different relevant ministries, the Minister of Justice called on them to respect the principle of property restitution. He specifically encouraged them not to quote the 30-years prescription in their judgement against refugees who could not act to protect their property against those who grabbed it (Barandagiye 2012).

This time around, it seemed the government was determined to do everything in their power to reconstitute property to the returnees. On the other hand, the opposition cried foul and named the CNTB a political commission at the service of the government against the second occupants.

On 31 December 2013, the CNTB law was revised yet again (République du Burundi 2013a), followed by the creation of the *Cour Spéciale des Terres et Autres Biens* (CSTB – "the Special Court on Land and Other Property") on 15 September 2014 (République du Burundi 2014). The new CNTB law, which is unchanged as I write this chapter, had significant changes, including an appeal after exhausting the CNTB procedure. The major change was that normal jurisdictions were no longer allowed to deal with the appeals against the CNTB decisions, but that these appeals would be directed to the CSTB, although such an appeal would not suspend the application of the CNTB decision until the CSTB had changed it (République du Burundi 2013a: article 23 and 25). The other change had to do with the capacity of the CNTB to review cases that had been dealt with by previous commissions (République du Burundi 2013a: article 7 g) because there was a general feeling that the previous commissioners had not acted in the interests of the returnees.

The Special Court was created with two chambers so as to allow for an appeal against the first chamber's decisions (République du Burundi 2014: article 4). The court's judgement is final and cannot be appealed, apart from a third-party person (République du Burundi 2014: article 16). The major change with the Special Court was that it had to take decisions quickly, efficiently and based on

returnees/refugees' national and international principles in order to allow the returnees and other *sinistrés* to get their property (République du Burundi 2014: *visa*).

The opposition and some civil society organisations¹² were not happy with these changes. The former Vice-President and UPRONA Party Member of Parliament, Honorable Yves Sahinguvu and Honorable Jean Minani of FRODEBU Nyakuri Party, proclaimed that both the CNTB and the CSTB laws were unconstitutional and UPRONA went on to attack the unconstitutionality of the CNTB law before the Constitutional Court (Ngendakumana 2014). UPRONA finally lost the case. Likewise, OAG (*Observatoire de l'Action Gouvernementale*), a local civil society organisation, believed the CSTB was created by the ruling party for political calculations with an ethnic quality ahead of the 2015 general elections (Ngendakumana 2014).

This stance of the opposition and some civil society groups soon influenced the second occupants, especially in Buheka Nyanza-Lac, to refuse the execution of the CNTB's decisions, and they violently blocked the road to CNTB vehicles and commissioners who had come to execute the CNTB decisions (Bigirimana and Hakizimana 2015). This resistance coincided with the beginning of the 2015 political crisis.

The tension was so high that the government decided to suspend the execution of around 200 decisions in the area. Subsequent to the crisis, the government is dedicating much of its efforts to dealing with the consequences of the crisis, so that property restitution is not the top priority. Once again, the returnees' hope is dwindling and is complicated by a new displacement of a quarter of a million refugees following the 2015 crisis – but this time the government has learnt a lesson: President Pierre Nkurunziza has issued an official statement that the property of the displaced people will be kept intact until they come back. Meanwhile, a crisis over property restitution is still alive and well, and it continues to threaten the peace and unity of the nation.

4.7 Alliances between the politicians and the beneficiaries

What has been described above is the tendency for alliances to form between the returnees and the government on the one side and the opposition and the second occupants on the other. Kalyvas (2003: 486) explains the theory of alliance in civil wars between supra-local (often political and national) and

¹² In Burundi, the civil society organisations are divided into two groups – one supporting the government and the ruling party and the other opposing the government in a way that is close to the stand of the opposition parties – but sometimes working together in different forums.

local/private actors. Although they may not have the same goals, every actor in the alliance receives benefits from it: the supra-local provides the local with the force they need to win a local advantage, while the supra-local gains local control of resources, support, and information, as well as the capacity to recruit and motivate supporters. Violence is used to coerce and mobilise support. Therefore, conflicts must not be classified simply as being caused by political gains or private ones – it could be both (Kalyvas 2003: 475).

Although the nature of alliances between politicians and local land actors in Burundi, and the extent to which they use violence to coerce and mobilise followers, is one of the objectives of the action component of this research, it is already important to note some of the trends that stem from the literature review.

Considering the story that appeared in the *Iwacu Journal* about the violent opposition which the second occupants built against CNTB's intention to restitute land to the returnees, one might think that this is a simple land dispute between returnees and local residents (Bigirimana and Hakizimana 2015). The story speaks of a violent conflict between second occupants resisting land restitution, and returnees who want to get back their land. The conflict becomes violent and people are injured. The police want to arrest the returnees who had injured the second occupants, but the returnees are opposed to the arrest. Up to this level, the conflict appears to be private and the conflict is primarily focused around land.

Further on, the story speaks of the CNTB coming to officially restitute the land to the returnees. Things change here because the second occupants speak about the government (through the CNTB) orchestrating violence and supporting the returnees. The second occupant then engages in a battle with the heavily-guarded CNTB official who only narrowly escapes after their guards fired three bullets at the masses without injuring anybody.

One will only understand where the support to the second occupants comes from by reading the comments by the opposition political leaders: Thacien Sibomana believes that the government resettles those who came from exile and induces another movement of displaced people by taking the land away from the second occupants (Bigirimana and Hakizimana 2015). Therefore, the alliances become clear: both the second occupants and the returnees needed some support from politicians in order to keep or access their land, while the politicians needed the returnees' or second occupants' support ahead of the 2015 general elections.

Of course, this is not the only reason for the land conflict and the alliances around it. Other research has been done to try and understand the different facets of the land problem. The competition over land as a scarce commodity (environmental security) in a very highly-populated country has been identified as one of the major triggers of violence (Jengo 2013: 112). From a legal perspective, it has been explored that the security of land tenure has been weakened by the inability of the Burundian government to ensure proper land governance to the satisfaction of the different groups in Burundian society (Falisse and Niyonkuru 2015). Both the scarcity of land and loose land governance have been created, by and large, by historical politically unjust decisions (Van Leeuwen and Van Der Haar 2016: 99) leading to illegal dispossession of land belonging to refugees (political ecology).

Van Leeuwen and Van Der Haar (98) have applied the ideas of alliance building and framing in Burundi in order to explain how issues around land are interpreted and given meaning at different levels. In particular, they explain how, “in Burundi local land issues relate to national-level ethnicised political contention” (Van Leeuwen and Van Der Haar 2016: 99). Local land conflicts as they are related to national politics have been framed both by the actors and non-direct actors in different ways so as to fit their agenda (Van Leeuwen and Van Der Haar 2016: 100). The framing of the conflict, of course, will determine the nature of the intervention to be designed. Van Leeuwen and Van Der Haar (2016: 100) give an example of a non-governmental organisation that framed the land problem as resulting from ethnic animosity and, thereafter, designed a reconciliation programme between the parties (Van Leeuwen and Van Der Haar 2016: 100). Therefore, this framing sometimes fits the intervener’s agenda and capacity, rather than resolving the actual problem in the area (Van Leeuwen and Van Der Haar 2016: 100).

It makes sense, therefore, that this study has an action research component to it. This allows the beneficiaries themselves, rather than scholars and practitioners who are not directly affected by the problem, to actively participate in identifying the problem, proposing the solution to it, and trying it out with the aim of transforming the conflict and learning from the intervention. The meaning of action research is discussed at length in the following chapter.

4.8 Conclusion

This chapter has discussed how property restitution has always occurred within the enormous shadows of lies and politicisation. The earliest laws and commissions did not do enough to reconstitute the property to the original owners simply because there was no political will to do so. With the democratisation process, returnees began getting their land back, but the Tutsi politicians assassinated Ndadaye and so

the hope that the returnees could access their land dwindled with the political crisis that followed his assassination. The firmest political decision for land restitution was taken with the Arusha Peace and Reconciliation Agreement for Burundi, but the politicisation of a process that should have been humanitarian is impacting negatively on this process.

CHAPTER 5: COMMUNITY PEACE ALLIANCES AND CONFLICT TRANSFORMATION

5.1 Introduction

This chapter discusses ideas around the possibility of current alliances around land in Burundi being transcended by a new vision for community peace alliances. The chapter defines the concept of peace in relation to violence, and then proceeds to discuss the concept of conflict transformation with regard to the place of violence and non-violence in dealing with conflicts and unjust systems.

5.2 Conflict transformation

Before discussing the conflict transformation concept, let us briefly define peace and violence, since these two concepts will be used throughout the discussion of the concept of community peace alliances and conflict transformation.

5.2.1 Defining peace and violence

Although peace is used in everyday language, it is difficult to define. In most cases, it has been defined in relation to violence, and especially as the absence of violence. Violence can be divided into *personal (direct) violence* and *structural violence* (socio-political and economic injustices). Likewise, peace can be divided into the *absence of personal violence*, which is also called *negative peace*, and the *absence of structural violence*, which can also be referred to as *positive peace* (Galtung 1969: 183).

Galtung (1969: 171) gives a good example to differentiate personal from structural violence, and argues that, “when one husband beats his wife there is a clear case of personal violence, but when one million husbands keep one million wives in ignorance there is structural violence.” He demystifies the misconception that personal violence is more harmful than structural violence as they can all be seriously destructive (Galtung 1969: 173). Hence, the absence of direct violence is negative peace, whereas social justice is positive peace (Galtung 1969: 174).

The concept of cultural violence (those elements of culture that justify and legitimise direct violence) was introduced later by Galtung, arguing that violence often moves from cultural violence to direct violence through structural violence (Grewal 2003); (Galtung 2007: 131). Building on Galtung’s work, Tilahun (2015) mentions that, “negative peace is the absence of organised direct violence, whereas positive peace is the absence of structural and cultural violence and prevalence of justice, harmony and equality.” Peace, therefore, can be conceived of as synonymous with stability when a person is at peace with him/herself, or as the absence of organised collective violence between major groups –

negative peace – or simply as co-operation and integration between human groups – positive peace (Tilahun 2015).

Thus, negative peace is what we see in a world dominated by powerful nations or groups with cohesive power to silence fearful groups or even – to some extent – to bring about social cohesion (Grewal 2003). On the other hand, positive peace includes mutual human understanding through better communication, social integration and co-operation (Grewal 2003). Thus, negative peace is pessimistic, whereas positive peace is optimistic (Grewal 2003).

The health analogy is also helpful to understand the differences inasmuch as negative peace is seen as a curative treatment of disease, while positive peace is seen as a preventive measure against disease, thereby making the body more resistant to disease (Grewal 2003). Finally, whereas negative peace may not always come by peaceful means, positive peace always comes by peaceful means (Galtung 2007: 15); (Grewal 2003).

5.2.2 Conflict transformation

Galtung (2000) understands conflict to be the sum result of an *incompatibility* or *contradiction*, where someone's goal stands in the way of another's, leading to distrust (*attitude*) and violent *behaviour* towards the other standing in the way. So there is either a danger that the conflict becomes the destroyer, or an opportunity for the conflict to become a creator of positive relationships (Galtung 2000). As for conflict transformation, the emphasis here is on transcending or going beyond the goal defined by the conflict parties' narrow minded perspective by persuading them to think beyond the norm and to explore alternatives in a way that both parties get more than they had hoped for (Galtung 2000). Galtung (2007: 14) argues for peace by peaceful conflict transformation, which focuses on the parties' relationships as opposed to the security agenda (as advocated often by the United Nations, for example), which often sees a party as a security threat to be eliminated.

Lederach (2003: 13) articulates that, "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." Conflict transformation goes beyond resolving a given problem (which is the aim of conflict resolution), by advocating for constructive change coming as a result of re- establishing broken relationships, and by affirming conflict as normal and as a potential motor of change (Lederach 2003: 4-5).

Lederach (2003: 11-12) sees conflict transformation as a way of *looking* and *seeing* the immediate situation of the conflict, the deeper relationship pattern and context through which the conflict is explained, as well as the framework that holds everything together. So, conflict transformation sees peace not as an *end state* but as “a continuously evolving and developing quality of relationship” by means of dialogue between parties and other mechanisms (Lederach 2003: 20,21).

Miall (2004: 3) identifies what is distinctive about conflict transformation in comparison with conflict resolution and conflict management. Conflict management sees conflict as, “an ineradicable consequence of differences of values and interests within and between communities.” These can be addressed by managing and containing them by possibly bringing the parties to an acceptable compromise, rather than claiming to resolve the parties’ differences (Miall 2004: 3). On the other hand, conflict resolution argues that parties cannot compromise on their basic needs but that, “it is possible to transcend conflicts if parties can be helped to explore, analyse, question and reframe their positions and interests” in such a way as to move from a destructive position to a positive position (Miall 2004: 3-4). He argues that conflict transformation builds on the conceptualisation of the other two (conflict resolution and conflict management), but tries to be relevant to the current nature of conflicts (Miall 2004: 3). Conflict transformation is thus, “a process of engaging with and transforming the relationships, interests, discourses and, if necessary, the very constitution of society that supports the continuation of violent conflict.” Conflict, then, is considered a vital agent of social change (Miall 2004: 4).

Perhaps the most interesting point that Miall (2004: 8) makes is that every conflict gets its meaning from its context – the same context which shapes the parties’ attitudes and behaviour. Therefore, the position of the conflicted parties is shaped by past relationships and future expectations (Miall 2004: 8). The context involves local, regional, and international issues – so that conflict transformation should be also *context transformation* by dealing with “changes in the context of conflict that may radically alter each party’s perception of the conflict situation, as well as their motives” (Miall 2004).

Finally, Miall (2004: 10) argues that conflict transformation not only deals with conflict by *context transformation* but also by *structural transformation*, which deals with basic changes in the structure of the conflict, the *actors’ transformations* to help them to change their goals and approach to conflict, *issue transformations* to help parties change positions, and *personal/elite transformations* to help the decision-makers change their minds and hearts during crucial times of a conflict.

For Dhiaulhaq, De Bruyn and Gritten (2015: 142), “the key goal of conflict transformation is sustainable resource management” as opposed to the short-term approach of diffusing the negative impact of conflict implied in the conflict-resolution or -prevention school. So, conflict transformation deals with violence in all its forms: direct, cultural and structural (Francis 2004: 6). Consequently, the goal of conflict resolution cannot be conflict prevention, because conflict prevention helps the status quo, thereby advantaging the powerful who do not want the opposition to challenge their power but to keep quiet in “peace” (Francis 2004: 6).

In the context under this research, land conflict management had been taken by the actors to mean land restitution, and this is probably the reason for the persisting land conflict. Whereas land restitution is a very important component of land conflict transformation, there is a need to address relationship issues in a way that the conflict becomes an agent of positive change in the society.

5.3 Community alliance for peace

5.3.1 The Kenyan experience

The best way to explain this concept is to analyse a Kenyan case whereby, during the 2013 general elections, the Kalenjin and the Kikuyu communities forged an alliance that went ahead and achieved not only a political settlement, but also a communal cohesion between these communities that had been characterised by deep divisions following the 2007 general elections (Lynch 2014: 93). It should be noted that the two communities had been previously characterised by cyclic electoral violence; the major episode being in 2007 when they killed each other and developed mutual hatred (Lynch 2014: 94).

Of course, it should be noted that elections were the immediate cause of violence, but the issues at the heart of this Kikuyu-Kalenjin conflict had more to do with land such that, “many Kalenjin believe they were displaced from during the colonial period, and never adequately compensated,” while the Kikuyu benefited from this resettlement scheme with the help of the first President Kenyatta, who was also Kikuyu (Lynch 2014: 97). Roberts (2009: 14) equally believes that it was the long-standing land conflicts that triggered the Kalenjin to violently attack the Kikuyu in the Rift Valley.

The Kalenjin’s frustration grew rapidly when President Moi (Kalenjin) lost power in 2002 to a Kikuyu President (Kibaki); this is one reason that could account for repetitive Rift Valley clashes among the Kalenjin and Kikuyu which peaked with the 2007 elections when organised Kalenjin groups attempted to chase away the Kikuyu from their (Kikuyu) agricultural land (Lynch 2014: 97). Several Kikuyu were killed

during these community clashes. The Kikuyu organised counter-attacks that targeted the Kalenjin and their perceived allied communities such as the Luo, and consequently, about 1000 people died from these different communities while hundreds of thousands were internally displaced.¹³

However, what is interesting is to try and understand why, within five years of these violent mutual attacks involving the two communities, Uhuru Kenyatta and William Ruto (respectively Kikuyu and Kalenjin community leaders) managed to ally the two communities around co-operation in the elections that took the two leaders to power as President and Vice-President respectively.

One common explanation for this alliance is the fact that they were all facing International Criminal Court (ICC) charges following the 2007 electoral crisis. They had to unite to survive, because they believed that their win would simply mean that the ICC case would be dropped (Wolf 2013: 161), as indeed it was. The mobilisation of these two communities stood on their communal identity, as in a such a threatening situation as this ICC context, members of the two communities had to stand with their sons who were incarnating their respective communities' felt needs (Wolf 2013: 143, 169).

To concur with Lynch (2014: 109), the success for this alliance can also be explained as more than an escape from ICC: it can be explained by the capacity for Uhuru and Ruto to convince their respective communities and other communities that they were able to deliver peace, and by their presentation of their opponent, Raila Odinga, as somebody who was after revenge. Peace, it seems, was so determinant and appealing to communities that were already traumatized by cyclic ethnic clashes and war that their vote was an attempt to transcend their original land-based conflict.

Although it is difficult to know the extent to which the original land-based conflict has been resolved, what is clear is that the two communities are already collaborating on a number of issues, especially sharing the same vision for their communities and country. A question which will only be answered with time is that of knowing if the new vision will have a long-term impact on the old land conflict. One issue is clear with this Kikuyu-Kalenjin experience: it is possible to divert the attention of fighting parties from the original conflict to an opportunity resulting from realising a common interest: that is, goal shifting.

¹³ For the sake of making the text digestible, I did not want to discuss the 2007 Kenyan general election conflict in detail. It should not be understood that it was just a Kikuyu-Kalenjin conflict. The other communities were also part of this nationwide conflict.

5.3.2 Factors for successful alliances

Alliances, whether between movements, organisations or communities can be successful even in cases where there are considerable differences between the parties in alliance. Beamish and Luebbbers (2009: 648) examined a successful case of a cross-social movement in defence of the common cause of stopping “a federally funded U.S. biodefence laboratory from being built and operated in Roxbury, Massachusetts.” They specifically analysed the internal factors for a successful coalition, and found that, *cause affirmation, the strategic deployment which clarifies different roles, exclusion in marginalising non-conformists, and co-development of cross-movement commitment* are important factors for a successful alliance (Beamish and Luebbbers 2009: 665, 671).

Likewise, Spiers and Wood (2010: 373) studied the factors that account for the success or failure of a therapeutic alliance in the context of brief therapy. During this study, the participants defined the therapeutic alliance as, “the point at which the clients recognise that the nurse is fully attuned to being in the moment as they connect to their own issues in a positive way.” They (participants) described the alliance building as consisting of “three non-linear overlapping phases: establishing mutuality, finding the fit in reciprocal exchange, and activating the power of the client” (Spiers and Wood 2010: 373). Therefore, the underlying assumption in therapeutic success lies in the effort to establish a positive relationship between the nurse and the patient (Spiers and Wood 2010: 374).

They concluded that a successful therapeutic alliance had three components, namely, “collaborative tasks that have been mutually understood; goals that are mutually derived based on client readiness; and bonds that encompass a sense of compatibility, trust, respect, and caring” (Spiers and Wood 2010: 374-375).

Hearld *et al.* (2013: 140) analysed whether, in community alliance, member perception of fairness in the decision-making process is connected with the level of consensus in the vision-building process. They realised that there is a positive relationship between the two to such an extent that a successful alliance process must pay attention to fairness and transparency in the decision-making process. The study concludes that the results in alliance activities will heavily depend on fairness in the decision-making process and the level at which the members internalise the goals and vision of the alliance (Hearld *et al.* 2013: 157).

(Gillies 1998: 99) examined the impact of the alliance between different actors in health sectors including the community, health professionals and different private actors in promoting determinants of

health and wellbeing in the community as well as personal health-related behaviour change. The conclusion of the study was that, the greater the community involvement in planning and setting up the agenda, the higher its impact (Gillies 1998: 99). The study also found that involving durable community structures in the decision-making process positively influences the alliances and promotes health because these structures are key in supporting the “sharing of power” as well as the “responsibility and authority for change” (Gillies 1998: 99).

Finally, (Ascher 1988) studies the factors influencing successful “collaborations between urban schools and businesses, community agencies, cultural institutions, and universities” and found that, “(1) commitment; (2) egalitarian decision-making; (3) clarity about roles; (4) clarity and flexibility about methods and goals; and (5) ability to bridge institutional cultures” are key to this process.

It is apparent that alliances can be successful if the actors follow certain procedures. Although it is also important to note that the goals for the parties involved in the above studies were not necessarily peace building, it is argued here that the same dynamics that influenced successful alliances for a common goal can be explored in cases of alliances for peace-building.

5.3.3 What is meant by a community peace alliance in Burundi?

The earlier chapters have discussed how politicians in Burundi have hijacked the land and other property restitution processes so that what was designed to be a humanitarian exercise in favour of returnees who had been oppressed for four decades ended up becoming a highly violent conflict capable of threatening the national social cohesion.

The research was designed to test the feasibility of a community peace alliance with a group of five returnees and five second property occupants all involved in some sort of land conflicts; and then work together for eight months in attempting to understand the problem as we transformed it (Morales 2016: 159). Ultimately, the research was able to propose to land actors the factors that can account for a community-initiated peace agenda capable of transforming land-based violence.

In other words, the research intended to explore the following questions: Can competing members of the same community – who feel threatened by land-induced insecurity – be capacitated (Ozanne and Saatcioglu 2008) to form an alliance for a common peaceful agenda capable of transcending differences currently threatening their peaceful coexistence? If yes, can they drive this agenda in the absence of political co-operation or will (Ngwenya and Harris 2015: 12)? And, if they do, can this happen in a situation of enormous land scarcity and over-dependency on land (Theron 2009: 4)? Can this striving for

a common peace agenda survive other structural violence which, like poor land governance, is engraved in a history of injustice geared towards oppressing some stakeholders in this community peace agenda (Theron 2009: 4)?

It is my assumption, and the assumption of many community peace development actors, that the conflict parties have the capacity to transform their situation, given the opportunity to create mutual understanding through communication through the exchange of stories in dialogue (Lederach 2003: 21). Indeed, the transformational story belongs to the community (Myers 1999: 112), and it must be given space to be told – and this space can be made available through the dialogue in the community peace alliance framework (Lederach 2003: 11).

In a country where more than 80% of all the cases in court have something to do with land (Ntampaka and Mansion 2009: 17), and where the CNTB's decisions are regularly contested, it is important to realise that the current court and administration systems need to be complemented by other forms of conflict intervention. Burundians managed to resolve land issues before courts were introduced. We had our own traditional way of settling disputes within a reasonable time frame. The question, though, is how much of this can be adopted today? The idea here is that what is traditional or customary is not static and unchanging, but rather is constantly interacting with other ways – especially western practices – of dealing with conflict (Boege 2006: 6). In particular, communal justice is typically less expensive, less corrupt and, more importantly, more accessible to the community than court-based justice in Burundi. All these ideas will support the process of community peace alliances. However, since the parties are clearly embracing violence as a means of conflict resolution, it is perhaps important to discuss the concept of violence and non-violence in conflict transformation.

5.4 Violence and non-violence theories

5.4.1. Using violence for change

In the previous chapter, I discussed the alliance theory as used to explain the complexity of the causes of civil war and other forms of violence, especially in the land conflict context. It was shown that the parties in this alliance are not necessarily pursuing the same goals, and that they do not exclude the use of violence in pursuing their goals. I argue that this kind of alliance is negative because it uses violence to sustain itself, and to argue the case of its members. Violence, whether used at community level or at inter-state level, is prone to bringing about minimal positive results to the parties.

For example, the USA and its allies wanted to bring regime change and democratic principles to Iraq by using violence in the military action which commenced on 19th March 2003. George W. Bush's administration and the other parties in the alliance linked Saddam Hussein with Osama Bin Laden, who was "enemy number one" to the Americans, thus linking him (Saddam) directly to the 9/11 incident which was still fresh and traumatising in the minds of most Americans (Bacevich *et al.* 2013: 16). Therefore, USA believed that all the countries hosting or trying to assist terrorists in one way or another were to face the same consequences as those terrorists responsible for 9/11 (Heinrich 2012). Although the link between Saddam and al-Qaeda had not been established, it is believed that Saddam supported other extremist and terrorist groups disturbing Iran and Turkey, as well as extremist Palestinian groups (Heinrich 2012). As Bush's administration had attacked Afghanistan to dismantle al-Qaeda and the Taliban government, Iraq was going to be next on the list (Heinrich 2012).

Among the other reasons given by the USA to justify the attack on Saddam Hussein was that he had weapons of mass destruction. The USA went on to argue that, having weapons of mass destruction in the hands of a dictator who had, in the past, used poisoned gas against his own people and against Iran, and who had a history of invading his neighbors like Kuwait, was a direct threat to the USA (Sameera K. and Palatine).

So the threat was aggravated by the fact that these weapons of mass destruction could find their way into the hands of terrorist groups linked to Iraq, and it was important and urgent to stop Saddam from facilitating this, since he was even unwilling to abide by the UN Security Council's different resolutions on this question (Sameera K. and Palatine). Of course, these weapons were never found, a reality which is still difficult for the world to digest. Some, like Archbishop Desmond Tutu, are even proposing that Bush and Tony Blair should be taken to The Hague and be charged with war crimes (BBC News 2012).

The democratic agenda was also a significant reason why it was important for the USA to attack Iraq. The people of Iraq needed to be free from dictatorship, and this democratic light had to shine from Iraq to the rest of the Middle East (Sameera K. and Palatine). Thus, removing Saddam, installing democracy and a voting system would automatically result in a democratic state, the USA believed (Bacevich *et al.* 2013).

Perhaps an unofficial reason for the attack was that, following the seeming exposure of American weakness in failing to prevent the 9/11 attack, there was need to demonstrate American military power to all the enemies who might think of attacking America again (Heinrich 2012).

However, violence did not resolve any of the above problems. According to Reuters (Trotta 2013), the U.S. war in Iraq cost \$2 trillion and the expenses could reach \$6 trillion in the next four decades following the war. In addition, Reuters reports that the war has killed around 189,000, mostly Iraqi civilians, but also security forces, insurgents, journalists and humanitarian workers (Trotta 2013). Finally, Reuters reports that the war revived the radical Islamic movements, negatively affected the advances made in women's rights, and left Iraq more traumatized socially and economically, and more divided politically (Trotta 2013).

While the Saddam regime had managed to keep together the different faiths including the Shiites, Sunnis, Christians and Kurds, this is no longer the case. Groups are being armed against each other, thus leading to generalised insecurity – not only in Iraq, but also in the neighboring countries (Bacevich *et al.* 2013: 13).

The democratic lessons were not well-assimilated by the Iraqi people. It was important for the Americans to first ask themselves Walter Laqueur's question: "Could a democratic regime be imposed from the outside on societies without democratic traditions and institutions, countries deeply split internally on religious, ethnic, or tribal lines?" (Bacevich *et al.* 2013: 24). As Meghan O'Sullivan said (correctly), rebuilding a nation whose authority pillars have been destroyed cannot be done overnight (Bacevich *et al.* 2013: 34). It will take decades for the people of Iraq to rebuild their nation and become a stable democracy.

It seems as though the world – and especially the West – did not learn their lesson: that military force might pull down the regime, but it does not have power to compel citizens to accept the new ways being proposed from abroad. After Iraq, NATO, led by France and Britain with the support of the USA, went on and attacked Libya and its leader, Muammar Qaddafi, with the same official objectives of freeing Libyans from dictatorship. It appears, however, that alongside democratic motives, gold and oil were the other motives behind the push for a regime change (Schapiro 2011). The consequences are now being felt by the whole of Africa as the geographic unity of countries like Mali is threatened.

5.4.2 Non-violence works

Johansen (2007: 145) explores pacifist and pragmatic views of non-violence. Pacifists, often using religious ideas and views, believe that no goal can justify killing other human beings and, therefore, are against all forms of harming humans and other beings (Johansen 2007: 145). On the other hand, pragmatists actively use peaceful means to fight for their freedom in respect of human rights and "their

choice of means has been based more on what is effective than on ethical guidelines and moral values” (Johansen 2007: 148). Regardless of which school one belongs to, Johansen (2007: 150) mentions that non-violence has been categorized into three groups, namely *protests*, *non-co-operation* and *interventions*.

The major question which we need to answer here is whether non-violence has a role in addressing extreme dictatorship regimes or systemic injustices inherited from such regimes. Is it possible to non-violently change dictator regimes or oppressive policies? For Mataconis (2010), organising non-violent resistance in the face of a tyrannical regime equates simply to signing one’s suicide note. He goes on to say that the reason for this is that non-violent actions are only possible with regimes that have some sense of law and order, as was the case for British and American regimes during Ghandi and Dr. King’s times (Mataconis 2010). Along the same line of thought, Scheffer believes that when violence is directed to a peaceful population, there comes a point when this population uses violence just to attract the international community to intervene within the UN 2005 principle which calls for responsibility to protect (Scheffer 2016).

Chenoweth, however, thinks that when there comes a time when non-violence cannot work, then violence will only worsen the situation and as such, it should not be an option either (Scheffer 2016). Chenoweth and Stephan (2008) identified 323 campaigns which occurred between 1900 and 2006 which were classified by experts as being either predominantly violent in nature or predominantly non-violent. These were in three categories: bringing about regime change, expelling foreign occupiers, and secession. The findings show that major non-violent campaigns have achieved success 53 percent of the time, compared with 26 percent for violent resistance campaigns. Two reasons account for this success: non-violent campaigns are more likely to attract increasing numbers of participants, even in the face of violent opposition, and outcomes achieved by non-violence are much more likely to last than those achieved by violence.

There are various reasons why violence never works to accomplish peace and positive change objectives. The first reason is that, most often, the regime that one is trying to change, or the bad policy being targeted, has more power and sophisticated weapons than the victim – and, therefore, the oppressor is likely to respond with more violence than they were using before (Knapp 2010). In most cases, recourse to violence will legitimise the actions of the oppressor. Both the oppressed and the oppressor end up at the same level, where their final objective becomes revenge, victory and self-

protection (University of Colorado 2008), at the expense of vulnerable citizens, often women and children.

On the other hand, the strength of non-violence resides in the fact that it discredits the violent opponents and renders them powerless (University of Colorado 2008). Of course, such a non-violent action must be based on a moral argument which can be shared across divides in the community and even beyond national borders (University of Colorado 2008). It is probably at this level where the West-imposed democratic principle did not work. The level of ownership was always low, irrespective of the force and resources used. The motives are so important: they have to be humanitarian, and not economic gain – as was the case in Iraq and Libya, for example.

Another reason why violence does not work is that, to use the words of Crews, “Violence is the problem; it is not the solution” (Crews 1994). If violence ends up killing people and destroying property that was meant to be protected, then it is very difficult to trust that model.

The best and most recent non-violent regime change example is in Senegal. In 2012, with President Abdoulaye Wade forcing his way into another term, it was clear that there was an open conflict that could have turned violent as is the case in Burundi. Civil society and the opposition in Senegal decided to choose the non-violent route and came together against Wade (Ba 2012). They decided to use their power of the vote which finally brought in a new regime under Macky Sall as the new president. Senegal’s peaceful regime change put the country on the road to democracy, and was the agent of peace as Senegalese people view themselves as important to this process.

Of course, the non-violence model has its own challenges. It is difficult to keep the momentum, and it may lead to serious sacrifices, including loss of life (Knapp 2010). However, the loss we incur while using violence and the time which change will take (if it ever happens) leaves us with only one choice – to always go for active non-violence.

5.5 Conclusion

This chapter has argued that a simple absence of direct violence leads to negative peace, while the absence of structural violence leads to positive peace. Violence comes about as a result of parties in conflict hardening positions, while peace and positive change are as a result of conflict transformation. Therefore, conflict is not to be seen as something negative, as it can be a motor of positive change.

Conflict transformation cannot happen where there is no co-operation, which results from dialogue for mutual understanding, thus leading to the formation of new alliances for peaceful goals. So the means by which parties reach their desired goals must also be peaceful, because violence cannot bring about positive and sustainable change that results from the renewal of broken relationships.

PART III RESEARCH METHODOLOGY

CHAPTER 6: RESEARCH DESIGN, DATA COLLECTION METHODS, DATA ANALYSIS AND ETHICAL CONSIDERATIONS

6. 1 Introduction

Chapter 6 discusses the research design, research procedure, data collection methods, data analysis, and the two major planning tools used by the action team. It concludes by discussing the validity and reliability of the study, as well as the ethical issues around this research. The conclusion returns to the major methodological lessons learnt. Throughout my discussion, I have broadly followed Creswell's terminology (Creswell 2014; Creswell and Poth 2018).

6.2. Research design

Creswell (2009: 3) defines research designs as plans and procedures for research that, "span the decisions from broad assumptions to detailed methods of data collection and analysis." The research design, therefore is a "set of guidelines and instructions to be followed in addressing the research problem." A good research design is one that presents a clear purpose with coherence between the research question and the methods which are going to be used to collect the data to answer that question. The research design in this study was qualitative, which is to say, unlike quantitative research, which assumes that there is a single reality, qualitative research assumes that there are multiple contextual realities (Davis 1992: 605).

6.2.1 Qualitative research

It has not been an easy task for researchers to define qualitative research. Whereas some have defined it by offering working definitions and identifying its key characteristics, others have defined it from the methodological point of view, while still others have given a definition from the perspective of what qualitative research is not (Snape and Spencer 2003: 2-3).

Snape and Spencer (2003: 3) maintain that, of the different definitions given for qualitative research, it emerges that the researchers agree that qualitative research aims are directed at, "providing an in-depth and interpreted understanding of the social world of research participants by learning about their social and material circumstances, their experiences, perspectives and histories."

Creswell and Poth (2018: 8), quoting Creswell (2013: 44), define qualitative research in the following way,

Qualitative research begins with assumptions and the use of interpretive/theoretical frameworks that inform the study of research problems addressing the meaning individuals or groups ascribe to a social or human problem. To study this problem, qualitative researchers use the emerging qualitative approach to inquiry, the collection of data in a natural setting sensitive to the people and places under study, and data analysis which is both inductive and deductive and establishes patterns or themes. The final written report or presentation includes the voices of participants, the reflexivity of the researcher, a complex description and interpretation of the problem, and its contribution to the literature, or a call for change.

Whereas the aim of quantitative study is to “test pre-determined hypotheses and produce generalisable results,” the qualitative study aims at understanding complex psycho-social issues (Marshall 1996: 522). The table below shows the difference between the quantitative and qualitative methods:

Table 6.2 Comparison between qualitative and quantitative research

	Quantitative	Qualitative
Philosophical foundation	Deductive, reductionist	Inductive, holistic
Aim	To test pre-set hypothesis	To explore complex human issues
Study plan	Steps, predetermined	Iterative, flexible
Position of researcher	Aims to be detached and objective	Integral part of research process
Assessing quality of outcomes	Direct tests of validity and reliability using statistics	Assurance methods of trustworthiness
Measures of utility of results	Generalisability	Transferability

Source: Marshall 1996: 524

This study is qualitative, with a transformative worldview (Creswell 2014: 9) since,

- It is an exploratory study (Creswell 2014: 4). It explores the meaning which different actors (politicians, returnees, second occupants, administrators, the Land Commission, legislators, civil society organisations, and members of the action team) give to land restitution-related conflicts in Burundi in general, and in Makamba Province, Nyanza-Lac commune in particular.
- Its strategy was action research as it had an action component to it aimed at contributing to the transformation of land conflicts “as part of the research process itself” (Walker *et al.* 1998: 240). I sought to understand how one can contribute, using dialogue, to the transformation of land

conflicts in Nyanza-Lac through a democratic principle bringing together action and reflection, theory and practice in a participatory and involving way. This would be done by working with an action team of 10 people affected by the land problem in order to understand this problem and reflect on the ways of managing it (Morales 2016: 159). Therefore, the choice of action research comes from the desire to generate knowledge as we transform the problem (Susman and Evered 1978: 586).

- Finally, the research aimed at monitoring and evaluating both the process and the outcome of the action. This implies “checking for changes in consequences (effect of action) over and above what might otherwise have been expected, learning what seems to work best, what the barriers are, and modifying the action...” (Gorard 2013: 153).

6.3 Research strategy

The research strategy (Creswell and Poth 2018: 17) in this study was action research. It is important, at this stage to pause and understand in detail what action research entails. The contribution of this research to understanding and resolving land conflict in Burundi lies in the fact that it has an action component to it aimed at contributing to the transformation of land conflicts.

Action research – or participatory action research as others prefer to call it – is a democratic principle which brings together action and reflection, theory and practice in a participatory and involving way. The researcher works together with the victims of the problem in order to understand it and find solutions (Morales 2016: 159). The democratic nature of action research dictates that the researcher accepts the members of the action team as co-researchers and co-implementers. Therefore, they participate in the decision-making process from seeking to understand the problem through to the evaluation of the intervention.

Brydon-Miller, Greenwood and Maguire (2003: 9) answer the question, “Why action research?” In their view, action research was born from the willingness of researchers to collaborate with stakeholders with “liberation intent,” with a view to doing research capable of generating knowledge that is valid and vital to the well-being of the people, and which is able to lead to democratic social change (Brydon-Miller, Greenwood and Maguire 2003: 11). As such, action research challenges the positivistic view which holds that valid research is objective and value-free (Brydon-Miller, Greenwood and Maguire 2003: 12).

Thus, action researchers agree that knowledge lies with the people who also have the capacity to understand and address the issues confronting them (Brydon-Miller, Greenwood and Maguire 2003:

12). Action research is able to generate much reliable data because the expert's research knowledge meets the local expertise in analysing the problem, carrying out the intervention and evaluating it (Brydon-Miller, Greenwood and Maguire 2003: 17). Consequently, there is a strong relationship between action and knowledge, as true knowledge arises from action – or else it becomes speculation (Bradbury-Huang 2010: 93).

My motivation to test an intervention on land conflict arises from the fact that the primary actors in the land restitution process were never involved in the decision-making process. Politicians met in Arusha in 2000 and decided that refugees would get back their land which was already “legally” owned by other people. These politicians did not consider listening to either the returning refugees or the second land owners, and involving them in this decision; hence, a mixed outcome was registered by the land commission. In this situation, where there were strong positions on land ownership in a context of land scarcity and a heavily land-dependent economy, it seemed that dialogue should be explored as an option.

Therefore, action research is “research-with-practitioner” (Bradbury-Huang 2010: 94). So an action researcher must be able to communicate with two worlds: “the local practitioners, and the ‘cosmopolitan’ community of scholars”(Bradbury-Huang 2010: 99). At this stage it may be necessary to borrow Bradbury-Huang's (2010: 99) five ideas on what quality action research is: “quality proceeds from a praxis of participation, is guided by practitioners' concerns for practicality, includes stakeholders' ways of knowing, helps to build capacity for ongoing change efforts,” and chooses to engage with those issues people find significant.

Likewise, Dick (2015) reviewed the *SAGE* encyclopedia of action research, which consists of 314 entries by 267 authors in order to determine what the current perspectives on action research are, its purpose and how it is used. He concluded that there are five major assumptions by action researchers:

1. That action research uses diverse methods having values, intentions and process in common,
2. That action research is almost always participatory, and participation is seen as a means to have quality data, and as an end in itself,
3. That social action has an action component to it intended to improve social life,
4. That critical reflection is a universal component to action research,
5. The determination of how to achieve change and how to carry out the implementation, reflection and critical reflection is done in a cyclic process alternating between action and reflection in its simplest form (Dick 2015).

Building relationships between the researcher and the “researched” in a way that challenges the traditional boundaries between them is the major concern of participation in action research (Arieli, Friedman and Agbaria 2009: 264). This implies that participatory action research involves and empowers ordinary people to play roles that were ascribed to professional researchers in a manner that is democratic and based on power-sharing as far as decision-making and interpretation are concerned (Arieli, Friedman and Agbaria 2009: 265).

Yet, of course, involving ordinary people in understanding their problems and participating in finding solutions has its own challenges. Arieli, Friedman and Agbaria (2009: 275) refer to these challenges as “paradoxes of participation,” which they define as “a situation in which action researchers, acting to actualise participatory and democratic values, unintentionally impose participatory methods upon partners who are either unwilling or unable to act as researchers.” Further challenges of participation identified by de Toledo and Giatti (2015: 162) have to do with mobilisation, co-operation, appropriation, and a proactive stance.

However, as Reason and Bradbury argue, “action research is only possible with, for and by persons and communities” as they all journey together on the road of “sense-making” and action. Indeed, people know their own context best and they have the ability to improve it. Some of the ways to increase participation are using different tools to empower and produce self-mobilisation (de Toledo and Giatti 2015: 172) and avoiding assuming that the people are willing to participate, but instead engaging in free and genuine negotiation (Arieli, Friedman and Agbaria 2009: 283). Consequently, empowering the action team to do their action and reflection tasks should not be seen as imposing methods on them but as building their capacity so that they can take decisions and implement them from an informed position.

One of the major assumptions of this research was that the victims of land conflicts in Burundi can be capacitated and empowered to participate in understanding their land-related problems and can bring about desired change and improve their situation (Ozanne and Saatcioglu 2008) through constructive dialogue. In Zimbabwe, Ngwenya established through action research in Matabeleland, following what came to be known as the Gukurahundi violence, that it was possible for people to heal and move forward on their own in the absence of an official initiative supporting them (Ngwenya 2014: 220). My research tested the possibility of establishing a victim-driven peace agenda by the community through peace alliances, in a way that is not necessarily dependent on the national land restitution mechanism currently in operation in Burundi.

Profile of the members of the action team:

One of the features of action research is that it is participative, in that members of the system under study participate and shape the cycle of planning, implementing, evaluating and then planning again (Coughlan and Coughlan 2002: 223). Thus, the action team is doing the research while the professional researcher helps to unfreeze the team's dynamic to identify the problem, to plan and bring about the needed change (Dickens and Watkins 1999: 192).

I purposely selected 10 members in my action team. The selection was done with the help of the Rema Ministries organisation (see Appendix 1 for the letter sent to Rema), a Burundian NGO that has been working on land issues for many years. I also selected some members that I had met from previous focus group discussions and who had expressed a willingness to participate in the action research. The literature review, the focus group discussions, and the individual in-depth interviews helped me to appreciate the context, and to be able to select a research team to handle the different criteria needed to fully respond to the research objectives.

Of these 10 members, five were returnees who have gone through, or are still going through, the process of recouping their land, while the other five were second occupants who have gone, or are going through, the process of giving land back to the original owner. In both cases, the action team members are dissatisfied with how the land restitution process has been or is being carried out. The reasons might not be the same in each case, but those qualifying to be members had to have been going through some sort of land conflict. The five second occupants did not have to be in direct conflict with the five returnees in the same action team. Both men and women were represented, because the issues of land and property reclamation affect men and women differently. Because the land conflict is highly politicised and ethnicised, care was taken in selecting the action team to include members of different political and ethnic backgrounds. After the selection process, I worked with the action team to explain further and help them understand the complexity of land-related conflicts, to plan for an intervention, and to implement and evaluate it.

6.4 Data collection methods

Any researcher is called upon to choose a sample of the population to study, because it is often not practical, and is sometimes unethical, to study the whole population (Marshall 1996: 522). The population here refers to "a 'constructed' and 'defined' set of elements" in a given context (Mouton 1996: 134). The sampling of the population in this research was guided by the research objectives (Marshall 1996: 522).

Marshall (1996: 523) proposes three broad methods for sampling in qualitative research:

1. Convenience sampling, which goes to the most accessible subjects. Although easy and cheap, it can lead to the collection of lower-quality data;
2. Judgement or purposeful sampling, which is most common, and whereby the researcher selects the most productive elements capable of providing the answer to the research question. The choice of the participants is influenced by a set of variables determined by the researcher's knowledge of the context, and comes after the literature review;
3. Theoretical sampling, which means that samples are theory-driven. It is the principle strategy of grounded theory, and the sample is selected to examine and elaborate the theories which the researcher builds from the emerging data. Coyne (1997: 629) argues that theoretical sampling is a variation of purposeful sampling and that it might well be called "analysis-driven purposeful sampling" or "analysis-governed purposeful sampling."

Non-probability purposive sampling was used for the selection of information-rich cases in order to reach my objectives and to answer my research questions (Palinkas *et al.* 2015: 533; Marshall 1996: 523) which were: **What are the nature and means of the current alliances around the land restitution process, and what factors could account for a successful community-driven peace agenda in addressing land conflict in Makamba, Burundi?**

As such, there was no requirement for a set number of informants as I decided on the number and quality of informants able to give the necessary information (Adebayo 2015: 128-129) based on my prior knowledge of the land problem context, the insights from the literature review, and the guidance of Rema Ministries, which had been working on land issues for many years.

The guiding principle in qualitative sampling is saturation (Mason 2010), which simply means that new themes or explanations on an issue under study have ceased to emerge from the data being collected (Marshall 1996: 523). Mason (2010) identified a number of factors determining saturation:

1. The aim of the study determines whether or not it will be easy to reach saturation. If the study makes modest claims, saturation will be reached more easily than if the study claims to discuss complex realities.
2. The other criteria include the heterogeneity of the population, the nature of the topic, the groups of special interests, the quality of the data, the study design, and so on.
3. It is also believed by some studies that saturation is only reached to a certain degree and that no one can claim total saturation.

The interviews helped me to collect specific, detailed and nuanced data from the interviewees (Davis and Hughes 2014: 180). Britten (1995: 251) describes three types of interviews:

1. Structured interviews, which normally use structured questionnaires with the researcher asking standardised questions in such a way that the respondent will have standardised answers. An example could be: Is your house in poor, good, or excellent condition?
2. Semi-structured interviews, which use open-ended questionnaires which define the main area of exploration and which may have follow-on questions to clarify things further in detail. For example: What would you understand by adequate housing? How is your own house?
3. In-depth interviews, whereby one or two issues are covered in great detail and where the questions are based on what the respondent says. They may start with something like this: This research is about people's perception of the state of housing in this village. Could you please tell me what you feel about your own housing? More detailed questions about the same subject then follow.

This research used in-depth interviews for both the focus groups and the individual cases. Needless to say, these interviews were not completely unstructured as they had been prepared in advance to guide the collection of data that helped me to answer the research question and reach the objectives (Coenen *et al.* 2012). The aim of interviews was, in the light of the research question, to explore the experience of the participants and the meaning they attach to this experience (Tong, Sainsbury and Craig 2007: 351; Dworkin 2012: 1319).

I used groups and individual interviews in order to gain not only the groups' shared or different perspectives, but also to capture the individual points of view and perspectives on the issues under study (Kaplowitz and Hoehn 2000: 238).

6.4.1 Focus Group Discussions

Focus groups are a formal way of interviewing a group of people on a given subject using the same principles used for individual interviews (Law *et al.* 1998: 5). It is a flexible and unstructured dialogue between members of the same group on a given subject in a convenient place under an experienced facilitator (Fusch and Ness 2015: 1410). Focus groups are useful for getting multiple viewpoints on a given subject within a short time in a way that one could not do with individual interviews (Law *et al.* 1998: 5). They also help to indicate shared perspectives and differences through the collected interactive data (Tong, Sainsbury and Craig 2007: 351); (Lambert and Loiselle 2008: 229).

Therefore, focus groups generate "context-dependant data," which Lambert and Loiselle (2008: 229) categorise as follows:

- (1) Associational context (that is, a common characteristic that brings the participants together);
- (2) Status context (that is, the positions of the participants in local or societal status hierarchies);
- (3) Conversational context (that is, the flow of the discussion and types of discussion within the group); and
- (4) Relational context (that is, the degree of prior acquaintance with other participants).

Furthermore, the focus groups give the researcher the opportunity to observe “transactions between and among participants, how they respond and react to each other” (Byers and Wilcox 1991: 64) in a way that can generate greater insight to understand the meaning behind the verbal communication.

Byers and Wilcox (1991: 65), referring to Lederman (1989), argue that the focus groups rely on five assumptions:

1. That people are valuable sources of information;
2. That people are able to report about themselves including their feelings, thoughts and behaviours;
3. That the facilitator assists to recover important and forgotten information;
4. That valuable information beyond group opinion can be retrieved;
5. And that there is an added value in interviewing a group rather than interviewing individuals.

Focus groups present considerable challenges, too. One is that a few individuals can easily dominate the discussion and refocus the group’s attention on their ideas; thus the need for a skilled researcher in order to successfully lead the discussion (Law *et al.* 1998: 5). Other challenges in getting quality data from focus group interviews include the discussion of sensitive topics which do not allow the members of the group to freely give their ideas (Fusch and Ness 2015: 1410), and the danger of individuals conforming to the socially acceptable response, unlike in individual interviews (Byers and Wilcox 1991: 67).

The focus group should be big enough to ensure a diversity of views but small enough to allow everybody in the group to participate (Fusch and Ness 2015: 1410). Therefore, it is recommended that a focus group should be between 8 and 12 members (Fusch and Ness 2015: 1410; Byers and Wilcox 1991: 65).

This research took place in the southern province of Makamba because it received the highest number of returnees and, consequently, is registering the highest number of land restitution-related conflicts.

The research concentrated in one commune, Nyanza-Lac, with a total population 112,752 with 6,522 registered land restitution related cases (CNTB 2016).

Thirty-two members from four focus groups were selected. The data collected from the focus groups helped to fill the gaps left unanswered by the literature review. The literature review answered the major part of the first objective of this research, which was to establish the nature of current alliances between politicians and local land actors in Burundi, and to determine the extent to which these alliances use violence as a means to coerce and mobilise followers. The focus group discussions gave some additional insights to contribute to the second objective, which consisted of exploring mobilisation and/or training needs to establish community peace alliances able to address land conflicts in Makamba. Finally, the focus group discussion served as an opportunity for me to make observations for probable selections of some individuals who would form my action team.

The focus group discussion collected data from the purposely selected respondents directly involved in the land conflict. Therefore,

- The first focus group discussion was made up of eight adult second occupants who have inherited refugees' lands and who are being/have been/will be requested to give back land to returnees. Both males and females of various ages were selected because land issues affect men and women differently. I also selected those who received the land from the government, those who annexed their refugee neighbours' land to theirs, those who got land first-hand, and those who acquired land after it had changed hands more than once. Finally, I selected a widow and a single parent because of their social vulnerability in addition to being women.
- The second focus group was made up of eight adult returnees who are claiming the whole or part of their land from the second occupants. They were male and female, both the older generation who lived in Burundi before 1972 and who left their land behind, and the new generation who were born in exile and who are claiming what used to be their parents' land. The other selection criteria had to do with social vulnerability: widows and single parents.
- The third focus group was made up of eight members of grass roots community based associations involved in community conflict resolutions. These were returnees' as well as non-returnees' associations.
- The fourth and final focus group discussion was made up of eight communal councillors selected from all the political parties represented in the communal council of Nyanza-Lac. They were selected for being elected by the people to manage all community related problems at communal level.

The interview guide for focus groups (Appendix 2) served to get a deeper understanding of the dynamics not covered by the literature review in responding to the first and second objectives.

The following questions helped me to guide the discussion in focus groups:

1. What do you know about the land and other property restitution process here in Makamba/Nyanza-Lac?
2. What is your view on the way the process is being handled by the CNTB?
3. What do you know about politicians' involvement in this process?
4. How would you evaluate their (politicians') involvement in the process?
5. In your opinion, have there been violent reactions during this process?
6. Who are the different actors in the violence and what have been their roles?
7. How could the community get involved to peacefully handle this property restitution process?

All the focus group interviews were concluded with an evaluation (Appendix 3) in order to allow for more learning on my part and, eventually, for improvement in the conduct of subsequent focus groups.

6.4.2 Interviews

Individual interviews are the most widely-used type of qualitative data collection which researchers use to collect detailed information on the participants' thoughts, attitudes, beliefs, and knowledge of the subject under study (Lambert and Loiselle 2008: 229). The assumption regarding individual interviews is that questions are well-formulated, interviewees are able to answer them, and the answers given will reflect the reality of the respondent's experience (Lambert and Loiselle 2008: 229). The assumption that words will be the expression of the respondent's experience can be deceptive, especially in that some respondents can choose to impress the researcher, play a neutral role, or fear to express their feelings and thoughts, and hence, say what they do not mean (Lambert and Loiselle 2008: 229).

As with the literature review and the focus group interviews, these in-depth interviews with selected individuals contributed towards responding to the first objective, which is to establish the nature of current alliances between politicians and local land actors in Burundi, and to determine the extent to which these alliances use violence as a means to coerce and mobilise followers. The data collected also contributed towards responding to the second objective, which is to identify the mobilisation and training needs to establish community peace alliances capable of addressing land conflicts.

In-depth interviews were conducted with four purposely-selected authorities in order to get detailed analysis on the land problem from a policy and interventional point of view:

1. One Member of Parliament was selected as representing the population of Makamba, for their role in voting on laws affecting the land restitution process, and for following the action of the government;
2. One provincial authority from the ruling CNDD-FDD party was chosen for their role in executing the government policies in the province of Makamba and for looking at the interest of the ruling party;
3. One member of the opposition UPRONA party working in the provincial institutions was selected for their role in executing government policies, and for looking at the interest of the opposition;
4. One member of the CNTB (Land and Other Property Commission), also a member of the Provincial CNTB delegation, was selected for being a member of the independent public body in charge of settling land restitution-related conflicts.

An in-depth interview guide (Appendix 4) was developed for the four authorities in order to collect specific, detailed and nuanced data from these individual interviewees. The interview with the individuals from the decision-making system was articulated in the following questions:

1. How would you assess the Arusha Peace Agreement's proposition for property restitution to returnees?
2. The Arusha Peace Agreement proposes a compensation fund. For which reason do you think this fund was proposed, and how could it be used?
3. Following this Arusha Peace Agreement, the CNTB and the Special Court have been put in place to deal with property restitution-related conflicts. What is your position on the mandate of these institutions?
4. What is your view on the fact that the CNTB was created before the Truth and Reconciliation Commission?
5. What is your view on the way the property restitution process is being handled by the CNTB?
6. How would you evaluate the politicians' involvement in the process?
7. How would you evaluate the violent reactions that have been associated with this process?
8. What are the possible means to have a peaceful property restitution process?
9. How could the community be involved in this process in a way that leads to peace?
10. What could be the specific needs of the community to play their role effectively?

6.4.3 Observation

Observation methods in research have been classified into two main categories: structured and unstructured observation (Mulhall 2003: 306). Structured observations are a “discrete activity whose purpose is to record physical and verbal behaviour” with the observation schedules being “predetermined using taxonomies developed from known theory,” whereas unstructured observation is “used to understand and interpret cultural behaviour,” and is based within the interpretist/constructivist paradigm that acknowledges the importance of context and the co-construction of knowledge between researcher and researched” (Mulhall 2003: 306).

Whereas in structured observation the researcher stands aside from what is being observed and, therefore, remains objective, the researcher’s role in unstructured observation can move from being an observer to being a participant in such a way that the researcher and the researched cannot be separated (Mulhall 2003: 307). Thus, observational methods as used in social science involve systematic, detailed observation of behaviour and talk as they happen in the natural setting (Pope, Ziebland and Mays 2000: 311).

This research used unstructured observation, especially as I worked with my research team and, sometimes, as I interviewed people either in the focus groups or as individuals. Observation mainly helps to confirm whether what people say they do is what they actually do (Pope, Ziebland and Mays 2000: 183; Mulhall 2003: 307), and this was possible because of the eight months that I stayed in the field. Observation can help also to uncover behavioural partners which even the participants were not aware of (Pope, Ziebland and Mays 2000: 183).

Whereas the interview data gives the perspective of the interviewee, the observation data is subject to interpretation by the observer and is told from his/her perspective (Mulhall 2003: 308). Mulhall (2003: 308) discusses the value of unstructured observation as it captures data in more natural circumstances, that is the wider setting in which people live and work, and it informs the influence of the physical environment on the issue under observation and research. The elements observed during my field work were recorded in a journal, and they helped me to capture non-verbal data which could not be captured by the audio recording (Ngwenya and Harris 2015:41).

6.5 Data analysis

Data analysis can be a confusing and tiring exercise because of the amount of data generated. I generated 258 pages of information after the transcription of the audio data from the 20 dialogue sessions, and another 72 pages from the preliminary focus groups and individual interviews. To analyse

the data, I utilised Thorne's wisdom: Thorne (2000: 68) explains that the analysis of qualitative data follows inductive reasoning, which uses the data to generalise ideas (hypothesis generating), as opposed to deductive reasoning, which starts from the idea and uses the data to test it (hypothesis testing). This way of reasoning was helpful to me as it allowed for many more discoveries beyond those hoped for in the research question and objectives.

In qualitative data analysis, data collection often coincides with data analysis in such a way that the choice of the next data to be collected may have been informed by the preliminary conclusion of the analysis in the earlier data, while the new data informs the analytical process (Thorne 2000: 68). In other words, the judgement which the researcher uses to know that they are collecting the relevant data able to answer the research question should be seen already in the data analysis process (Thorne 2000: 68).

This is what happened with the data I collected. The initial analysis of the literature review, the focus groups, and the individual interviews set the context for the action team's data reflection and action. This was even more interesting with the action team, where the daily evaluation of the dialogue session and, eventually, the informal dialogue sessions, informed both the content and the nature of the next session.

Spencer, Ritchie and O'Connor (2003: 217) propose the "concept of an analytic hierarchy" which consists of three non-linear stages, namely,

1. The "data management," which reviews, labels, sorts, and synthesises the raw data;
2. The "descriptive accounts," which use the ordered data to advance "key dimensions, map the range and diversity of each phenomenon, and develop classifications and typologies"; and
3. The "explanatory accounts," which explain why "the data take the forms that are found and presented."

This analytical hierarchy, therefore, is a "form of conceptual scaffolding within which the structure of the analysis is formed," which refers to the "process through which qualitative 'findings' are built from the original raw data" (Spencer, Ritchie and O'Connor 2003: 213).

The qualitative data was analysed using a thematic content approach, which consists of identifying patterns and themes in the data collected (Mouton 1996: 161). This implies that the collected data was transcribed and the main coded ideas were developed into trends out of which themes emerged. The last stage was to reflect on and interpret these themes in the light of the available knowledge. This reflection naturally led to the conclusions and recommendations. The evaluation of both the process

and the outcome of the intervention ensured that the data being collected was responding to the set objectives.

6.6 Two major tools

6.6.1 Dialogue

Simply defined, dialogue is a sincere exchange of ideas for the purpose of looking for common ground (Pillay and Goodfriend 2009: 11). Taylor and Kent (2014: 388) define dialogue as “an orientation that values sharing and mutual understanding between inter-actants.” Being one of the most ethical ways of communication, dialogue “serves to mitigate power relationships, values individual dignity and self-worth, and tries to involve participants in conversation and decision-making” (Taylor and Kent 2014: 388). Taylor and Kent (2014: 388-389) also believe that “dialogic communicators not only care about other interlocutors’ values and beliefs, but also feel obligated to design their communication interactions with other people to facilitate interaction, self-discovery, and co-creation of reality.” Consequently, a “dialogic communicator is open-minded, patient, and empathetic” (Taylor and Kent 2014: 389).

Taylor and Kent (2014: 337) summarised their 2002 five underlying principles of dialogic orientation as “mutuality, propinquity, empathy, risk and commitment.” As such, dialogue is contrasted with propaganda, which is a one-way communication where the ‘message sender’ controls the ‘channel of communication’ and shapes the messages in such persuasive ways as to attract adherence and obedience by – sometimes – sacrificing the truth (Taylor and Kent 2014: 389).

Therefore, dialogue always presupposes difference, because, “where there is no difference, there can be no dialogue” (Zoller 2009: 193). Therefore, the idea of community dialogue means that, although people live in the same community, with some basic understanding of one another in a way that allows the community to function, conflicts remain part of life and they continue to have divisive power and the potential to become violent. As these conflicts go unaddressed, ‘walls’ are built between members of the community, communication is compromised, and relationships are affected.

Pearce and Pearce (2000: 414) correctly note that, “in a dialogue, participants ignore relational issues in order to think together by performing a series of virtually identical speech acts.” For this to happen, the important issue of power relationship in dialogue must be handled carefully. The more the powerful participants lower themselves to the level of other participants, the more the dialogue becomes successful, although this should not imply that dialogue is impossible in the context of power difference

(Zoller 2009: 194). The creation of relationship, respect, and mutual understanding is the main objective of dialogue (Zoller 2009: 193). Hence, dialogue “asks us to hear the voices of those whose language, meaning systems, and social locations are different from our own,” because the uniqueness of our social location prevents us from understanding the other (Zoller 2009: 193).

A guide for dialogue sessions (Appendix 5) agreed by the action team helped to collect the action teams’ stories as told by them (Etherington 2013: 41) and collect the data needed for the second and third objectives.

Earlier, I had thought that the first few sessions of the dialogue would be held separately for both the returnees and the second land occupants, and that I would later bring them together. However, after the first meeting, with each 5-member team interviewed separately, the members decided, to my surprise, that they wanted to have the dialogue together as one group. Consequently, some questions in my earlier guide were made redundant. The following questions were retained by participants to guide the dialogue:

1. How do we understand the current property restitution and what have been our experiences so far?
2. In what ways has the land restitution affected us?
3. Who are the actors involved in this conflict?
4. What influence do they have on us and our community?
5. What can we do in order to improve our situation? What do we need to understand further?
6. Can we come up with our own community agenda?
7. How can we positively inculcate the same in our community? What do we need?

Finally, the intervention evaluation guide (in English and Kirundi) was agreed and administered to each of the action team members before and after the action research. The answers at the very beginning of the intervention completed the findings from the focus groups and the in-depth interviews in terms of determining the training needs for a successful dialogue. However, the major usefulness of these answers was that they established the team’s baseline, which served as reference in order to evaluate the success or failure of the intervention at the end of eight months. Thus, the answers at the end of the intervention helped to fulfil the requirements of the fourth objective, which was to evaluate the effectiveness of the intervention.

The following questions were used to establish the baseline and evaluate the intervention:

1. Please explain how the land restitution process has affected you and your community.
2. Who do you think is responsible for this situation?

3. What have you been doing in order to cope with the challenge of losing or possibly losing your land?
4. What resources are available for you to effectively overcome this situation?

In addition to the above, the following questions were asked at the end of the intervention:

5. What are the major lessons learnt during the intervention?
6. How are you going to use what you learnt?
7. Is there anything else you want us to know?

What is interesting for this research was the contribution that the informal dialogue and meetings (in different functions) made to the overall outcome of the intervention. Most of the time, I was only visiting the field when I had an activity with the action team. However, they continued to do things together even during my absence. The evaluation demonstrated that these informal and unplanned dialogue events reinforced the planned dialogue sessions.

6.6.2 RBM (Results-Based Management) action planning tool

As part of the capacity building needs, it was clear that the action team needed a tool that could help them to carry out the necessary assessment, plan for an intervention, implement it, and evaluate it. After introducing them to a number of planning tools, it was decided that we use the RBM (results-based management) (*“gestion axée sur les résultats”* in French) tool, because it combined the skills needed to go through the planning cycle and to critically reflect on what we were doing.

Defining RBM and setting up the context

In 1990, the United Nations adopted RBM as a planning and management tool that would help them go through a reform agenda that aimed to focus on results rather than activities (United Nations Development Group 2010: 5). Later, the Paris Declaration on Aid Effectiveness (2005) and the Accra Agenda for Action (2008) reinforced the need for the different stakeholders in member countries to adhere to the use of RBM as the way forward in order to ensure harmonisation and use of common language, as well as ownership and accountability for results at all levels (United Nations Development Group 2010: 5).

The United Nations Development Group (2010: 7) defines results-based management as,

a management strategy by which all actors on the ground, contributing directly or indirectly to achieving a set of development results, ensure that their processes, products and services contribute to the achievement of desired results (outputs, outcomes and

goals). RBM rests on clearly defined accountability for results, and requires monitoring and self-assessment of progress towards results, including reporting on performance.

Results are defined as,

a describable or measurable change in state that is derived from a cause and effect relationship. There are three types of such changes (intended or unintended, positive and/or negative) which can be set in motion by a development intervention that generates outputs, outcomes and impact (United Nations Development Group 2010: 10).

The results-based management tool was further defined and used by non-governmental actors and especially community development agents, including international and national non-governmental organisations, with different variations, but keeping the main substance of the tool for all the interveners.

Therefore, as Gouzou (2014a) puts it, results-based management is about:

1. Strategic Planning

- *What results do we want to achieve?*
- *How do we achieve the results?*

2. Performance measurement and reporting

- *How do we know that we reached our results?*
- *How can we assess/measure success/failure?*

3. General management/leadership

- *Promote a culture in the organisation/institution around achieving outcomes*

4. Participation

- *Involve relevant stakeholders.*

Our action group borrowed from the Swedish International Development Co-operation Agency (2014: 6) ideas, and we decided that our results-based management would involve three stages:

1. Planning for our intervention
2. Monitoring, reflecting, making changes, and adapting to the new environment
3. Evaluation, and learning from the experience.

Problem tree analysis

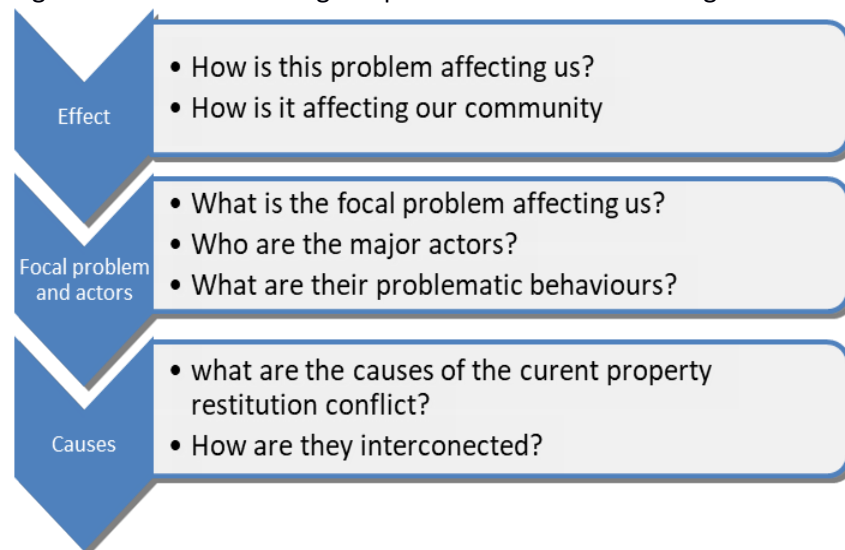
In order to establish the problem, RBM starts from defining the problem using a tool called the problem tree. The problem tree analysis is best done in a participatory way by the different stakeholders (in this case the action team), and it helped us to further answer the first four questions in the dialogue guiding

questions. During the dialogue sessions, we shared things from each one's perspective. At this level, we shared as a group. We tried to see the problem from a shared understanding as we planned to make a change. The problem tree is an easy tool to use and grass-roots communities can easily identify with this three-step problem analysis using the analogy of the tree:

1. Roots are compared to the causes of the identified problem;
2. The trunk is the focal problem;
3. The branches become the effects or consequences of the problem (Gouzou 2014b).

The chart below shows visually how the problem tree helped us to dialogue around the four first questions:

Figure 6.1 Chart visualizing the problem tree and the dialogue



Explanation:

It was important to find the right level at which to engage with the current challenge. The right level means we work on the problem which our intervention should be able to influence. Our dialogue sessions helped us to identify many actors with problematic behaviours, but it does not mean that we are able to influence them all. At this level, it is important to think about whether we have the mandate, experience, resources, and the capacity to influence this problem. Once we have defined the problem, we also define the different actors (conflict parties in our case) specifically influencing that problem, and their behaviour.

Kovacs and Themnér (2014) suggest identifying:

- *Primary Parties*: The key central actors who are pursuing the issues at stake in the conflict
- *Secondary Parties*: Actors who support the primary parties and indirectly affect the dynamic of the conflict
- *Third Parties*: Actors who are outside the conflict and are helping the primary parties to resolve it.

In terms of their character, Kovacs and Themnér (2014) suggest the following:

- *Leadership*: Type of leader and leadership;
- *Composition* of the party: Degrees of cohesiveness and fragmentation;
- *Mobilisation*: The means and methods through which the leadership mobilises followers; and the
- *Relationship* between the party and the society at large .

Regarding the actors' power relations, (Kovacs and Themnér 2014) suggest examining:

- Power resources
 - Economic, military, political
 - International status, popular support, legitimacy
- Power relations between the parties to the conflict
 - Symmetry and Asymmetry

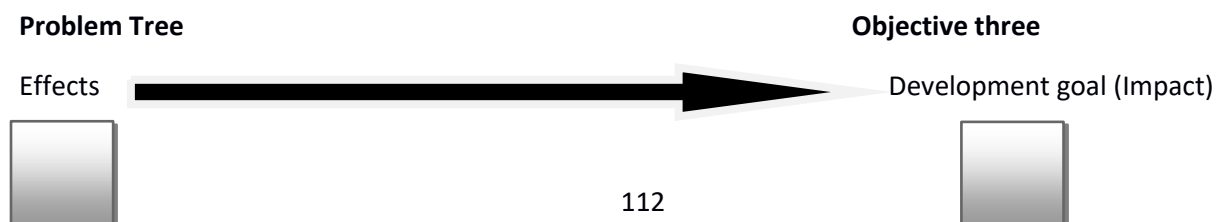
Objective three and chain of results

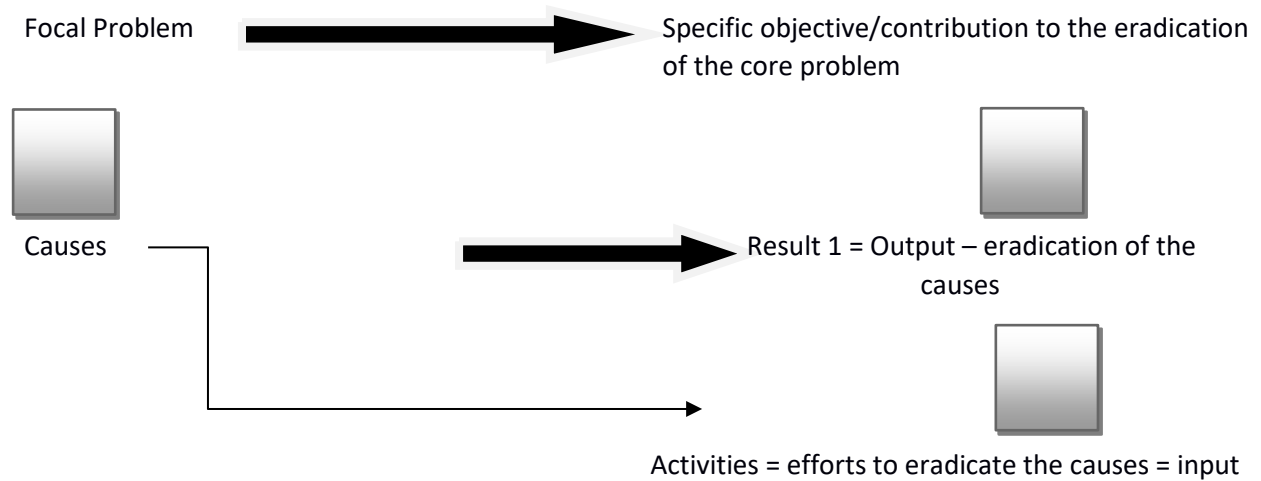
From the problem tree, we decided to do something to address the problem, and the way forward was discussed. We used objective three (which is also called the chain of results) in order to clarify the results/change that we wanted to see. Objective three and the chain of results were completed as we discussed the last three questions in the dialogue guide:

- What can we do in order to improve our situation? What do we need to understand further?
- Can we devise our own peace agenda without relying on other actors?
- How can we positively inculcate the same in our community? What do we need?

(Please note that this is not linear thinking, as we go back and forth to the different dialogue questions as the needs arises.)

Figure 6.2 Problems transformed into objectives





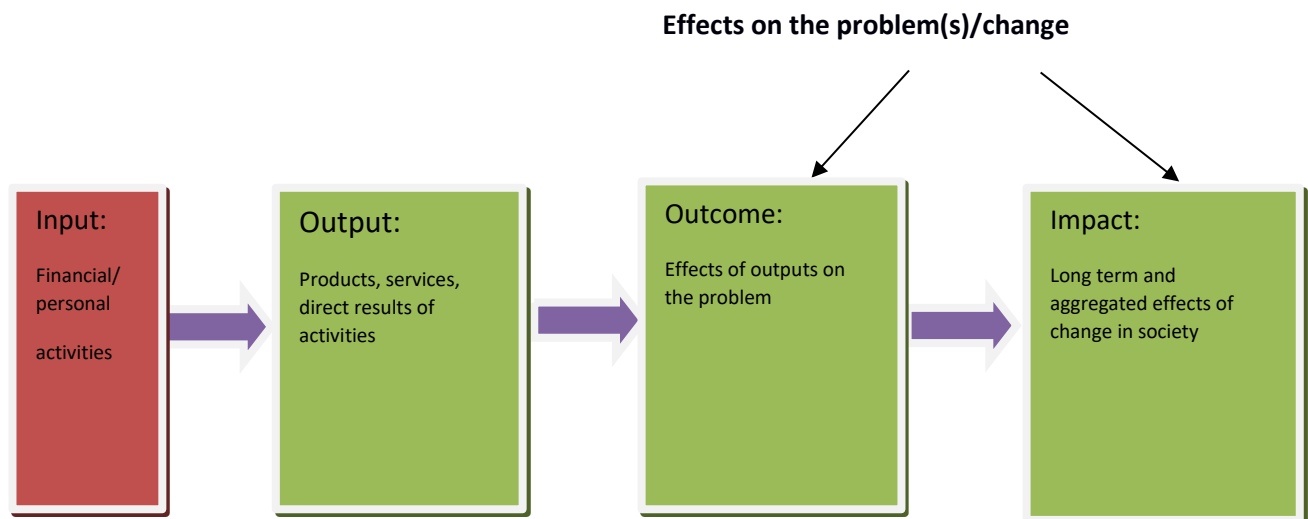
Adapted from (Gouzou 2014b)

Explanation:

The activities (input) are specifically selected so as to eliminate the causes of the problem. The eliminated causes become the results or output. The different outputs start influencing the problem and we get to the outcome which is our desired objective. The problematic behaviour of the actors in the problem tree is transformed into positive behaviour. As a result, we have a positive desired impact as the negative effects of the problem become positive impacts because of the intervention.

Therefore, the chain of results looks like the following chart:

Figure 6.3 Chain of results:



Adapted from (Gouzou 2014b)

Explanation:

The activities change the causes and produce output or results. Different outputs produce outcomes and the outcomes contribute to the desired impact.

Monitoring and Evaluation

OECD (2002: 26-27) defines monitoring as,

A continuing function that uses systematic collection of data on specified indicators to provide management and the main stakeholders of an ongoing development intervention with indications of the extent of progress and achievement of objectives and progress in the use of allocated funds.

They define evaluation as:

The systematic and objective assessment of an on-going or completed project, programme or policy, its design, implementation and results. The aim is to determine the relevance and fulfillment of objectives, development efficiency, effectiveness, impact and sustainability. An evaluation should provide information that is credible and useful, enabling the incorporation of lessons learned into the decision-making process of both recipients and donors.

In addition to using the evaluation questionnaire (described in the data collection methods), a continuous monitoring of the progress against the indicators which had been set during the planning time was carried out. Indicators are at four levels (Gouzou 2014a): indicators of activities, indicators of outputs, indicators of outcome, and indicators of impact.

The indicator is a “quantitative or qualitative factor or variable that provides a simple and reliable means to measure achievement, to reflect the changes connected to an intervention, or to help assess the performance of a development actor” (OECD 2002: 21). The results-based management tool required that the action team became completely responsible for the realisation of the first two sets of indicators. The two last sets of indicators were not necessarily a domain of the action team, but we

worked hard to make sure we influenced them as much as possible. Therefore, the evaluation of the intervention became a critical reflection of the actual achievement in the light of the set indicators. It became an opportunity to develop the lessons as we answered objective number four, and further discussed the dialogue questions. Thus, we reflected more on the evaluation questions as we gathered data for this fourth research objective.

6.7 Validity and reliability

Although there is a real concern as to whether it is appropriate in qualitative research, to use the concepts of reliability and validity as developed in natural science research, it is generally agreed that there is a need to ensure the quality of the data collected and its analysis process (Lewis and Ritchie 2003: 270). As discussed in this study, reliability will not mean duplication, as this study was done in a specific socio-economic, political and historical context with a specific group. Hence, it would be difficult to claim the duplication of the findings in this study. Instead, the reliability of the findings in this study “depends on the likely recurrence of the original data and the way they are interpreted” (Lewis and Ritchie 2003: 271). Thus, it is the “internal reliability” – the manner in which the study was conducted – which is under discussion here.

Likewise, validity here, rather than being understood as the ““correctness” or “precision” of a research reading,” should be understood to be concerned with the accurate representation of the views and perspectives of the action team, and the other groups and individuals under study (Lewis and Ritchie 2003: 274).

Both the validity and the reliability of research refer to the criteria by which we can distinguish good from bad research (Ali and Yusof 2011: 26). Validity, therefore, refers to the accuracy of the findings, while reliability refers to the consistency of the researcher’s approach “across different researchers and different projects” (Creswell 2014: 201).

Heikkinen, Huttunen and Syrjälä (2007: 8-9) propose five principles for quality in action research, which I present in a table for ease of reference:

Table 6.3 Five principles for quality validation in action research

1. Principle of historical continuity	<p><i>Analysis of the history of action:</i> How has the action evolved historically?</p> <p><i>Emplotment:</i> How logically and coherently does the narrative proceed?</p>
2. Principle of reflexivity	<i>Subjective adequacy:</i> What is the researcher’s relationship like with the

	<p>object of research?</p> <p>Ontological and epistemological presumptions: What are the researcher's presumptions of knowledge and reality?</p> <p>Transparency: How does the researcher describe their material and methods?</p>
3.Principle of dialectics	<p>Dialogue: How has the researcher's insight developed in dialogue with others?</p> <p>Polyphony: How does the report present different voices and interpretations?</p> <p>Authenticity: How authentic and genuine are the protagonists of the narrative?</p>
4. Principle of workability	<p>Pragmatic quality: How well does the research succeed in creating workable practices?</p> <p>Criticality: What kind of discussion does the research provoke?</p> <p>Ethics: How are ethical problems dealt with?</p> <p>Empowerment: Does the research make people believe in their own capabilities and possibilities to act, thereby encouraging new practices and actions?</p>
5. Principle of evocativeness	<p>Evocativeness: How well does the research narrative evoke mental images, memories or emotions related to the theme?</p>

Source: Table adapted from Heikkinen, Huttunen and Syrjälä (2007: 8-9)

These principles were helpful in checking the three major types of validity in qualitative study, as presented by Johnson (1997: 282):

1. Descriptive validity, as referring to the factual accuracy of the account by the researcher;
2. Interpretative validity, which is obtained when the researcher has understood and well-reported the perspectives, points of view, experiences and intentions of the people participating in the research; and
3. Theoretical validity, obtained through the credibility and defensibility of the theory used in relation to the data collected.

Apart from the triangulation of data collection methods, the validity in this project depended on the degree of ownership of both the research process and the outcome product by the action team (Ngwenya and Harris 2015:41).

I used different data collection methods (that is, triangulation) (Lewis and Ritchie 2003: 276), which have been successfully used by different researchers in various contexts (interviews, dialogue sessions,

literature review, and observation), in order to triangulate the findings and ensure that I collected holistic and complementary data accurately representing the views of the action team and other respondents. I also triangulated the sources (Lewis and Ritchie 2003: 276), as the data from dialogues, interviews, observation and literature review were all from different sources, ranging from the action team, various social groups, politicians, and a socio-natural setting, to different scholars and actors working on land conflicts. The third triangulation was theory triangulation, which looked at data from different theoretical perspectives (Lewis and Ritchie 2003: 276). Finally, “triangulation through multiple analysis” (Lewis and Ritchie 2003: 276; Law *et al.* 1998: 8) was used: this is the strength of doing action research. The data was analysed together with the action team, and I also used member-checking with the action team (Creswell 2014: 201). This helped to be sure that the conclusions of the action implementation and reflection were representative of their views and perspectives. Finally, the triangulation of different theories, together with the findings in this study, was a major resource for the reliability of this research (Adebayo 2015: 196).

In addition, I arranged an advisory group of five people working in different organisations with varied expertise on the issues under research, who helped me to balance my own bias in trying to understand the participants’ views. They also supported me in suggesting changes and ways to adapt to some of the practical and ethical challenges. Furthermore, I spent a considerable amount of time in the field: eight months of full-time fieldwork helped me develop an in-depth understanding of the problem under study (Creswell 2014: 202).

6.8 Ethical aspects

Any research is likely to raise ethical issues that need to be dealt with as anticipatively as possible (Lewis 2003: 66). The first important thing which I did in this regard was to develop a detailed explanation of how I would adhere to the DUT ethical requirements, and I received the University’s ethical clearance before starting the study.

I also secured permission from the Ministry of Home Affairs and Patriotic Education (see Appendix 7 for the application letter) to carry out research in the designated area. This also helped in terms of ensuring the safety of both the researchers and all those who participated in the research. Burundi has recently experienced a socio-political crisis, and land issues can be highly political in ways that put people at risk if research was done without prior permission. This created confidence in people, especially the action team, as they shared their ideas without fear.

The letter of information (Appendix 8) was given to all participants so that they all knew the aim and objectives of the research, as well as the conditions of participation and, therefore, could make an informed decision as to whether or not to participate in the study. One person declined to participate in the focus group after reading the information because they believed that this was a sensitive issue for them. For those who did not know how to read and write, I made sure I read the information to them.

The consent forms (Appendix 9) were signed by all participants in order to adhere to the principle of voluntary participation in the research. All the data, whether electronic, hard copies or otherwise, was treated with anonymity and as confidential. Only the research team had access to the information collected. I had wanted to film the focus group discussion session as well as the dialogue sessions, but after discussing this with the members and my advisory group, it was agreed that filming was not appropriate in that context. Using audio was the best alternative for us all. Therefore, I reverted to observation to make sure I captured the non-audio data which could have been observable on the video.

Consent Process

Before proceeding with the discussion, I invited the participants to sign the consent form, after explaining its content. Part of the contents of this form have been reproduced below. I introduced myself and the assistant and then said,

- Thank you for agreeing to participate in this research project. We are interested to hear your views on the land restitution process. This focus group/interview/dialogue is part of a larger study aimed at exploring what could be the factors that may account for a successful community-driven peace alliance in addressing land conflict in Makamba-Burundi.
- The information you give us is completely confidential and anonymous.
- We would like to tape the discussion so that we get all the detail and the taped and other written information will be kept confidentially and finally destroyed when we have finished using the information. Any photo taken can only be used for this research purpose after permission is granted.
- You are free not to answer a specific question or even withdraw from the discussion at any given point.
- We would like to ask you to keep as confidential any thought shared during this group discussion.
- Should you wish to ask any question, even after this study, you can contact me or any other person as mentioned on the consent form.
- The discussion is going to last for about 45 minutes.
- If you are happy to participate in this discussion please sign the consent form for us.

After the first focus group discussion, I realised that the least time the discussion could take would be 1 hour 30 minutes. Therefore, I changed the appropriate section in my introductory remarks from “45 minutes” to “around 2 hours.” Furthermore, almost all the members of the focus group discussion did not want me to take pictures; a request which I honoured. This, I understand, had to do with the current political situation.

The focus group members introduced themselves and agreed on the ground rules, and I explained how the discussion was going to be conducted and the logistics (refreshments, toilet site, exit points, and so on).

6.9 Limitations of the study

As stated above, the outcome of the study will add to the body of knowledge about the context in which the research was carried out, but it cannot claim generalisation beyond the sampled population (Lewis and Ritchie (2003: 267).

6.10 Conclusion

This chapter discussed the methodology used in this study. It stated that the research design was qualitative, using action research as its strategy, and further discussed the data collection methods. The data was collected through literature review, four focus group interviews and in-depth interviews with four authorities, as well as observations. The action team used dialogue and research-based management in order to implement an intervention, reflect on it, and evaluate it. The chapter further showed that the data was analysed using a thematic content approach, which consists of identifying patterns and themes in the collected, transcribed and coded data. It was argued that, apart from the triangulation of data collection methods, data sources, multiple data analyses, and theories, the validity in this project depends on the degree of ownership of both the research process and outcome product by the action team, the time spent on the field, and the action of the support group. Ethical considerations were key to this chapter, and the study observed the principle of confidentiality and voluntary participation of every individual by having them sign a consent form after they had been informed of the purpose and conditions of the study. Lastly, the study does not claim generalisation of its conclusions beyond the context in which it was carried out.

A few lessons are worth noting at this stage:

1. My experience was that, despite my original fears that people might not want to talk about politicisation of land restitution in a highly politically tense situation following the 2015 crisis,

people were really open and they spoke their minds. However, it was on the one condition that I did not take pictures or videotape the discussion and interviews. It appears to me that a sincere discussion with participants and an explanation of the aim and conditions of the study can build mutual trust that leads to open sharing.

2. The principle of confidentiality can be very difficult to follow. At times it is hard to know when to keep confidentiality and when not to keep it. A returnee woman came to me after a returnee focus group discussion, and revealed that she and her brother had a plan “to kill” a second occupant of “their” land if he did not vacate that land within a period of less than a week. I was confused and was not sure what to do with the information. So many questions came into my mind as to whether or not I should reveal this to somebody. I was not sure how true these claims were, or whether they were just simply threats. I also knew that it could be dangerous, given the context in which we were, if I revealed the information, and perhaps the second occupant became involved in the process, because it was possible that they (the second occupant) might strike first and kill the returnee in advance. I also stayed 168 km from the field and had to travel back the following day, so it was hard to follow up on the returnee woman. As I deliberated on what to do with this information, the returnees attacked the second occupant with machetes and injured him badly before the police came and arrested them. If the police had not come early, I am sure the worst would have happened. Looking back on the incident, I am still not sure how I should have acted, but one thing would have been helpful: to talk to my advisory team so that they might advise me. Unfortunately for me, I did not do this. I also think that I should have talked to the police about it so that they could have monitored the situation closely. I knew that I had a responsibility to protect the prospective victim, but I also had the responsibility to protect my source of information.
3. Managing power relationships within a team is not an easy activity, but it is essential. I had read this in different literature, and I can also confirm that any successful dialogue must take place among equals.

Finally, an action research design needs to have an exit strategy – in other words, how one will wind up, continue and hand over the intervention (depending on the case). I will discuss this in detail later on, but some of the actions generate results that need further intervention beyond the research lifetime. So, how the results are handed over to another institution or the community should be a matter of proper design.

PART IV DATA PRESENTATION AND ANALYSIS

CHAPTER 7: THE NATURE OF CURRENT ALLIANCES AND THE ROLE OF THE COMMUNITY

7.1 Introduction

This chapter presents the preliminary data collected before the action team was initiated. The data was collected to answer the first objective which was to establish the nature of current alliances between politicians and local land actors in Burundi, and to determine the extent to which these alliances use violence as a means to coerce and mobilise followers. The data was also to answer part of objective number 2 which was to explore the mobilisation and/or training needs for establishing community peace alliances capable of addressing land conflicts. The data was collected using interview guiding questions to the focus groups (see appendix 2) as well as an individual in-depth interview guide (see appendix 4).

The first focus group discussion was made up of eight adult second occupants who have inherited refugees' lands and who are being/have been/will be requested to give back land to returnees. Both male and females across various age groups were selected. I also selected those who received land from the government, those who annexed their refugee neighbours' land to theirs, those who got land first-hand and those who got land after it had exchanged hands more than once. Finally, I selected a widow and single parents because of their social vulnerability in addition to being women.

The second focus group was made up of eight adult returnees who are claiming the whole of or part of their land from the second occupants. They were male and female, both the older generation who lived in Burundi before 1972, who left their land behind, and the new generation who were born in exile and who are claiming what used to be their parents' land. The other selection criteria had to do with social vulnerability: widows and single parents were included.

The third focus group was made up of eight members of grassroots community based associations involved in community conflict resolution. These were returnees' associations as well as non-returnees' associations.

The fourth and final focus group discussion was made up of eight communal councillors selected from all the political parties represented in the communal council of Nyanza-Lac. They were selected for being elected by the people to manage all community related problems at communal level.

The individual interviews comprised:

- One Member of Parliament who was selected for representing the population of Makamba, voting on laws affecting the land restitution process, and for following the action of the government;
- One Provincial authority from the ruling party CNDD-FDD, who was selected for executing government policies in the province of Makamba and looking at the interest of the ruling party;
- One member of the opposition UPRONA party, working in the provincial institutions, who was selected for executing government policies and looking at the interest of the opposition;
- One member of the CNTB (Land and Other Property Commission) and member of the provincial CNTB delegation, who was selected for being a member of the independent public body in charge of settling land restitution-related conflicts.

The focus group and the individual interviews took place in Makamba province between 3 and 15 May 2017. The focus group discussions took place in Nyanza-Lac commune, whereas the authorities' interviews took place at the Makamba provincial headquarters. Makamba province is located in the south of Burundi and has six communes, namely: Makamba, Kayogoro, Kibago, Mabanda, Nyanza-Lac and Vugizo. All these communes, apart from Makamba and Vugizo, are located along the Tanzanian border, a situation which makes Makamba province one of the biggest producers of refugees and hosts of returnees, thus registering the highest numbers of displacement-induced land conflicts.

During my first introductory meeting with the Nyanza-Lac Administrator (May 2017), he told me that the Nyanza-Lac population increased from 102,233 in 2006 to more than 300,000 in 2017, and he gave the following reasons for this extraordinary population growth in his commune:

- The return of hundreds of thousands of returnees
- The possibility for income-generating activities on Lake Tanganyika which also gives access to DR-Congo, Kigoma and Zambia, and
- Agriculture – and especially the palm oil plantations – is counted among the other attraction, as it generates a lot of cash and facilitates the palm oil business as well as the soap-making industry.

Nyanza-Lac Commune's soils are sandy and clayey, and very fertile, with high productivity because of the humus input from the slopes of the mountains overlooking the commune (République du Burundi 2006b: 5). Most of the agricultural products are used for subsistence, although most of the palm oil products are commercialised, especially in that this commune is connected to the rest of the country and Kigoma town in Tanzania by a good road network. The possibility of transporting goods from the neighbouring countries of DR-Congo, Tanzania and Zambia makes the commune even more attractive to business, with most of the commercial banks (BANCOBU, BCB, Interbank, etc.) facilitating transactions.

Lake Tanganyika makes the economic industry in Nyanza-Lac even more interesting, because of fishing activities, while small skills like sewing, bread-making, and the like support many families because of the population concentration in this commune. The commune remains an exceptional crossroads for travellers thanks to its numerous trading centres, its lake, its agricultural lands, its hotels, its businesses, its banks, its trans-border road towards Tanzania, and so on. Thus, large and small entrepreneurs, traders and peasants from different places are attracted directly by these opportunities. Consequently, even those who are landless and without physical reference elsewhere find it better to settle in Nyanza-Lac, because they hope to find more opportunities to build less land-based economic activities.

However, these many attractions are quickly being drowned out by overpopulation, theft, crime, insecurity and land conflicts. The major part of the speculation on property inheritance finds its roots in the civil war of 1972. This practically emptied the Nyanza-Lac commune of its population, thus giving way to the collectivisation of the peasant lands left behind by these refugees, with a view to implementing palm oil development projects and the redistribution of these lands to new owners.

Sinarinzi and Nisabwe (1999: 25, 29) argue that the land left behind by these refugees was occupied by different categories of people, with or without the permission of the government. They continue that, with the arrival of the SRD (*Société Régionale de Développement* – Regional Development Society) in Nyanza-Lac in 1983, all the available land properties were re-seized by the government. Then, all the palm oil plantations left behind by refugees were replaced by new and more productive species. Concerned with order and profitability in the exploitation of these lands, the government, through the SRD Nyanza-Lac, proceeded to a re-division of these lands in “*paysannats*,” especially in the zone of Nyanza-Lac. Many crops were grown here, such as cassava, tobacco, oil palm and cotton. The SRD redistributed these properties, and this generated multiple conflict situations between the government, the refugees and the second occupants.

7.2 Data collection - focus discussion groups and interviews

I used the focus group and individual interviews for the purpose of “data completeness” because both the group discussion and the individual interview provided data for the different perspectives of the phenomenon under study (Lambert and Loiselle 2008: 230).

The major aim in the focus groups was to identify the areas of agreement and controversy, and it was important to know that the agreements were not as a result of coercion by the powerful group members (Kidd and Parshall 2000: 300). Therefore, it was always important to substantiate whether an

issue constituted a theme for the group, or whether it was a view held powerfully by one member of the group (Kidd and Parshall 2000: 301). The other issues to be vigilant for were whether a theme was just held by one group or whether it came up in other groups, whether issues were raised spontaneously by group members or whether they come as a response to a question asked, and who in the groups found an issue important (Kidd and Parshall 2000: 301).

The data collection from the individual interviews served to get their in-depth analysis on the land problem from a policy and interventional point of view. Because these individual authorities did not come from the same political party, it was not helpful to have them in a focus group, but I wanted each individual to reveal to me as much information as possible in a way that would be hard for the focus group (Kaplowitz and Hoehn 2001: 246).

Data analysis occurred concurrently with data collection (Rabiee 2007: 657); it was not just a linear exercise. I generally followed Rabiee's (2007: 657-658) presentation of Krueger's (1994) framework analysis comprising of five stages:

1. Familiarisation: multiple listening and reading of recorded data and transcripts; identifying a thematic framework – "writing memos in the margin of the text in the form of short phrases, ideas or concepts arising from the texts and beginning to develop categories" and then themes emerging
2. Indexing: sifting the data, highlighting and sorting out quotes and making comparisons both within and between cases
3. Charting: lifting the quotes from their original context and re-arranging them under the newly-developed appropriate thematic content
4. and 5. Mapping and interpretation: going beyond individual quotes, "but also being imaginative and analytical enough to see the relationship between the quotes and the links between the data as a whole."

I considered, during my data collection and analysis, the actual words used, the context, intensity of the comments, the internal consistency and/or contradiction, the specificity of response, and any big ideas (Rabiee 2007: 659).

7.3. Experiences and opinions

The focus group discussions and the individual interviews with the authorities generated data to help answer the concerns of the first objective, which was to establish the nature of current alliances between politicians and local land actors in Burundi and to determine the extent to which these alliances use violence as a means to coerce and mobilise followers. In addition, the focus group

discussions gave some insights in contributing to the second objective, which consisted of exploring mobilisation and/or training needs to establish community peace alliances capable of addressing land conflicts in Makamba.

7.3. 1 A slow and frustrating land restitution process

All the members of the four focus groups were in agreement that the land restitution process is proving very difficult, and that it is causing a lot of harm to the beneficiaries and the country in general. However, different groups seemed to have different explanations as to the reason for this slow process: For the returnees, the process is slow because the CNTB does not have enough power to implement the decisions that they have taken:

The other day the CNTB came to restore back to my neighbour his land. Imagine he had all the papers that he won the case and he was hoping that he was going to get some food for his children. But the Government decided to stop the process because of security reasons ... the second occupants had vowed to start [a] war if they continued to give back our land. This was in 2015, and up to today nothing has been done, and they expect us to wait until when? (Returnee woman, Nyanza-Lac, May 2017).

Returnees also believe that the process is slow because the second occupants make sure that cases keep going forever:

Before, these people (second occupants) were taking every decision taken by the CNTB to court and the law was changed, but even today they appeal against CNTB's provincial decision and take it to the CNTB in Bujumbura. If they lose [there], they take the decision to the Special Court, and if they lose [there], they go to the Special Court Appeal Chamber, and if they lose [there], they go even to the Minister of Justice. My case has been going like that for the last seven years. Meanwhile they are eating and we are starving ... (Old returnee man, Nyanza-Lac, May 2017).

Returnees believe this process is designed to their disadvantage, and that this was never explained to them before they took the decision to come back from the refugee settlements where they were:

I wish I knew before, I would have stayed in Tanzania, and I would be having Tanzanian citizenship like my brothers who stayed. When the Minister of National Solidarity came to tell us to go home, she said that we will get our land and other property, but now you see we are worse than refugees (Young returnee, Nyanza-Lac, May 2017).

On the other hand, the second occupants believed that the process is slow because there is no fairness in the way cases are investigated:

It is unbelievable that the CNTB has been taking, for the second time, cases that have been previously concluded by the same institution. For example, my case was decided in 2007 by CNTB, and we shared the land in two with the returnee. In 2012, the case was reintroduced afresh in CNTB, and they decided the returnee should take the whole land. Either CNTB is corrupt or they had not done their job well during the first hearing. Whichever way, I had to appeal against this malicious decision! (Second-occupant man, Nyanza-lac, May 2017).

Furthermore, the second occupants do not even understand why the government should open a land restitution process in most cases. They believe they hold the papers given by the administration testifying that the land that once belonged to refugees is now theirs. It is inconceivable to them that the same government would tell them to give back the land to the refugees:

I was born in this land, which my family believed was ours, and we had the government papers. We built houses on it, we planted palm oil trees, and our life is completely dependent on this land. My parent now died leaving us this only asset. The government expects me to give it away? No, they will kill me first, or let us go with the same vehicles that bring returnees so that we may swap places and maybe we will also come back more organised (Young second-occupant man in his early 30s, Nyanza-lac, May 2017).

The authorities from the opposition speak with one voice with the second occupants, and they even give further explanation as to why this process is slow:

We had discussed everything at Arusha, and it was clear that the mandate of the CNTB was going to be reconciliation not frustrating the second occupants and making happy the returnees as if they are not all Burundians. In front of such a divisive practice by the government, one would only expect resistance (Authority from opposition, Makamba, May 2017).

The framing from the ruling party authorities is very different from the opposition, and they believe that the Arusha Peace Agreement, as far as land restitution is concerned, was all about supporting the *“Sinistrés de guerre”* (those badly affected by the war). So the government is simply doing a good job, and behaving according to the law by helping the returning refugees to get back their land:

The opposition and some of the second occupants are opposed to peaceful and fast property restitution, accusing us of siding with the returnees who need their land for their survival. What else could a responsible government do but to stand in solidarity with these affected by the war. And if the opposition does everything to slow the process, they are simply being irresponsible (provincial authority from the ruling party, Makamba, May 2017).

The CNTB does not differ from the government: they quote Law no 1/01 of 4 January 2011, article 5, that clarifies the mandate of CNTB, which includes, among other things, to support the “*sinistrés*” to get back their land as well as revisiting cases that were previously decided by the same commission (République du Burundi 2011b: 2). The CNTB Makamba delegation member quoted other legal provisions and international resolutions guaranteeing property rights to returnees. He specifically quoted the Dar es Salaam declaration on the Pact on Security, Stability and Development for the Great Lakes Region, especially the Protocol on Property Rights of Returning Persons (International Conference on the Great Lakes Region 2012), as well as the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). He said:

We are a technical commission and we can only do this much within the conditions and limits of the law. Politicians are the ones deciding on the laws in parliament. If they feel there are one or two things that need to be changed, they could go ahead and change it. There is no reason to blame us (CNTB Makamba delegation member, Makamba, May 2017).

He went on to explain that limited funds put at their disposal have a negative impact on their work. However, he seems to understand that the government has no ill-intention in allocating insufficient funds to the work of CNTB:

You see my brother! Look at me ... (I look at him, 10 seconds of silence and then he continues) ... the government can only give that which they have. We were supported by UNHCR, PNUD, and other donors, but they have all stopped – I understand in the name of punishing the government. They have missed the target; they are punishing the poor returnees and poor Burundians (CNTB Makamba delegation member, Makamba, May 2017).

This same argument was given by the Member of Parliament who insisted that Burundians must understand that the government uses the resources that are available to them.

The grass-roots associations seem to find truth in all the arguments above, but insist that the matter lies with the fact that politicians have chosen the wrong way to answer a complex question. They specifically do not think that a court-like system or a 50-member commission can resolve such a complex land issue within a reasonable time. One man said, to the satisfaction of people in the group (they all applauded him as he finished speaking and I was convinced this was a sign that they agreed with him), that a strong recourse to the traditional conflict-resolution mechanism with the support of a commission like the CNTB would have made a big difference in terms of speeding things up:

We have always been solving our problems and our society was functioning like that from time immemorial. We live together, we know who owns which land, and whether or not they have alternatives. Surely we can be allowed to solve our problems and be assisted where things are difficult for us. Now, if the neighbours fight over land, the police come in and the commission (CNTB) comes in. If there is misunderstanding between husband and wife, we wait for the prosecutor from Makamba to come to resolve such a problem surely one would think Burundi existed with the coming of Arusha we can do things better and simpler (A male member of a grass-roots association, Nyanza-lac, May 2017).

The most controversial focus group was the communal councillors' group. They were divided right down the middle between the opposition and the ruling party. One opposition councillor said:

The ruling party has failed to address the land question. They have nobody but themselves to blame for the returnees who have been waiting for all these years. They have caused a lot of harm to the second occupants who legally and peacefully acquired land. I would advise them to simply give power to others who can do better because ... (Male opposition councillor, Nyanza-Lac, May 2017).

Before he could explain the reason why the ruling party has failed, a ruling party councillor started talking:

Exactly. This is the reason you continue to incite the population so that they get opposed to the implementation of the decisions taken by the CNTB ... eh... so that you may get to power? It will not happen, people are clever, they will not vote for you!" (Male Councillor from the ruling party, Nyanza-lac, May 2017).

When I came back to the opposition councillor to allow him to complete his sentence, he continued to argue that when you run the government, you have constitutional powers to resolve problems and if you fail, you lose that power.

To sum up, it was clear from the discussion that both the focus groups and the individual authorities agree that the land restitution process is very slow and frustrating, and that this is causing damage to the beneficiaries. However, when it comes to explaining the reasons behind this slowness, then one sees the differences, with the respective people aligning their views together.

7. 3.2 Politicisation of land restitution and the use of violence

There was unanimity that the land restitution has been politicised, and that it has been marked with violence. From the very start of the conversation, the returnees could not hold themselves back from speaking of the political process that led to their exile and loss of their land:

I actually believe that the Micombero regime killed us and chased us away so that they may take our land and houses. It is unbelievable that we crossed the border and within a short time, they had divided our land, houses, cars, businesses ... What were they thinking? That we will not come back? They actually hoped we had all died (Old returnee woman, Nyanza-lac, May 2017).

The feeling is even stronger with this young man who also claimed to have fought on the side of the CNDD rebel movement. He believes the Arusha Peace Accord and the other Protocols to stop war were but a culmination of a political struggle that was going to see refugees get back their land and other property:

If we had not gone to the bush to fight, there wouldn't have been Arusha and you know it is Arusha which gave us the right to our land. Look here, they even killed Ndadaye because he had started to give back the land to refugees. Even now, the other day in 2015 young men in Kibago who had been opposed to CNTB's decisions were the first ones to celebrate when they thought that there was a coup ... they thought they were going to keep our land. Now they are in Rwanda training and they hope to get power and reverse CNTB's work (Young returnee, Nyanza-Lac, May 2017).

Days after I finished these interviews, a group of people burnt down a bridge to stop the CNTB's car from assessing the venue. As I toured Nyanza-Lac, I met with this same young man. I recognised him and he recognised me and he told me:

You see I told you that the opposition is against land restitution. They have now destroyed the bridge so that CNTB would not proceed with the land restitution. It is war, I am telling you. It is war! And do you know that everybody who is a second occupant of our land is supposed to contribute money to support this sabotage? (Young returnee, Nyanza-Lac, July 2017).

The councillors from the ruling party spoke of a resistance which finds roots in the historical injustices perpetrated by some of the current opposition leaders, who were leading the country when the lands changed hands:

It is not a secret, but the opposition's manoeuvre is simple: they want to gain political mileage by making sure that we cannot find a solution to the land problem. If they support the second occupants, these ones will vote for them. It is also an issue of protecting themselves. These opposition politicians abused their power and distributed land which was not theirs, they actually sold it to other people and they sold houses which belonged to refugees; now they fear that they will have to pay back all that money. Finally, these politicians are still occupying returnees' land, and they do not want to give it back. They then use the population as a shield for personal and political gains (Ruling party Counsellor, Nyanza-Lac, May 2017).

The same story of the opposition ganging together with the second occupants was told by both the Member of Parliament and the provincial authority from the ruling party. However, the Member of Parliament added:

Violence is the way for the opposition politicians. You remember the *Nyakabeto*¹⁴ – the violence there was also orchestrated by the radical civil society organisations, and if you observe clearly, [the reason] our donors stopped giving money is because they want things to escalate in order to bring down this government; but they will not manage [it] (Ruling Party MP, Makamba, 2017).

The second occupants, on the other hand, believed that the whole land restitution process was political and that the major problem was that the government was behaving as if it wanted to carry out revenge for what had happened in the past. They accused the government of supporting the cause of the returnees and of not listening to the second occupants:

Violence comes in when we feel that what they (government) are doing is not right. For example, I bought my land and [so] I have all the administrative papers. and one day you tell me this land belongs to a returnee. It cannot work like that! The government should take responsibility for what the previous governments did under the principle of state continuity. Can we now say that, in the future, another government could undo what this government is doing? (Second-occupant woman, who bought land belonging to a returnee, Nyanza-Lac, 2017).

The same argument was being given by those who had received their lands from the administration in the 1970s, who believe that, when you impose on people something which is oppressive, then the only thing they can do is to resist:

We are not against our brothers (returnees), they are just struggling like us. But the government is not fair on us, maybe because they want the returnees to vote for them. Why should they (government) treat us like thieves? We did not bring ourselves here! We did not steal this land, and we lost our original land in the process. Now somebody says, 'Leave and go because the land is not yours!' Do you see who starts the war now? (Widow, second-occupant, Nyanza-Lac, May 2017).

¹⁴ Nyakabeto was living in a house in Bujumbura which belonged to a former refugee. The CNTB decided to restitute the house to the returnee. However, the second owners, supported by the opposition and some of the civil society organisations, opposed this exercise, claiming Nyakabeto had the right of ownership. The police had to come in order to assist the CNTB. Live bullets were allegedly used by both sides and, consequently, a group of young people was arrested and charged in court.

The opposition communal councillors and the opposition provincial authority go further and recall the Arusha reference to the compensation fund. They believe that, in situations where two people are fighting for the ownership of the land, the best way would be to compensate one of them:

We do not understand why the government does not start the compensation fund which could actually help to solve so many problems! (Opposition provincial authority, Nyanza-Lac, May 2017).

The grass-roots associations also think that the compensation fund could help, and they have a larger definition of compensation. They also believe that compensation could be in kind:

Maybe we can give another land to the second occupants who acquired their land in good faith, we could also give scholarships to their children, or treat them free of charge for a number of years ... all this is compensation (Woman member of grass-roots association, Nyanza-Lac, May 2017).

The CNTB and the Member of Parliament do not think the compensation route is safe at all. Their argument rests on the fact that when the Arusha Peace Accord speaks of compensation, it is referring to refugees who would not be able to recover their land because of various circumstances, including their land being used for public benefit. They also believe that “blind compensation” would lead to impunity. As such, they completely decline the government implication, as claimed by the second occupants, by saying that both Presidents Micombero (République du Burundi 1974) and Bagaza (République du Burundi 1977) issued clear directives to the second occupants to carry out the restitution of property to the original owners, but that they (second occupants) did not want to obey the law.

The other politically-motivated land violence conflicts mentioned by the authorities of the ruling party had to do with the decision, by the then government, to settle the IDPs (Internally Displaced persons) on land that belonged to refugees:

In 1993 Hutu refugees left their land and went into exile. The then government installed generally Tutsi IDPs on these lands. After peace came back, the refugees from Tanzania came back only to find that their land is hosting IDPs. The effort by the government to take these IDPs back to their original land has been vehemently opposed by both the IDPs and the opposition who say that IDPs are free to be locally integrated – that is to stay where they are –and cannot be moved. There have been several cases of violence, and everybody knows that the opposition is behind this (Ruling party Member of Parliament, Makamba, May 2017).

The Member of Parliament continued to explain:

It is simple to understand the reason: these IDPs are together in their thousands; if they vote together, they can easily vote in an opposition councillor as a Member of Parliament. But, if they are displaced in different villages and communes, the opposition see this as scattered votes. On the other hand, the IDPs who are now living on the urban land while keeping the village land see this as an advantage to cling to (Ruling party Member of Parliament, Makamba, May 2017) .

Violence is not necessarily always connected to political instigation. Both the four focus groups and the authorities agreed on the fact that, because land is so precious, returnees and second occupants fight because of impatience that the process takes so long. Even in families there are violent conflicts between the returnees and their family members who had been exploiting their land while they were away, and who might not be willing to give it back.

My cousin has a problem with his elder brother because when he left the country for Tanzania in 1973, his brother annexed my cousin's land to his and started cultivating it. Years later, he sold part of it. When my cousin came back in 2008, his brother did not want even to talk to him. They ended up fighting and injuring one another. They both spent two weeks in custody. Until today they have a tense relationship, and anything could happen. Meanwhile, the CNTB has not been able to decide on their case (Returnee woman, Nyanza-Lac, May 2017).

The provincial administration confirmed that family land conflicts are very common in Nyanza-Lac and the whole of Makamba province. They disclosed that most of the civil cases in courts of law are land conflicts, while a good number of the criminal cases have direct connections with land.

Perhaps the most difficult case of non-politically-induced land violence has to do with this returnee woman (Nyanza-Lac, May 2017), who came to talk to me after the group discussion:

"If by Monday, our neighbour second occupant does not give us our land, my brother and I have decided to attack him and get back our land by force. It is inconceivable that he can get all the profit from our family land while we sit hungry. The CNTB has been too slow."

"Will you really do this?" I asked.

"Yes, you will see." And she walked away.

The following Monday, the returnee family attacked the second occupant, beat him up and injured him badly before the police came and took the aggressor family to prison. Unfortunately for me, I did not believe that this woman was going to do what she had just revealed to me, and I did not do something

about it because I believed I had to keep the matter private under the principle of confidentiality. I have discussed this incident in the previous chapter.

Widows had been experiencing additional suffering as they find it difficult to go through the inheritance confusion, especially after they have lost their husbands in exile. The late husband's family does everything to push widows aside, and the legal process is not always easy for them:

"I am doubly vulnerable, my son," an old widow returnee began her story to us:

My husband was a prominent businessman and he had three big pieces of land and houses in different trading centres in Makamba. We ran away to Tanzania and he died there. I came back in 2006; my late husband's family refused to give me even one piece of land out of the two which they had taken. The other piece of land was used to build a village in Kabonga and the government keeps telling me that they will find me another piece of land. So far I only have a 50m by 50m piece which the government gave me. I cannot get back my houses. I only managed to get one house in Mabanda but this man has taken the case to the ... other court ... (she keeps silent because she does not know which court is this. The other participants remind her it is the Special Court) ... and I do not have money to go there; I think, am 80 years old, my two children stayed in Tanzania ..." (She coughs for some time, and then continues, "...and they fear to come back, and I have no money to go to Bujumbura ... now I will lose everything ... (silence) ... anyway, I am about to die ... (tears) (Returnee old widow, Nyanza-Lac, May 2017).

The multiple vulnerabilities which many widows must endure make their suffering even more intense and, in the words of Galtung (1990: 291), they have to endure "cultural violence" which legitimises all forms of societal and structural violence.

In brief, the land restitution process is heavily politicised, and the use of violence has been one of the means of coercing people agree with a political position or to illegally hold on to property. It is clear that, whichever way one takes in order to return land to refugees, it has enormous political implications (Lemon 2017: 23), from violence to losing political power.

7. 3.3 Perceptions concerning the work of the CNTB

The role of the CNTB in property restitution was sufficiently debated. The returnees find this institution very helpful, and they think that the CNTB has a reason to be. But they also think that it is an institution that has no teeth and no power to implement what it decides. They also said that the CNTB is not truly independent of political pressure:

The CNTB has good intentions and they are very kind to us, but they rely on other people like the administration and the police to implement their decisions. This does not always work as some of the administration members are among the second occupants of our lands. *Bokwimena gute igihute?* (How can they shoot themselves in the foot?) Also the other day in 2015 the Governor of Makamba stopped the CNTB from implementing 200 cases. And you want to tell me the Commission is independent? (Male returnee, Nyanza-Lac, May 2017).

The most discouraging thing for the returnees was that the CNTB seems, in the words of one returnee man (Nyanza-Lac, May 2017), “to forgive everything.” What they mean is that, during their daily routine, there are people who commit crimes and who slow down the work of the CNTB, which does not take measures to address these criminal behaviours:

We have many cases of returnees, those who did not flee the country, who come together and identify the government land or land belonging to a refugee who has not returned [it]. The returnee claims the land did belong to them before going to Tanzania and the one who did not flee plays to be a second occupant. Most frequently, they would say that they want to share the land, and the Commission divides the land for them. Later on, it is discovered that they all cheated and all the CNTB does is to take away the land from them but they are not punished. In your view, what should stop people from trying this game again if their actions have no consequence? (Male returnee, Nyanza-Lac, May 2017).

Finally, returnees believe that some CNTB officials are corrupt and that this has a negative impact on their whole CNTB work. Here, they could not substantiate their claims but, after the discussion, one man came to me and told me this story:

There was one CNTB worker in Makamba who asked me to give them money if I wanted my case to be speeded up. This man is no longer working with the CNTB, but he did similar things even to other friends of mine (Male returnee, Nyanza-Lac, May 2017).

The issue of corruption was also mentioned by the second occupants. They claimed that some CNTB members or collaborators ask for “something small” from people so that they might speed up their cases, help them with ideas to win the case, or even change the decisions taken. They all said that the team working then in the provincial delegation was not corrupt, but that this corrupt behaviour was observed with the previous teams.

In general, the second occupants said that the CNTB work is not good and that they would request that the CNTB law be changed. When asked which provisions need to be changed, they mentioned that the CNTB mandate needs to include a strong emphasis on reconciliation rather than restitution: “This way

we can be sure that at least the land will be divided in two and nobody will lose completely” (second-occupant woman, Nyanza-Lac, May 2017).

In many different interventions, the concept of reconciliation was emphasized by the second occupants who argued that a reconciliatory commission should make sure that, “*ata mwana n’ikinono*” (there is no lose-win situation) in the land conflict settlement (Male second-occupant, Nyanza-Lac, May 2017). He explained further what he meant:

You know when the CNTB started and when it was being led by this Roman Catholic priest ... Kana. I remember, things were very good. Neither the returnee nor the second occupant lost a case. They all won, the land was divided into two and there was no need for delaying things. Now this CNTB does not reconcile people, they assist returnees to get back all the land and we are pushed on[to] the street.

The argument that the CNTB is on the side of the returnees was strongly put forward by the second occupants and many examples were given:

The CNTB restitutes the land and houses to returnees only. The CNTB provincial delegation helps the returnees to write letters of launching their cases or the letters of appeal. The CNTB has revised many decisions that were taken during Kana’s leadership which was for land-sharing, and they decided to give the whole land to the returnees. [The] CNTB should simply be disbanded and replaced by regular law courts (Male second-occupant, Nyanza-Lac, May 2017).

The opposition politicians both at communal and provincial level repeated the same reasons as to why they think the CNTB is not fit to work on the land conflicts. In addition, they said that the CNTB has refused to put in place the compensation fund which they hoped would safeguard the right of the second occupants. They added one more procedural issue:

According to the Arusha Peace Agreement, the TRC was to be established so that the truth about what happened would be known. It is only after the truth is known that the CNTB would have had an easy job of restituting things back to the real owners, establishing the responsibility, punishing those who need to be punished, and compensating those who acquired property in good faith (Opposition authority, Makamba, May, 2017).

The opposition members of the communal council insisted on the notion of acquiring property in good faith. They insisted that, since the government distributed land and houses to second occupants and gave them papers testifying that, then this property was acquired in good faith. They also talked about the second occupants who bought property without even knowing that the property belonged to a

refugee. Since the government authenticated this lease agreement again, then the good faith cannot be refuted. In all these cases, the government should be held responsible – thus, the rationale for a compensation fund.

Finally, they added:

This commission was first in the office of the Vice-President and this was during Kana's leadership. They did a good job of reconciling people by asking them to share. But all of sudden the commission was moved to the office of the President and, consequently, the law changed so that this commission could revise decisions made under Kana. Now do you know the CNTB mode of operation? Complete restitution of property to the returnees regardless [of] the conditions under which the property changed hands (Opposition communal councillor, Nyanza-Lac, May 2017).

The ruling party councillors, the CNTB, the MP and the provincial authority did not differ with the returnees as they articulated that the work of the CNTB is important and that it should be supported, even by the opposition.

The councillors and the CNTB provincial delegate attempted to explain why the TRC did not precede the CNTB:

In the face of an influx of returning refugees who needed somewhere to settle, the question of what starts first, the TRC or the CNTB, was completely irrelevant. What mattered more was how we got to help returnees who were completely homeless. And on this we agreed with the opposition. I do not know what is making them change their minds today (Ruling party councilor, Nyanza-lac, May 2017).

I do not see the point of discussing why the TRC did not precede the CNTB because we are not in competition, but we are complementary. What is wrong with the TRC using the CNTB conclusions to establish the truth about property restitution? (CNTB provincial delegation member, Makamba, May 2017).

And the Member of Parliament:

If the Constitutional court did allow the law on the CNTB to pass before the TRC, then we are not here to challenge them, I am afraid (Member of Parliament, Makamba, May 2017).

In general, the ruling party councillors, the provincial authority, the CNTB and the Member of Parliament all praised the work done by the CNTB and blamed the shortcomings either on inadequate funding, the opposition which incites people to disobey the CNTB, or a few corrupt individuals in the local administration. They argued that, with the CNTB decision not being final, people are free to appeal

against the CNTB by going to the Special Court on land and other property. In this way they think the interests of all the groups will be catered for.

The CNTB members clarified the issue of acquiring property in good faith:

The right to property cannot be lost simply because somebody became a refugee for a long time. So the government did not have the right to distribute the land left behind by refugees to other people. Therefore, two laws were signed by presidents Micombero and Bagaza calling those who acquired property belonging to refugees to restitute them. If, for one reason or another, somebody decided to disobey the law, then they are going to suffer the consequences of their action (Member of the provincial CNTB delegation, Makamba, May 2017).

The member of the Provincial CNTB delegation confirmed that some returnees and those that did not flee have been ganging together with a view to grabbing government or individual lands. In order to discourage this and other related crimes, “every CNTB field work visit is accompanied by a public prosecutor so as to arrest anybody who might commit an offence” (Member of the provincial CNTB delegation, Makamba, May 2017). Finally, he said that the CNTB has a mandate to assist returnees to recover their land and to revise previous decisions if a need to do so arises.

Likewise, the grassroots associations argued that the CNTB commissioners have been given a difficult job and that they should not be blamed for what is not going well. They said that all actors should rather share the responsibility.

7. 3.4 Is a peaceful land restitution possible?

As to the question of what the community should do in order to have a property restitution process which is peaceful and fair, suggestions were varied.

The grassroots associations took a long time on this question. They specifically called for a rethink towards a model that is practical, fair, is community based and community run, just as it was in the past:

The community has not been involved sufficiently. They should have prepared the minds and hearts of both the returnees and those who did not flee about the property restitution. Furthermore, there is a need to hold reconciliation meetings. The community can organise these meetings. The community, and especially the abashingantahe (elders), can help to settle the land conflicts as much as possible (Male members of grassroots association, Nyanza-Lac, May 2017).

I think the community needs to be guided on how they can live together. We are responsible for our own peace, and I think we should forget about what politicians say.

How can you attack your neighbour because a politician wants you to do so? We can teach people about the importance of peace and accepting one another, and maybe then they can chart the way forward on how to carry out restitution (A woman member of the grassroots association, Nyanza-Lac, May 2017).

The returnees seemed desperate. They argued that there is nothing that can be done for peaceful land restitution:

“Akari mu kanwa k’imbwa gakurwayo n’ubuhiri” (what is in the mouth of the dog is removed by the rod). You cannot expect these people to give us back our land easily. The government must use force; otherwise nothing will happen (Young returnee man, Nyanza-Lac, May 2017).

Maybe we can do one thing as a community: to warn our brothers and sisters who are in Tanzania and DR-Congo never to make the same mistake we made. They should stay where they are and forget about this country. Even us, we are still like refugees in our country” (Returnee woman, Nyanza-Lac, May 2017).

The returnee women were even more skeptical about the capacity of the community to turn things round for their benefit:

If you leave the land restitution to the community, women will have many problems, as our culture does not support that women own land. Our family-in-law will harass us and we may end up being the losers. And actually, if you did not have children with your husband, they do not even consider your case. The worst is that we are asked by the elders to give beers before they can listen to us. We are extremely poor and the CNTB is doing this free of charge. I prefer [the] CNTB instead of the community trying to do things (Returnee woman, Nyanza-Lac, May 2017).

The second occupants, on the other hand, were very open to the possibility of involving the community in finding the solution to the land restitution process. They all believed that the elders can play a major role to the satisfaction of all.

I do not understand why this government ‘removed’ the institution of *abashingantahe* (elders) as the first level where all matters should be resolved. They still help to resolve community issues, but their decision is not legally binding as it was before the CNDD-FDD took power. The problem we have is that they installed a new system where we elect five elders on each hill¹⁵ who are supposed to resolve our community matters, even though these people come from political parties and their decisions will be influenced by

¹⁵ A hill is the smallest administrative local entity. A few dozen hills will form a commune.

politicians. We need a community based conflict resolution as we used to do it during the *abashingantahe* time. (Old second-occupant man, Nyanza-Lac, May 2017).

Once again, second-occupant women had mixed feelings about the efficacy of community mediated land conflict resolution. While they do not think the CNTB is the best channel, they hoped that a number of issues would be sorted out before the community can take over or even help the CNTB:

I think there will be an added value in involving the community in the land restitution process. Trying it would be better as the CNTB is not helpful to us. However, I think the elders decide cases based on cultural beliefs which underestimate women. I would like special measures to be taken about this problem. Also their (community elders') services must be free of charge as many women have no money to buy beer to pay them. (Second-occupant widow, Nyanza-Lac, May 2017).

The opposition councillors and provincial authority thought that the involvement of the community is crucial and that they may be able bring about the desired change. They accused the government of having disbanded the community's mechanisms for conflict resolution and that the consequences on the government institutions are enormous. They called for the re-institution of the *abashingantahe*.

The involvement of the community was also strongly supported by the member of the CNTB delegation, but for slightly different reasons:

If there will be peaceful property restitution, it is important that the community get involved and co-operate with the CNTB by freely accepting to support our decisions. The community needs to be involved, even at decision-implementing level. For example, we can ask the refugees and the second occupants to choose their representatives who will be bringing their problems to the CNTB for discussion and eventual resolution (Member of CNTB provincial delegation, Makamba, May 2017).

Neither the ruling party MP nor the provincial authority thought there could be any better way of involving the community. They think that the community is already involved through their representatives whom they have elected:

I represent people in parliament, and I cannot close my eyes on an oppressive law or a policy. This is the reason I was even available to talk to you on this problem. The CNTB always works with the hill leaders who were elected by the community in conducting investigations, taking decisions, and implementing them. They always hold meetings with the community and they feed back to the administrator who was also elected by the people. There is no way we can involve everybody directly in every detail of property restitution. Maybe the Civil Society organisations can do more, but we have to make sure they have that mandate and legitimacy, and that they will truly build peace and not incite

people for disobedience as some did in 2015 (Member of parliament, Makamba, May 2017).

7. 4 Analysis

I anticipated that this data would help me answer the first objective of this study, which was to establish the nature of current alliances between politicians and local land actors in Burundi, and to determine the extent to which these alliances use violence as a means to coerce and mobilise followers. It was also hoped that the data collected could give some insight into meeting the second objective of the research, which was to explore the mobilisation and/or training needs to establish community peace alliances capable of addressing land conflicts.

My experience was that, despite my original fears that people might not want to talk on politicisation of land restitution in a highly politically tense situation following the 2015 crisis, people were open and spoke their minds. In the groups, it was clear that, within each one of the homogeneous groups such as returnees, second occupants, and the grassroots associations, the interviews and discussions generated consensual data on the subject under discussion. Where the views were different, I have attempted to give an explanation, but I must say that the tension between the traditional conflict resolution methods and the place of women in society with regard to land inheritance was observable even across rival groups such as returnees and second occupants.

However, I had thought that the focus group of communal councillors was homogeneous and would give me the data on how the people's elected representatives view the land property restitution process, but I was wrong. In fact, this group was diverse in their views on the problem under study and, instead, they were divided right down the middle, with one part representing the opposition views while the other represented the ruling party's views. This gave a powerful insight into the whole issue of the polarisation of the land problem in Burundi across political divides.

The choice of individual authorities was very important in terms of further clarifying the politicisation of the land restitution process in a way that was difficult to get from the focus groups. The deep analysis based on legal texts and policy implementation highlighted the data I got from these four individuals. However, apart from specificities connected to their positions, it was clear that it was a game between three individuals (the MP, the CNTB official, and the Provincial administration member) standing for the government's position against one man (the Provincial administration member) standing for the opposition. Originally, I had selected the two (the provincial administration members) as representing

the ruling and opposition parties present in the administration, while the MP and the CNTB Makamba delegation were selected for representing people and serving people respectively.

Finally, it was clear that the returnees have no faith in a community led process; we will explore reasons for this shortly. On the whole, the question of how the community should get involved created the most diverse responses, which hardly follow the political line, even if it is not completely absent. The most interesting point to notice on this question was the apparent closeness of the view of the CNTB and the second land owners. This was the only question where these two came close. I will also attempt an explanation below.

7.4.1 The CNTB is not independent and is more political than humanitarian

Without forgetting all the cases which have been successfully settled by CNTB,¹⁶ it is clear that this Commission has fingers pointed at it for being unable to deal with land disputes effectively and on time. The returnees believe it is because they do not have power to implement their decisions, and they give an even more profound reason: there is political interference and the commission is not really independent. This needs to be explained further:

On 22 March 2015, radio station RFI announced that the Governor of Makamba had suspended, on behalf of the government, the execution of CNTB decisions in order “to avoid a bloodbath” (RFI 2015). This suspension was declared in a context where returnees were viewing those occupying their land as “committing an injustice with the support of the central government and institutions such as the *Bashingantahe*” (Binder and Murithi 2013b: 13). Although, during this research, the CNTB provincial delegation member and the Member of Parliament blamed poor funding as the source of this inefficiency, the president of the CNTB had spoken in 2015 against the Governor’s decision to suspend the execution of the CNTB decision. He argued that he had endured heavy pressure from some Makamba area Members of Parliament who did not want the execution of the decisions for fear that they would lose the 2015 general election. He then accused the Governor of illegally interfering with an independent commission’s work as well as with the Special Court’s work (Rugambarara 2015).

It is understandable, therefore, that we observe endless appeals by the second occupants. However, this is not the only explanation for these appeals. Two points should be recalled here: first, the appeal

¹⁶ To date, the CNTB has successfully concluded 33 000 cases. They still have to deal with 24 000 cases in the appeal chamber, plus 25 000 cases in different provinces, especially Makamba and Rumonge (Telephone interview with CNTB members, Bujumbura, March 2018).

system, while being a constitutional right, takes too long to make a decision and is advantageous to the second occupant, because they continue to exploit the property as they wait for the last verdict. This was changed a little in the CNTB law, but it is not until the appeal levels within CNTB have been exhausted that the refugee can partially have access to the property. Yet, the fact that the special court is based in Bujumbura makes it difficult for refugees and other vulnerable people to access the court – and this is to the advantage of second occupants who are less economically vulnerable. Moreover, the inability to access the court is also in terms of language and familiarity with how the Burundian judicial system works. Having spent over 40 years in exile using Swahili rather than Kirundi, this obviously puts returnees in a disadvantaged position and the second occupants exploit this weakness.

Second, it is clear that the work of the CNTB is not trusted by the second occupants and the opposition, who accuse this institution of siding with the returnees. The ruling party sees in this the hand of the opposition that wants to discredit the government and the CNTB for political gains, thereby creating a win-win situation for both the opposition and the second occupants.

This is a serious accusation in a context where, in 1993, it is believed that the feeling of loss of land to returnees by the Tutsi might have been one of the triggers of the assassination of president Ndadaye (Leeuwen 2010: 754). However, it is important also to note the counter-accusation by the second occupants, who speak of conspiracy between the government (generally through the CNTB) and the returnees to the disadvantage of the second occupants in what they refer to as a plan for “massive land reform to snatch land from a section of the population and give it away to the other” by using the CNTB revised law (Madirisha 2014). Hence, the UPRONA president was promising to fight the project to the end, while the office of the President was declaring it was ready “to assume the consequence”(Madirisha 2014). So it is clear that, in what was thought to be a communal or personal land conflict, politicians turned the game to their advantage, including the issue of endless appeals.

7.4.2 Politicians have built expectations which are very hard to meet

Another issue to note is the expectations created by politicians in both the refugees and the second occupants. Apart from some cases where the second occupants grabbed land belonging to refugees, we have many cases where these second occupants were given refugees’ land and papers by a government official. Article 29 of the 1986 land code, which said that whoever acquires a property peacefully and holds it for thirty years acquires the right to that property by prescription (Kohlhagen 2010: 70-71), legalised almost all the property owned by the second occupants.

By the time there was massive refugee return, the second occupants had been occupying the land for more than 30 years and they believed themselves to be protected. This is the reason why, before the current CNTB (République du Burundi 2013a), it was hard for refugees to win any case against the second occupants. While this prescription is also found in some other countries, the context of Burundi was particular, as it prevented returnees from accessing their land (Kohlhagen 2010: 71).

On the other hand, the Arusha Peace Agreement ensured the restoration of property to returnees (Rema Ministries 2012: 21). During my interviews with them, refugees spoke of the assurance of getting their land as soon as they arrived in Burundi given by the Burundian authorities as they sensitised them for return.

With these kinds of irreconcilable expectations from both sides, violent conflicts were predictable. What the politicians have managed to do is to dig deep into the conflict as they continue to encourage their followers that the original expectations will be fulfilled. This leads to frustrations and finally to violence of all kinds.

7.4.3 Land is not just an economic asset

The connection between identity, citizenship and land surfaces in the data collected, thus confirming other, previous studies (International Refugee Rights Initiative, Rema Ministries and Social Science Research Council 2009b; Rema Ministries 2012). “The realisation of citizenship for returnees is centrally contingent upon fair and effective repossession of land – and specifically family land – signifying an end to the causes of flight that broke their citizenship bond in the first place” (International Refugee Rights Initiative, Rema Ministries and Social Science Research Council 2009b: 32).

Often, returnees established a link between land and citizenship by referring to themselves as still being refugees for as long as they do not have their land. Also, they regretted having come back home if they were not going to get their land, and consequently, advised their friends left in Tanzania not to return. In the Burundian context where land is generally customarily owned, it is the only asset which connects the current generation to the former in a way that raises emotions of grief for one who does not manage to recover such land.

We can read the same emotions in the young second-occupant man (Nyanza-Lac, May 2017) who was born on the returnee land when he says, “... my parent now died leaving us this only land. The government expects me to give it away? No they will kill me first ...” Even if this is not his ancestral land, he believes that he has the obligation to jealously guard, and if need be, die for that which he

inherited from his father. Therefore, it is clear that the land's value, in this context, goes beyond the economic aspects to be an identity issue. To some degree, it becomes religious, and the fight to get this precious asset can easily turn violent. The following extract from a South African writer explains further:

In many African families, the umbilical cord of a new born baby is buried. In other communities when a boy is circumcised, the foreskin and blood is also buried. The sacredness of land in Africa is further linked to the fact that our ancestors are buried in it. Without land, we would not have a home for a dead body. That is why we kneel barefooted next to the grave when we want to communicate anything to our ancestors, showing a lot of respect for the land on which they lie. When death strikes in a family, no one is allowed to till the land. We mourn until that person is buried (Nkosi 1999).

7.4.4 Violent actors and their aspirations

At this stage, we are going to discuss the different actors of land violence just at an indicative level, although a much more detailed analysis was done with the data collected by the action team. As defined in Chapter 5, violence can be distinguished between personal, structural and cultural violence. Galtung (1990: 292) sees violence as “avoidable insults to basic human needs, and more generally to life, lowering the real level of needs satisfaction below what is potentially possible.” Therefore, violence “is present when human beings are being influenced so that their actual somatic and mental realisations are below their potential realisations” in a way that violence becomes the “cause of the difference between the potential and the actual” (Galtung 1969: 168).

In this study, I discussed violence in terms of the actual and the potential in such a way that, if the actual is at a lower level than the potential and it could have been avoided, then violence is present (Galtung 1969: 168). Galtung (1969: 169) argues that,

The potential level of realisation is that which is possible with a given level of insight and resources. If insight and/or resources are monopolised by a group or class, or are used for other purposes, then the actual level falls below the potential level, and violence is present in the system.

Therefore, in direct violence, the means of realisation are simply directly destroyed instead of being withheld. We will analyse land violence actors and their means of operation using the five distinctions which (Galtung 1969: 169) identified:

The first distinction, as we look at violence, is between physical and psychological violence. In physical violence, human beings are hurt to the point of being killed or their somatic capacity is reduced below

the potential capacity, while psychological violence includes “lies, brainwashing, indoctrination of various kinds, threats, etc. that serve to decrease mental potentialities.” The findings in this study were that the returnees and the second occupants engage in fighting and are injured physically, just as the returnee family attacked the second-occupant family. As we will see in the subsequent chapter, having a land quarrel with somebody is a major source of insecurity as it often leads to violence, which even includes death.

Even more profound is the psychological violence which both refugees and returnees have to endure. Refugees feel their capacity to choose what is good for them was tampered with by the incorrect information and messages which they received from politicians, as both the return sensitisation messages and the Arusha Peace Agreement promised the recovery of land or fair compensation in cases where land recovery was not possible. None of the messages could have helped refugees to foresee the tedious land recovery process, and the stress which goes with it. In many cases, this is still impossible. Returnees were clear in the discussions that, if they had known that this was going to be a difficult exercise, they would have decided to stay in Tanzania so that they could become naturalised. Until today, their capacity to see other options has been tampered with: all they bank on is the recovery of land, and the failure to achieve this remains a form of ongoing psychological torture that eventually leads to violence – even direct violence.

On the other hand, the fact that the government gave the second occupants land and papers and assured them of their security of tenure interfered with their capacity to choose what is good for them and their families. They were made to leave their original land and came to build lives around the second acquired land. This is even more traumatising when one considers that most of the second occupants in Nyanza-Lac came from the high plateau in Burundi and other provinces where both the climate and the diet is different. So, in addition to the fact that they lost their original land, they are simply not able to cope with the lifestyle in their new homeland. Finally, those who bought land from second occupants and did this with the blessing of the administration feel doubly impaired. They have also made wrong decisions and wrong investment and are now unable to know what to do.

Some of the frustration resulting from this psychological violence becomes an important recipe for personal violence – as in the case where the second occupants resist vacating the land and the returnees find it unacceptable to brook their land being exploited by other people.

The second distinction is between the negative and positive influence, as the person undergoing violence becomes influenced by either reward or punishment from the influencer in a way that reduces the capacity of the influenced (the person undergoing influence) to reach their full potentiality. In the past, returnees accused the UPRONA party of giving away the refugee land to their political supporters in the 1970s as a reward for political support. Today, UPRONA promises the second occupants support to stay on their land, so that they can get their vote.

The collected data also made it clear that the current government promised unconditional restitution of the land to returnees with the expectation that these will vote for them. Likewise, it is believed that the CNTB activities that were suspended by the government in 2015 had something to do with the 2015 general elections. In both cases, the land which the refugees or returnees get does not guarantee the possibility to realise their full potential – or if they do, it is done with the possibility of somebody else's rights being violated, with chances that individual violence will erupt in future.

The third distinction to be made is on the object side: whether or not there is an object that is hurt, the threat of violence to somebody can do psychological damage and limit them from fully realising their potential. The frequent mobilisation of the second occupants to build a strong opposition against the implementation of the CNTB decision to restitute land to returnees has often ended up in panic among different groups, creating fear and psychological torture. These second occupants have barricaded the roads, with or without public property destruction, in order to stop the CNTB staff from reaching the field. The CNTB staff have to think twice before going out to implement their decision, and I observed that they always go into the field with a good number of policemen.

The government argues that such cases as mass protest by the second occupants, with the instigation of some political actors serves as background to the 2015 suspension of the CNTB's work. Meanwhile, hundreds of families had their right to access their land systematically violated, thus being unable to properly feed their families, take their children to school, and meet their basic needs. Once again, the possibility for personal violence increases, and this pushes both the returnees and second occupants to live in constant fear.

The fourth distinction to be made is on the subject side. The question to ask here is: who commits violence? It may be a person causing violence, and this will be direct violence. This is the case of returnees and second occupants attacking one another, the case of returnees and those who did not

flee agreeing to grab the public or government land, or the case of the mob attacking the CNTB staff. It is also the case of the politicians supporting and instigating violence.

It may be systems (not individuals) and practices that can also cause violence indirectly, and this, too, may result in people losing their lives. The 30-year prescription pushed returnees to poverty for a long time, while many feel that the failure to implement a compensation policy has had a tremendous impact on the potential of people who acquired property in good faith. Likewise, the political processes and practices that took place in the 1970s have impacted on the current process, sometimes leading to violence practised in order for the second occupants to keep property or the returnees to take revenge. A culture and system that sidelines women as far as property inheritance is concerned often leads to women being pushed into situations of extreme psychological torture, and not being able to live to their potential ability.

The returnees and the second-occupant women felt that they were being oppressed by cultural practices and systems that have been built against them for years. Returnees who are poor, with no language and proper knowledge on how the judicial system works, are not assisted to follow up on cases appealed against them by the second occupants, who are supposed to have more access to justice. They (returnees) felt that their rights are violated, and this quickly translates into social injustice.

The fifth and last distinction is intended or unintended violence, where we ask whether the ‘influencer’ of violence had intended to do so, and then whether or not he/she is guilty. This is a very tricky issue because, in direct land violence where the individuals are involved in violence, they are directly punished as soon as they are found guilty. However, cases of violence committed by violent systems or politicians end up not being addressed, even if they present the potential of being more harmful and damaging than direct violence. The irony in the case of Burundi is when land politics are used to vie for a political position, while using violence to keep the momentum of the followers. The same observation was made by Bunte and Monnier (2011: 171) that, “disputes about land can heighten existing tensions between different groups of society, notably if used as a means by political actors to mobilise solidarity and support.” In this case, the risk for violence is higher during election periods.

7.4.5 The role of traditional leadership

Almost all the respondents answered the question in terms of the role that could be played by the *abashingantahe* and other community leaders like them. Traditionally, the *abashingantahe* managed

community conflicts, including land conflicts. Ntabona (2002: 2-3) summarised the role of the *abashingantahe* as that of a community 'lubricant' as they,

- Settled disputes through the traditional courts or conciliation;
- Reconciled people and families;
- Authenticated contracts (marriage, succession, sales, donations, and so on);
- Watched over personal truth and justice;
- Ensured the safety of people and property, wherever they were;
- Advised and balanced political power at all levels;
- Spoke for the common good, human rights and socio-political responsibility, whenever necessary;
- Authenticated, on behalf of the population, the new king, the new chief and the new sub-chief;
- Ensured the ecology of morals;
- Represented the population in all circumstances;
- Judged the opportunity of war (*kugera urugamba*);
- Observed the war code in case of armed violence, and advised on the declaration of hostilities;
- Organised negotiations and reconciliation after a war.

Although the institution of *abashingantahe* was very important as it linked the king and chiefs to the people and resolved most matters before they were brought to the higher political and judicial leadership, its influence was gradually replaced by Belgium and the post-colonial politicians who introduced a different way of settling conflicts (Trouwborst 2008: 169). Ntabona (2002: 4) speaks of the crushing of the *abashingantahe* institution by the "colonial and post-colonial bulldozer."

The version of *abashingantahe* which we have today is less efficient and less trusted, but it should be noted that, nevertheless, 60% of all community conflicts are solved by the *abashingantahe* and other social conflict-resolution mechanisms (Bunte and Monnier 2011: 35).

The grass-roots associations which formed part of the focus group discussion are part of this community conflict-resolution mechanism, and their approval of the role that could be played by the community leadership in resolving land conflicts is evident. The second occupants, who also had a long experience of what the community leadership can do, supported the idea of involving these community mechanisms more.

The communal opposition councillors and the provincial authority from the opposition blamed the current government for disbanding the institution of *abashingantahe*. This is difficult to understand, because the systematic destruction of this institution was largely executed by UPRONA during different episodes. Thus, it is slightly absurd to hear of the opposition's advocacy for the reinstatement of this institution which was seriously destroyed in their hands. I personally believe that this advocacy is another calculated move to attract the sympathy of all those who believe in the original institution of *abashingantahe*, by setting them against the current government.

The women, both the second occupants and the returnees, find it hard to confer their right to arbitration to institutions that largely rely on the traditional practices which are often biased against women.

The most sceptical people were the returnees. They believe that the *abashingantahe* of today are chosen from the community who did not flee and, therefore, feel that they are not represented; they fear that these *abashingantahe* will play the game to the advantage of the second occupants. Apart from the problem of representativeness, the issue of legitimacy is still a major problem. Under the CNDD-FDD government, the *abashingantahe* lost the power to judge conflict in the first instance before it is taken to the courts; thus, the decisions of the *abashingantahe* are not legally binding and this does not put them in an attractive position. They are now part of the civil society organisations, which weakens their traditionally uncontested authority. Finally, they are seen by the returnees as having built a very expensive system, so that what used to be a justice at the door step has now become inaccessible to the poor – which returnees are.

The ruling party politicians both at communal, provincial or even parliamentary level do not hide their intention to be the sole representative of the people. It is clear, then, that the *abashingantahe* are seen as a threat to the access of the most valuable political 'asset' – the people.

It was apparent that the CNTB provincial delegation member seemed to favour the community leadership and community in general as being able to be involved in the land restitution process. This gives the impression that, for once, he was speaking in agreement with the second occupants and moving away from the official position. This appeared to be so, but it was not the case. The real point here is that he needs the community to be involved in as far as they facilitate the CNTB peacefully doing their work. However, he does not see the community as doing the work and CNTB playing a complementary role.

Finally, it was clear, from this study, that none of the focus group members and individual authorities thought that the ordinary person, who is not part of the community leadership, could contribute anything to the land problem. Instead, they saw the community leadership as concerned in this property restitution. This question of how ordinary citizens can contribute to the peaceful resolution of the land restitution conflict was very much debated in the dialogue with the action team, and a detailed report will be presented in Chapter 9.

7.5 Conclusion

I conclude that this study was able to answer the first objective, which was to establish the nature of current alliances between politicians and local land actors in Burundi, and to determine the extent to which these alliances use violence as a means to coerce and mobilise followers. The study found that there is a direct and indirect violent alliance between the second occupants and the opposition.

The second occupants with, most of time, the direct or indirect support of the opposition, use direct or indirect violence against the returnees in order to keep the land which originally belonged to these returnees. They also use direct or indirect violence with the direct or indirect support of the opposition against CNTB officials in order to keep their land. The direct violence is in the form of individual attacks against the returnees or the CNTB staff, while the indirect violence is in the form of mob road barricades to frustrate CNTB staff, or the exploitation of the legal system against returnees.

The opposition politicians use indirect violence to sustain this alliance to get political support from the second occupants. They also used indirect violence in order to oppose land restitution, which could have consequences for them, as some powerful individual who sold land or gave refugees' land away would have to answer for the damages they caused during their leadership.

The study also found that there is an alliance between the government, the CNTB and the refugees, which uses direct or indirect violence against the second occupants. The government uses legal power to compel the second occupants to abide by the CNTB's decisions. On the other hand, the returnees use direct violence against the second occupants to get land back. The government expects the returnees' political support, while the returnees expect the muscles of the government to be utilised to get their land.

As an independent body, the CNTB has an alliance with the returnees, and the Commission uses direct or indirect violence against second occupants to compel them to abide by the CNTB's decisions. In this

alliance, it is clear that the returnees expect to get land and continue to support the government, while the CNTB officials, by executing the government's given mandate, keep their jobs.

Last but not least, an alliance which uses indirect violence against the public is the alliance between some returnees and others who did not flee, in order to grab public land. I had not considered this as a possibility until I started interviewing people. Nevertheless, it is a widely existing alliance – although little identified in publications. This alliance does not use direct violence; they use indirect violence as they take away the public land illegally.

I have noted also that, at some point, the government uses indirect violence against the CNTB and the other land actors for their political benefit. This leads me to conclude that, when the political advantages are at risk, politicians do not think about people's land rights. They use all means, including direct and structural violence, to secure their political positions.

Finally, the data helped to partially answer some concerns of the second objective. The second objective was to explore the mobilisation and/or training needs to establish community peace alliances capable of addressing land conflicts. The assumption of the study was that it was a question of unanimity that everybody would find the role of the community obvious in peaceful property restitution. This was not the case. In fact, the finding was worrying in that neither the ruling party nor the returnees thought that there is a need to involve the community, because they believed that the community is already involved. Even those who believed the community should be involved, did not see the ordinary people in the idea of 'community', but rather the community leadership class. Therefore, the mobilisation needs on this question of community involvement in building alliances for peaceful land restitution were already identified, and this served as a stepping stone towards the action team involvement, as we will see in the subsequent chapter.

CHAPTER 8: COMMUNITY PEACE ALLIANCES: PLANNING USING RESULT-BASED MANAGEMENT

8.1 Introduction

This chapter discusses the different planning steps and tools used during the planning of the intervention by the action team. “The project cycle consists of a number of progressive phases that, broadly speaking, lead from identification of needs and objectives, through planning and implementation of activities to address these needs and objectives, to assessment of the outcomes” (Biggs and Smith 2003: 1743). The planning is described in this chapter, its implementation is discussed in Chapter 9, and the evaluation is explained in Chapter 10. This chapter, then, discusses how the baseline was established, as well as how the problem to be addressed and the objectives to be attained were determined. It concludes by discussing the planning of the monitoring and evaluation.

8.2 The action team

The action team was made up of ten people: five returnees and five second occupants as presented in the table below. Four were females and six were males, while four were Tutsi and six were Hutu. The selection of both men and women was motivated by the fact that they are affected by land conflicts in different ways. In addition to socio-economic vulnerability, the inheritance law is largely customary and biased against women. I also selected both Hutu and Tutsi because there is an opinion that sees an ethnic dimension in the land conflict (IRIN news 2013), and it would be helpful to see how this could eventually affect the project. Age was another selection criterion because, for example, young people born in exile do not have the same attachment to land and might be open to different options, compared to older people who were born in Burundi. Likewise, the young second occupants who inherited land from their parents might feel that they possess the land in good faith to a greater degree than their parents who know the history of the land acquisition. Finally, the selection considered different circumstances of land acquisition, including those who got the land from the government, those who bought the land from the second owners, or those who inherited the land from their parents. These criteria and many others have fed the debate on the notion of good faith and compensation.

Table 8.1 The action team

No	Returnees	Second occupant	Age	Gender	Ethnic affiliation	Specific details
1	•		32	Male	Hutu	Born in Tanzania, parents died in Tanzania

2	•		50	Female	Hutu	Widow with four children
3	•		65	Male	Hutu	Lived in Burundi before 1972; he had land then which he is trying to recover
4	•		42	Female	Hutu	Born in Tanzania, widow, looking for land belonging to her late husband's family
5	•		46	Male	Hutu	Mandated by his other brothers and sisters to look for the family's land. He is the only one who was repatriated
6		•	37	Female	Tutsi	Her father was given land belonging to a refugee
7		•	58	Male	Tutsi	Bought land belonging to a refugee family
8		•	42	Male	Tutsi	His father was given land belonging to a refugee
9		•	69	Female	Tutsi	Widow; her husband was given land after migrating from another province
10		•	62	Male	Hutu	Given land belonging to a refugee by the administration in compensation for his land, which had been taken

I had planned that we would have the first session in separate groups so as to prepare the two groups ahead of my visit. Therefore, I started the meeting with the returnees and, after the introductory remarks and going through the signing of the consent forms, they told me that they wanted to be in the same group with the second occupants and asked to have the discussion together, rather than having separate meetings. I immediately contacted the second group, composed of second occupants, who also confirmed that they wanted to be in the same discussion group. The second dialogue session was thus convened the following day and we had the first meeting.

8.3 Dialogue session 1: Establishing the baseline

We started the first dialogue session by agreeing on the ground rules that were going to guide our discussions, and we agreed on the following:

- We are all equal, and have equal opportunity to express our views
- Therefore, everyone in the room will be treated with respect
- There are no wrong views
- Allow the use of comfortable language (either Kirundi or Swahili), but use Kirundi as much as possible
- Confidentiality is required of everyone. The final report should present views anonymously
- All are committed to following through the dialogue and contributing
- Avoid the use of phones as much as possible

In order to establish the baseline, team members individually answered the questionnaire in appendix 6 (see Chapter 6).

A baseline study simply defines the 'pre-operation exposure' condition for the set of indicators that will be used to assess achievement of the outcomes and impact expressed in the programme's logical framework. When compared with the condition of the same indicators at some point during implementation (mid-term evaluation) and post-operation implementation (final evaluation), the baseline study forms the basis for a 'before and after' assessment or a 'change over time' assessment. Without baseline data to establish pre-operation conditions for outcome and impact indicators, it is difficult to establish whether change at the outcome level has in fact occurred (United Nations World Food programme: 5).

In our case, there was the need to establish the state of affairs. This was how the land restitution was affecting members in the action team, and what they were doing in order to find a solution to their problem. There were two advantages which the baseline had for our intervention: together with the preliminary analysis done in Chapter 7, it helped us to ascertain the particular aspects of the problem to be addressed, as well as helping us to assess the change made by our intervention. It should be noted that the baseline was able to contextualise the situation from the national frame to the Nyanza-Lac context and even further, to the returnees and second occupants' context.

The dialogue was built around four points:

1. How did the land restitution process affect you and your community?

It was interesting to see how this land restitution process is affecting both the returnees and the second occupants. The second occupants feel left on their own and not listened to by the government and the CNTB. They also feel insecure, and feel accused as criminals who grabbed land:

I lost my land and I feel I was not listened to by the CNTB who treated the case without making enough investigation. I felt they (the CNTB) are interested in one group (the returnees) (Second-occupant woman, Nyanza-Lac, June 2017).

I feel like both the government and the CNTB are on a second occupants hunting mission. I am very confused, and I find that I am not a Burundian because the government is not interested in my wellbeing. I lost my land and I feel that, at least, we should have divided the land into two. As a consequence, there is no cohesion in the community as we feel hated (Male, second occupant, Nyanza-Lac, June 2017).

This man felt the same:

I feel I am accused of having illegally acquired land, yet it is the government that gave us this land. My neighbours feel the same and we think the whole process is not fair (Male, second occupant, Nyanza-Lac, June 2017).

For others, like this widow, the experience is life-threatening:

I shared land with a returnee and I thought the problem was now finished, but he has now changed his mind and he said that he wants to go back to the CNTB so that I may give the other part which I was remaining with. I do not sleep because of fear; I have decided to vacate that land and come to rent a house here near the police (Second-occupant woman, Nyanza-Lac, June 2017).

This male, who is a teacher, felt the same:

I am staying in somebody's land but it is the government that gave me that land. These people came back and they told me that they need their land. I am feeling very frustrated because I know that my life is in danger. A good number of my friends feel the same (Male, second occupant, Nyanza-Lac, June 2017).

The group of returnees had mixed feelings. Some were happy that they recovered their land, but were still overwhelmed by fear:

For me, I praise the restitution process, and I am happy that I recovered one of my pieces of land. However, the second occupant who was on my land is not happy and I feel insecure. The community is now divided and I feel we have a long way to go in unifying our people (Returnee woman, Nyanza-Lac, June 2017).

I got my land and I am now able to cater for the needs of my family. I am really very happy that I am finally a Burundian. However, the 'friends' who had inherited my land are not happy, and I know I cannot even drink water in their home. They are very bad neighbours (Male returnee, Nyanza-Lac, June 2017).

Those who have not been able to get back their land are very unhappy and really fearful:

I have not been able to get back my land and, consequently, my family is living in pathetic conditions, not able to know what to do. And my neighbours who stayed in the country hate me. They see me as an invader, and I wonder why I should be seen like that! (Male returnee, Nyanza-Lac, June 2017).

I am struggling to get back my land and I am almost about to get it. But my neighbours who stayed in the country are so bitter against me. I am wondering where we are heading to as a community (Male returnee, Nyanza-Lac, June 2017).

I am so sad; I have nowhere to cultivate and build my house while my land is being exploited by other people. I am finding it very unbelievable. My neighbours who did not flee see me as a bad person to eliminate (Returnee woman, Nyanza-Lac, June 2017).

2. Who is responsible for this situation?

When asked about who was responsible for the situation, all accused at least the government in one way or another:

The government is delaying to give us our land and we are forced to sit and watch as the second occupants enjoy the fruit of our fathers (Male returnee, Nyanza-Lac, June 2017).

It is the government that distributed our land to other people, and I cannot imagine how they did so without our permission (Returnee woman, Nyanza-lac, June 2017)

The government gave us land and they are forcing us to give it back. They are responsible for all the violence (Male, second occupant, Nyanza-Lac, June 2017).

Others find a shared responsibility between the government, the beneficiaries and the politicians:

We all know that the government and the politicians of the opposition are not able to agree on the way forward so that this problem may be resolved once and for all. However, I am sure some of us returnees and second occupants contribute to the conflict by not waiting peacefully (Male returnee, Nyanza-Lac, June 2017).

I think we have problems with our laws, and I also know that politicians do not want to revise the laws in a way that will answer the questions we have (Male second occupant, Nyanza-Lac, June 2017).

3. What ways do you use to cope with the situation?

Both the second occupants and returnees have different coping mechanisms. What is common to them is how limited they are in terms of knowing what to do if they lose or cannot get back their land.

This man hopes to go back to the original seller for compensation:

When I realised that I lost the land which I had bought, I knew that all my investment was gone. I am not sure what to do, but I am hoping that I can talk to the man who sold the land to me and see what he may do to help me get back my money or get other land (Male, second occupant, Nyanza-Lac, June 2017).

And this one is labouring on other people's land in order to put food on the table:

I have been struggling to feed my family. I am now working for others in their land so that I may be able to feed my family. However, I do not think I can do this for a long time when I know where my land is (Male returnee, Nyanza-Lac, June 2017).

This woman has a palm oil products business, but she is so traumatized:

I have started some small business retailing palm oil products. Sometimes, I buy them from the owner of my own land. It is traumatising. I hope he knows that it is traumatising and that I need my land soon (Returnee woman, Nyanza-Lac, June 2017).

Still others have formed a resistance movement:

We have come together, as second occupants, in order to protect one another from this government which is against our interest. And when we protect one another, there are good results (Second occupant, Nyanza-Lac, June 2017).

4. What are the available resources at your disposal?

Seven out of ten thought that they have no other resources to solve their problems but to enter into dialogue with their opponent so that they may negotiate the way forward:

I think it is possible for us to talk [about] how to deal with our problems. What I have realised is that politicians are not interested in our wellbeing. He tells you that he will help you to get your land or to keep your land, but they do not help us and protect us from eventual attacks from our neighbours. We constantly live in fear (Male returnee, Nyanza-Lac, June 2017)

If the returnees, those who sold refugees' land and those who bought them can all come together and discuss [the issues], maybe we can find helpful solutions. For example, I built two houses on the land which I bought. There is no way I am going to move, leaving those houses. Maybe the man who sold the land which was not his can give the returnee other land. But when the CNTB people come, they complicate things and tell me that I have to vacate this land without thinking about the investments which I made (Male, second occupant, Nyanza-Lac, June 2017).

One returnee woman thought that business is the way out of this problem:

For us returnees, we have been doing business in the refugee camps where we were. I am sure if they can give us money to do business instead of our land, we may leave the land to the second occupants. Of course, I am not talking about the family land (Woman returnee, Nyanza-Lac, June 2017).

Another second occupant woman thought of compensation:

The government and the international community had said in Arusha that there will be a compensation fund; I wonder why they cannot compensate us. They are able to do so

and [then] this problem will be resolved (Second occupant woman, Nyanza-Lac, June 2017).

Finally, a returnee man offered something different from the other propositions:

I was born in Tanzania. Why can't the government give us papers and allow us to go back to there, not as refugees but as Burundians? We are used to life in Tanzania. We can cultivate rice and tobacco and make our living, and I am sure Tanzania can benefit from our contribution, and their economy will be better. For example, ask about the refugees in Mishamo resettlement; they contribute a lot to the economy because of rice and tobacco (Male returnee, Nyanza-Lac, June 2017).

In summary, it was clear that both returnees and second occupants are tired of living in poverty and fear, and have a constant struggle to get or keep their land. Some of their coping mechanisms are limited to small activities in order to get food on the table. Some are building resistance associations, while others who are frustrated keep thinking about how to get back or keep their land. In most cases, violence seems to be the chosen path and this causes everybody to live in fear.

During the focus group discussion, it was not easy to get some of these personal feelings out, but already this quick baseline revealed that the degree of fear was extremely high. One member of the action team was already internally displaced out of fear for her life. Keeping the land (for the second occupants) or even getting back the land (for the returnees) would not help them to overcome that fear. If anything, they were overwhelmed by fear, which could not find a solution in their allied politicians. The majority thought that they should give dialogue a chance, but they did not know how to go about it. This gave the justification for us to use six follow-up dialogue sessions to plan and agree on how that dialogue was to be carried out, and which objective we hoped to attain.

8.4 Second dialogue session: establishing the intervention road-map and adopting the tools

After analysing the data collected from the baseline survey, as well as the conclusions of the preliminary research, the action team and I decided that we should try to dialogue and see how far it could contribute to building a community alliance for peaceful land restitution. Specifically, we took dialogue as capable of creating the environment for learning and taking action, drawing on the potential for community dialogue to empower the community to bring about change.

Wallerstein and Bernstein (1994: 142) argue that community empowerment “embodies an interactive process of change where institutions and communities become transformed as people who participate in changing them become transformed.” Quoting Paulo Freire, Wallerstein and Bernstein (1994: 142)

advocate for “a participatory educational process in which people are not objects or recipients of political and educational projects, but actors in history, able to name their problems and solutions to transform themselves in the process of changing oppressive circumstances.”

The action team was optimistic that dialogue would create a learning environment where individuals in the action team would be empowered and, thereafter, would empower the community to resolve their land conflicts. However, it was clear to all of us that this dialogue needed to be built upon good planning, intending to define the change we wanted to see using the results-based management tool.

We needed dialogue in order to establish a community based peace initiative because we believed dialogue would enable everyone to understand the land problem from perspectives other than their own. Dialogue brought about a shared understanding of both the context of, and the problems resulting from, the land restitution process.^v It was also through this dialogue that the team could define the focal problem which they think they could influence and transform. Otherwise, it might be impossible to have a shared vision on how to influence the identified problem. Being one of the most ethical ways of communication, dialogue “serves to mitigate power relationships, values individual dignity and self worth, and tries to involve participants in conversation and decision-making” (Taylor and Kent 2014: 388).

After discussing a number of planning tools, including the Pastoral Cycle, Research-Based Management (RBM), the Inter-relationship Diagram, the Process Decision Programme Chart (PDPC) among others, we selected the RBM (see 6.6.2) as our planning tool.

8.5 Dialogue sessions 3 to 7: Training on RBM and planning

I trained the action team on RBM and we used it for planning during five dialogue sessions as follows:

8.5.1 Establishing the national and Nyanza-Lac contexts

We started our planning by defining the national and Nyanza-Lac context of the land restitution process. The data collected from the focus groups, the individual interviews, as well as the literature review served as the basis for establishing what we viewed as the national context influencing the property restitution process. The following points were retained by the team as forming the shared background context of the land restitution programme:

- The 1970s and 1990s civil wars in Burundi pushed over 300,000 and 500,000 refugees respectively outside the country;

- There were politically-motivated moves to redistribute or/and destroy land and other property belonging especially to the 1970s refugees;
- The legal attempts by the successive governments of Micombero (République du Burundi 1974) and Bagaza (République du Burundi 1977) to restitute refugee properties were not supported by the political will. The two presidential decrees did not achieve much;
- The 1986 land code (République du Burundi 1986) and the thirty-year prescription therein complicated the land and other property restitution process;
- Some of the 1990s internally displaced persons were settled on refugees' land and this has created more complications to land restitution;
- The negotiation and the Peace Accord of 2000 in Arusha, Tanzania (Republic of Burundi 2000), as well as other international legal instruments ratified by the Government of Burundi, are the legal basis for land restitution to the returnees;
- The proposition of the transitional justice mechanism used in South Africa provides a model for property restitution in Burundi;
- The CNTB and the SCTB (Special Court on Land and Other Property) are the only legally accepted institutions to manage the property restitution process;
- Land restitution has been heavily politicised;
- The opposition is fighting the process which they judge unjust for the second occupants;
- The government defends its position to restitute land to returnees by quoting the Arusha Peace Agreement provisions;
- Violence gradually takes place as a means of protesting against the CNTB's decisions or as a means of reinforcing the law;
- The land restitution is taking place in the context of extreme poverty, a heavily land-based economy, and high population density.

Some additional aspects were identified as characterising the context in Nyanza-Lac:

- There was a massive emptying of the commune in the 1970s as refugees crossed over to Tanzania;
- The government introduced the *paysannats*, dispossessed refugees of their land and redistributed it to other people or developed big government plantations;
- Many people from other provinces have migrated to Nyanza-Lac following life opportunities in that commune and this puts more pressure on land;
- The commune is very fertile and the palm oil plantations as cash crops give land in Nyanza-Lac even more value;
- The implantation of "peace villages" by the government, where landless returnees were given pieces of land belonging to the residents without the approval of the latter, has increased land conflicts;
- Some returnees and those who did not flee come together with the aim of grabbing land;

- Violence between the CNTB and the second occupants as well as the second occupants and the returnees is common in Nyanza-Lac;
- Therefore, people in Nyanza-Lac who have land conflicts live in permanent fear of attacks.

8.5.2 Problem analysis

Recognising that the land restitution problem is complex and the action team might not be able to propose an intervention that will resolve all the ramifications of the problem, the work of the action team was to determine the “right level” of the problem which they would want to address. The right level means that the problem to be addressed is not too complex or too simple in comparison with the human and financial resources available for the team, the their mandate, or the time at the team’s disposal (Gouzou 2014a). Therefore, the problem was to be defined using the problem tree tool (as explained in section 6.6.2).

The focal problem and the problematic behaviour of the actors

Like the trunk of the tree, the identified focal problem was that **ordinary citizens are not involved in addressing the conflicts related to land restitution**. As the data collected was able to demonstrate, it was clear that land restitution has been the affair of the politicians (the ruling party and the opposition), the CNTB and the Special Court. The approach has been top down, with politicians deciding in Arusha about the nature of the problem and how to resolve it through the establishment of the CNTB. However, the CNTB’s work has been slow due to a number of reasons identified in the previous chapter. Furthermore, the process had been hijacked by politicians. We observed alliances between either the opposition and the second occupants, or the CNTB and the government which, more often than not, led to direct or indirect violence to advance their different causes.

Although a good number of the actors, including the CNTB, grassroots associations, the opposition and second occupants found it helpful to involve the community leadership such as the *abashingantahe* in settling the land restitution-related conflicts, the place of ordinary citizens, such as the members of the action team, was less pictured by those actors. Therefore, the action team identified the non-involvement of ordinary citizens in the land restitution process as a focal problem which they could address.

They also identified the different actors and their problematic behaviours as:

- **Second occupants:** working in association with one another and in alliance with the opposition to resist peaceful land restitution;

- **Returnees:** in alliance with the CNTB and the government, working towards unconditional restitution, which the second occupants resist;
- **The CNTB:** although the current CNTB law insists on the reconciliatory role of the commission, it has not sufficiently exploited the opportunity of negotiated settlements compared to CNTB decisions;
- **Politicians:** politicisation of the land restitution programmes has resulted in polarisation of positions by the returnees and second occupants;
- **Civil society organisations:** these engage in battle with the government, resulting in the latter closing the door to building the capacity of ordinary citizens;
- **International organisations:** there is a problem with their mandates, which focus on short-term humanitarian assistance rather than long-term land issues;
- **Communal administration:** corruption leads to the ordinary citizens' exclusion in dealing with land matters.

The causes of the problem

In the same way that any tree will have roots, the focal problem will also have causes. Three main causes for the non-involvement of ordinary people in land conflict transformation were identified.

First, there was ignorance of different alternatives to the current mechanisms being used in addressing land restitution-related conflicts. By and large, there has not been an exploration of other possible ways of settling the land restitution-related conflicts apart from taking the complaints to the CNTB and the Special Court. In a situation where this system is not working to the satisfaction of a good number of people, there is need to explore additional alternative means to get more satisfying results.

Second, there was a lack of an adequate community consultation framework. Every ordinary person struggling with land issues has to find his/her own way of resolving them, and there is no support system or any other framework where the community can meet and chart the way forward.

Third, there was deep mistrust between the returnees and the second occupants. This results from the political action that has polarised the community and set them up against one another – us and them, so to speak.

The effects of the problem

The action team observed that hopeless and frustrated returnees and second occupants have attempted to take issues into their own hands, sometimes with recourse to violence. This has led to community cohesion being undermined, and has had an observable negative consequence on socio-economic development. The team further observed fear on both sides, even among those returnees who managed to get back their land and those second occupants who are still holding onto land. Finally,

the team noticed a lack of community self-esteem in terms of feeling able to resolve their own problems.

8.5.3 The objective analysis

The specific **objective** of our intervention was to **contribute to the building of a community peace alliance for land restitution**. It was important that, in contrast to the existing violent alliances driven by political agendas, we worked towards a community agenda for peaceful land restitution. Members of the action team were divided from the beginning as they belonged to the different exclusive alliances. Bringing them together in alliance for peaceful land restitution was very important. We also hoped that this group of ten ordinary people could also influence the community to start joining this alliance for peaceful land restitution. The reflection part of the team's work, therefore, would look at the factors contributing to the success or failure of this community alliance.

The **indicators** for the attainment of this specific objective were that the actors with problematic behaviours would begin to develop more positive behaviors:

- **Second occupants and Returnees:** build an alliance for peaceful land restitution;
- **The CNTB:** explore the possibility of including the negotiated land settlement more in their policy and operational procedures;
- **Politicians:** the political action of polarisation of returnees and second occupants starts losing pace;
- **Civil society organisations:** the CNTB opens doors to civil society organisations so that they can support it with alternative ways of resolving land conflicts;
- **International organisations:** support long-term interventions for resolving land conflicts;
- **Communal administration:** genuinely consider involving the ordinary citizens in solving land restitution conflicts.

The action team decided to carry out the following activities aimed at eliminating or transforming the causes of the problem:

- To carry out structured and informal dialogue among themselves, with a view to seeing whether dialogue can contribute to peaceful land restitution;
- To reach out to the community with the message of peaceful land restitution;
- To facilitate negotiated land conflict settlements;
- To inform stakeholders of what the action team is doing;
- To monitor and evaluate the intervention.

Therefore, the indicators of these activities would be:

- 13 dialogue sessions organised for the action team;

- Informal dialogues carried out among the action team members and with the community members;
- Facilitating negotiation meetings whenever the need arose;
- Informing stakeholders about what was happening;
- Monitoring and evaluating the intervention.

Consequently, the following results were expected:

The different actors would be aware of the contribution of community dialogue in addressing land restitution-related conflicts, and that an adequate community consultation framework would be established. It was further expected that the trust between the returnees and the second occupants would grow and, consequently, they would find peaceful solutions to their problems. Finally, the action team expected that the monitoring and evaluation report would be written with reflection on what works and what does not work.

The action team understood that they were responsible for the achievement of these indicators of results (Gouzou 2014a).

The indicators of these results are:

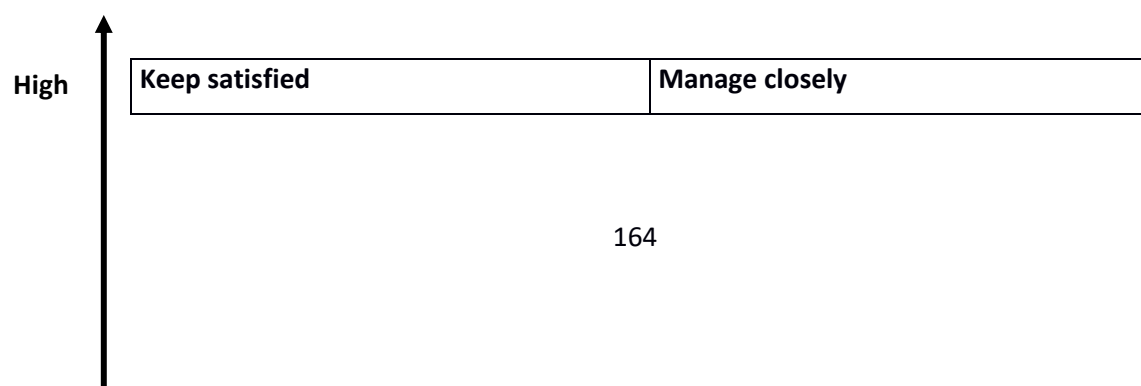
- Widespread agreement that dialogue has an added value;
- A functioning community consultation framework;
- Cases of peaceful conflict settlements;
- Evaluation report available.

The major impact which the action team was looking forward to making was to reduce the cases of violence connected to land restitution, to increase community cohesion, and build the returnees and second occupants' confidence in resolving their problems.

8.5.4 Stakeholders' analysis:

The action team used the following table, derived from Peace and Security in Africa (2014), to help visualize which stakeholders it needed to satisfy, those that we manage closely, those that we monitor with minimum effort, and those that need to be informed

Figure 8.1 Stakeholder analysis chart



Power	Burundi Government Ministry of Home affairs, CNTB, CSTB Returnees, second occupants	Politicians (Government and opposition) Customary leaders (<i>abashingantahe</i> , elected community leaders)
	Monitor (minimum effort)	Keep informed
Low	Development partners	Civil society organisations, International NGOs.
<div> <div>Low</div> <div>Interest</div> <div>High</div> </div>		

8.5.5 Risk analysis and measures to manage risk

The action team conducted a risk analysis in order to avoid surprises during the implementation. We used a tool called SWOT analysis (Strengths, Weaknesses, Opportunities, and Threats). The strengths and weaknesses are internal to the action team, while the opportunities and threats are external to the action team. We sought to capitalise on the strengths and opportunities while working to resolve or reduce the negative impact of the weaknesses and threats. Therefore, we classified the data for the SWOT in the following table, with solutions to weaknesses and threats noted in red:

Table 8.2 SWOT analysis:

Strengths (internal to the action team): <ul style="list-style-type: none"> • Able to take implementable decisions • Owners of the land in question • Experienced researcher being part of the team 	Weaknesses (for the team): <ul style="list-style-type: none"> • Have not been together for long • Therefore plan for more dialogue sessions to build trust • Belong to warring camps • Seek to understand the other • Not experienced in dialogue and negotiation techniques • Keep improving as we go along, evaluate every session
Opportunities: <ul style="list-style-type: none"> • Crisis in land restitution process, therefore possibility for the actors to be open to new 	Threats: <ul style="list-style-type: none"> • Politicians could sabotage our initiative

<p>alternatives</p> <ul style="list-style-type: none"> • Rema Ministries could help with their expertise • CNTB open to community involvement 	<ul style="list-style-type: none"> • Make sure the population buys into what we are doing. The politicians will only follow what the population want • Government could think that we have a political agenda • Keep them well-informed about what we are trying to do • Family members might be opposed to the implementation of decisions taken by members of the action team • Explain what we want to achieve, don't force things.
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8.5.6 Monitoring and evaluation

The major work in monitoring and evaluation was to systematically compare our action with the indicators which we set for ourselves in terms of activities, results, and the objective. Aside from this, monitoring had to “grapple with the complex dynamics and varied stakeholder perceptions” (Makan-Lakha 2016: 177) in order to bring changes or adapt things whenever there was a need to do so. The monitoring and evaluation was built in as an “extensive process of learning, unlearning, and relearning” (Makan-Lakha 2016: 178). The monitoring was also to help the action team identify the unintended negative impact of the activities by adopting the “do no harm” approach (Collaborative for Development Action).

Thus, the evaluation was done on the basis of a questionnaire which was administered to the action team before the intervention in order to establish the baseline. A second questionnaire was distributed at the end in order to capture the changes brought by the interventions. We met to discuss the data from the questionnaires, and we had an evaluation meeting in order to establish the factors accounting for successful and unsuccessful community peace alliances for land restitution.

8.5.7 Logical Framework

Table 8.3 Logical Framework (log frame)

Specific objective: To contribute to the building of a community peace alliance for land restitution	
Objectively verifiable indicators	Means of Verification
1. Second occupants and Returnees: build an	1. Peaceful land transaction among the returnees

<p>alliance for peaceful land restitution</p> <p>2. The CNTB: explores the possibility of including the negotiated land settlement more in their policy and operation procedure</p> <p>3. Politicians: the political action of polarisation of returnees and second occupants starts losing pace</p> <p>4. Civil society organisations: the CNTB opens doors to the civil society organisations so that they can support it with alternative ways of resolving land conflicts</p> <p>5. International organisations: support long-term interventions for resolving land conflicts</p> <p>6. Communal administration: genuinely consider involving ordinary citizens in solving land restitution conflicts</p>		<p>and the second occupants</p> <p>2. The CNTB genuinely adopts dialogue and negotiation as valid means to settle land disputes</p> <p>3. Politicians , especially at communal level, acknowledge the added value of dialogue</p> <p>4. The civil society organisations develop projects to support dialogue for peaceful land restitution</p> <p>5. Likewise, the international organisations promote dialogue as a peaceful means for settling land conflicts</p> <p>6. The work of the action team is acknowledged and supported by the communal administration</p>
<p><u>Activity 1</u></p> <p>Organising formal and informal dialogue sessions</p> <p><u>Activity indicator 1:</u></p> <p>10 formal dialogue sessions and an unknown number of informal dialogue sessions are organised among members of the action team</p>	<p><u>Result 1</u></p> <p>Members of the action team are aware of the importance of dialogue</p> <ul style="list-style-type: none"> • The action team members build trust • Adequate consultation framework established <p><u>Indicator of result 1</u></p> <ul style="list-style-type: none"> • Some action team members adopt dialogue as a means to solve land restitution related conflicts 	<p><u>Means of verification 1</u></p> <ul style="list-style-type: none"> • Attendance registry • Openness in sharing • Problems resolved through dialogue
<p><u>Activity 2</u></p> <p>Organise dialogue meetings with the community</p> <p><u>Activity indicator 2:</u></p> <p>3 dialogue meetings with</p>	<p><u>Result 2</u></p> <p>The community is aware of the value of dialogue in land conflict management</p> <p><u>Indicator of result 2</u></p> <p>Some community members adopt</p>	<p><u>Means of verification 2</u></p> <ul style="list-style-type: none"> • Attendance registry • Land cases resolved through dialogue and negotiation

the community	dialogue as a means to solve land restitution-related conflicts	
<p><u>Activity 3</u></p> <p>Organise information visits to stakeholders about the work being done by the action team</p> <p><u>Activity indicator 3</u></p> <p>Visits are made to the communal and provincial administration, the CNTB provincial office, the communal councillors, and community leaders to update them on the progress</p>	<p><u>Result 3</u></p> <p>Stakeholders are updated and they understand the added value of dialogue</p> <p><u>Indicators of Result 3</u></p> <p>Dialogue is adopted by different stakeholders as a peaceful way to solve land conflict</p>	<p><u>Means of verification 3</u></p> <p>Different reports written after the evaluation</p>

8.6 Conclusion

This chapter provided detailed answers to the second objective which was to explore the mobilisation and/or training needs to establish community peace alliances capable of addressing land conflicts. The discussion had been initiated in the previous chapter, which presented a situation where there is no evidence of the involvement of the ordinary people in peaceful land restitution. The baseline data in this chapter reiterated the fact that ordinary people do not think that the current practice can yield the desired result, which is a peaceful land restitution process. The action team, composed of ordinary returnees and second occupants, concluded that dialogue may be the best way forward for the community to be able to make their contribution to building a viable community alliance for peaceful land restitution, in contrast to the existing violent alliances discussed in Chapter 7.

There was a need to plan the dialogue sessions and to analyse the problems the team can handle as well as the objective to be achieved. However, the action team did not have the necessary planning tools

and, after discussion, the Results-Based Management planning tool was adopted. The training on the tool as well as other tools used by RMB was done simultaneously with the different planning stages.

Hence, this chapter discussed the different planning stages. The baseline helped us to understand the starting point so that we might measure progress at the end of the intervention. Consequently, the chapter presented the results of the problem analysis which used, as a tool, the problem tree – thus defining the focal problem, its causes, and its effects.

The chapter also presented the results of the objective analysis, which were articulated alongside the specific objective, the activities, and the results. The stakeholders' analysis used the stakeholders' chart as its tool, while the SWOT tool was used to carry out the risk analysis. The chapter concluded by explaining how the monitoring and evaluation was planned, as well as the indicators used to help in doing this evaluation work.

CHAPTER 9: IMPLEMENTATION OF A COMMUNITY PEACE AGENDA

9.1 Introduction

This chapter responds to objective number three, which is to establish community peace alliances and build their capacity to implement a community peace agenda. It discusses in detail how the action team implemented their plan of using dialogue to find common ground for resolving their land restitution conflicts by establishing a community dialogue framework aimed at bringing together ordinary people to chart a possible way out of this land crisis. The chapter concludes with the presentation of the major outcomes of the intervention, as well as the challenges encountered.

9.2 Revisiting the context

The team spent dialogue sessions 8 and 9 looking again at the context and how it might have changed, because they were aware that they were working in a very fluid context. “Context means that there is an environment of other problems which, while not being causal factors, condition what solutions are feasible” (Swedish International Development Cooperation Agency 2014: 12). Thus, we continuously developed mechanisms to adapt our intervention to the changes in the context. Changes could come as threats or opportunities for the success of the implementation. Therefore, the session helped the action team to understand the importance of context analysis, which must be done throughout the project cycle.

The action team found that a number of changes had taken place since they had last analysed the context. The CNTB had fully resumed the implementation of their decisions, which had been stopped by the government during the height of the 2015 general elections. The context was extremely tense, with refugees looking forward to getting their lands, while the opposition and the second occupants were building up a coalition to protect their lands.

Figure 9.1 The bridge between Kiderega and Buheka that was burnt by the second occupant

On 22 July 2017, the second occupants burnt the bridge giving access to the



(Photo: Journal Iwacu)

two *collines* (villages) of Kiderege and Buheka so that the CNTB staff would not be able to execute decisions taken by the CNTB appeal chamber. The appeal chamber had changed the original decisions taken by the provincial CNTB, which had decided that the returnees and the second occupants should share the land, and decided

that these lands should be given to the returnees in totality. Following the incident, nine people (second occupants) were arrested, but seven of them were released a few days later, leaving the two believed to be the main promoters in jail (Nzorubonanya (2017).

This story sparked much reaction from the action team members, and it allowed them to learn how to listen and tolerate other people's perspectives. It was a good entry point, as none of the team members was from Kiderege or Bukeye, where the incident took place, and therefore, could hopefully comment on the story from a more detached point of view. The story also helped the action team members to bond together by learning how to hold their tempers and develop their listening skills.

As soon as the first returnee man in the group started speaking, he used the third person plural "we" as if they were directly part of the conflict, and used "they" to name their opponents:

I do not understand why the second occupants do not want us to access our land, yet they have their original home lands and they can go back to their places and leave us in peace with our land. We have suffered enough, and they should allow the CNTB to do their work (Returnee man, Nyanza-Lac, July 2017).

They think we will get tired and leave our lands. They also think, when this government is changed things will change, but I think we will continue to fight for our rights like other citizens. And why should they destroy a bridge? A bridge does not belong to the government, it belongs to us all, and they all need it (Returnee woman, Nyanza-Lac, July 2017).

I had the same observation with the second occupants' views, which showed an incredible spirit of solidarity with the people who had burned the bridge.

They do not have other means to protect their land from being taken away. During Kana, the CNTB divided the land into two parts and we were all happy. I do not see why, in Kiderege and Buhema, they want to take our land. I find this decision unfair. Why should the same institution keep changing their minds? So my people are not just destroying the bridge for the sake of it. They are aware that the bridge is helpful, but losing our land is not an easy option (Male second occupant, Nyanza-Lac, July 2017).

What I think is that, if this land problem is not resolved in a way that brings reconciliation and therefore sharing what we have, we are in for a bad conflict for a long time. We also have lost our original land in one way or another. Whether it was taken away by our family members, or whether we sold it in the hope that the government would give us other land, the point is that we can no longer recover our original land again. So in this situation, what can we do but to use every possible means to stop the CNTB from invading us? (Male second occupant, Nyanza-Lac, July 2017).

When asked what should have been done differently, both the returnees and second occupants were defensive:

They (returnees) should understand that we are also human beings, and accept to share what we have. Returnees should not have contested the sharing in the first place. I think the CNTB has now lost an opportunity to reconcile us. The government should affirm that sharing is the only pragmatic answer to the problem. (Male second occupant, Nyanza-Lac, July 2017).

It is simple: what should have been done differently [is that] the second occupants need to understand that destroying a bridge will not stop the government from implementing the CNTB's decisions. They need to also understand that we have been waiting for long, for decades, to get back our land. If the country needs reconciliation, it is a good idea. But why does reconciliation take place on my land only? They have their lands as well. Can we also share their original land? This would be really reconciliation (Returnee woman, Nyanza-Lac, July 2017).

The dialogue progressed by asking the returnees to summarise the major concerns of the second occupants; the same was asked of the second occupants. This was probably the most difficult exercise they had to do. First, the returnees' understanding of the main concerns of the second occupants was that,

The second occupants argue that they own the land legally because it was distributed by the government. They also argue that the majority of them (second occupants) lost their original lands in a way that may mean it will not be easy to recover them. They agree with us (returnees) that there are some second occupants who were neighbours of, or family

members to, the refugees and annexed the refugees' lands to theirs and kept both of them. We all agree that in this case, such land should be given back in totality. The second occupants further say that some of them have bought land without knowing that it belonged to refugees. As a possible solution to this problem, the second occupants propose to share the land with us (returnees) as a way of reconciling. If not, they promise that they will do everything possible to keep their land. They basically argue that the government, and especially the CNTB, are the ones to be blamed for the current impasse (Report by the returnee members of the action team, Nyanza-Lac, July 2017).

Second, the second occupants came up with the following summary of their understanding of the returnees' concerns:

The returnees say that no-one, including the government, has the right to give away their land to other citizens. They argue, therefore, that their lands were illegally given to us (second occupants). They add that they have waited for their land for 40 years, and that their waiting is at the limit now. This is because after coming back from Tanzania where they had a decent life, they are still waiting to get back their land; it is the only source of life for them. They argue that sharing is not acceptable, and they say that we can only share their land if we will also share our original land, and that this will be the real reconciliation. They propose that there are other means of compensating those who may truly lose their land acquired in good faith, but that this should never delay returnees from accessing their land. They advise us to support the work of the CNTB because it is not wise for the second occupants to oppose the CNTB from doing their work. They deplore the fact that the opposition is giving us (the second occupants) support to resist land restitution (Second occupants' report, Nyanza-Lac, July 2017).

9.3 Story sharing sessions

During the dialogue sessions 10 and 11, the action team focused on personal story sharing and active listening. Active listening is when we use our own words to clarify what the other has said in a way that shows concern for understanding both the person and the situation (Gordon 2003). Listening is very important because:

Listening brings about changes in peoples' attitudes toward themselves and others; it also brings about changes in their basic values and personal philosophy. People who have been listened to in this new and special way become more emotionally mature, more open to their experiences, less defensive, more democratic, and less authoritarian (Rogers and Farson 1979: 2).

Story sharing and story listening are not new to the African context – or to the Burundian one for that matter. Burundians educate one another and create new understanding through stories. Parents and grandparents would educate their children and grandchildren through stories shared as they sat around

the fire waiting for dinner. “Story sharing can enable someone to speak their truth for the first time and to recognise the pain with which they have been living” (Newell-Jones and Crowther 2010: 8). At the same time, the story listener starts relating their stories to others, and so the listener “may begin to feel less isolated or guilty and start a process of healing” (Newell-Jones and Crowther 2010: 8). Even more important is the opportunity for the listener to “see the different perspectives in a conflict, sometimes helping people realise the impact of their own experiences” (Newell-Jones and Crowther 2010: 8).

The aim of these dialogue sessions was to answer the question of how we understand the current property restitution situation and what have been our experiences with it. Although this question had been answered by each individual as the action team established the baseline, sharing on this question was going to develop not just a personal story, but a group story. Each member shared their ‘inspiring’ story for 10 to 15 minutes. Some spoke for a little more or less than that. The action team decided to borrow Newell-Jones and Crowther’s (2010?: 9) idea of what an inspiring story is, which is one that,

- Describes events which are relevant to the listeners’ lives;
- Uses language which the audience can easily understand;
- Is convincing and honest;
- Has some emotion; and
- Does not “tell” the listeners what to think, but encourages them to think for themselves

Members of the action team had all gone through very traumatic experiences, and telling their stories could take a long time, which none of the team could afford. So the above criteria helped the team members to select stories or parts of the stories that would well describe their experience with the land restitution process. The major idea here was for the members to hear the others verbalise their experience and learn from them.

During the story sharing, participants agreed to try to have the following attitude towards one another (Newell-Jones and Crowther 2010: 16):

- Show attention, show interest and listen carefully;
- Have sympathy and kindness in their hearts;
- Avoid unnecessary interruptions;
- Ask gentle questions for clarity or encouragement, if they were needed;
- Allow the storyteller to tell as much or as little as they chose within the time limit;
- When emotions overflowed, a gentle word or pat on the arm might be helpful;
- Have personal confidence in listening; not to try and think of ‘useful’ things to say;
- Allow a moment of quiet immediately after the storyteller had finished.

After every story, the team members tried to give one or two sentences which summarised the experience of the one sharing, as well as one or two things which had been helpful to the listener. Discussion after each story was allowed, and the action team members freely expressed their views – but in keeping with the good listening practices described above. I have chosen to present in detail two representative stories, one from each side (returnees and second occupants).

9.3.1 Returnees feel dehumanised as a result of not getting their lands

I was born in Tanzania and my father died when I was five years old. Five years later my mother died. I was still in primary school and, because life was difficult, I stopped school and I was married at the age of 21 to a fellow caring refugee man who was a driver. Unfortunately he died ten years later leaving me with three children. I decided to bring them to Burundi after we were assured that we would get back our lands as soon as we arrived here in Burundi in 2008. I hoped to be able to exploit my late husband's parents' land. My parents in-law had died long before we got married, and they left my late husband with his two sisters who married Tanzanians. When I arrived, I was able to locate my husband's land; it was very big with palm trees, and I was hoping to get it soon. I went to the CNTB and my case was not received because the Government of Burundi did not accept the legality of church marriage which I had with my husband and which was recognised by the Tanzanian government. Life became difficult as I stayed in a rented mud house and was only able to feed my children after cultivating for others. I tried approaching the second occupant who was on my land, but he would not listen to me because I could not even prove that I was the legitimate person to inherit this land. I was always passing by my land and not being able to even access it. I finally got an organisation which gave me a loan whereby I was selling and buying palm oil products. Sometimes, I would buy them from the very person who stays on our land and he did not even help me for one day. (The lady stops for a moment ... she cries... another woman [second occupant] sitting next to her holds her ... she cries with her ... and finally after two minutes she continues ...) Finally, life was too hard and so my elder daughter stopped school so that she might come back home to help me bring up the other two. In 2016, because of the work of [the] Rema organisation, all the marriages that were legally accepted in Tanzania were also recognised by the Burundian government. So I went back to the CNTB and, this time, they accepted my case. But they took a whole year to come to see that land. After that time, I have been waiting for the decision, and I have no idea how and when that will come. I hear the second occupant saying that, even if he loses the case, he will appeal until he has exhausted his appealing rights. Now, when will I get my land? Why should my children have to suffer when it was possible for them to study and eat well like other children? Why did I have to come to Burundi, a country I never knew until I was 32 years old? I am so mad to see this resident (second occupant) torturing us like that! And the CNTB has just forgotten us! God, how can I think about the CNTB? They take forever, and they tell us they are doing investigations? Meanwhile, my children are dying poor and uneducated in the hands of those that were supposed to save them. I feel I am dehumanised ... *Mfise igikomere kinini ku*

mutima (I have a big wound on my heart)... (She cries again, I can see tears on nearly every member of the team. I try to hold my tears ... I cannot hold it any longer and we all cry with her) (Returnee woman, Nyanza-Lac July, 2017).

The other stories from the other four returnees came back to a number of issues including: they were given wrong information that pushed them to take wrong decisions:

I had a big enough land to cultivate in Tanzania and my land was big as I was able to feed my family and take my children to school. I just wanted to come back home, but I did not anticipate that I would be landless and that my life would be ruined for all these years. If I knew, I would have stayed in Tanzania (Male returnee, Nyanza-Lac, July 2017).

Others are traumatised as they think about the process:

I was given 50 metres by 50 metres in my late husband's five hectares of land, while the remaining [piece] is with my former domestic who stayed behind when we fled the country. I had left him as a guardian of my land and he now claims that he bought that land from me. I have become a squatter to my own servant, and it seems no-one is willing to save me from this nightmare. It is so traumatising. I cannot sleep well because I fear that one day, he may kill us because he sees us as a problem that should be eliminated (Returnee woman, Nyanza-Lac, June 2018).

Others are struggling to get back land from their own blood brothers:

This issue of land has nothing to do with Hutu and Tutsi, even if, in some cases, we have ethnic problems. My own brother is holding onto one of my lands and, when it comes to fighting me, he gets united with other second occupants and he claims that he would like us to divide the land. And the reason he gives is that he has sold his land. Is this a good enough reason for me to accept this so-called sharing? (Male returnee, Nyanza-Lac, July 2017).

Others hope for a miracle from God in whom they have trusted since they were children:

It will take God's miracle for me to get back my land. I have tried everything possible for the CNTB to decide on my case, and it has taken 10 years without any decision being taken. I actually wonder what else I should do. I will pray [to] God in whom I trusted since I was a child so that he may do me justice (Male returnee, Nyanza-Lac, July 2017).

9.3.2 We second occupants are victims like you

Here I present a second representative story from a second occupant:

I was born in Bururi in the mountains, and I came to work here in Nyanza-Lac as a teacher in 1985. I worked hard, educated my children, and started preparing for my retirement. Teachers do not earn a lot of money, but I tried to save and take loans – some of which I am still repaying even now. I used these loans to buy a big piece of land and develop it. I also sold my original land in Bururi and invested the money in this new property. I built a big five-

room house, planted a new and improved variety of palm oil trees and replaced the old ones. I bought cows, pigs, goats, and chickens and started growing all sorts of fruits. I brought water and solar electricity at a very high cost. I really was assured of a good future in retirement. It was in 2014 that I started hearing that this land belongs to a refugee. I could not believe the story; it was like I was dreaming. When I bought this land, I had made sure that I got all the necessary documentation. I had bought it from another family (they are now in Canada) who also had bought it from a young military man who had himself bought the land from the government in 1975. I understand that this original owner died before getting married. Now I was wondering what I was going to do. Finally, the original owner came and he wanted to get the land and everything in it. He was not negotiating, he called me a robber, and he was so angry that I could not even dare ask him to try the way of negotiation. I was very angry too, and I told him to do whatever he wanted and that I was ready to assume the consequence. Actually, this man is here in this group and I really wish we could try and talk. Meanwhile, he went to the CNTB and they have decided that I leave the property to this man. I will not leave; they can kill me if they wish, but I will stay. Of course, I am going to appeal until I reach to the president. I have worked hard for this land, and my first witness who is this military guy is dead now. How can I let all my investments to go up in flames when I am now about to retire? I am too old to get another loan. I have only one option: to fight to the end and die if I have to die (Male second occupant, Nyanza-Lac, July 2017).

Fear for tomorrow, and fear for their security, is a story shared by many second occupants:

...we had shared the land to my satisfaction, and when he decided to go to the CNTB and they decided that I should give the whole land to this returnee, I refused to do so. The returnee was impatient and started threatening me. I always feared for my life until I decided it was high time I vacate the place. I came to live at Nyanza-Lac centre where my security could be assured, but I haven't given up. I have appealed against the CNTB's case to the Special Court. We are strategising with my sons on how we can go back, because it really hurts to leave that property where we still have our main house (Second-occupant woman, Nyanza-Lac, July 2017).

Some are not even willing to share their land with returnees:

The government took my land and they built a primary school. In compensation, they gave me other land, but unfortunately, it belonged to one of the returnees. I developed this land by building a house and planting palm oil trees. How do you want me to share this land with anyone? How even would anyone want to displace me for the second time? I am waiting to see what the CNTB will decide (Male second occupant, Nyanza-Lac, July 2017).

One of the second occupants claimed the land was given to him by his late father; he was born on it and grew up on the land which he finds impossible to give away:

... my father died, leaving me that land which was given to him by the government, and I got married on that same land. This is the only home I know. How do I give it to this other family

who is claiming it is theirs? After 42 years on this land, how else do you tell me it is not mine?
(Male second occupant, Nyanza-Lac, July 2017).

After the returnees and the second occupants had given their personal stories, there was discussion, and it was clear that the team had started to have a shared story of suffering. They began to see the urgency of looking for durable and practical solutions.

9.3.3 Common understanding.

The conclusions of the discussions started to yield a shared understanding of the problem. First, the action team realised that the conflict is not just between the original land owner and the land grabbers:

Of course, we have those who grabbed land, but it is important to realise that many current land-owners are innocent and cannot be targeted as land grabbers. They are victims too, like us. Victims of bad governance, injustices, victims of their parent's mistakes, or simply because they bought land belonging to a refugee (Male returnee, Nyanza-Lac, July 2017).

Second, the team felt that every conflict is unique and must be treated in a unique way. So sharing cannot be a principle, but restitution should be a principle which can be executed together with other protective measures:

I think there are many more options than just sharing land, or taking the whole of it! Compensation has not been explored enough, and it is possible for people to agree on what to give out and what to stay with. I find it important that refugees should get their land back, but should they even get the houses built on it while they were away? These are some of the issues to think about (Male second occupant, Nyanza-Lac, July 2017).

Third, the degree of vulnerability is not the same. Returnees are more prone to vulnerability than the second occupants, and the latter use their privileged economic position to make things difficult for the returnees:

... surely these people (returnees) have suffered most. Theirs is a daily struggle to put food on the table. I cannot imagine the struggles which this widow (the widow whose story is described above) went through up to this particular time. Her children are paying the price. Then God must not be happy with us (Second-occupant woman, Nyanza-Lac, July 2017).

Fourth, both returnees and the second occupants were not prepared to go through these challenges:

I always blame the government and the UNHCR; they really cheated us by telling us that the issue of land has been fixed. They were not honest because at the same time, they knew that our lands were being occupied by people to whom the government gave land and papers (Male returnee, Nyanza-Lac, July 2017).

Fifth, fear, if not dealt with, leads to frustration and frustration leads to violence:

It is when somebody fears that their neighbour might attack them that they start preparing to counter-attack them or to attack ahead. Even children have been killing their fathers because of land (Male second occupant, Nyanza-Lac, July 2017).

Sixth, politicians are making the issues worse by supporting groups against one another:

Someone blamed the government for what they did by not preparing us for the difficulties ahead of us; I am blaming them both – the opposition and the government – for continuously dividing us just for their own interest. They cannot sustain what they claim to offer us (Second-occupant woman, Nyanza-Lac, July 2017).

Seventh, the consequences of land conflicts are affecting the action team members far beyond what they would have hoped to get from the land they were fighting for:

My friends, I am really wondering what it is that we will gain out of this fight. Even before we get the land, we are badly affected and we may lose our lives in the process (Male returnee, Nyanza-Lac, July 2017).

Surely, I now cannot sleep and I have been forced to leave my house and come to rent a small house simply because of land! What value does land have so that I may even put my life at risk? (Second-occupant woman, Nyanza-Lac, July 2017).

Eighth, everybody lives in fear and trauma:

We all must find a way out of this mess. We live in constant fear. The fear of being attacked, the fear of losing our property, and so on. as well as the traumatic situation which goes with the property restitution (Returnee woman, Nyanza-Lac 2017).

Finally, therefore, they are in between a danger and an opportunity (Bosch 1991). The danger is that people have reached the limit of their patience, and they now see direct or indirect violence as the only option at their disposal. The opportunity is that everyone is tired of continually living in this situation, and there is a chance that they might embrace a more peaceful and negotiated settlement.

9.4 What can we do in order to improve our situation?

Dialogue session no 12 was used to reflect on what can be done in order to improve the situation in which the action team members found themselves. After the action team agreed that they were in a crisis, which is the meeting point of danger and opportunity, they decided to meet again and to strategise as to how they should proceed in order to improve their situation. They believed it was important that they directly engage in discussion with their opponents in order to explore the possibility for a common ground. They proceeded to map all the actors with a direct say on their land conflicts

and, therefore, who would need to be involved in the negotiations – in other words, the people who really count (Mitchell, Agle and Wood 1997: 853) for the process to succeed. The mapping results are summarised in tables 9.1 and 9.2 below:

Table 9.1 Actors Mapping

Actors	Interest in the problem
Direct parties in land conflict	
Married people; spouses	Being the co-owners of the land in context. They have the legal power to stop any transaction.
Children: adults over 18	Having the legal power to oppose any transactions done on family land. Not so with the acquired land.
Children: under 18	The decisions taken on land affect them directly because they depend on it. It is important to take care of their needs as settlements are reached.
Brothers, sisters, parents, in-laws	In the case of co-owned family land, these ones have direct ownership rights and must be involved in every agreement.
Extended families	Eventual interest in family land which they have a moral responsibility to protect. They may be consulted.
Government institutions	
Ministry of Home Affairs and Patriotic Education	In charge of local administration and the reintegration of returnees. The local administration will be requested to follow our action closely.
Ministry of Justice	In charge of safeguarding the correct application of the law including, eventually, the meaning of the agreements that will be reached.
Ministry of National Security	In charge of enforcing the law and early investigation. This ministry is responsible for the police and need to be informed about our action.
The Parliament/Senate	In charge of voting in the laws: in case there is a need to change the law (it is unlikely for the time being but it could get to that level)
CNTB (<i>Commission Nationale des Terres et Autres biens</i>).	In charge of returnee property (land and other property) restitution. They are the institution that might need to validate agreements reached.
Other organisations	
Religious organisations	They are in charge of the spiritual life of people and their intervention in upholding morality and thus defending the less fortunate is of crucially important.
NGOs	Interested in peace, they may be asked to support the initiative.
Community at large	They live with the conflicting parties, and we may need to inform them about what is going on and mobilise their support.

Table 9.2 Target mapping and means of reaching them

1st level targets	Means of reaching them	Major message to address to them
Direct conflict parties who are not part of the action team	Informal dialogue with them	The land-related conflicts are getting to a worrying level. There is a need for us to sit together to chart the way forward towards peaceful negotiated settlements
Conflict parties' spouses	The parties speak to their own spouses	The land-related conflicts are getting to a worrying level. There is a need for us to sit together to chart the way forward towards peaceful negotiated settlements
Conflict parties' children over 18	The parties speak to their own children	The land-related conflicts are getting to a worrying level. There is a need for us to sit together to chart the way forward towards peaceful negotiated settlements
Conflict parties' children under 18	Everyone is concerned	It is important to take decisions to respect and protect the fundamental rights of the children
Brothers, sisters, parents, in-laws, and extended family members	Parties inform their own relevant family members	The land-related conflicts are getting to a worrying level. There is a need for us to sit together to chart the way forward towards peaceful negotiated settlements
2nd level target		
CNTB	Visit their provincial office	The land-related conflicts are getting to a worrying level. There is a need for the parties to sit together to chart the way forward towards peaceful negotiated settlements. We will need you to support the process
Ministry of Home Affairs and Patriotic Education	Strategic meeting with communal administrator and the communal council	The land-related conflicts are getting to a worrying level. There is a need to allow the parties in conflict to chart peaceful way forward, and we need your support
Ministry of Justice	Visit the magistrate's court in Nyanza-Lac	The land-related conflicts are getting to a worrying level. There is a need for the parties to sit together to chart the way forward towards peaceful negotiated settlements. We will need you to support the process
Ministry of National Security	Visit the police post in Nyanza-Lac	
The Parliament and Senate	Inform the area MP if need be	
Religious organisations	Visit the local religious leaders	

NGOs	Visit NGOs	
Community at large	Hold an information meeting	

9.5 Informal dialogue

During the dialogue sessions 13 and 14, the action team reviewed the informal dialogue, which happened at two levels. The first level was between the action team members themselves, while the second level was between the action team members and the other parties in land conflicts who are not part of the action team. As a reminder, the action team members had land conflicts with people who were not members of the action team, apart from one case.

Informal dialogue does not mean that it is unprepared dialogue. These dialogues were prepared in that the action team knew the aim and objectives of the dialogue. They knew the target and had prepared the message for every targeted actor. The informal part of the dialogue lies in the fact that it was not structured, nor was it held at a given time, in a given place, with a facilitator. Thus, conflict parties could talk anywhere comfortable for them, at any time, and invite anyone they wished to. The only thing we did decide was to meet later and report any progress made.

While having informal dialogue, we knew that, “people involved in violent conflict are very unlikely to accept any arrangement which leaves [not just] their basic human needs (water, food, shelter, basic healthcare) unmet, but also identity and recognition” (Search for Common Ground Pakistan 2013: 4). We also knew that the existing land conflicts were likely to end in four broad ways:

First, one side wins the case and the other loses. This has been the recent scenario, which happens because one side is supported by a powerful authority. For example, returnees are supported by the rulings of the court, or the second occupants gain support from the opposition or their finances. In this situation, the conflict continued to affect the parties deeply.

Second, one party withdraws. There are cases of returnees who decided to go back to Tanzania with the new 2015 refugee wave, and who reported that they are leaving the country because they could not find their land. The International Refugee Rights Initiative (2016: 40) reported extensively on the connection between the recent displacements in Burundi and the inability of the returnees to get back their land. And the report concludes that, “access to land, therefore, lay at the heart of the repatriation process and, by extension, at the heart of renewed displacement” (International Refugee Rights

Initiative 2016: 40). However, this is a temporary solution, and conflicts may re-emerge if the refugees or their descendants come back.

The third scenario is compromise, and is what the CNTB under Kana did where they simply decided to share the land in two. Once again, the International Refugee Rights Initiative, Rema Ministries and the Social Science Research Council (2009b: 1) report reflected that this arrangement was not satisfying for either of the parties. It is clear today that most refugees are appealing against this arrangement, which they felt was forced on them from above. A returnee quoted in this report declared:

We are forced to share our land but, deep down in our hearts we feel bitter and angry about the sharing. Two people can't share the same pair of shoes: neither really profits since it becomes useless (International Refugee Rights Initiative, Rema Ministries and Social Science Research Council 2009b: 1).

The fourth scenario is *real common ground or transcendence* (Galtung 2004) which

involves both sides achieving a new understanding of their real needs, and finding a new way to share the benefits of co-operation. They respect their differences and recognise their common problems. They work together for their common good. Violent conflict becomes a less desirable way of resolving their differences (Search for Common Ground Pakistan 2013: 5).

The action team was driven by a common new understanding of the conflict dynamics and consequences, as well as possible opportunities that were going to be their aim as they conducted these informal and formal dialogues.

9.5.1 Practising informal dialogue

From within the action team, as members got to know one another better, they met in smaller groups: in their homes, at church, in the pub, at the market place, and so on, and continued to discuss. The beauty of informal sharing is that these discussions did not need to be just on the land conflicts, but on other issues as well.

First, the action team members were able to bond together and to trust one another. The major problem reported by the team was the impossibility of surmounting the mutual mistrust:

I was struggling to trust my brother and sister second occupants. But when, after realising that we go to the same church as two of them, I made sure I talked to them after church. A few weeks later, one of them invited me and we went for lunch in their house. Now we visit freely [in] one another's homes, and I feel I have a real friend. (Male returnee, Nyanza-Lac, October 2017).

Second, the members were able to introduce each other to their families and introduce the idea of building a community peace alliance for land restitution to the rest of the family members and the community. As they shared with their family members and friends how they came to know one another, it was a friendly way to also introduce them to this new common ground between them. In these ways, the peace agenda gradually became known.

We are not just friends between us but even our families now have become close in the process. As we visit each other's homes, we end up extending the trust to the whole family (Male second occupant, Nyanza-Lac, October 2017).

Third, they prepared and carried out joint missions in order to reach out to their respective opponents in land conflicts:

When we agreed that members of the action team should make the first move and go to talk to the people they have land conflicts with, it was going to be very difficult for me, as a returnee woman who does not even speak Kirundi well, to talk to this man who had been very arrogant in the past. However, my friend here (she points to one of the second-occupant men) was able to talk to him ahead of me. And, since they are good friends, he mediated the process and we are now able to understand each other; we have reached an agreement which we will present to the CNTB (Returnee woman, Nyanza-Lac, October 2017).

Fourth, they organised joint visits to explain the vision of the community peace alliance for land restitution to the community leaders, the communal administration, the CNTB, the judiciary, and the police in Nyanza-Lac so that the idea may have support from all the relevant stakeholders.

And finally, the action team members were able to discover that they can share skills which they have among them:

I was building my house in August; little did I know that my friend here is a builder. As we shared a beer around a table, he told me that he builds houses and that this is the way he had been earning his bread as he waited to recover his land. So I quickly asked him to build my house, which he did very well. Now my other friend has also asked him to build him a kitchen (Second occupant, Nyanza-Lac, October 2018).

9.6 Outcome of formal and informal dialogue

During dialogue sessions 15 and 16, the action team discussed and adopted the outcomes of the formal and informal dialogue. When we went back to the logical framework, we realised that we were expecting results at the activities and objectives levels. Most of the activities were looking at eliminating the causes of the focal problem and, therefore, were yielding results that, together, were going to lead to the desired outcome.

The focal problem which the team addressed was that the ordinary citizens are not involved in addressing the conflicts related to land restitution. The first cause of this was the ignorance of different alternatives to the current mechanisms being used in addressing land restitution-related conflicts. The second cause was that there was a lack of an adequate community consultation framework, while the third cause was that there was deep mistrust between the returnees and the second occupants.

The major activity selected by the team that could eliminate or transform most of these causes and, hence, lead to positive outcome was dialogue. The action team established an adequate community consultation framework that used dialogue as a tool to inform and educate the team members as well as the community. This mutual education proved to the action team and the community the value of talking and listening to one another. Consequently, those involved in dialogue changed their positions, thus leading to changing of their attitudes towards one another. They saw that they have all been victims of structural and direct violence, and that they have power to change their situation. Thus, the community alliance for peaceful land restitution was established, and their action produced even more results. In addition to the formal and informal dialogue, the action team undertook the mission to inform the different stakeholders so that they may support the initiative.

Social cohesion was built among the action team members. They now invite one another to family functions and use their skills and gifts to benefit one another. The social dialogue framework was established, and is now recognised by the community and local administration. This led to a number of successful community mediated cases, while the communal administrator of Nyanza-Lac consistently gave the team a space to work from, and has expressed a willingness to support the process by allocating his development advisor to assist the team in whichever way possible. The form of the framework is more of a growing community movement having the action team as its core and, with the support of Rema Burundi and Nyanza-Lac commune, hoping to grow and have further impact.

Five land cases involving two members of the team and four involving a member of the team and a member outside the team, were settled through peaceful agreements. Furthermore, 11 land conflict cases involving parties outside the action team were mediated by the action team and peaceful settlements were reached. Each of the 15 cases was settled differently, depending on the non-negotiable needs, which also can be called minimum or basic needs, presented by each of the parties (Search for Common Ground, Pakistan 2013: 9) as shown in the following table:

Table 9.3 Presentation of the 15 cases resolved:

No	Parties involved	Need for the first	Needs for the	Agreement reached
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		party	second party	
1	Two men: A returnee and a second occupant, both members of the action team	Returnee had no other land and, consequently, no food, education for children, or shelter	Invested in the land (houses, livestock and agriculture)	<ol style="list-style-type: none"> 1. The second occupant gave 50m by 50m to the returnee where he can build his house (because the land is near the main road) 2. The second occupant gave the returnee other land elsewhere of similar size for cultivation 3. The returnee accepts that the second occupant keeps the land which he developed.
2	A widow returnee member of the action team and a male second occupant	She has no land, thus no food, shelter, or education for the children	He has no other land and he has invested in this land with three houses and palm trees	<ol style="list-style-type: none"> 1. The second occupant gave half the land and the palm trees on it, together with one of the houses, to the woman 2. The returnee accepted that the second occupant remains with the other property
3.	Two men: a returnee and a second occupant, members of the same family, neither members of the action team	No land to cultivate, no food, no shelter	No other land because he sold his original part	<ol style="list-style-type: none"> 1. The second occupant gave half the land to the returnee 2. The second occupant agreed to pay in cash in ten instalments over a period of three years BIF2,500,00, representing half the price of the piece sold 3. The returnee accepted the settlement
4.	A widow returnee member of the action team and a male second occupant	No land, no shelter, no food, etc.	He invested in the land by building a house.	<ol style="list-style-type: none"> 1. The second occupant kept his house in a piece of land 50m by 50m. 2. He gave the rest of the land to the widow 3. The widow accepted the arrangement
5.	A second-occupant female member of the action team and a returnee male	No land, hard to get food and cover other needs	He was her former neighbour	<ol style="list-style-type: none"> 1. The second occupant accepted to restitute the entire land 2. The returnee gave a piece to the second resident in recognition of his good intention

6.	A returnee male from the action team and a second-occupant woman	Does not have land	Has invested in this land: houses, agriculture and livestock	<ol style="list-style-type: none"> 1. The second occupant gave the returnee other land 2. The returnee accepted the settlement
7-15.	Two returnee brothers and six second occupants, none of whom were members of the team	The two returnee brothers have no land	The six second-occupant males had houses on this land which is now part of an informal urban settlement. They bought the land from another man who got it after the two brothers had left	<ol style="list-style-type: none"> 1. The six second occupants put money together and bought two plots in the same settlement (25m by 25m each) for the two brother refugees 2. The second occupant who had sold the land to the other six gave these two brothers other land for cultivation 3. The two returnee brothers accepted the deal

The other outcome which was rather surprising was the support which we received from the communal administration, the CNTB and the community leaders, as well as Rema Ministries. The CNTB and Rema Ministries agreed to work together and take over the process of supporting the community peace alliance for land restitution. The CNTB will endorse all the settlements done by the community members and check whether they have followed the legal requirements – for example, whether the person who negotiated the transaction had the legal authority to do this.

Rema Ministries (now Rema Burundi) is a peace-building organisation that works to prevent and/or manage forced migration. The organisation has been working on the issue of land for a number of years, and was happy to take over the process so they might build up the communities' capacity to resolve their problems. The two bodies (CNTB and Rema Ministries) are currently designing a joint project aimed at moving the initiative a step further. The CNTB has undertaken to include, in their interventions and policy, a big enough space for community mediated land settlements in addition to the current decisions by the CNTB. The communal administration has given the action team a quiet meeting room, where we had all the dialogue sessions, and where they can continue to meet Rema. The CNTB will also liaise with the local administration on this. The communal council, which also includes the opposition, has expressed the same sentiment of support and solidarity for the initiative.

The importance of my advisory group was crucial here. It is actually a member of this team who suggested that we think ahead about how the initiative can be taken a step further.

Finally, members of the community supported the peace agenda and, as a result, we had more peaceful land conflict settlements within the community (11 cases) than we did with the action team members (five cases involving at least one member of the action team).

9.7 Challenges

There were a number of challenges during this intervention, and I summarise these below:

First, working with victims as part of the action team was not an easy task. Two of the members had a direct land conflict. They consistently behaved as if they were in a court, and forgot that ours was not a debate, but a dialogue. As a team, we were patient with them and we kept reminding them that we were in a dialogue. The good news is that they finally made a deal to peacefully settle their conflicts.

Second, there were so many dialogue sessions and it was difficult to know how and when to stop. Issues to think about were many, and were time consuming. The action team spent considerable time on the informal dialogue and the mediation exercises. We needed a community initiative which is time-affordable for both the community that needs help and the action team. This was obviously possible with the community, but not with the action team. Maybe this is the cost of peace, and I am glad that the action team worked hard and did not complain. Ideally, I would have been able to train more community peace promoters, but because of time constraints this, was not possible.

Third, and related to the last point, was that, after the community members were sensitised and started to see the positive results of the intervention, those who needed mediation in the last months of our intervention were so numerous that the team could not handle them. We also gradually realised that the action team was limited in mediating conflicts that were complex and that needed investigation. The team could only use open information, and could only help those who agreed on the facts about their conflicts. The courage to say 'no' to some cases was crucial.

Finally, there was a risk that the team might become a group of 'experts', separated from the ordinary citizens. This was never the intention of the intervention, and we tried to resist this by encouraging parties to dialogue and propose solutions themselves. The main idea was not to have a specialised community group to deal with land conflict issues, but to inspire a community movement – a

community alliance – using the same techniques which they always use in family and community conflict resolution.

9.8 Conclusion

This chapter has answered the third objective, which was to establish community peace alliances and to build their capacity in how to implement a community peace agenda. It explained how the action team used dialogue to collaborate and try to find common ground on the land conflicts in a non-threatening context. Dialogue helped not only the action team, but also members in the community, to listen to one another and to find alternative solutions to their problems together. The result was a community peace alliance which was capable of successfully mediating land conflicts and bringing stakeholders on board so that they might support the initiative. The next chapter will evaluate this intervention and discuss the factors that contributed to the success of this alliance, as well as the factors that slowed down some aspects of the outcome.

CHAPTER 10: OUTCOME, EVALUATION AND REFLECTION

10.1 Introduction

This chapter deals with the fourth objective of this research, which was to evaluate the outcome of the establishment of community peace alliances in bringing peace. In action research such as this, it is important to reflect on the process itself by answering the following questions:

Was it reflexive and dialectical? Was it ethical, democratic, and collaborative? Did participants learn new research skills, attain greater self-understanding, or achieve greater self-determination? Did it solve significant practice problems, or did it contribute to our knowledge about what will not solve these problems? Were problems solved in a manner that enhanced the overall learning capacity of the individuals or the system? (Dickens and Watkins 1999: 190).

This chapter will start by evaluating the outcome of the intervention by presenting the results of the data analysis collected during the action team evaluation sessions. The action team held this evaluation in four dialogue sessions. This data was collected through individual answers given to the four questions (see Appendix 6), which were also administered before the intervention in order to establish the baseline (see section 8.3). Part of the action team plenary evaluation sessions was to compare the answers given before and after the intervention in order to assess the added value of dialogue in addressing the identified problem, and in building the capacity of the action team to analyse the problem, to plan, and to carry out the intervention, as well as evaluating it (see section 10.2). Apart from answering the four questions, the end-of-intervention evaluation questionnaire included three related questions (see also Appendix 6) that helped the action team to discuss the lessons learnt throughout the intervention (see section 10.3). Furthermore, the chapter evaluates the process of the intervention, especially whether or not it was involving and reflective (see section 10.4). It concludes by discussing the exit strategy for this intervention (See sections 10.5 and 10.6).

10.2 Outcome

We collected the data that helped us to gather the information necessary to evaluate the impact of the intervention by administering a questionnaire to which each individual responded. Afterwards, we had a session together to discuss the conclusion of the assessment, which we compared with the baseline at the beginning of the intervention. The discussion was built around the four questions which had been taken for the baseline (see section 8.3).

1. How did the land restitution process affect you and your community?

During the baseline discussion, the second occupants felt that they had been left on their own by the government, which supports the returnees, and that they were wrongly accused of being criminals who grabbed the refugees' property. By and large, the evaluation indicated that the second occupants still felt the government had not done enough to listen to them, but the act of the CNTB to legalise the community land conflict settlements was appreciated. Even where they felt the government had treated the returnees 'with favour,' they were still able to explain this from a legal and Arusha context:

I think we have a long journey to go before the government can treat returnees and second occupants equally. The Arusha Peace Agreement should not have blindly promised to the returnees who have been absent for 40 years that they were going to recover their land. I am happy that at least the CNTB is able to accept community negotiated settlements. This gives us a breathing space (Male second occupant, Nyanza-Lac, December 2017).

I really hope the government can understand that not all the second occupants are in the same situation. We definitely have those who acquired their land in good faith, and there is a need for the law to acknowledge this fact. In many ways also, the government cannot deny their historical contribution to the conflict. I still feel it is unfair to leave the matter to the second occupants and the returnees, as if this is just our problem (Male second occupant, Nyanza-Lac, December 2017).

The second occupants in the action team were really compassionate towards the returnees, although they still hoped that the returnees and the government would understand the uniqueness of each case as they deal with restitution.

The problem which we still have is that, while restitution is the principle, each case is unique, and I hope that the government will understand this. When one has developed the land being claimed by a returnee, the second occupant should be given more options to see whether there might be some common ground acceptable by the returnee, the government and the second occupants (Male second occupant, Nyanza-Lac, December 2017).

The returnees were still angry that they have no land, but they were happy about the community dialogue which was supported by the local administration and the CNTB:

I am really angry that most of us haven't been able to get our land. My proposition is simple: that the government should encourage people to talk and resolve their differences and that the CNTB should deal with cases of people who are not willing to talk. This should be done as quickly as resources can allow because returnees are suffering (Returnee woman, Nyanza-Lac, December 2017).

Both the returnees and the second occupants were still fearful even if, this time, they believed that the community dialogue had contributed so much towards social cohesion and the diminution of misunderstandings. As a result, the two groups were both willing to explore the community dialogue option further:

It is very difficult to feel secure when you stay on land being claimed by someone else. However, I now hope that we can continue to talk with the returnees so that we may agree on the way forward. I also hope that the government will support this important initiative (Second-occupant woman, Nyanza-Lac, December 2017).

I have now got my land and I am really happy that we agreed with the person who was on my land. However, most returnees have not been able to get their land back, and do not know how and when they will get it. What is clear is that there are second occupants who are still not ready to concede anything. I am worried that violence will not stop tomorrow (Returnee man, Nyanza-Lac, December 2017).

2. Who is responsible for this situation?

Answers here were the same as during the baseline. Both returnees and second occupants felt that the government and politicians were responsible for the situation. The major shift this time was on mutual blaming, as they now saw each other as victims:

The politicians cheated us that they have given us land and now we are unable to use the papers they gave us in order to defend our rights. What is absurd is that the same government is taking this land away from us. Look at how we are fighting with these poor returnees? This is because our government did not deal with the issues correctly (Male second occupant, Nyanza-Lac, December 2017).

It is really sad that someone would wake us and decide to distribute our land without our consent. Now they are asking us to go to the CNTB and the Special Court. To do what? The government also took our land and used it for development activities. While development is not bad in itself, they should compensate us and give us other land. What is really sad is the fact that they are not necessarily willing to do this any time soon (Returnee man, Nyanza-Lac, December 2017).

3. What ways do you use to cope with the situation?

It was clear that returnees who had not secured their land still struggled to put bread on their table. They continued to labour in other people's lands for daily payment. However, the intervention had allowed skilled returnees to have access to more work opportunities provided by the second occupants in the action group or in their circle of influence:

I will always be thankful to my friend here (pointing to the second occupant next to him). He has introduced me to a good number of his friends, and I now have so many offers for houses to build. I have now two friends working with me because we have a good number of houses to build. This has enabled me to put food on the table and to pay school fees for my children (Returnee man, Nyanza-Lac, December 2017).

The second occupant members of the action team spoke in unison concerning the fact that they did not think that it was important to build a resistance movement against land restitution. They were more open to non-violent means:

I think I would love more to enter into negotiation with the returnee in order to agree on how we can finish our differences. I want peace; I hate living constantly in fear (Male second occupant, Nyanza-Lac, December 2017).

4. What are the available resources at your disposal?

It was interesting to note the kind of shift that the action team had made from seeing violence as almost the only way out to considering dialogue as the norm:

I think I gained a lot from this intervention. I would not even think of violence as an option. Now I have my land – but even more than this, I have no fear, as I used to think that the returnees could attack me. I was able to give him some alternative land for cultivating, while staying as neighbours on the same land. I feel as if he is my brother, and there is no way we would have achieved this if it had not been for dialogue (Male second occupant, Nyanza-Lac, December 2017).

I have not been able to get back my land, but I am hoping that I will get it soon. The talks we are having with the second occupant are really promising. Already, he has given me a place to cultivate for the first agricultural season. If it was not for my own extended family who insisted on getting the totality of our land, the problem would be solved (Returnee man, Nyanza-Lac, December 2017).

10.2.1 How best did we achieve the results we had set?

This was the most important question which the action team asked. In order to answer it, they went back to the indicators and assessed how best we reached them. The major activities for the intervention were organising formal and informal dialogue sessions with the action team and the community, as well as organising information visits or lobbying visits of the different stakeholders in order to invite them to support the initiative. In this, the action team carried out 20 formal dialogue sessions, as well as numerous informal dialogues within the action team and with the community. Numerous visits were also done with the community leadership, the communal and provincial administration, the CNTB, and Rema Burundi.

Following these activities, the action team had expected that the community would become aware of the value of dialogue in land conflict-management and, consequently, that some members would adopt dialogue as a means to solve land restitution-related conflicts. The action team had also expected that those different stakeholders would understand the added value of dialogue and, eventually, support the initiative and adopt dialogue as an important tool for peacefully handling land conflicts.

All these expected results were reached, because both the action team and the community understood the importance of dialogue in resolving land restitution-related conflicts, and they managed to settle 15 cases peacefully during the eight months of the intervention. Furthermore, the different stakeholders supported the initiative. Therefore, the communal administration offered the action team a permanent place to meet, and they allowed them to have access to the community as they carried out the informal dialogue sessions. Likewise, the CNTB supported the outcome of the dialogue by legalising agreements between the different conflict parties. Finally, Rema Burundi agreed to continue to mentor the community in order to preserve the community dialogue for peaceful land restitution.

Such positive results naturally led to the contribution of the desired outcome, which was the change by the different actors from negative behaviour to positive behaviour. Thus, some second occupants and the returnees built peaceful alliances for land restitution in lieu of the former violent alliances with politicians. Furthermore, the CNTB supported the outcome of negotiated settlements alongside other forms of land conflict resolution. Also, Rema Burundi is working together with the communal administration and the CNTB in order to continue to mentor the community in working together for peaceful land restitution beyond the intervention period.

10.3 Lessons learnt

The action team reflected on what they had learnt from the intervention. There were seven lessons.

First, the action team agreed that the added value of dialogue is not that it comes up with ‘miraculous’ answers to their problems. Although they all agreed that dialogue leads to innovative alternatives, they insisted that what satisfied those who went through the dialogue process was the fact that they had time to explain their grievances, that they felt they were listened to, and that the answers given were reasonable considering the circumstances surrounding the conflicts.

Indeed, the settlements reached ranged from total restitution to exchange of terrain, buying new land for returnees, giving houses in lieu of land, dividing the land into unequal parts, or the combination of a number of the solutions already enumerated. In a way, these things have already been done by the

CNTB in the past. What really seemed to make the difference was the sense of sitting together and talking, and the feeling that the 'other' was showing concern and will to find a practical solution:

I feel I was listened to, and this is what I was always looking forward to. I am happy to be able to secure my investments on his (the returnee's) land. I know this was impossible with the CNTB decision. The case was with the CSTB, but I was not confident that they were going to listen to my complaints. But with discussion, my brother (the returnee) and I were able to agree on the way forward. Now, I am really happy (Male second occupant, Nyanza-Lac, December 2017).

Second, the negotiated process leads to satisfaction on both sides. Since they feel the solution was not imposed, they are more satisfied by the conclusions and it is more likely that a peaceful climate will reign between the parties. The action team felt that dialogue can achieve the idea of common ground and the sense of win-win. Although imposed decisions could eventually lead to the same conclusion, the feeling by the parties is that of a lose-lose or a lose-win result. It seemed to the team that only dialogue could lead to a win-win situation. "*Hatsinze amahoro*" (peace has won), the action team kept saying. This is possible because dialogue significantly reduces ignorance, suspicion and prejudice as it increases understanding (Ramsbotham, Miall and Woodhouse 2011: 228) in a way that the CNTB's decisions could not do.

Third, the action team concluded that dialogue is cheaper in terms of financial and human resources compared to the CNTB and CSTB procedures. Without negating the role that might be played by the CNTB and the CSTB, especially in settling some of the cases of confiscated land and other property conflict that needs serious investigation, the action team believes that dialogue and community arbitration is cheaper, because it uses the available community human resources and it is done free of charge:

I was wondering how I would go to Bujumbura after many visits to Makamba which had not helped me. I used money for transport while I am really struggling to even get food for my children. I am happy that the problem has been resolved without having to go to Makamba or Bujumbura again. As a widow, I was almost at the point of giving up (Returnee woman, Nyanza-Lac, December 2017).

Fourth, the dialogue pays dividends in terms of time. In less than a year, 15 cases were successfully concluded, in comparison to most cases that take considerably longer (up to 10 years) with the CNTB and the CSTB. What makes dialogue unique is the fact that cases of appeal are less likely to happen in a context where solutions have been negotiated and agreed upon.

Fifth, the action team argued that dialogue and mediation are more ethical compared to other forms of land conflict resolution. Cases of corruption are less likely in the context of dialogue than in the situation of the land commission and special court. In dialogue, agreements emerge from consensus and, therefore, no party is compelled to abide by those which they feel not to have been duly negotiated. “With dialogue, it is even impossible to have corruption” (Second-occupant woman, Nyanza-Lac, December 2017).

Sixth, the action team argued that dialogue resolves other land-related conflicts as it addresses relationship issues as well. The land conflict, first and foremost, is relational as, behind land conflicts are relational issues that cannot be addressed by a court’s or commission’s ruling. Dialogue has the power to address relationship issues as it can continue even after a settlement has been reached. Dialogue is able to point to more opportunities in a creative way, as in the case of the builder who received more building contracts. As such, dialogue gives an image of “a flow of meaning in the whole group, out of which will emerge some new understanding, something creative” (Roberts 2002: 660).

Seventh, the action team said that dialogue had empowered them. Dialogue is a capacity-building tool. It helped the team to discover their power to understand their problems and resolve them. It also helped the team to empower other members of the community as they went beyond mere exchange of information to the negotiation and co-creation of new and shared meaning (Crane and Livesey 2003: 18). Therefore, the realisation that power is with ordinary people in the community and not just the leaders, and discovering the capacity to use that power in a conflict-transformative way was an important lesson. Discovery of the social capital to address social issues was the major contribution that this dialogue brought to the team and to their society. The contribution which the local mechanisms have in renewing damaged social capital was confirmed by the action team (Huyse 2008: 3).

10.4 Reflecting on the process

10.4.1 Was it involving, ethical, democratic and collaborative?

In this research, I worked with a team of 10 land victims (five returnees and five second occupants) who were intended to be the driving force behind the intervention and the reflection. They were my co-researchers. How was this realised? The first way was to involve them right from the preparatory phase, through to the intervention and the evaluation. The preliminary findings from the focus group and individual interviews had shown that there was little involvement of the ordinary people in the whole process of land restitution. Therefore, the research sought to involve a team that was really

passive as far as finding peaceful solutions was concerned, so that they might bring about the desired change of building viable community alliances capable of contributing to peaceful land restitution.

Hence, my first task was to assist the team to move from being passive to being active by empowering them, giving them responsibility, and legitimising their role in a way that qualifies this research to be a truly enabling process (Pasmore and Friedlander 1982: 344). What is being looked at in the involvement of stakeholders is the quality of the relationships we form with primary stakeholders so that they are appropriately involved in the design and assessment of inquiry and change (Bradbury-Huang 2010: 98).

Involving the action team from the beginning helped to create a high sense of ownership by the team as well as their acquiring organisational and problem-solving skills for future involvement (Dickens and Watkins 1999: 191-192).

Since members of the action team had not been collaborating but, rather, competing over land, I thought that the first dialogue sessions would be in separate groups so that I might prepare each party to jointly dialogue with the other in a mutually respectful way (Galtung 2000: 2). This was changed by the action team as they demanded that they enter into joint dialogue right from the first day. Since involvement is linked to deliberative democracy (de Toledo and Giatti 2015: 168-169), it was important to accept what the action team members were asking for, even if it could have potentially led to a failure to control the team members who were in open conflict. I trusted that they knew their context better, and that they were committed to working together to find a solution. This trust was based on my preliminary interaction with some of the action team members who were earlier part of the focus groups. I also had some time to consult, by phone, some members in my advisory team who encouraged me to move forward with the action team demand. The first dialogue, which started by discussing an event (the burning of the bridge) which was so dear to the action team but which did not directly involve any individual members of the team, helped them to build the listening skills and tolerance which were going to be crucial to their subsequent dialogue session.

The team was involved in the preparation of the intervention which used RBM as a tool. This implies that not only did the team gain intervention-designing skills, but also that they used them to design their own intervention. It is important to say here that some team members might not have understood how to put information in a sophisticated logical framework, but they did understand important issues such as appreciating and getting the 'right level' of the problem to be addressed, focusing just on one specific objective, selecting the activities capable of addressing the causes of the problem, and of yielding the

desired results. Because we designed the intervention together, the action team was able to carry out many informal dialogue sessions and manage mediation while I was away. Consequently, it is hoped that the skills gained will help the action team to carry out similar interventions even after the completion of this research.

The intervention included an ongoing evaluation which the action team carried out. This was another learning opportunity. Reflecting on what they were doing in the light of the context and their original plan helped the team to respond to new challenges emerging from the context and to adjust the intervention. For example, as the action team progressed with the intervention, it became evident that the community was suspicious of the mediated settlements because they were not sure whether or not these settlements would be binding. The question was brought to the action team by one member, and we resolved to visit the CNTB provincial office to explain the issue. The CNTB was very helpful here, as they confirmed that the CNTB would validate such agreements as long as they were done between the legitimate owners of the land. This stand by the CNTB re-affirmed for the action team that what they were doing was legitimate and implementable.

The final evaluation sessions, which were done in four dialogue sessions, provided further evidence of consultation. The action team reflected on what works and what does not, and made the various recommendations that we saw in detail in 10.3.

10.4.2 Was it reflexive and dialectical?

Part of action research is about reflection, which helps to create new understanding that can help people solve their problems. Indeed, “action without reflection is blind, just as theory without action is meaningless” (Reason and Bradbury 2001: 4). Therefore, reflection is, “the process of stepping back from experience to process what the experience means, with a view to planning further action” (Coghlan and Brannick 2014: 35). As such, reflection becomes the “critical link between the concrete experience, the interpretation, and taking new action” (Coghlan and Brannick 2014: 35).

Abou Baker El-Dib (2007: 25) citing Dewey (1933:34) argues that,

reflection comprises several steps including (1) doubting and feeling perplexity in relation to a given situation, (2) tentatively interpreting the possible meanings of the situation or factors involved in it and their consequences, (3) examining/exploring/analysing all considerations that might help clarify the problem, (4) elaborating the preliminary hypotheses, and (5) deciding on a plan of action.

Reflection is also a retroactive process that looks back to the intervention with a view to learning from it (Coghlan and Brannick 2014: 36). Therefore, the action team carried out a collective reflection during and after the intervention. The process was dialectical, where the different views from both the returnees and the second occupants helped the action team to make sense of what was going on around them, and what should be done to bring about change (Kemmis 2001: 134).

During the interventions, the action team went through the process of moving from a personal (returnees on the one hand and second occupants on the other) understanding of the land problem to a shared understanding of what the problem was. At one point, there was a situation where each group viewed themselves as the victims and the other group as offenders. The process of reflection helped the returnees and the second occupants to understand that, apart from some cases where the second occupants grabbed land, they are *all* victims of individual and/or structural injustice. These two kinds of injustice are not necessarily easy to differentiate, but what is meant here is that, in the former situation, the individual carrying out the injustice may be acting just for his personal gain (e.g. refugee land grabbing or those who sold a refugee's land to a second person in ignorance); or in the latter, the individual acts under the instruction of an institution or some sort of structure (such as civil servants, under the instruction of the government, who gave away land to returnees) .

This new understanding was possible because of the dialogue, which allowed them to learn from the different life stories that constituted a bank of resources capable of constructively challenging one another. However, it should be made clear that shared understanding of the problem does not mean agreement. The action team members still disagreed on a number of things, but they could now understand why they disagreed, and they managed to have a holistic understanding as they appreciated the difficult positions in which parties found themselves.

This understanding helped them to develop different attitudes towards one another, and they started working out a shared vision of building community alliances for peaceful land restitution. The community peace alliances were simply a result of a different way of understanding, thereby leading them to see that their former allies are unable to deliver collective satisfaction.

After the intervention, the action team reflected on the various factors that contributed to or slowed peaceful land conflict resolution.

First, the unbiased understanding of the other was a prerequisite to peaceful settlement of land disputes. The action team was unanimous that one of the contributions of the dialogue was mutual

understanding; and this understanding led to a change of position by parties and, eventually, to a change of attitude towards one another:

It was after I understood that the second occupant in my land was risking losing his entire life's investment that I thought of looking for, searching for, a common ground. He gave me other land and part of my original land so that he could keep his houses and animals. For me, this made sense (Returnee man, Nyanza-Lac, December 2017).

Second, in the view of the action team, it was impossible for either of the parties to fully enjoy the acquisition of the property from a contesting and unhappy party. Parties would strike a deal if they realised that peace has more to offer than just getting a piece of land. It was very clear that the fear of violence had played a traumatic role in the lives of the parties to the extent that they were really hoping for a better solution:

When he agreed to give me the whole land, and I realised that he remained with a small piece of land, I was very happy, but I knew I needed to live with an equally happy man. Although he had not demanded that we share, I thought that I should give him a piece of land in return so that we may celebrate peace together. We have now been staying as neighbours for two months and he is my best friend. What is important is that I now have peace of mind (Returnee, Nyanza-Lac, December 2017).

Third, the action team noticed that there was a correlation between the nature of the land in dispute on the one hand and a peaceful settlement on the other hand. Whenever the land case involved family land – that is, land inherited from the past family generations – it was almost always impossible to reach an agreement unless the agreement was going to be total restitution. There was a strong feeling that an “outsider” (in this case a second occupant) cannot be allowed to have a share in a land with a group of people of the same blood. Moreover, even the extended family found such a deal, to allow a non-family member to have a share in the family land, unacceptable. Consequently, the negotiation would not be between the two parties (the second occupant and the returnee) but between the second occupant and the whole extended family who felt that they had a moral obligation to defend the land of their ancestors.

Even in cases where the extended family of the returnee was not around, the matter still became complicated regardless of whether or not there was other land ready to be allocated to the returnee. One such case was resolved on condition that the returnee received part of the ancestor's land for their house in addition to other land for cultivation somewhere else.

The case was different if it was land acquired by the returnee. If the returnee had bought the land or been given the land by the government, the negotiations were easier, as it was between the two parties

and the options for deals were diversified. Therefore, the determining factor revolved around cultural considerations.

Fourth, the legal framework was another determinant factor. Who else has a say on the land before a decision can be made? This was the question which was imperative for the action team. In cases where the ownership of the land was claimed by more than one person, a consulted and negotiated agreement was hard to reach, and actually sometimes impossible because the needs by the different parties became very difficult to reconcile.

Fifth, the lack of alternatives to the land in dispute was another factor. It was easier to strike a deal in a situation where the second occupant had other land. It was harder when the two parties had only that land.

Sixth, another connection was established between skills of the parties and the possibility of a deal. If one of the parties had a skill other than cultivating the land that helps them to earn their living, it was easier for them to come to an agreement. On the other hand, if the two parties had no other means of earning a livelihood apart from cultivating the land, the negotiations became hard as every party wanted to keep most of the land to themselves.

Seventh, the action team established that the political affiliation of the members did not determine the success of the peace alliances. This was surprising, considering what I had thought before. One of the issues which I thought would be a major hindrance to the success of the intervention was the political differences which we had in the team. Indeed, it had appeared from the preliminary research that there were alliances forged between the politicians and the land conflict parties. The new understanding brought about by the exchange of ideas during the various dialogue sessions led the action team to understand that they are all victims and that the politicians were using land conflicts for personal advantage.

However, this is not the case with the CNTB. The fact that the CNTB agreed to endorse the parties' agreements contributed to the willingness of reluctant parties to give dialogue a chance as its legitimacy was confirmed by the relevant authority. Therefore, although the agreements were the results of the parties' efforts, the CNTB played the role of catalyst. I would think that, if the CNTB had declined to recognise such agreements, the positive results might well have been jeopardised.

Eighth, despite my own assumption that ethnicity was a major factor to take into consideration, even during the sampling of the action team, the observation of successful and unsuccessful cases led the action team to conclude that there is no correlation between ethnic belonging and the success or failure of any of the agreements. This is because there were successful deals between people of the same ethnic groups and those of different ethnic groups, just as there were cases that did not go through, even if the parties were of the same ethnic group.

Finally, the double vulnerability of women and, especially, widows played a role in creating new understanding for the team so that a special effort was made to assist the four women on the team to come up with a settlement. However, only two cases were successful. Looking at how the team worked hard to assist these women, and considering the fact that they did not necessarily succeed in half the cases, is an indication that women, and widows in particular, have specific challenges in claiming property that went beyond the parameters for this research.

10.5 Personal reflections

This research has shown the potential for action research to bring together practice and reflection in a way that is faithful both to rigorous academic research and community transformation. The research contributed to peace-building reflection in Burundi by highlighting the place of ordinary people within the broader transitional justice agenda in general, and in property restitution in particular. Involving ordinary people in property restitution in Nyanza-Lac built their self-esteem and capacity to contribute to an understanding of their problems and to plan and implement suitable solutions as well as to constructively reflect on their intervention.

My experience confirms the positive role which dialogue can play in helping to resolve and transform complex conflicts with incompatible interpretations of the problem built over the years in a context where the law has failed to address them.

In my view, dialogue is most helpful when the people caught up in conflicts can see its immediate fruit (such as owning land for the returnees, and securing the investments made by the second occupants). But it is even more important when the settlements resulting from that dialogue and negotiation are able to offer the promise of long term peace. That is, the CNTB was able to help a good number of returnees to get back their land. However, what the CNTB could not offer was the sense of inner peace resulting from knowing that the other party in the conflict is also satisfied with the decision. The research found that even those who got their land remained in constant fear of what the other party

could do in retaliation. The capacity that dialogue has for convincing parties to embark on a journey of building broken relationships cannot be contested. Therefore, the findings show that relationship building is key to peace-building, and there is little chance for public institutions such as the CNTB and the CSTB to provide this service. Perhaps the most valuable aspect of dialogue is its capacity to lead to innovative solutions rather than pre-set ones. Who would imagine that, after negotiation, the returnee who had acquired his entire land would think of donating part of it to the second occupant in recognition of his co-operation during the negotiations?

My other major lesson worth highlighting again here is the need to plan an exit strategy at the very early stages of designing the intervention. It is easy to forget to anticipate that some of the desired outcomes might require more activities in order to sustain them after the study. Even if the action team decided not to carry the intervention on into the future, it remains important to think how one would withdraw from it. Having an exit strategy in mind not only influences the planning, but also the execution, of the intervention and the choice of strategic partnership. Given the long-lasting consequences, these choices need to be made very carefully.

Finally, action research can be overwhelming as it requires many decisions, and especially as one works with people who have real needs that require solutions. My experience proved the advisory team to be invaluable. The advisory team helped me and the action team to take wise decisions and especially to avoid harming the community that we were working with. The fact that the research proposal met the university requirements, including the ethical assessment, is not sufficient to cope with the waves of ethical and technical problems evolving from the intervention. Therefore, having a team of experienced local (to the research context) people detached from the research proved invaluable throughout my intervention. This team helped me at different stages, but I would like to mention their assistance as they invited me and the action team to think about the exit strategy from the early stages of the intervention. They went on to help us to establish strategic partnerships capable of managing the different aspects of the intervention after our time in the field.

10.6 The exit strategy

Gardner, Greenblott and Joubert (2005: 6-7) define a programme 'exit' as referring to, "the withdrawal of all externally provided programme resources from an entire programme area," or "a combination of withdrawal, programme extension or transition." They also define a programme exit strategy as, "a plan describing how the programme intends to withdraw its resources while ensuring that achievement of the programme goals (relief or development) is not jeopardised, and that progress towards these goals

will continue.” The plan may also contain a contingency component which, “may also include planning for further resources when it may not be possible to exit entirely from programme areas.” They see that the goal of an exit strategy is, “to ensure the sustainability of impacts after a programme ends ... which could be accomplished through staggered graduation from specific project areas, simultaneous withdrawal from the entire programme area, or transitioning to associated programming in selected areas.”

Ideally, the exit strategy plan should be thought about right from the beginning, with the project design. In this case, although it was not part of the design, as we progressed with the implementation, my advisory group counselled me to encourage the action team to develop an exit strategy by reflecting on the sustainability of the achievements and the impact of the intervention beyond the research time. Hence, we used the following planning matrix adapted from Gardner, Greenblott and Joubert (2005: 21-21):

Table 10.1 Planning table for exit strategies

1) Intervention objective: <ul style="list-style-type: none"> • Contribute to the building of a community peace alliance for land restitution 2) Outcomes that need to be sustained: <ul style="list-style-type: none"> • Strong alliance for peaceful land restitution based on dialogue and mediation • The CNTB continues to validate peaceful land conflict settlements resulting from dialogue and mediation • The politicisation of land restitution programme continues to lose pace • The civil society organisations collaborate with the CNTB in order to have peaceful land restitution • The communal administration supports community initiatives for land restitution 	
Component	Key questions and answers
1. Exit plan from the earliest stages of the programme and partnership development	How will we exit our programme? <ul style="list-style-type: none"> • We will phase out some activities, such as those by the action team in the context of the research • We will also look forward to transferring some of the intervention aspects to the community, the local administration and the NGOs What is the appropriate time line? <ul style="list-style-type: none"> • The time-line for the research related intervention is eight months

	<p>How will we know we are on track for phase-out and what indicators or benchmarks will we use?</p> <ul style="list-style-type: none"> • When we have a working dialogue framework • When we have a viable community driven land restitution process • When the local administration has integrated and is supporting the work of the action team • When the CNTB acknowledges the parties' agreements dealing with land conflicts • When the NGOs are brought on board to support the community initiatives for peaceful land restitution <p>With what types of organisations should we partner, and what will our partners bring to the partnership?</p> <ul style="list-style-type: none"> • Partnership with the communal administration will offer support to the community dialogue framework, including offering a physical site from which to operate • The CNTB will acknowledge and authenticate the agreements from parties' dialogue and negotiations • Rema Burundi (a local NGO) will continue to build the capacity of ordinary people in the community in order to carry out successful community dialogue
2. Build the action team and the community capacity	<p>What capacities are needed?</p> <ul style="list-style-type: none"> • Strategies for holding quality community formal and informal dialogue • Planning an intervention <p>What capacities already exist?</p> <ul style="list-style-type: none"> • Dialogue has been part of community building from time immemorial • Negotiation-facilitation is what every Burundian does every day <p>What indicators will we use to monitor progress in building these capacities?</p> <ul style="list-style-type: none"> • We will have successful community-driven land conflict resolutions
3. Mobilise local and external resources as an exit strategy	<p>What inputs will we need to maintain community peace alliances going forward and who will provide these?</p> <ul style="list-style-type: none"> • Rema Burundi continues to organise and support the community dialogue

	<ul style="list-style-type: none"> • CNTB continues to authenticate the agreements reached • The communal administration offers support to community dialogue and includes this in their policy
4. Allow roles and relationships to evolve and continue after exit	<p>What types of ongoing support would be most useful?</p> <ul style="list-style-type: none"> • There will be continued mentoring of the action team and the community • There will be a need for the communal administration to accept that the community dialogue takes place • There will be a need for the CNTB to support and legalise the dialogue outcome and negotiations <p>How will such ongoing support be funded when the project finishes?</p> <ul style="list-style-type: none"> • Since the continuing success of the intervention depends on the parties, the community will only need to make time and human resources available to manage dialogue and negotiations. This activity can continue without financial resources. It depends very much on the social capital • The need for community mentorship by Rema Burundi is real, and Rema Burundi has agreed to fund-raise for this • The two public institutions (the CNTB and Nyanza-Lac Commune) are already funded from public funds in order to play their role in the extension of this intervention

10.7 Conclusion

This chapter dealt with objective number 4, which was to evaluate the outcome of the establishment of community peace alliances in bringing peace. The chapter discussed how the action team was involved from the design, to the implementation and the evaluation phases. The chapter concluded that the selected activities eliminated or transformed the cause of the problem and led to the desired results. Thus, the action team and the community adopted dialogue as a valuable and effective means of addressing land restitution conflicts, and this dialogue led to the finding of a common understanding between the conflicting parties and, therefore, to a win-win position. This, in turn, ensured peaceful land conflict settlements. The chapter also discussed how these results led to the contribution of positive behaviour by the different stakeholders who are now valuing dialogue in land conflict resolution. Finally, the chapter discussed the importance of a proper intervention exit strategy in order to ensure the sustainability of the intervention outcomes, as well as the continuation of the process into

the future. The synergy which has operated between the CNTB, Rema Burundi and Nyanza-Lac Commune provides grounds to believe that the dialogue process will strengthen and expand.

PART V

CHAPTER 11: SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

11. 1 Summary of the findings

The overall aim of the research was to assess the possibility of setting up viable community peace alliances to promote peaceful land restitution in Burundi.

The objectives of the research were to:

1. Establish the nature of current alliances between politicians and local land actors in Burundi and determine the extent to which these alliances use violence as a means of coercing and mobilising followers.
2. Explore the mobilisation and/or training needed to establish community peace alliances capable of addressing land conflicts.
3. Establish community peace alliances and build their capacity to implement a community peace agenda.
4. Evaluate the outcome of the establishment of community peace alliances in bringing peace.

To meet these objectives, an action research project was carried out in Nyanza-Lac Commune, Makamba Province, Burundi.

The first five chapters reviewed the literature that was of particular relevance to this research. Chapter 2, after discussing the concept of transitional justice, concluded that, although many scholars agree (with some variations) on the need for some form of transitional justice in many post-war states in order to stabilise their democracy and build long-lasting peace, the nature and effectiveness of different mechanisms remains highly contested. These mechanisms include truth recovery, justice (whether restorative, punitive or both), memorialisation, and reparation. Some believe that transitional justice is indeed a mandatory process required of post-conflict states, while others believe that the different versions of transitional justice present in different African countries have not achieved a great deal, for various reasons. Following a review of transitional justice in Chapter 2, Chapter 3 assessed transitional justice in Burundi, discussing the nature of the social-political crisis in Burundi and the different actors in it. The chapter argued that, although the Arusha Peace and Reconciliation Agreement proposed a number of transitional justice mechanisms, its implementation resulted in little tangible result apart from some level of success on the institutional and security sector reforms and some registered but limited efforts towards property restitution.

Chapter 4 focused on the history of property restitution in Burundi, following the widespread displacement of people as a result of outbreaks of violence over many years. The chapter argued that the earliest laws and commissions did not do enough to reconstitute the property to the original owners, simply because there was no political will to do so. With the democratisation process, returnees started getting back their land, but following the assassination of President Ndadaye, this process was negatively affected by the subsequent civil war which lasted for more than a decade. The firmest political decision for land restitution was taken with the Arusha Peace and Reconciliation Agreement for Burundi, but the politicisation of a process that should have been primarily humanitarian is impacting negatively on this process, and compromising social cohesion.

Chapter 5 concluded the literature review by discussing the concept of conflict transformation with regard to the place of violence and non-violence in dealing with conflicts and unjust systems. It also introduced the alliance theory, using the Kenyan context. It was argued that violence comes about as a result of parties in conflict hardening their positions, while peace and positive change are a result of conflict transformation, where attitudes towards opponents change because of better understanding of each other. Conflict transformation cannot happen where there is no co-operation; it follows from dialogue through mutual understanding, thus leading to the formation of new alliances for peaceful goals.

Chapter 6 discussed the methodology used in this study. The research design was qualitative, using action research as its strategy. The chapter further discussed the data collection methods, namely through a literature review, four focus group interviews plus in-depth interviews with four authorities, as well as observations. The action team used dialogue and research-based management in order to implement an intervention, to reflect on it, and to evaluate it. The chapter further showed that the data was analysed using a thematic content approach, which consists of identifying patterns and themes in the collected, transcribed and coded data. It was argued that, apart from triangulation, which resulted from different data collection methods, the validity in this project depends on the degree of ownership of both the research process and the outcome produced by the action team, the time spent in the field, as well as the action of the support group. Ethical considerations were key to this chapter: the principle of confidentiality and voluntary participation of every individual in this study was observed by having the participants sign a consent form after they had been informed of the purpose and conditions of the study.

Chapter 7 dealt with the first objective, which was to establish the nature of current alliances between politicians and local land actors in Burundi, and to determine the extent to which these alliances use violence as a means to coerce and mobilise followers. The study found that the second occupants, often with direct or indirect support from the opposition, use direct or indirect violence against the returnees in order to keep the land which originally belonged to these returnees. They also use direct or indirect violence against CNTB officials during their routine activities of restituting land to the returnees. The direct violence comprises individual attacks against the returnees or the CNTB staff, while the indirect violence is road barricades to frustrate CNTB staff, and the exploitation of the legal system against returnees.

The opposition politicians use indirect violence to sustain this alliance and to get political support from the second occupants. They also use indirect violence in order to oppose land restitution, which could have direct consequences for these politicians.

As an 'independent' body, the CNTB has an alliance with the returnees, and the Commission uses direct or indirect violence against second occupants to compel them to abide by the CNTB's decisions. In this alliance, it is clear that the returnees expect to get land and continue to support the government, while the CNTB officials, by executing the government-given mandate, keep their jobs.

The second objective was to explore the mobilisation and/or training needs to establish community peace alliances capable of addressing land conflicts. I had assumed that everyone would want a peaceful resolution to the land restitution issue, but this was not the case. Neither the ruling party nor the returnees thought that there was a need to involve the community, because they believed the community was already involved. Even those who believed the community should be involved (the second occupants, the opposition, the associations and the CNTB), did not see the ordinary people as central, but rather, the community leadership class. Therefore, there was a need to mobilise the different actors and, especially, the community on the potentially important role that ordinary people – returnees and second occupants – could play in ensuring a peaceful land restitution process.

Chapter 8 provided detailed answers to the second objective, which was to explore the mobilisation and/or training needs to establish community peace alliances capable of addressing land conflicts. The baseline data in this chapter reiterated the fact that ordinary people – returnees and second occupants – do not think that the current mechanism can yield the desired result, which is a peaceful and just land restitution process. The action team proposed that dialogue between returnees and second occupants

might be the best way forward for the community to be able to make their contribution to building a viable community alliance for peaceful land restitution, in contrast to the existing violent alliances discussed in chapter 7. Thus, the chapter further discussed how the action team planned their intervention using the RBM tool.

Chapter 9 answered the third objective, which was to establish a community peace alliance and to build their capacity on how to implement a community peace agenda. It explained how the action team used dialogue between returnees and second occupants to try to find common ground on the land conflicts in a non-threatening context. Dialogue helped not only the action team, but also members in the community, to listen to one another and to find alternative solutions to their problems together. The result was a community peace alliance which was capable of successfully mediating land conflicts and bringing the different stakeholders on board.

Chapter 10 dealt with objective number 4, which was to evaluate the outcome of the establishment of community peace alliances in bringing peace. The chapter reported how the action team was involved from the design through to the implementation and the evaluation phases. The chapter concluded that the selected activities eliminated or transformed the cause of the problem and led to the desired outcome. Consequently, the action team and the community adopted dialogue as a valuable and effective means of addressing the land restitution conflicts. This led to the finding of common understanding between the conflicting parties and, hence, to a win-win position which, in turn, ensured peaceful land conflict settlements. The chapter also discussed how these results led to the contribution of positive behaviour by the different stakeholders who are now valuing dialogue in land conflict resolution. Finally, the chapter discussed the importance of a proper intervention exit strategy in order to ensure sustainability of the result of the intervention as well as its extension into the future.

11.2. Limitations of the dialogue between the returnees and the second occupants

Dialogue between the returnees and the second occupants did not always work. In cases of family land, for example, it was clear that the returnees were not willing to easily come up with a settlement different from total restitution. By family land, I mean land that had been inherited from the different generations in the ancestry lineage. The inheritance is generally from father to son, and it is very difficult for a family or clan outsider to get a share of this land. This is very important land which every generation tries to keep and to pass on to the next generation, and it serves as a visible sign to ensure the continuity and identity of a given extended family or clan. Losing it to somebody else is somehow

letting down all the past generations. Returnees claiming such pieces of land found it very difficult to imagine any other arrangement beyond recuperating the totality of the land.

The second case where the dialogue between the returnees and the second occupants did not make considerable progress was in situations of sophisticated problems of determining land ownership where more investigations are necessary. The major problem in this context had to do with the mandate and the technical capacity of the ordinary returnees and second occupants, which did not allow them to carry out such investigations. As in the case of family land, the tendency by the action team was to avoid spending too much time on such cases because the likelihood for failure was high.

11.3 Three Recommendations

Three broad recommendations flow out of these findings. First, there is a need for more detailed study on attachment to family land. I felt that the effect of negotiation in such cases was limited by cultural, even religious (African Traditional Religion) issues that this study could not properly explore, but which peace researchers with more of an anthropological background would be able to study better. I think this is particularly important because of the “ambivalence of the sacred,” whereby religion is able to create hatred and intolerance on the one hand as well as, on the other hand, tolerance and the willingness to live and respect others (Little and Appleby 2004: 2). Therefore, cultural or religious belief attached to the ancestral land in Burundi could be a major hindrance to negotiations aimed at peacefully settling conflicts attached to that land. Furthermore, the thesis has important leads that highlight some connections between gender and access to property, especially land. It would be interesting to have a detailed study on how gender issues can influence a community transitional justice process as it relates to peace-building.

Second, what I advocated for in this study is not a community mediated process to replace other legal processes, but rather, for dialogue as a complementary tool alongside other existing mechanisms. I assume that the limitations of community dialogue – for example, to investigate sophisticated land ownership claims – can be complemented by public bodies with such competences. A study of such complementarity seems worth attempting, bearing in mind its potential in contributing to sustainable peace.

Finally, I would recommend that the government of Burundi considers encouraging traditional conflict management mechanisms. It is clear that the community is able to resolve many conflicts, including land-related ones, and that it would only be helpful to the Burundian government to encourage such

traditional mechanisms. Caution must be exercised, however, on the issues of gender, as it was clear that women and children are not considered equal to men when it comes to land ownership and inheritance.

11.4 Conclusion

Transitional justice in many countries and especially in Burundi has been a state-run process with the grassroots people being at the receiving end with little input from them. The outcome of this state-run process is that it often does not take into consideration the contextual realities that ordinary people have to endure; a situation which often leads to friction between the local, national and global realities (Pilar and Erin 2012). By and large, this study concluded that it is important to give space to ordinary people as victims of war atrocities – alongside the existing national processes – to propose solutions for their problems. In particular, dialogue proved valuable to the building of a community peace alliance for land restitution in Nyanza-Lac. It was determined that there is need to reconstruct broken relationships in a way that goes beyond mere property restitution between the conflicting parties, as is done by the CNTB. The findings clearly indicated that dialogue can achieve this purpose where other land restitution mechanisms in Burundi have failed. Therefore, it is both reasonable and practical to give ordinary people a chance to dialogue so as to find common ground in their land conflicts.

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Appendix

Appendix 1: Letter to Rema Ministries



Faculty of Management Sciences

Department of Public Management & Economics

Durban, 20th May 2016

The Director

Rema Ministries

PO Box 2256

Bujumbura-Burundi

Re: Assistance in accessing research participants

Dear Director,

I am a doctoral student in peace-building at Durban University of Technology and would like to carry out research activities in the province of Makamba on the topic «**Building viable community peace alliances for land restitution in Burundi**». This study aims at exploring what could be the factors that could account for a successful community driven peace initiative in addressing land restitution related conflicts in Makamba.

During this study, I plan to take interviews with 4 focus groups at Nyanza-Lac and four provincial authorities. I also plan to have dialogue sessions with 10 individuals (5 returnees and 5 second occupants) affected by the process of land restitution in Nyanza-lac commune. The study will take 8 months starting from January 2017.

Therefore, I would like to request for any possible assistance from your organisation in identifying potential participants. I would also value any other help towards this project. In case you have any question with regard to this research, please do contact me or my supervisors on the contacts below.

Hoping to hear from you soon,

Theodore Mbazumutima

Doctoral Student in peace-building

Email mbazetho@yahoo.com

Tel. 079467727

Prof Geoff Harris

Supervisor

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Appendix 2: Interview guiding questions to the focus groups

1. What do you know about the land and other property restitution process here in Makamba/Nyanza-lac?
2. What is your view on the way the process is being handled by the CNTB?
3. What do you know about the politicians' involvement in this process?
4. How would you evaluate their (politicians) involvement in the process?
5. In your opinion have there been violent reactions during this process?
6. Who are the different actors in violence and what have been their roles?
7. How could the community get involved to peacefully handle this property restitution process?

Appendix 3: Focus Group Discussion Evaluation Form

Your feedback will help us to plan for the next focus group.

Venue: _____

☐ Male ☐ Female

Beside each of the following statements, please place a tick in the appropriate box.	Yes	No	Not Sure
The focus group was better than I expected			
The topics discussed were interesting			
The questions were easy to understand			
I enjoyed discussing this topic with the group			
We were given enough time for discussion			
The facilitators encouraged participation			
I got a chance to have my say			
I felt that I was listened to			
A focus group is a good way of consulting with stakeholders			
I would participate in another focus group			

Please tick the response you agree with:

Overall, the focus group was.....	<input type="checkbox"/> Great	<input type="checkbox"/> Good	<input type="checkbox"/> OK	<input type="checkbox"/> Poor
The facilitators were.....	<input type="checkbox"/> Great	<input type="checkbox"/> Good	<input type="checkbox"/> OK	<input type="checkbox"/> Boring

Was there something you think we should have discussed but didn't?

Any other comments? (E.g. what you liked or didn't like; how the group could be improved)

Thank you.

Appendix 4: Individual in-depth interview guide

Interview questions guide

1. How would you access the Arusha Peace Agreement's proposition for property restitution to returnees?
2. The Arusha peace Agreement proposes for a compensation fund. For which reason do you think this fund was proposed and how could it be used?
3. Following this Arusha Peace Agreement, the CNTB and the Special Court have been put in place to deal with property restitution related conflicts, what is your position on the mandate of these institutions?
4. What is your view on the fact that the CNTB was created before the Truth and reconciliation Commission?
5. What is your view on the way the property restitution process is being handled by the CNTB?
6. How would you evaluate the politicians' involvement in the process?
7. How would you evaluation the violent reactions that have been associated to this process?
8. What are the possible ways to have peaceful property restitution process?
9. How could the community get involved to this process in a way that leads to peace?
10. What could be the specific needs for the community to play their role effectively?

Appendix 5: A guide to Dialogue

1. How do we understand the current property restitution and what have been our experiences so far?
2. In what ways has the land restitution affected us?
3. What are the actors involved in this conflict?
4. What influence do they have on us and our community
5. What can we do in order to improve our situation? What do we need to understand further?
6. Can we come up with our own community agenda?
7. How can we positively inculcate the same to our community? What do we need?

Appendix 6: A guide to the Evaluation of the Intervention

Before the Intervention:

1. Please explain how the land restitution process has affected you and your community?
2. Whom do you think is responsible for this situation?
3. What have you been doing in order to cope with the challenge of losing or possible loss of your land?
4. What resources are available for you to effectively get over this situation?

In addition to the above, the following three more questions will be asked at the end of the intervention

5. What are the major lessons learnt during the interventions?
6. How are you going to use what you learnt?
7. Any other thing you want us to know?

Appendix 7: Letter to the Ministry of Home affairs and Patriotic Education (Translation of the French version)



Faculty of Management Sciences

Department of Public Management & Economics

Durban, 20th May 2016

To His Excellency the Minister of Home Affairs
and Patriotic Education, BUJUMBURA

Re : Permission to undertake research
activities

Your Excellency the Minister,

I have the honour to bring to your attention that I am organising research activities in the province of Makamba on the topic “Building viable community peace alliances for land restitution in Burundi”.

Your Excellency, I am pursuing my Doctoral studies in peace-building at Durban University of Technology. For the time being, I would like to undertake research activities for my doctoral thesis on the questions around the participation of local communities in building durable peace vis-à-vis the land and other property restitution process.

The main aim of this study is to engage in an exploration of the role of different actors in the process of land restitution in order to find out factors that could contribute to a successful community initiative for peace.

During this study, I plan to conduct interviews with 4 focus groups at Nyanza-Lac and four provincial authorities. I also plan to have dialogue sessions with 10 individuals (5 returnees and 5 second occupants) affected by the process of land restitution in Nyanza-lac Commune. The study will take 8 months starting from January 2017.

Therefore, I would like to request permission to carry out the activities above. In case you need any further clarification with regard to this study you could contact me or my supervisors on the addresses mentioned below.

Looking forward to hearing from you soon,

Yours sincerely,

Theodore Mbazumutima

Doctoral Student in peace-building

Email mbazetheo@yahoo.com, Tel. 079467727

Prof Geoff Harris

Supervisor

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Dr Sylvia Kay

Co-supervisor

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Appendix 8: Letter of information



LETTER OF INFORMATION

Dear Participant,

Thank you for taking an interest in my research. My name is Theodore Mbazumutima. I am currently a registered PhD student in peace-building at Durban University of Technology. I would like to briefly share about the research which I am going to carry, and which I hope you will get involved in, so that you may have a clear idea on what I will be doing.

The title of my study is **Building viable community peace alliances for land restitution in Burundi**. Following the will to consolidate peace and deal with the legacies of the civil war in Burundi, it was proposed that there was need for transitional justice mechanism. Part of the transitional justice agenda was the land and other property restitution process which has been, to a certain degree, resulted in violent. This study aims at exploring what could be the factors that could account for a successful community driven peace initiative in addressing these land restitution related conflicts in Makamba.

If you choose to be part of this study you may be required to answer questions in an interview which I will have with you and in some cases more than once either on your own or as part of a focus group discussion and if possible be part of a team which will work together with me to carry out this study.

All the participants do this on voluntary basis and can withdraw from the study at any time. All the information given will remain confidential and be used only for academic purpose and the participants will have access on the conclusions of the study. Therefore the names of all the participants will not appear in the report. There is no payment given to participants and these ones will not be requested to pay any study participation fee.

In case you have any question then please contact me on +257 79467727. You can also contact my supervisor Professor Geoffrey Harris on +277 31 373 5609, or my co-supervisor Dr Sylvia Kay on +277 31 260 3126 or the Institutional Research Ethics Administrator on +277 31 373 2900. Complaints can be reported to the DVC: TIP, Prof F. Otieno on +277 31 373 2382 or dvctip@dut.ac.za.

Yours Sincerely,

Theodore Mbazumutima

Appendix 9: Consent form



CONSENT FORM

Statement of Agreement to Participate in the Research Study:

- I hereby confirm that I have been informed by the researcher, **Theodore Mbazumutima**, about the nature, conduct, benefits and risks of this study - Research Ethics Clearance Number: _____
- I have also received, read and understood the above written information (Participant Letter of Information) regarding the study.
- I am aware that the results of the study, including personal details regarding my sex, age, date of birth, initials and diagnosis will be anonymously processed into a study report.
- In view of the requirements of research, I agree that the data collected during this study can be processed in a computerised system by the researcher.
- I may, at any stage, without prejudice, withdraw my consent and participation in the study.
- I have had sufficient opportunity to ask questions and (of my own free will) declare myself prepared to participate in the study.
- I understand that significant new findings developed during the course of this research which may relate to my participation will be made available to me.

_____	_____	_____	_____
Full Name of Participant	Date	Time	Signature / Right Thumbprint

I, **Theodore Mbazumutima**, herewith confirm that the above participant has been fully informed about the nature, conduct and risks of the above study.

_____	_____	_____
Full Name of Researcher	Date	Signature

Full Name of Witness (If applicable) Date Signature

Full Name of Legal Guardian (If applicable) Date Signature