


# **RECOGNITION AND ENFORCEMENT OF LAND RIGHTS IN THE COMMUNE OF NGOZI (BURUNDI)**

JEAN-FRANÇOIS BEAUPRÉ  
March 2015

SUPERVISORS:  
Prof. dr. J.A. Zevenbergen  
Dr. Ir. W.T. de Vries



# **RECOGNITION AND ENFORCEMENT OF LAND RIGHTS IN THE COMMUNE OF NGOZI (BURUNDI)**

JEAN-FRANÇOIS BEAUPRÉ

Enschede, The Netherlands, March 2015

Thesis submitted to the Faculty of Geo-Information Science and Earth  
Observation of the University of Twente in partial fulfilment of the  
requirements for the degree of Master of Science in Geo-information Science  
and Earth Observation.

Specialization: Land Administration

## **SUPERVISORS:**

Prof. dr. J.A. Zevenbergen

Dr. Ir. W.T. de Vries

## **THESIS ASSESSMENT BOARD:**

Prof. dr. A. van der Veen (Chair)

Prof. dr. J.A. Zevenbergen

Dr. Ir. W.T. de Vries

Dr. F. Roy (External Examiner, Université Laval)]

#### DISCLAIMER

This document describes work undertaken as part of a programme of study at the Faculty of Geo-Information Science and Earth Observation of the University of Twente. All views and opinions expressed therein remain the sole responsibility of the author, and do not necessarily represent those of the Faculty.

# ABSTRACT

Following the *Arusha Peace and Reconciliation Agreement for Burundi* in 2000 and under the supervision of international organisations, Burundi entered into a long process of reforming the land sector. Many legal and institutional innovations tried, in a directive approach, to protect land rights and improve their security. As a result, this raises questions of know whether all these legal and institutional changes achieved their goals, reached citizens' practices and now provide positive impacts on security of tenure and, specifically, to know how the implementation of the communal land office in the commune of Ngozi affected the practices of inhabitants in terms of the recognition and enforcement of land rights.

Security of tenure is defined as the assurance that the relationship with respect to land is socially recognized and enforced. Consequently, the concerns are in relation to the way the existing social institutions work as a whole for recognizing and enforcing relationship to land. There is a certain form of security, stability and assurance when the social rules in relation to land are known and enforced, when the different actors performed their role adequately and when the social institutions are stable and predictable. The security of tenure can be studied objectively through behaviours related to the different aspects of tenure by observing to what degree the behaviours are normalized and misbehaviours refrained. Consequently, if the introduction of the *Land Act* and the implementation of the land office in Burundi have had an impact, the results will show that practices related to the recognition and the enforcement of land rights have been clarified and normalized.

The results show that, after the implementation of the land office, the land certificate has become the most important means for the recognition of land rights. In many cases, the land certificate is the first written evidence of ownership and the first graphical evidence of the parcels. In addition, land office employees also helped to clarify and specify the objects of right and to solve land conflicts. While properties are now registered, the updating processes are still deficient: only transfers by sale are registered in a large proportion. The results also show that the authorities are not competing and their responsibilities generally are well defined, but the rules they apply are not clearly stated, most being unwritten and evolving between the customs and the provisions of the law. Consequently, the results show that the practices related to the recognition and the enforcement of land rights are generally not clear and normalized after the implementation of the land office.

**Key Words:** *Burundi, Land law, Security of tenure*

## ACKNOWLEDGEMENTS

Joannemie. You are the beginning and the end of this work.

Jaap and Walter. Veel dank voor jullie hulp en ondersteuning. Ik dank jullie ook voor de vrijheid en het vertrouwen dat jullie me gaven.

Venant Nyandwi, Salvator Ruzima, Geoff Andrews, Claire Galpin, Pascal Thinon. Merci pour votre aide, votre support et vos conseils.

Ernest Kamwenubusa, Thierry Irakiza, Serge Nsabimana. Merci pour votre précieuse collaboration et votre support à Ngozi.

Natacha Iraukunda and Jérôme Bucumi. Cette recherche n'aurait pas pu être complétée sans votre aide et votre dévouement. Urakoze.

Claude, Sam and Kathleen. For having make this work less imperfect.

# TABLE OF CONTENTS

---

List of figures .....	iv
List of tables .....	vi
Abbreviations .....	vii
1. INTRODUCTION.....	1
1.1. Background.....	1
1.2. Justification .....	3
1.3. Research problem.....	4
1.4. Research objectives .....	4
1.5. Research questions .....	5
1.6. Anticipated results.....	5
1.7. Structure of the research.....	5
2. LITERATURE REVIEW.....	7
2.1. Defining security of tenure .....	7
2.2. Recognition and enforcement of land rights .....	8
2.3. Security of tenure, land administration and social institutions .....	10
2.4. Evaluating security of tenure.....	11
3. METHODOLOGY.....	13
3.1. Study design.....	13
3.2. Data collection .....	13
3.3. Data treatment and analysis.....	16
3.4. Limits and problems encountered.....	16
4. RESULTS .....	19
4.1. Subject of right.....	19
4.2. Right.....	29
4.3. Object of right.....	43
4.4. General modes of recognition and enforcement.....	47
5. DISCUSSIONS.....	49
5.1. Subject of right.....	49
5.2. Right.....	50
5.3. Object of right.....	51
5.4. General discussion.....	52
6. CONCLUSION.....	55
List of references .....	57
Annex I – Sampling.....	62
Annex II – Interview guide (Original version) .....	63
Annex III – Interview guide (English version).....	72
Annex IV – Respondents list.....	81

## LIST OF FIGURES

---

Figure 1 – Inventory of land office projects in Burundi in 2013 (extract from APDH, 2013)	3
Figure 2 – Tenure as the horizontal and vertical dimensions of land rights.....	8
Figure 3 – Modes of securing land rights (inspired from Arrunada, 2003; Lavigne Delville, 2010; North, 1990) .....	11
Figure 4 – Experimental ‘after-only’ study design (Kumar, 2005) .....	13
Figure 5 – Hills registered with a systematic approach by the land office (dark grey).....	14
Figure 6 – Hills in the commune of Ngozi selected for the interviews (in dark grey).....	15
Figure 7 – Data provided by the land office and results for the questions in relation to the subject of right (Q1a, Q1b, Q1c, Q21a, Q41a, Q41b, Q41c, Q41d and Q41e) .....	20
Figure 8 – Results for the questions in relation to the recognition for the subject of right (Q3a and Q4a) .....	22
Figure 9 – Results for the questions in relation to the recognition for the subject of right in relation to the right to use (Q3b and Q4b) .....	22
Figure 10 – Results for the questions in relation to the recognition for the subject of right in relation to the right to the products (Q23a and Q24a) .....	23
Figure 11– Results for the questions in relation to the recognition for the subject of right in relation to the right to dispose (Q43a and Q44a) .....	24
Figure 12 – Compilation of the results for the questions in relation to the recognition for the subject of right (Q3a, Q4a, Q23a, Q24a, Q43a and Q44a) .....	24
Figure 13 – Results for the questions in relation to the enforcement for the subject of right in relation to identity theft (Q5a and Q6a).....	25
Figure 14 – Results for the questions in relation to the enforcement for the subject of right in relation to the conflicts of owners in relation to the right to use (Q5b and Q6b).....	26
Figure 15 – Results for the questions in relation to the enforcement for the subject of right in relation to the conflicts of owners in relation to the right to the products (Q25a and Q26a) .....	26
Figure 16 – Results for the questions in relation to the enforcement for the subject of right in relation to the conflicts of owners in relation to the right to dispose (Q45a and Q46a) ....	27
Figure 17 – Compilation of the results for the questions in relation to the enforcement for the subject of right (Q5a, Q5b, Q6a, Q6b, Q25a, Q26a, Q45a and Q46a).....	28
Figure 18 – Results for the questions in relation to the right to use (Q7a and Q8a) .....	29
Figure 19 – Results for the questions in relation to the duration of the right to use (Q9a and Q10a) .....	29
Figure 20 – Results for the questions in relation to the right to the products (Q27a and Q28a) .....	30
Figure 21 – Results for the questions in relation to the duration of the right to the products (Q29a and Q30a) .....	30
Figure 22 – Results for the questions in relation to the right to sell (Q47a and Q48a).....	31
Figure 23 – Results for the questions in relation to the right to donate (Q47b and Q48b) ...	32
Figure 24 – Traditional way to divide the land for succession: (1) making of the rope from straws, (2) measurement (full length), (3) folding of the rope in x equal parts, (4) measurement (individual parts). .....	33

Figure 25 – Results for the questions in relation to the right to transmit by inheritance (Q47c and Q48c).....	33
Figure 26 – Results for the questions in relation to the right to rent (Q47d and Q48d).....	34
Figure 27 – Results for the questions in relation to the right to use as collateral (Q47e and Q48e).....	34
Figure 28 – Origins of rights for the respondents (as registered at the land office).....	35
Figure 29 – Results for the questions in relation to the recognition for the right to use (Q11a and Q12a).....	36
Figure 30 – Results for the questions in relation to the recognition for the right to the products (Q31a and Q32a).....	37
Figure 31 – Compilation of the results for the questions in relation to the right to dispose (Q47a, Q47b, Q47c, Q47d, Q47e, Q48a, Q48b, Q48c, Q48d and Q48e).....	37
Figure 32 – Results for the questions in relation to the enforcement for the rights in relation to use without authorization (Q13a and Q14a).....	38
Figure 33 – Results for the questions in relation to the enforcement for the rights in relation to theft of products (Q33a and Q34a).....	39
Figure 34 – Results for the questions in relation to the enforcement for the rights in relation to disputed sale (Q53a and Q54a).....	39
Figure 35 – Results for the questions in relation to the enforcement for the rights in relation to disputed donation (Q53b and Q54b).....	40
Figure 36 – Results for the questions in relation to the enforcement for the rights in relation to disputed succession (Q53c and Q54c).....	41
Figure 37 – Results for the questions in relation to the enforcement for the rights in relation to disputed rent (Q53d and Q54d).....	41
Figure 38 – Compilation of the results for the questions in relation to the enforcement for the right (Q13a, Q14a, Q33a, Q34a, Q53a, Q53b, Q53c, Q53d, Q54a, Q54b, Q54c and Q54d).....	42
Figure 39 – Results for the questions in relation to the obstacles (Q17b and Q18b).....	43
Figure 40 – Results for the questions in relation to the conventional landmarks (Q17c and Q18c).....	44
Figure 41 – Results for the questions in relation to the written evidences (Q17d and Q18d).....	44
Figure 42 – Results for the questions in relation to the boundaries (Q15a and Q16a).....	45
Figure 43 – Results for the questions in relation to the recognition for the object of right (Q17a and Q18a).....	45
Figure 44 – Results for the questions in relation to the enforcement for the object of right (Q19a and Q20a).....	46
Figure 45 – Compilation of the results for the questions in relation to the recognition for the subject of right, the right and the object of right (Q3a, Q3b, Q4a, Q4b, Q11a, Q12a, Q17a, Q18a, Q23a, Q24a, Q31a, Q32a, Q43a and Q44a).....	47
Figure 46 – Compilation of the results for the questions in relation to the enforcement for the subject of right, the right and the object of right (Q5a, Q5b, Q6a, Q6b, Q13a, Q14a, Q19a, Q20a, Q25a, Q26a, Q33a, Q34a, Q45a, Q46a, Q53a, Q53b, Q53c, Q53d, Q54a, Q54b, Q54c and Q54d).....	47



# LIST OF TABLES

---

Table 1 – List of the hills ..... 62

Table 2 – Results for the sampling..... 62

Table 3 – Respondents list..... 81

## ABBREVIATIONS

---

APDH	Association pour la Paix et les Droits de l'Homme
CSLP	Cadre stratégique de croissance et de lutte contre la pauvreté
CNTB	Commission Nationale des Terres et autres Biens
CTB	Coopération Technique Belge
DDC	Direction du développement et de la coopération (Switzerland)
FAO	Food and Agriculture Organization of the United Nations
FIG	Fédération internationale des Géomètres ( <i>International Federation of Surveyors</i> )
GRET	Groupe de recherche et d'échange technologiques
IFAD	International Fund for Agricultural Development
ILC	International Land Coalition
NGO	Non-governmental organization
OAG	Observatoire de l'Action Gouvernementale
PPCDR	Programme Post-Conflict de Développement Rural
UNECE	United Nations Economic Commission for Europe
UN-Habitat	United Nations Human Settlements Programme
UNHCR	United Nations Human Rights Council



# 1. INTRODUCTION

## 1.1. Background

Historically, the introduction of private property and land registration systems has been an important aspect of European countries' colonial projects in Africa. For instance, the Belgian government instructed the general governor for the Congo (Belgique, 1908), and later the vice-governor for the Ruanda-Urundi (Belgique, 1925), in these same terms:

*“The General Governor stands for the preservation of indigenous people and for the improvement of their moral and material living conditions. He promotes the expansion of individual freedom, the incremental abandonment of polygamy and the development of property. He protects and promotes, without discrimination for nationality or religion, all institutions and companies, religious, scientific or charitable, created and organised for these purposes or seeking to educate indigenous people and making them known the virtues of civilization.”* (Belgique, 1908, article 5)

In the post-colonial era, international organisations, strongly influenced by the principles of the economic science, continued to promote private property, land registration and land markets as key elements for development in Africa. These top-down approaches lessened the role of existing social structures and arrangements, undermined the traditional and well-established forms of tenure, and consequently contributed to a climate of insecurity (UNHRC, 2012). This situation prevailed until international organisations started to develop initiatives to recognize a wider range of social arrangements and land rights (FIG, 2010; UN-Habitat, 2008).

The case of Burundi is representative of this situation. Predominantly agricultural, highly populated and destabilized by many decades of violent conflicts, Burundi faces today many political, economic and institutional issues closely related to security of tenure (Elbow et al., 2014; International Crisis Group, 2014a, 2014b). Traditional structures are now eroded – having being undermined by the colonial and the post-colonial policies and the years of war (GRET, 2009; RCN Justice & Démocratie, 2009a; République du Burundi, 2011a). Following the *Arusha Peace and Reconciliation Agreement for Burundi* (*Accord d'Arusha pour la paix et la réconciliation au Burundi*, 2000) and under the supervision of international organisations, Burundi entered into a long process of reforming the land sector. In relation to land rights, with this peace agreement, Burundian authorities committed themselves to:

- protect and guarantee property rights (Protocol IV, chapter I, article 8, paragraph a);
- provide the conditions for refugees to recover their property (Protocol IV, chapter I, article 8, paragraphs b to f);
- create a Sub-Commission on Land empowered to examine and judge cases related to the redistribution of land to refugees (Protocol IV, chapter I, article 3 paragraph b and article 8 paragraphs j and k);
- take series of measures to avoid subsequent conflicts over land (establishment of a register of rural land, promulgation of a law on succession, completion of a cadastral survey of rural land) (Protocol IV, chapter I, article 8, paragraph g);
- revise the *Land Act* (Protocol IV, chapter I, article 8, paragraph i).

In concordance with the terms of the peace agreement, in 2005, guarantees were given for property rights by the *Constitution of the Republic of Burundi* (République du Burundi, 2005a). With the provisions of article 36, every person has the right to property and may only be deprived of their property for cause of public utility. In 2006, the *Commission on Lands and Other Assets* (CNTB) was created and empowered to examine and judge cases related to the redistribution of land to refugees (République du Burundi, 2006a). In 2007, the government of Burundi reaffirmed its commitment to reduce the risk of land-related disputes in the *Strategic Framework for Peacebuilding in Burundi* (United Nations Peacebuilding Commission, 2007) and in the first *Poverty Reduction Strategy Paper* (CSLP I) (International Monetary Fund, 2007). Within the latest document, the government announced measures to prevent conflicts in relation to land rights, like:

- setting in place and strengthening mechanisms for settling and preventing land disputes,
- developing and implementing mechanisms of expropriation,
- conducting a campaign to raise awareness of land security issues, and
- simplifying the procedures to obtain legal documents.

The *Land Policy Letter*, presented in 2008 (République du Burundi, 2008a) was the first step toward a national land policy. The document was voted in 2010 (République du Burundi, 2010a). The *Letter* set common objectives to insure the coherence of public initiatives in relation to land. These objectives were essentially developed around four strategic axes:

- 1) renovation of State land and private land legislation,
- 2) reorganization and modernization of land administration,
- 3) decentralization of land management,
- 4) development of sustainable solutions for the problems of landless people and the smallness of agricultural parcels.

Subsequent legislative renovation of the *Land Act* in 2011 (République du Burundi, 2011b) introduced a new legal framework for facilitating land registration at the communal level. In the second *Poverty Reduction Strategy Paper* (CSLP II) (International Monetary Fund, 2012), the government of Burundi identified the *Land Act* as one of the most important measure to reduce land conflicts, to secure investment in the private sector and to create an inventory of public land for the development of upcoming land policies.

Following the *Communal Administration Act* of 2005 (République du Burundi, 2005b) and the *Land Act* of 2011, land offices were established in twenty-six communes (Elbow et al., 2014) (Figure 1):

- DDC supports land offices in six communes (Ngozi, Kiremba, Tangara, Ruhororo, Marangara and Nyamurenza) (DDC, 2012; Ferrari, 2014)
- European Union supports land offices in eleven communes with the program *Gutwara Neza* (Mutaho, Bugendana, Giheta, Gitega, Itaba, Bukirasazi and Buraza, Bugenyuzi, Buhiga, Shombo and Nyabikere) (Falisse, 2011; Gutwara Neza, 2013; Nkunrunziza & Falisse, 2012) and in two communes with the program PPCDR (Kigamba and Mishiha) (PPCDR, 2015)
- CTB supports one land office in the commune of Nyabitsinda (CTB, 2015)
- IFAD supports land offices in five communes (Gashikanwa, Gihogazi, Gitaramuka, Mpanda, Kiganda) (IFAD, 2015; République du Burundi, 2013a)
- APDH supports one land office in the commune of Makebuko (APDH, 2011, 2015)

- ZOA is on its way to implementing communal land offices in the communes of Mabanda and Vugizo (ZOA, 2013)

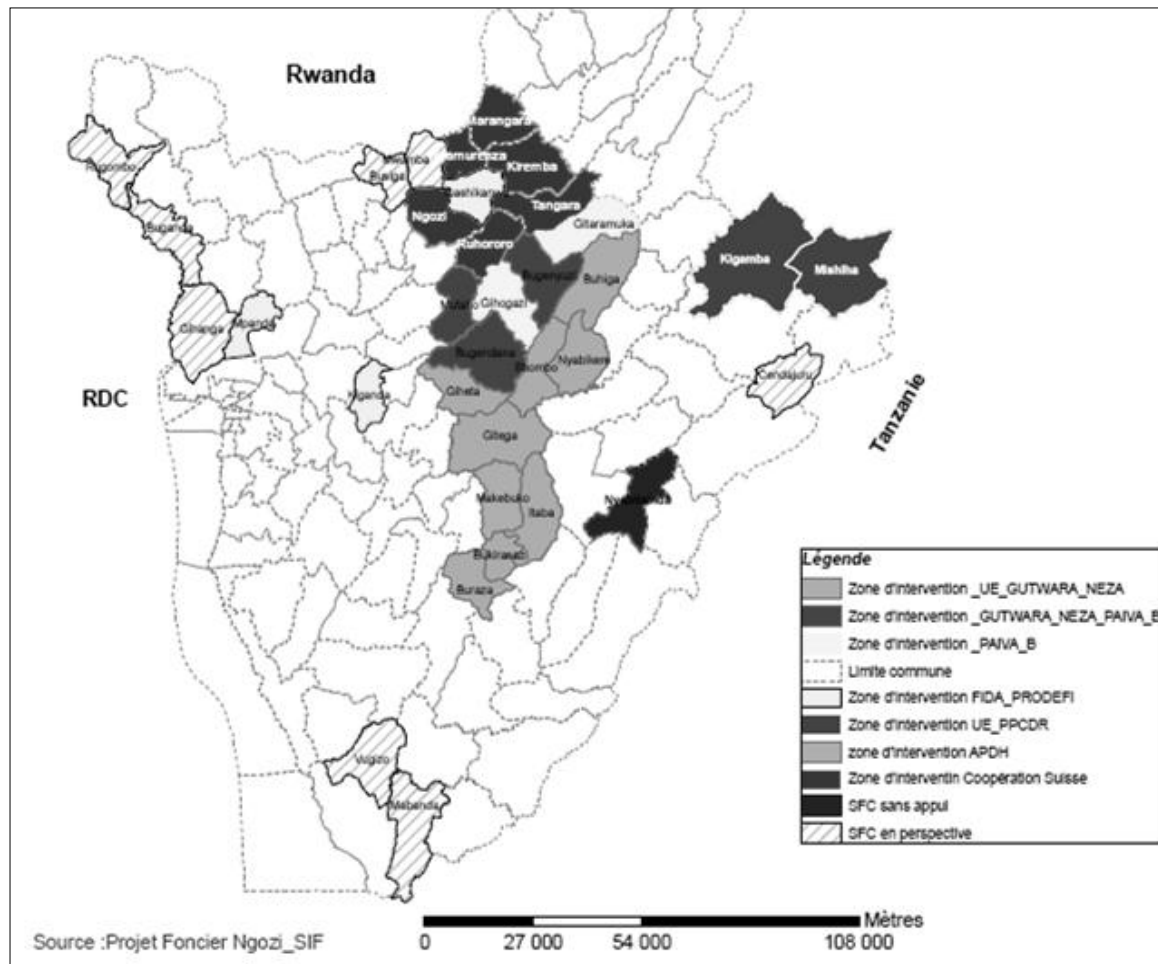


Figure 1 – Inventory of land office projects in Burundi in 2013  
(extract from APDH, 2013)

## 1.2. Justification

Before the renovation of the *Land Act* and the implementation of land offices, the recognition and enforcement of land rights were submitted to different authorities: magistrates of the *Tribunaux de Résidence* (lowest judicial instances for civil matters in Burundi), *bashingantabe* (traditional council of elders), communal administrators, authorities at the zone or at the hill level, etc. These different authorities applied in some cases the provisions of the law, in other cases the customs, in other cases their personal conception of an equitable solution, in other cases they simply comply with the request of the most influent party (RCN Justice & Démocratie, 2004). The erosion of social norms, the weakness of all forms of authority – official as traditional – and the gap between the laws and the social reality has created a deep sense of “crisis”(RCN Justice & Démocratie, 2009a). The state before the renovation of the *Land Act* and the implementation of land offices is a situation where different authorities recognized and enforced different “rights” differently and contributed therefore to a general climate of confusion and insecurity in the land sector.

Since the *Arusha Peace and Reconciliation Agreement for Burundi*, many legal and institutional innovations tried, in a directive approach, to protect property rights and improve their security. This raises the question to know whether all these directive legal and institutional changes achieved their goals, reached citizens' practices and bring positive impacts on the security of tenure. The implementation of land offices brings new parameters for the security of tenure in Burundi. There is a general need for evaluating the outcomes and their impacts. Most of the studies so far focused on the performances of specific organizations or programs (in a top-down approach). Less attention was given to the citizen and their practises in relation to the land offices (bottom-up approach).

### 1.3. Research problem

In concordance with the *Communal Administration Act* of 2005 (République du Burundi, 2005b) and the *Land Act* of 2011 (République du Burundi, 2011b), the commune of Ngozi, with the support of the DDC, established a communal land office (DDC, 2012; Ferrari, 2014). This research will evaluate the impacts of this local structure on the beneficiaries' practises for securing their land rights. With awareness to the different modes of securing land rights, this research will bring new information on the practices related to land rights after the implementation of the communal land office in the commune of Ngozi.

### 1.4. Research objectives

The general objective of this study is:

*to determine how the implementation of the communal land office affects the practices of Ngozi inhabitants in the recognition and the enforcement of land rights.*

The specific objectives are:

1. *to determine how Ngozi inhabitants conceived and enforced their rights in relation to land before the implementation of the communal land office*
2. *to determine how Ngozi inhabitants conceive and enforce their rights in relation to land after the implementation of the communal land office*
3. *to determine the differences in the Ngozi inhabitants' practices before and after the implementation of the communal land office*

## 1.5. Research questions

In relation to the specific objectives, the research questions are:

1. *to determine how Ngozi inhabitants conceived and enforced their rights in relation to land before the implementation of the communal land office*
  - 1.1. *What were their rights/claims related to land?*
  - 1.2. *How the land rights were defined and recognized by the different authorities?*
  - 1.3. *How the land rights were enforced by the different authorities?*
2. *to determine how Ngozi inhabitants conceive and enforce their rights in relation to land after the implementation of the communal land office*
  - 2.1. *What are their rights/claims related to land?*
  - 2.2. *How the land rights are defined and recognized by the different authorities?*
  - 2.3. *How the land rights are enforced by the different authorities?*
3. *to determine the differences in the Ngozi inhabitants' practices before and after the implementation of the communal land office*
  - 3.1. *Does the implementation of the communal land office affect the rights/claims related to land?*
  - 3.2. *Does the implementation of the communal land office affect the practices related to the recognition of the land rights by the different authorities?*
  - 3.3. *Does the implementation of the communal land office affect the practices related to the enforcement of the land rights by the different authorities?*

## 1.6. Anticipated results

If the introduction of the *Land Act* and the implementation of the land office have an impact, the results will show that practices related to the recognition and the enforcement of land rights have been clarified and normalized.

## 1.7. Structure of the research

The research is divided in six chapters.

Chapter 2, through a review of the literature, presents and defines the elements needed to evaluate practices in relation to land rights. The notion of *security of tenure* is broken in the elements of *security* and *tenure*. The notions of *security* and *right* lead to the aspects of *recognition* and *enforcement* and pointed out the importance of *social institutions*. The notion of *tenure* leads to the notion of *land right* and to the *elements of ownership*. From these notions, different modes of securing land rights are studied – land registration systems are positioned amongst them. Methods of evaluating the practices in relation to land rights are then discussed.



Chapter 3 presents the methodology used to conduct the study. The study design, the study area, the sampling frame, the sampling method, the interviews and data treatment and analysis are presented. The limits of the research and the problems encountered are also discussed.

Chapter 4 presents the results in relation to the subjects of right, the rights and the objects of right. For each of these aspects, the claims/rights, the modes of recognition and the modes of enforcement are exposed.

Chapter 5 brings specific discussions on the three aspects of land rights: the subjects of right, the rights and the objects of right. A general discussion on the results is also presented.

Chapter 6 brings the conclusion to the study.

## 2. LITERATURE REVIEW

### 2.1. Defining security of tenure

Security is generally defined as “the state or condition of being or feeling secure” (“security, n.,” 2014). This definition highlights the factual (“being”) and the psychological (“feeling”) dimensions of security. In its factual dimension, “being secure” refers to the state or the condition of being protected from or not exposed to danger, being safe or safeguarded against some internal or external threat, or having stability and assurance. In its psychological dimension, “feeling secure” refers to the state or the condition of being free from anxiety, worry or apprehension, being confident in one's safety or well-being. Consequently, the notion of security of tenure could be defined through factual and/or psychological aspects (Dekker, 2005; van Gelder, 2010). Security of tenure could be evaluated objectively through the facts and the actors' behaviours or from the actors' perspective, through their personal perceptions. The notion of “perceived risk” is important in an economical perspective – where perceived conditions directly impact the level of investments. But, for the purpose of this research, security of tenure will be studied factually – by putting the emphasis on the actors' behaviours in terms of protection, stability and assurance.

In general terms, the notion of tenure refers to the way in which rights in land are held. It could refer to the specific terms and conditions of holding (UNECE, 1996; “tenure, n.,” 2014) – the tenure type – or to the general network of relationship among people with respect to land (FAO, 2002) – the tenure system. The tenure type refers to the content of land rights while the tenure system refers to their context.

Consequently, security of tenure is defined in terms of (1) breadth of rights, (2) duration of rights – both in relation with the content of a land right – and/or in terms of (3) assurance of rights– in relation to the context of land rights (Arnot, Luckert, & Boxall, 2011; Bruce & Migot-Adholla, 1994; Sjaastad & Bromley, 2000). In regards to the breadth of the right, there is security when the land right is broad and gives a certain form of freedom in the access to land resources. The perfect form of secure land right is then represented by an absolute and unrestricted right. This first group of definitions is related to the notions of civil liberties and accessibility to certain forms of right related to land. The notion of security of tenure could refer also to the duration of the right. There's security of tenure when the right is held for a sufficient period. The perfect form of secure land right is then represented by a permanent right. This second group of definitions is related to the problem of precariousness of land rights. The notion of security of tenure could also refer to the protection or the non exposure to threat or danger related to land rights. Threat or danger is understood as the possibility of losing rights or part of them (by invasion, by eviction/expropriation, but also by the use of falsification of documents, by abuse of power from the officials, etc.). The perfect form of a secure land right is in this case represented by a right socially recognized and enforced. This third group of definitions is related to the problem of assurance of land rights.

In the Burundian context inherited from the Belgians legal tradition, and in the French language in general, the specific word for land (*foncier*) is strictly understood in the sense of ownership. Because the ownership of the soil carries with it ownership of what is above and what is below the surface (*Land Act*, article 11), the land is conceived as the bed – or the bottom (*fonds*) – on which the right lies. In this context, security of tenure (*sécurisation foncière*) has to be understood strictly in its aspect of assurance of land rights – the security is mainly assumed by the different judicial institutions. The aspects of civil liberties, allocation of resources and accessibility to property related to the content of the right are

important economical and social issues, but they are not conceived as directly related to the question of security of tenure. These issues are mostly addressed at the political level.

In this study, land tenure will be defined as “the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land.” (FAO, 2002) Consequently, security of tenure will be defined as the assurance that the relationship with respect to land is socially recognized and enforced (Lavigne Delville, 2006, 2010; Sjaastad & Bromley, 2000). Security of tenure is then related to the quality of the system as an emerging property of a tenure system (Simbizi et al., 2014). Security of tenure comes from a good alignment of institutions. When authorities are not competing and their responsibilities are well defined, when the rules are stated, enforced and are not contradictory, the tenure is considered as secured (Lavigne Delville, 2006).

## 2.2. Recognition and enforcement of land rights

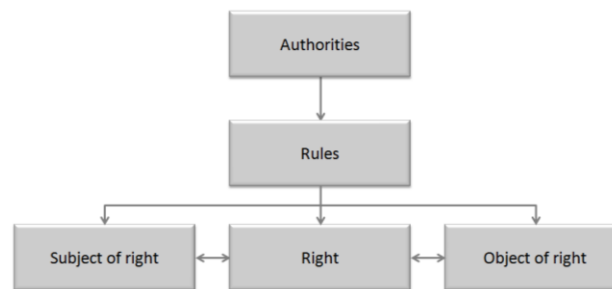


Figure 2 – Tenure as the horizontal and vertical dimensions of land rights

As defined, security of tenure is the assurance that a right is socially recognized and enforced. In one of its meanings, the notion of right refers to a person's – or in extended use to a thing's – entitlement or claim to something, especially in the political or civil fields (“right, n.,” 2014). The notion of right (in Latin, *ius*) is closely related to the notion of justice (*justitia*) in its legal and also moral extensions. The rights related to land are conceptually part of the general class of rights related to things (in Latin, *res*). Real rights, and consequently land rights, are characterized by a relation subject-right-object, where a subject of right owns right over an object of right. In other words, a land right could be qualified by a *who* (the subject of right), a *how/for how long* (the substance of the right) and a *what/where* (the object of right). The axis subject-right-object constitutes the horizontal dimension of land rights (Figure 2).

The notion of right could be also conceived as “a person's due” (“right, n.,” 2014). In fact, the notion of right has no practical effects without the correlative notion of duty (Hohfeld, 1920). One has a right only when all others have the duty to respect this right. Consequently, the notion of recognition and enforcement of land rights are also essentially correlated. A right has to be defined and recognized to be enforced – no enforcement is possible without the previous recognition of this right. And inversely, a right has no practical effects without measures protecting this right and forcing others to respect it – there's no effective recognition without enforcement.

As rights and duties, recognition and enforcement refer to explicit or implicit sets of rules. The way rules are set, applied and enforced in a society constitutes one form of what Durkheim (1895), in the sociological field, and North (1990), in the economical field, named institutions. Institutions are the humanly devised constraints that shape human interaction – or more simply put, the rules of the game in a society. Institutions are a guide to human interaction and are related to behaviours that need to be controlled – because these behaviours bring eventually conflicts or because they simply help to decrease

uncertainty and promote efficiency in certain aspects of human relation. Rules need a form of authority to control and punish behaviours inside a set of incentives and constraints. The notion of authority is understood in a broad sense and could refer to the different forms of the national government, to a local form of administration, to a chief, to family, but it could be also a more abstract notion like the customs, the traditions, the religious believes, the codes of conduct, the social pressure, etc. Consequently, the institutions are not confused with associated organizations. This axis authorities-rules-right constitutes the vertical dimension of land rights (Figure 2).

With regards to the enunciation and the recognition of land rights, defining positively land rights and all the specific behaviours allowed in regards to land is practically impossible. Relations between people and land are countless – and could even be conceived as a so-called continuum (UN-Habitat, 2008). For example, as it appeared in the survey, land rights could be defined as the right to crop beans, the right to crop potatoes, the right to crop sweet potatoes... the right to use manure to crop beans, right to use manure to crop potatoes... the right to build a house... Any exhaustive definition gets lost in the endless varieties and in the endless details of human behaviours. Factually, the way the relationships are socially defined and recognized differs from societies to societies according to the cultural importance of the practises, the existing institutions, the language specificities, etc.

When the time comes to define ownership, legal systems generally avoid the question (common law) or proceeding negatively (civil law). In the last case, full ownership is defined as the right to act fully and freely in regards to land inside the limits and conditions determined by law. Therefore, ownership is represented as a bundle (Simpson, 1976) or a body (Normand, 2014), from which “sticks” or “members” could be removed in some specific and defined ways. In all the legal systems, the different forms of rights are conceived inside a defined number of possibilities. The setting of these restricted and defined rights (the defined set of tenure types) is known as the principle of *numerus clausus* (van Erp & Akkermans, 2012). The negative conceptualization of ownership implies that only a certain amount of legal restrictions to ownership and a certain amount of tenure types and processes have to be positively defined.

Land rights could also be positively defined theoretically through general groups of behaviours, abstractions and generalizations. In general, European legal doctrine, in continuity with the Roman legal tradition, conceived land rights through the notions of right to use (*usus*), right to enjoy (*fructus*) and right to dispose (*abusus*) (van Erp & Akkermans, 2012). The right to use is conceived as the capacity of direct action on the thing owned. Most of the behaviours in regards to land refer to different forms of right to use. Some authors make a distinction between the right to use (employ, handle, occupy) and the right to modify/transform (exploit, develop, improve, produce, build). The right to enjoy refers to the capacity to benefit of the products coming from the natural development of the thing or the value-adding use of the thing (fruits, harvest, rent, financial benefits, etc.). The right to dispose refers to the capacity to lose the rights or a part of them (by consuming, wasting, destroying, dismembering, transferring, alienating). The disposition may be permanent – as for consensual transfers (sale, donation), posthumous transfers (as inheritance after the owner’s death, with or without a will) or non-consensual transfers (when use as collateral for the repayment of a debt) – or temporary – as for the rent or the emphyteusis. On its side, English legal doctrine has no unitary concept of ownership (van Erp & Akkermans, 2012). However, some conceptualizations, like the incidents of ownership developed by Honoré in 1961 (right to possess, right to use, right to manage, right to the income, right to the capital, right to security, right or incidents of transmissibility, right or incidents of absence of term, prohibition of harmful use, liability to execution and incident of residuary) (Honoré, 1987), are largely reused and commented by authors (Attas, 2006; Christman, 1994; Waldron, 1988) and organizations (FAO, 2002). Nonetheless, there is a general lack of internationally agreed concepts to qualify ownership and land rights.

### **2.3. Security of tenure, land administration and social institutions**

In developed countries, security of tenure is insured by many organisations and, amongst others, by land administration. Land administration insures “the processes of recording and disseminating information about the ownership, value and use of land and its associated resources” (UNECE, 1996). Through the recording and the dissemination of information related to ownership, land administration secure land rights and land transactions, support the land market and promote the investments in the land sector. But, historically, land administration is a late and resource-consuming organization in the evolution of the institutions related to the security of tenure. Moreover, its efficiency relies on many other underlying institutions (Arrunada, 2003; Lavigne Delville, 2010; North, 1990).

At the lowest level, the protection of any interest on land could be achieved by physically constraining potential pretenders: by raising physical obstacles (walls, fences, ditches, locks, etc.), by guarding and addressing warning or ultimately by harming intruders. Possession (occupation, use) is then the only criteria to demonstrate claims. The interests on land persist as long as the land is physically held and disappear as soon as the possession ends.

The notion of right only appears inside the frame of a society and its rules. Land rights are first recognized at the local level in a community by witnessing. The right is defined by conventional marks on the ground (pegs, rods, stones, specific trees, etc.). Modifications of rights are publicized by public demonstrations: public announcements (“before the church”, “at the gate of town walls”, etc.), contractual rituals and ceremonies involving the presence of witnesses. The authorities enforce the rights against intrusion, theft, material damage, etc. Testimonies become, with the possession, a way to ascertain claims.

A further step in the security of tenure is the materialization of the agreement/transactions with contractual evidences (written contracts). Material evidences allow the extension of the recognition outside the circle of the community and the direct witnesses. Authorities enforce the agreements against contractual faults, falsification, etc. Contracts – and consequently chain of contracts – become, with possession and the testimonies, evidences of rights. Contracts create the condition for the emergence of a class of professionals with special competences: literacy, special knowledge of the legal framework, capacity to measure and map the extent of the right.

Another important step in the security of tenure is made when contracts are compiled by officials into a public registry. Authority organizes the publicity and the enforcement of rights by publishing private contracts, by disabling effects of unpublished contracts against third party and by setting priority of rights. Freedom of contracting could also be controlled and constrained by the authorities by defining specific contractual forms to facilitate registration. A cadastre could be used as an index to support the land registry. In a further step, this registry could become the only official source for the recognition and enforcement of land rights. In this case, the authority defines and guaranties fully the rights related to land. The recognition of land rights is therefore given by the official title.

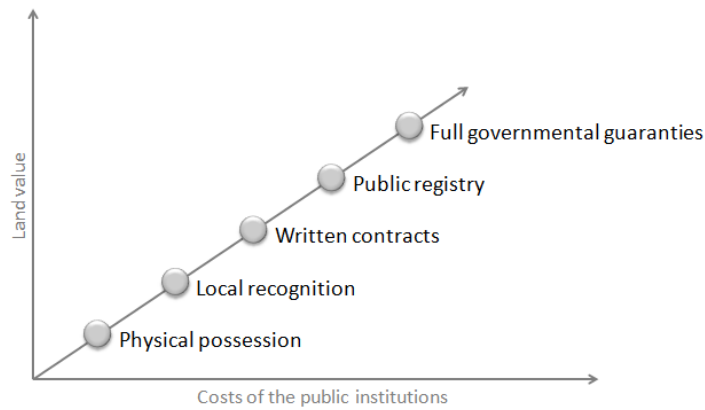


Figure 3 – Modes of securing land rights  
(inspired from Arrunada, 2003; Lavigne Delville, 2010; North, 1990)

The historical and institutional overview shows that the security of tenure is insured in developed countries not only by land administration, but by many underlying institutions (Figure 3). Therefore, a study of security of tenure has to be broader than the scope of the land administration activities.

## 2.4. Evaluating security of tenure

In relation to the historical top-down approaches focused on private property (UNHRC, 2012), assessments and indicators for the security of tenure were for a long time related to the performance of specific organisations or specific development projects depending on the different ways to understand the security of tenure, the different contexts and the different objectives (Simbizi et al., 2014). Since the international organisations started to develop initiatives to recognize a wider range of social arrangements and land rights (FIG, 2010; UN-Habitat, 2008), a need to evaluate differently the security of tenure in a more inclusive and holistic approach also raised (Simbizi et al., 2014). When the security of tenure is defined in terms of social recognition and enforcement (and not only in terms of private property and registration), the focus moves from the performances of artificial structures to the performances of existing social arrangements. Therefore, the concerns are in relation to the way the existing social institutions work (as a whole) for recognizing and enforcing relationship to land – and eventually how they could be supported and improved (in a bottom-up approach) to reach a greater security, reliability and efficiency.

Social sciences – like sociology and anthropology – have a long tradition and an expertise in studying human behaviours and social institutions. Concepts and methods are established since many decades (Durkheim, 1895). A way to observe the reality and the effectiveness of social rules is to study if the behaviours are normalized and misbehaviours refrained (by themselves or by other actors). Social rules could be implicitly known (e.g. performed by habits) or explicitly known (e.g. consciously done and could be formulated and explained) by the performers, but at the end, social rules inform behaviours in very identical or similar ways.

Referring to the definition of the security of tenure, there is a certain form of security, stability and assurance when the social rules in relation to land are known and enforced, when the different actors performed their role adequately and when the social institutions are stable and predictable. Objectively, the security of tenure could be studied through behaviours related to the different aspects of tenure – in way to observe if the behaviours are normalized (and to what degree) and misbehaviours refrained (and to what degree).



### 3. METHODOLOGY

#### 3.1. Study design

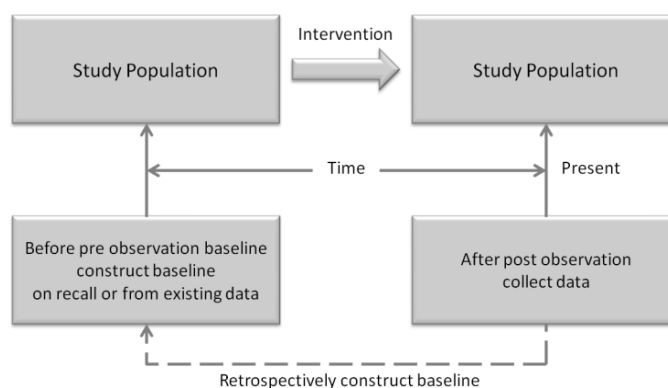


Figure 4 – Experimental ‘after-only’ study design (Kumar, 2005)

The research is designed as an ‘after-only’ study (Figure 4). It is a cross-sectional study involving data collection from a representative subset of the population at one specific point in time. A part of the data is collected with regards to the survey participants’ report of their behaviours in relation to land rights. Another part is collected retrospectively from the survey participants’ recall of their behaviours in relation to land rights before the implementation of the communal land office. The analysis follows to ascertain the changes and the possible impacts (direct or indirect) of the land office on the practices related to the recognition and the enforcement of land rights.

#### 3.2. Data collection

For the purpose of the research, the practices are studied, in a bottom-up approach, from the inhabitants’ practices to the source(s) of authority. The interviews with Ngozi inhabitants are primary sources. Other reports and publications are used as secondary sources to complement the discussions about the results.

##### 3.2.1. Study area

The commune of Ngozi is located at the north of Burundi in the province of the same name. The commune covers an area of 184.5 km<sup>2</sup>. It is divided administratively in six zones and forty-five hills – each of them representing in average an area of 4.1 km<sup>2</sup> (République du Burundi, 2006b). It has a population of 61 438 males and 59 119 females for a total population of 120 557 inhabitants (République du Burundi, 2013b). The average population of a hill in the commune of Ngozi is 2 680 inhabitants.



### 3.2.2. Sampling

#### 3.2.2.1. Sampling frame

Some considerations have to be presented to explain the difficulty to find an exhaustive sampling frame for the identification of land right owners in the commune of Ngozi. They show also the limits to the generalization of the results to the whole commune of Ngozi.

To our knowing, there's no land taxes collected – and consequently, there's no official list of land owners at the commune of Ngozi. Data from the census compiled the number of households by hills, but doesn't allow us a more precise analysis. Two different land registries exist in the commune of Ngozi in relation to two different processes of registration: (1) the land titling process and (2) the land certification process. The registration in land titling system is done at a national level by the land titles office located in Bujumbura. There's a satellite office in Ngozi. The registration is done on an individual and voluntary basis. The land certification process is managed at the commune level by the communal land office. The communal land office must keep track of titles registered at the land titles office. Consequently, the communal land office owns the most complete registry of land right owners available. The registration could be completed by an individual or could be completed collectively in a systematic registration. Fourteen hills – on the forty-two hills and three urban neighbourhoods in the commune of Ngozi – are completed so far. Therefore, no exhaustive sampling frames related to land right owners are available for the commune of Ngozi. Because only those who find a direct interest in land title or certificate asked for it, the voluntary approach creates a bias. On the other side, the systematic approach is also done in relation to an official request – denoting also a certain interest for land certification –, but interest is not as direct and peculiar as for an individual request. This approach allows us to have a more representative sample of land right owners.

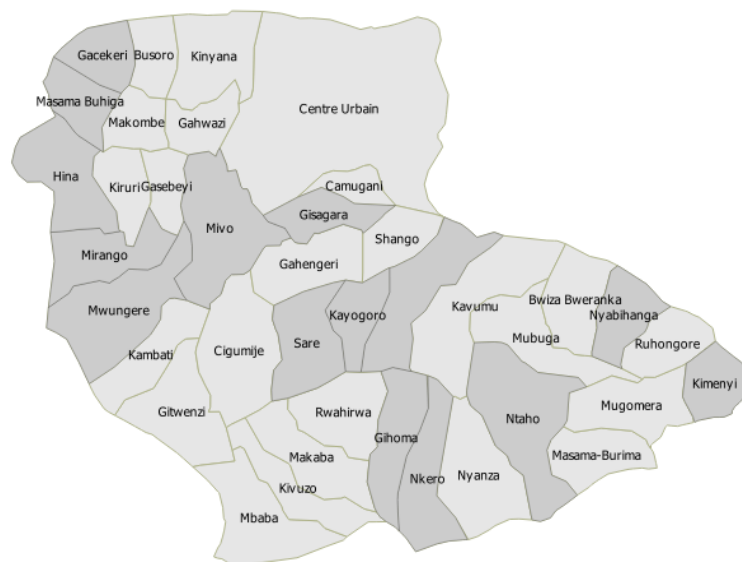


Figure 5 – Hills registered with a systematic approach by the land office (dark grey).

The sampling units chosen are the parcels located on a hill in Ngozi registered at the communal land office under a systematic approach. The sampling frame is constituted by the data available at the communal land office for the hills of Gihoma, Nkero, Hina, Mirango, Mivo, Mwungere, Kayogoro, Nyaruntana, Sare, Kimenyi, Ntaho, Nyabihanga, Gacekeri, Gisagara and Masama-Buhiga (Figure 5).

### 3.2.2.2. Sampling method

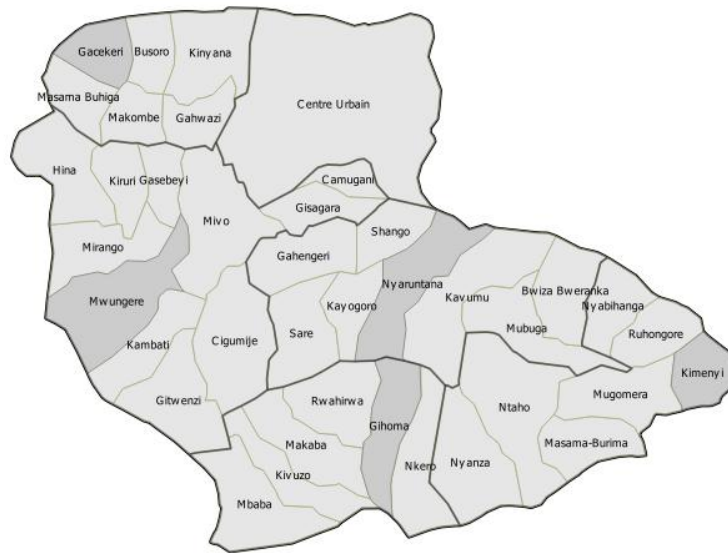


Figure 6 – Hills in the commune of Ngozi selected for the interviews (in dark grey).

The sampling is designed as a multi-stage cluster sampling. The extent of the commune of Ngozi was divided in its six zones. Each zone (with the exception of the zone of the urban centre) was divided in hills – for a total of forty-two hills. For each zone, only hills with a systematic approach were considered. Amongst them, one hill was randomly selected. The first intention was to realize interviews in two hills for each zone, but the time constraint made it unrealistic. This explains why two random numbers were generated. Only the first number was used. The hills of Gihoma, Mwungere, Nyaruntana, Kimenyi and Gacekeri were randomly selected (Figure 6). For each hill selected, ten parcels were randomly selected amongst all the existing parcels on the hill. All the persons exercising land rights on selected parcel were the subjects of interview. All the details for the sampling method are presented in Annex I.

### 3.2.3. Interviews

#### 3.2.3.1. Interviews preparation

Considering the probability of illiterate respondents, interviews have been preferred to questionnaires for the data collection. Open questions were preferred to close questions to keep openness and freedom for answers. Focused interviews (Bryman, 2012) were conducted according to an interview guide with the sampled population of the commune of Ngozi. The interview guide was initially prepared in French in relation to the elements of land rights developed in the literature review (section 2.2 *Recognition and enforcement of land rights*). On one axis, the grid was divided into the three groups of land rights: right to use, right to the products, right to dispose. The right to use was also subdivided into three aspects: right to use (without modification), right to modify, right to control. The right to the products was not subdivided. The right to dispose was subdivided into five aspects: right to sell, right to donate, right to transmit by inheritance, right to rent, right to use as collateral. Each of the aspects was divided in two parts according to the actual situation and according to the situation before the land office. On the other axis, the grid was divided into the notions of subject of right, right and object of right. Each of these notions was subdivided in three aspects: claim, recognition and enforcement. Questions were created for each elements of the grid. The complete interview guide is presented in Annex II for its original version and Annex III for an English translation.

### 3.2.3.2. Interviews realization

The interview guide was first tested in French in Bujumbura at the beginning of the fieldwork. The possibility to conduct the interviews in French was abandoned once in Ngozi. Translation in Kirundi was needed in rural areas. A translator as neutral as possible (able to give confidence to respondents and with no relation with the land office or the administration in general) was searched. Mrs. Natacha Iradukunda was recommended by the organization *Association pour la Paix et les Droits de l'Homme* (APDH). She is a graduate student in modern languages at the University of Ngozi. She is participating to the creation of a technical dictionary in Kirundi at the University of Ngozi and got some experience in the land sector by working previously with other academic researchers in Ngozi.

The interviews were realized with the help of the translator at the respondents' home, in their frontward or backward, or, in rare occasion, inside their house or at a meeting point in the town centre. The interviews generally lasted between twenty to forty minutes and were recorded with a laptop. From the 14<sup>th</sup> of October to the 20<sup>th</sup> of October, forty-three interviews were realized – on the fifty selected in the sampling. The response rate is then of 86%. Annex IV presents the respondents lists.

### 3.3. Data treatment and analysis

All the interviews were transcribed verbatim from the audio recording (the French part only). In few cases, problems with the recording (because of children screaming, rosters crowing, cows mooing, etc.) made the integral transcription difficult (nay impossible) for some punctual answers. In these cases, the answer was transcribed as “[inaudible]”.

The transcripts were then sequenced by questions in a general interview table. The answers were first summarized by keywords. The keywords were then coded inside groups according to a coding frame. Codes were, in a last step, translated from French to English.

The results give a distribution of the respondents according to their rights/claims and their practises in relation to the recognition and the enforcement of land rights. By comparing the results before and after the implementation of the land office, the analysis reveals changes occurring the land office impacts (or absence of impact).

### 3.4. Limits and problems encountered

An important limit, related to the difficulties to find an exhaustive sampling frame for the identification of land right owners in the commune of Ngozi already presented in the section 3.2.2.1 *Sampling frame*, is the fact that the systematic registrations are only completed in rural areas in the commune of Ngozi. The sampling does not cover the town centre. The results do not take in account the urban households and, consequently, should not be extended indistinctly to the whole commune of Ngozi.

Another important limit for the interpretation of the results is related to the fact that the survey is based on participants' reports and recalls of their own situation and behaviours in relation to land rights. Situation and behaviours are studied from the respondents own perspective. Consequently, the research methodology is not totally factual and leaves space for respondents to hide, modify and beautify their real situation and behaviours. Observations of behaviours could have been considerate, but the time

constraints for the fieldworks make this option nearly impossible. The interviews option was the only one allowing a collection of data related to a previous situation and to previous behaviours.

The constraints of time were one of the most important problems encountered and had impact on the preparation, fieldwork and analysis. Contacts from the Netherlands with stakeholders in Burundi were difficult and had an impact on the time allocated to the preparation and the quality of this preparation. The time granted for the transcripts were also largely underestimated.

As already mentioned in section 2.2 *Recognition and enforcement of land rights*, the way the relationships to land are socially defined and recognized differs from societies to societies according to the cultural importance of the practises, the existing institutions, the language specificities, etc. The lack of internationally agreed concepts for defining the land rights was an important problem. Translating the Burundian reality into French notions (part of the work done by the translator) and, from there, into English notions was a difficult and time-consuming process. The difficulty to find bridging notions and to avoid misunderstandings represented an important and underestimated part of work for this research.



## 4. RESULTS

This chapter first presents the results in relation to the division *subject of right / right / object of right* presented at section 2.2 *Recognition and enforcement of land rights*. The first part presents the results in relation to the subjects of right (section 4.1), the second part presents the results in relation to the rights as such (section 4.2) and the third part presents the results in relation to the objects of right (section 4.3). The chapter is concluded by an overall of the results in relation to the different modes of recognition and enforcement (section 4.4).

### 4.1. Subject of right

The section *Subject of right* is divided in three parts. The first part presents the subjects of the different rights according to the results and to the official land registry (section 4.1.1). The second part presents issues related to how the respondents are recognized as a subject of right (section 4.1.2). The third part presents how the respondents enforce their right in relation to their status of subject (section 4.1.3).

#### 4.1.1. The subjects and their rights

As the interviews revealed (Figure 7), the land rights and claims are more complex than what is actually represented in the registry. In the registry, forty parcels are registered under the name of individuals and two under the name of a family group. Thirty-nine parcels are registered under the name of a male and one under the name of a female. Family groups are registered in the land registry as “the [father’s name]’s children” or “the [father’s name]’s family”. If the registrations under an individual female name or under a family group name are representative of reality, some of the registrations done under the name of an individual man hide other arrangements. In fact, some parcels actually belong to a family group but are registered under the name of only one person (the father’s name, the eldest son’s name). Consequently, the registered names hide realities more complex. This situation could be explained in some cases by a familial strategy for the registration, and in other cases, by inaccuracies in the registry coming, for example, from some problems in the adjudication process or in the updating processes (for more details on the latest aspect, see the following section 4.2 *Right*).

In some cases, the parcel registered under an individual male name is actually used, transformed and controlled by a woman. This is the case for example for widows living on their husband’s former property when their son – official owner of the property by inheritance – makes his life elsewhere. This is also the case for parcels bought by sons for their mother. This is also the case for husband who left the management of the property to their wife because they work elsewhere (in our cases, a trader and a carpenter working in Ngozi). In all the cases, even if women may receive (formally or informally) all the rights for using, transforming and controlling the parcels, they generally don’t have the rights to dispose of the parcel (sell, donate, transmit by inheritance ...). The right to dispose remains generally under men’s control. Because they only own the right to use (*usus*) and the right to the products (*fructus*), women’s rights are often referred by Burundian as a *usufruct* – even if this right has no formal recognition.

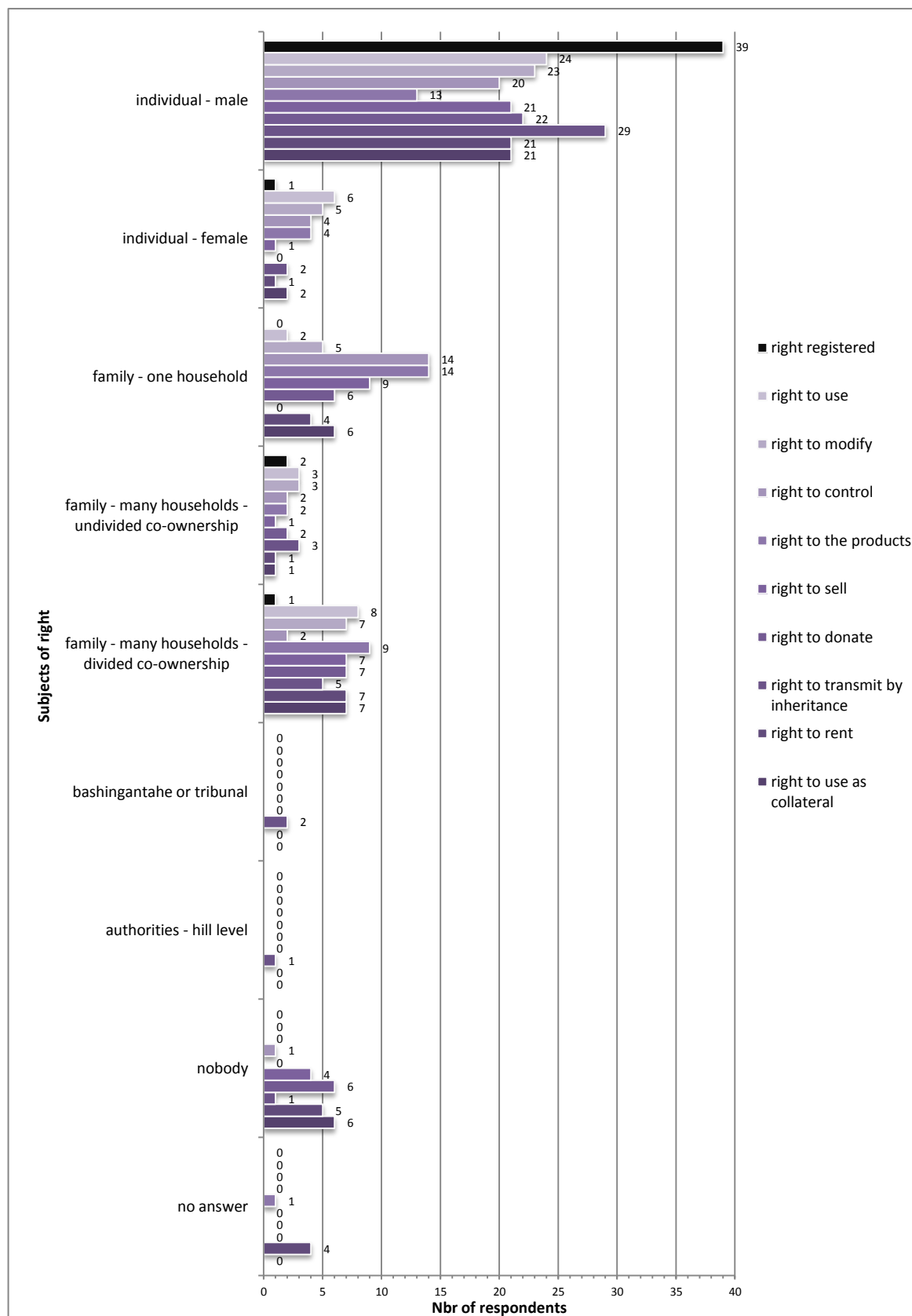


Figure 7 – Data provided by the land office and results for the questions in relation to the subject of right (Q1a, Q1b, Q1c, Q21a, Q41a, Q41b, Q41c, Q41d and Q41e)

In some cases, the rights on a parcel registered under an individual male name are exercised by a nuclear family (husband, wife and children). In this case, the parcel is registered under the name of the husband. This arrangement could be seen as a mix between an individual ownership by the husband and an undivided co-ownership by the members of the family. The situation reflects in fact limitations in one's individual right. Wife and children have to be consulted and sometimes must give formal authorization before some important decisions could be concretized. No legal recognition exists for this reality, and arrangements may differ from family to family, but a lack or a fault in the family consent may lead, as we will see in section 4.2.3.3 *Disputed transfers*, to the complete cancellation of the transaction.

In some cases, the parcel registered under an individual male name is owned by a family group. In these cases, many households, linked by family ties, exercise their rights on the parcel in an undivided or in a divided manner.

In some cases, the family group owns the parcel in an undivided co-ownership – the parcel is used and exploited in community and the production is shared between the members of the family group. For these cases, the consent of all the households composing the family group could be required to reach an agreement and to complete a transaction. In other cases, the family leader (father, eldest son) is authorized to take the decisions in the name of the whole family. The parcel is then registered in their name. In some cases, the parcel is registered voluntarily or involuntarily under the name of a dead ancestor (grand-father, father). This situation makes the capacity of disposing the land complex and, in some cases, totally impossible – as some ‘nobody’ answers revealed. Arrangements for the exercise of rights in an undivided co-ownership differ from family to family and for every type of right.

In some cases, the family group owns the parcel in a divided co-ownership. In these cases, each household receives a private part of the parcels clearly defined for its own needs. Each family can manage and complete transaction on their part without the consent of other members of the family group. These cases result in a large proportion from a non registered land transmission process (see section 4.2.1.3 *Right to dispose* for more details). In this situation, brothers own independently their own private parcel inherited from their father. However, the original father's parcel is not shown as subdivided in the registry and is still registered under the father's name. From this perspective, some cases of divided co-ownership could also be conceived as private individual or family (one household) rights represented under an outdated registration.

In some cases, some rights are challenged – especially the right to transmit by inheritance. In situations presented by three respondents, only the authorities at the hill level, the *bashingantahe*, or the tribunal are authorized to complete the succession process.

All these different figures of ownership reveal that the private arrangements are more complex than the reality adjudicated and registered by the land office. Because the registry records only full ownership rights, other situations and arrangements (as the divided and the undivided co-ownerships or the women's usufruct) have no recognition in the land registry. This situation brings the question of the flexibility of the registration process that will be discussed in the section 5.1 *Subject of right*.



#### 4.1.2. Recognition of the subjects of right

##### 4.1.2.1. Identity

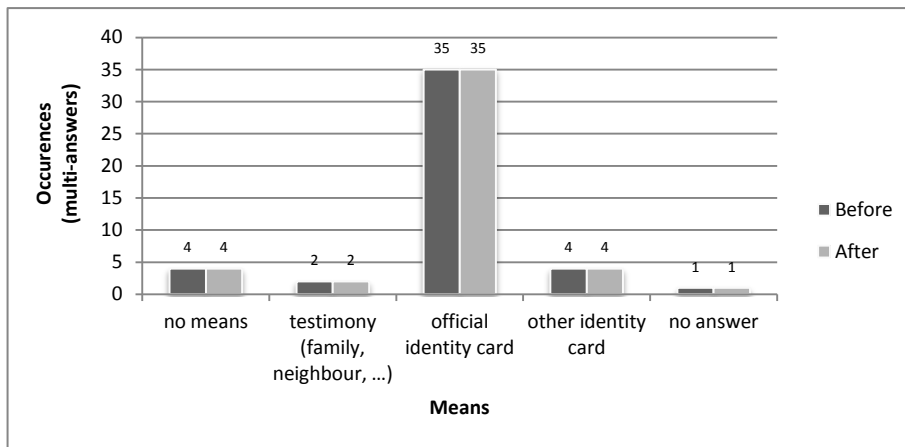


Figure 8 – Results for the questions in relation to the recognition for the subject of right (Q3a and Q4a)

This part presents the results in relation with the capacity of a person (natural or non-natural) to identify itself (Figure 8). Thirty-five respondents use the national identity card, four use other kind of identity card (certificate of baptism, school identity card), two ask a person to testify for them and four consider that they have no means to do it. For those who have one, the national identity card delivered by the commune seems the most common way to identify oneself. The establishment of the land office in Ngozi had no influence on the capacity to identify oneself.

##### 4.1.2.2. Right to use and right to modify

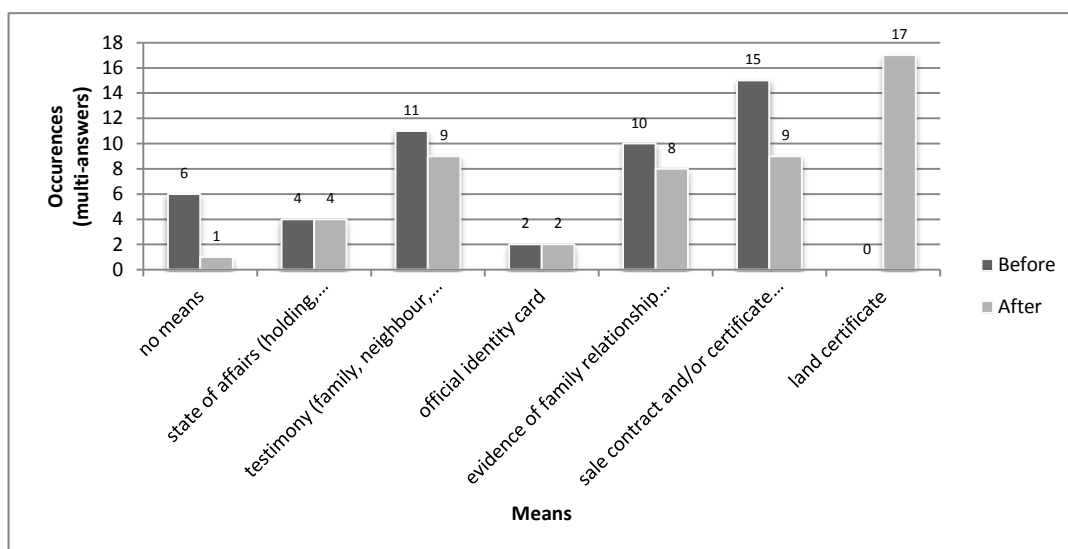


Figure 9 – Results for the questions in relation to the recognition for the subject of right in relation to the right to use (Q3b and Q4b)

This part presents the results concerning the capacity of a person to demonstrate its right to use the parcel (Figure 9). Before the establishment of the land office, fifteen respondents used the sale contract or the sale certificate to identify themselves as the owner of a right to use. This portion drops to nine after the

establishment of the land office. Respondents who didn't acquire their property by sale asked a person to testify for them (eleven respondents) or presented evidence of family relationship (ten respondents) before the establishment of the land office. This portion drops respectively to nine and eight respondents after the establishment of the land office. Six respondents considered that they have no means to prove their right to use the parcel before the land office. This portion drops to one after the establishment of the land office. These drops are related with the introduction of the land certificate. Seventeen respondents consider the land certificate as a valuable way to identify themselves as an owner of a right to use. This document replaces (or complements in certain cases) other ways and becomes the most important way to prove one's right to use on a parcel.

#### 4.1.2.3. Right to the products

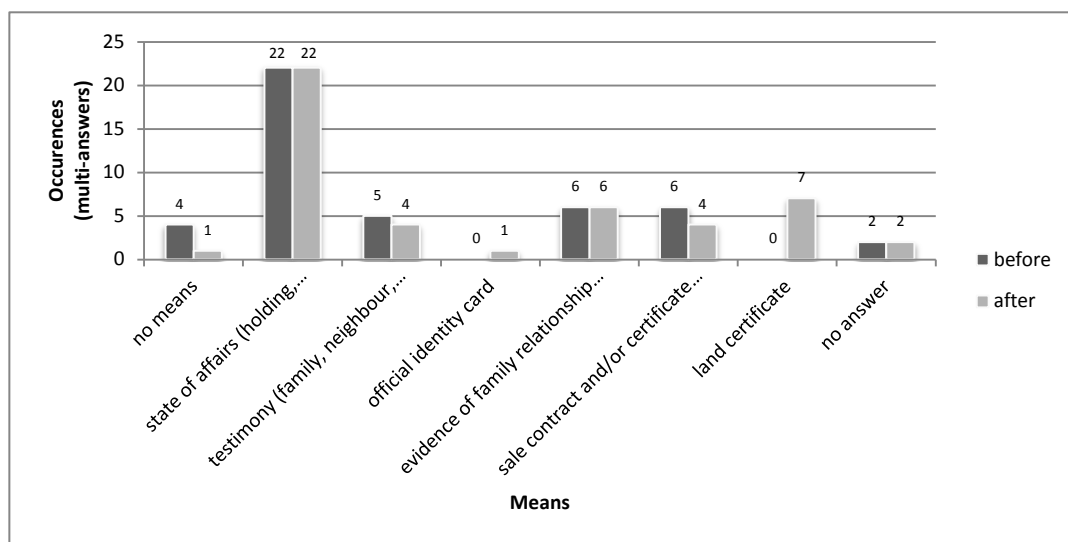


Figure 10 – Results for the questions in relation to the recognition for the subject of right in relation to the right to the products (Q23a and Q24a)

This part presents the results concerning the capacity of a person to demonstrate its right to the products (Figure 10). Before or after the establishment of the land office and over any legal claim, the right to the products is seen as a prerogative of the one who cultivates the field. “You cultivate, you reap”. This explains the results where twenty-two respondents consider the state of affairs as a legitimate justification to claim the products of the parcels. Five respondents before the land office (and four after) consider that someone testifying that you worked the field is a sufficient proof to have a right on the harvest. Others claim their right to the products as an owner's prerogative. Consequently, they prove their right of ownership with a sale contract (six respondents before, four after) for those who bought the land, with evidence of family relationship (six respondents before and after) for those who inherited the land, or with the land certificate (seven respondents after). Four respondents considered that they have no means to prove their right to the products before the land office. This portion drops to one after the establishment of the land office. The impact of land office on the capacity of a person to demonstrate its right to the products is minor.

#### 4.1.2.4. Rights to dispose

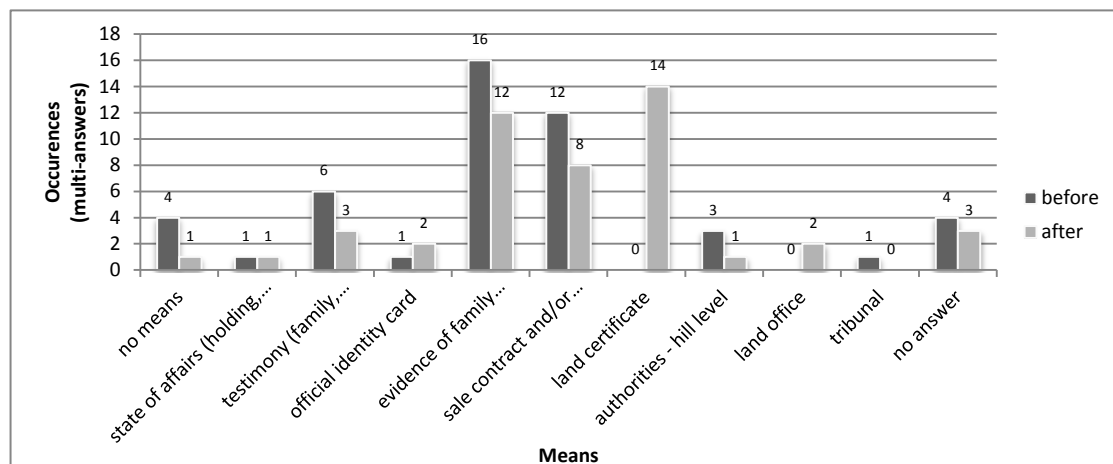


Figure 11– Results for the questions in relation to the recognition for the subject of right in relation to the right to dispose (Q43a and Q44a)

This part presents the results concerning the capacity of a person to demonstrate its right to dispose of the parcel (Figure 11). Before the establishment of the land office, sixteen respondents used the evidence of family relationship to identify themselves as the owner of a right to dispose of the parcel. This portion drops to twelve after the establishment of the land office. Twelve respondents used the sale contract or certificate to identify themselves as the owner of a right to dispose of the parcel. This portion drops to eight after the establishment of the land office. The same way, six respondents asked a person to testify for them before the establishment of the land office. This portion drops to three after the establishment of the land office. Four respondents considered that they have no means to prove their right to dispose of the parcel before the land office. This portion drops to one after the establishment of the land office. These drops coincide with the introduction of the land certificate. Fourteen respondents consider the land certificate as a valuable way to identify themselves as an owner of a right to dispose of the parcel. Land certificate becomes, with the evidence of family relationship and the sale contract or certificate, one of the most important ways to prove one's right to dispose of the parcel.

#### 4.1.2.5. Summary for the recognition of the subject of right

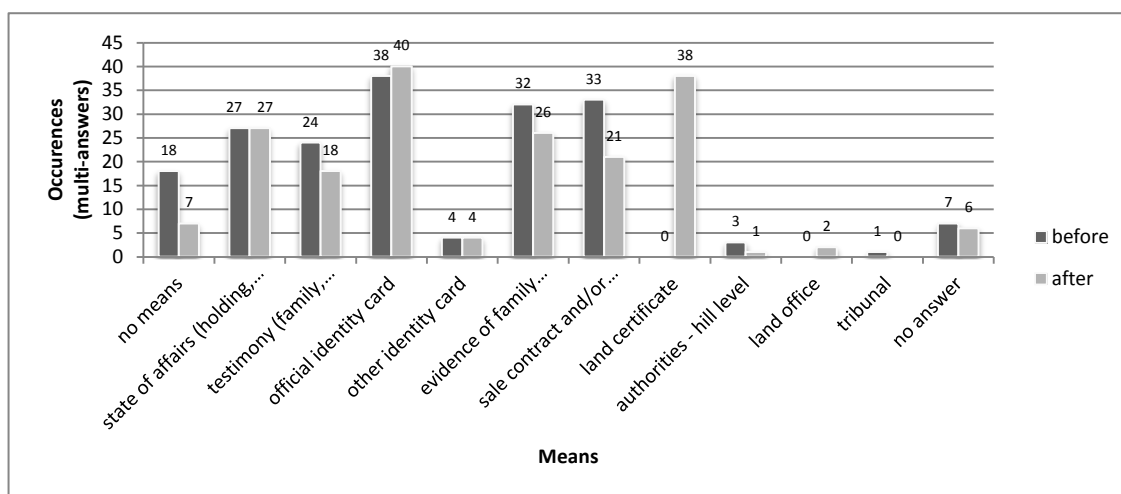


Figure 12 – Compilation of the results for the questions in relation to the recognition for the subject of right (Q3a, Q4a, Q23a, Q24a, Q43a and Q44a)

As an overview, the most important means for the recognition of subjects of land rights are nowadays the national identity card and the land certificate (Figure 12). Testimonies of family and neighbours, evidences of family relationship and sale contracts and deeds are also used in an important proportion, but their importance substantially decreased since the establishment of land office. The land certificate gave for some respondents their first evidence of ownership. An important exception to these statements concerns the right to the products. An important proportion of respondents consider the work done on the land as the most important criteria for claiming a right to the products. In this case, the state of affairs overrules all the other modes of recognition.

#### 4.1.3. Enforcement of the subjects of right

##### 4.1.3.1. Identity theft

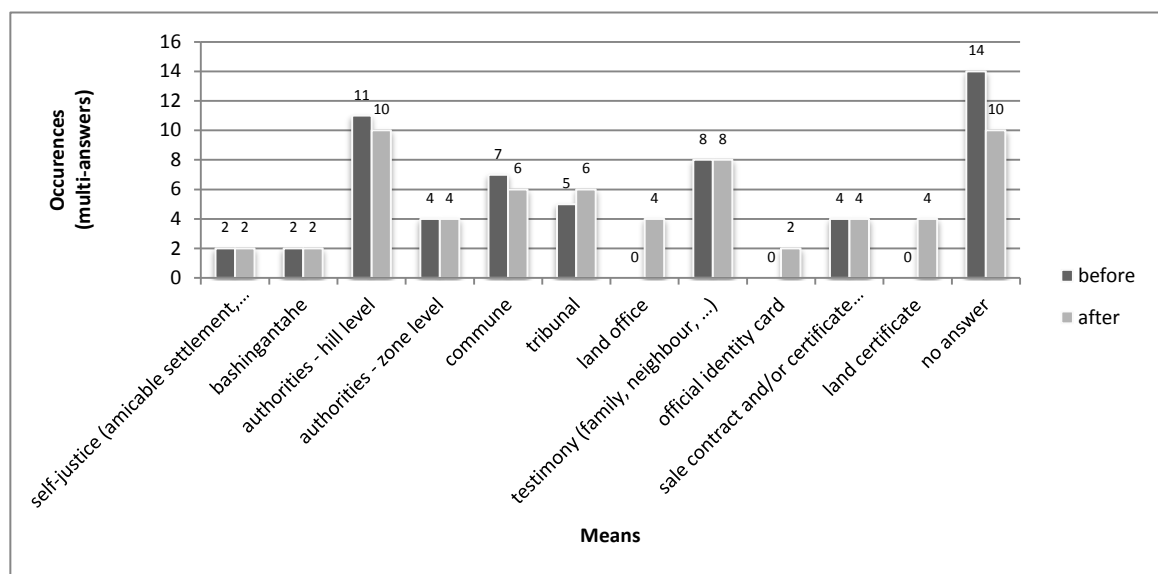


Figure 13 – Results for the questions in relation to the enforcement for the subject of right in relation to identity theft (Q5a and Q6a)

This part considers the first figure of enforcement in relation to the subject of right: the identity theft. Because in rural area, land is in close relation with family, the possibility that someone could steal identity is generally seen as improbable. The weakness of contractual obligations and the capacity to easily overturn agreements (see section 4.2.3.3 *Disputed transfers*) makes the situation even more unlikely. Fourteen respondents (ten for the situation after the land office) did not consider the question (Figure 13). For the others, authorities at the hill level (eleven respondents), authorities at the zone level (four respondents), the commune (seven respondents), the tribunal (five respondents) and the bashingantahe (two respondents) are seen as actors able to solve the problem. Two respondents make their own justice. Testimony (for eight respondents) and sale documents (for four respondents) are tools used in the conflict resolution. After the establishment of land office, four respondents consider land office and land certificate as valuable means to solve the problem. Otherwise, the situation is mostly unchanged. Consequently, the direct impact of land office, from the respondents' perspective, is minor.

#### 4.1.3.2. Conflicts of owners in relation to the right to use

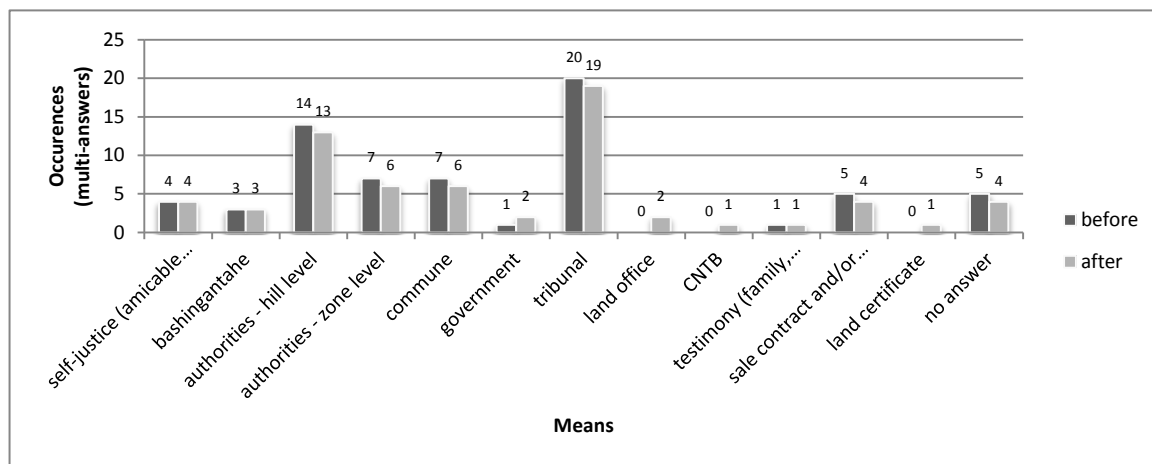


Figure 14 – Results for the questions in relation to the enforcement for the subject of right in relation to the conflicts of owners in relation to the right to use (Q5b and Q6b)

In the cases where different persons claim concurrent rights to use the parcel, the tribunal (for twenty respondents) and the authorities at the hill level (for fourteen respondents) were considered as the principal stakeholders in the conflict resolution process before the land office establishment (Figure 14). For a smaller proportion of respondents, bashingantahe, authorities at the zone level, commune, government, CNTB can also play a role in the process. Four respondents solved the problem by themselves. Some respondents relied on evidence like testimony (one respondent) and sale documents (five respondents) to solve the conflict. The situation is mostly unchanged after the establishment of the land office. Two respondents request the assistance of the land office and one use the land certificate as evidence. Consequently, from the respondents' perspective, the capacity of land office by itself to directly solve conflict in relation to the right to use the land is minor.

#### 4.1.3.3. Conflicts of owners in relation to the right to the products

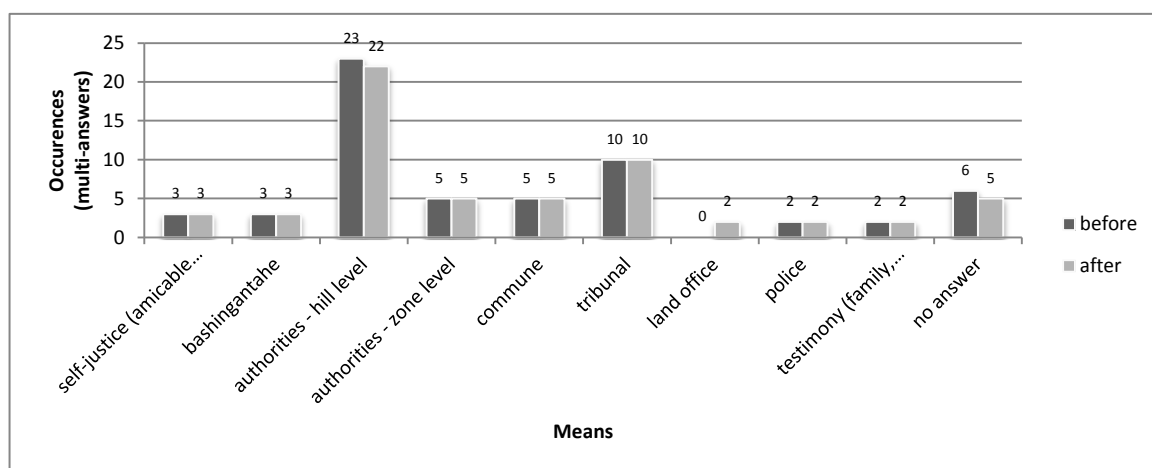


Figure 15 – Results for the questions in relation to the enforcement for the subject of right in relation to the conflicts of owners in relation to the right to the products (Q25a and Q26a)

Before and after the land office establishment, if different persons claim concurrent rights to the products, the authorities at the hill level (for twenty-three respondents) and the tribunal (for ten respondents) are considered as the principal stakeholders in conflict resolution process (Figure 15). Bashingantahe (three respondents), authorities at the zone level (five respondents), commune (five respondents) and police (two respondents) could also be requested by a smaller proportion of the respondents. Three respondents solve the problem by themselves. Two respondents rely on testimony for solving the conflict. After the establishment of land office, two respondents request the assistance of the land office. Consequently, from the respondents' perspective, the capacity of land office to solve by itself conflict in relation to the right to the products is minor.

#### 4.1.3.4. Conflicts of owners in relation to the rights to dispose

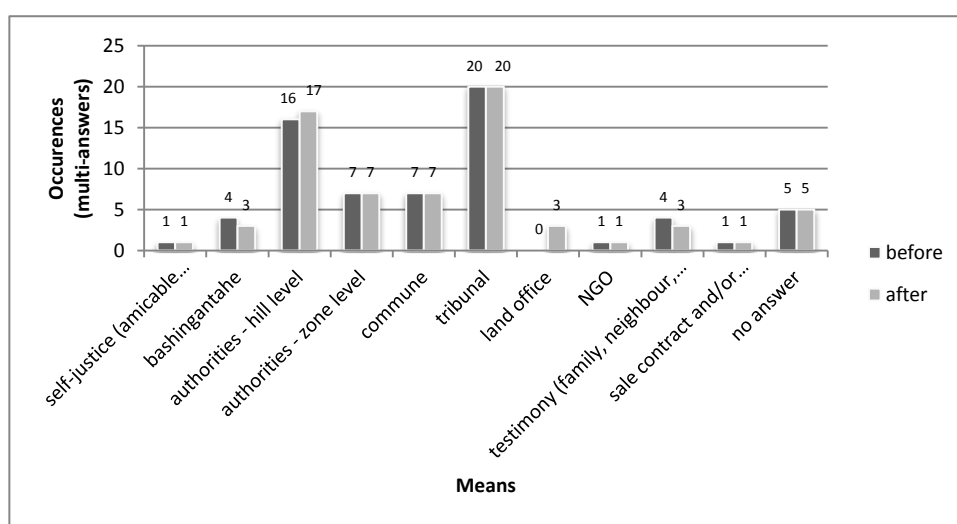


Figure 16 – Results for the questions in relation to the enforcement for the subject of right in relation to the conflicts of owners in relation to the right to dispose (Q45a and Q46a)

Before and after the land office establishment, if there are concurrent claims for the right to the dispose of the parcel, the authorities at the hill level (for sixteen respondents) and the tribunal (for twenty respondents) are considered as the principal stakeholders in conflict resolution process (Figure 16). Bashingantahe (four respondents), authorities at the zone level (seven respondents), commune (seven respondents), non-governmental organization (one respondent) are also alternatives for a smaller proportion of the respondents. One respondent solves the problem by himself. Four respondents rely on testimony and one on the sale contract for evidencing their claim. After the establishment of land office, three respondents see the land office as an option of conflict resolution. Mostly, the situation remains the same. Consequently, from the respondents' perspective, the capacity of land office by itself to solve conflict in relation to the right to dispose of the parcel is minor.

#### 4.1.3.5. Summary for the enforcement of the subject of right

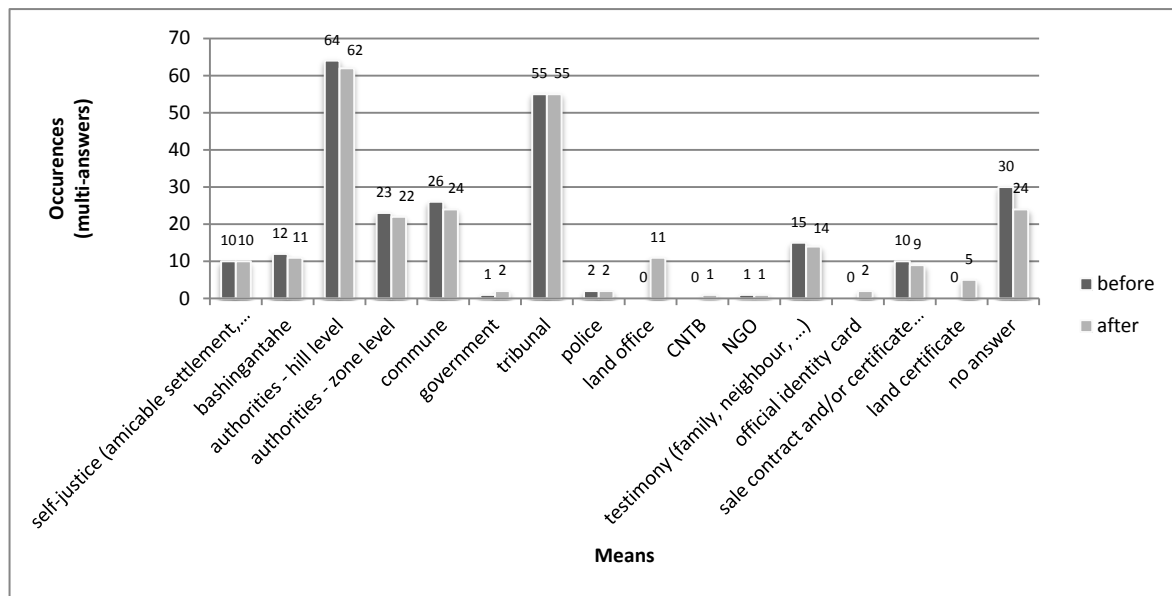


Figure 17 – Compilation of the results for the questions in relation to the enforcement for the subject of right (Q5a, Q5b, Q6a, Q6b, Q25a, Q26a, Q45a and Q46a)

Considering all the means to enforce rights, authorities at the hill level are the main actors for solving conflicts related to the subject of right (Figure 17). They act as first responders and mediators in conflicts. If a conflict cannot be solved at the hill level, the case evolves toward higher authorities (authorities at the zone level, commune) until it reaches the tribunal – which is the other important institution in conflict resolution according to the respondents. Conflicts can also be directly addressed to the tribunal. The focus is essentially put on the main stakeholders in the conflict resolution. The land office is not perceived by the respondents as a central player in the enforcement process.

## 4.2. Right

The first part of this section gives an overall picture of how the rights (or claimed rights) are actually exercised by the respondents (section 4.2.1). The second part presents the means used by the respondents to demonstrate how their right could be exercised (section 4.2.2). The third section presents the means used by the respondents to defend their property rights in certain conflictual situations (section 4.2.3).

### 4.2.1. The way the rights are exercised

#### 4.2.1.1. Right to use and right to modify

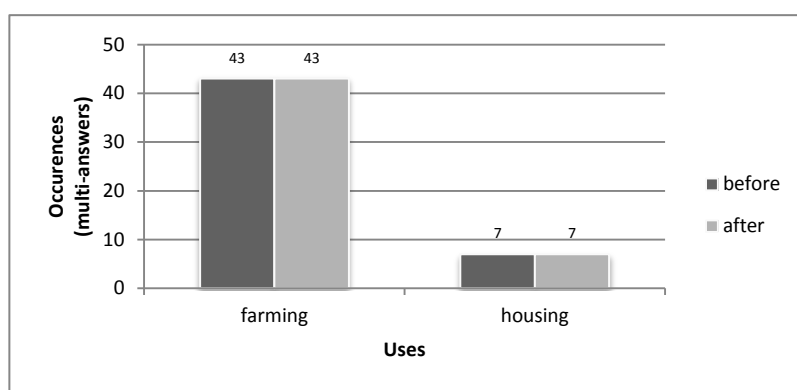


Figure 18 – Results for the questions in relation to the right to use (Q7a and Q8a)

All the respondents (Figure 18), to the question how they can use the property, gave plenty of details about their agricultural activities: which kind of cultures is cropped (beans, maniocs, potatoes, sweet potatoes, bananas, coffee...), how they crop (crop rotation, use of manure...), how often they crop (seasonally, during the “two seasons”...). In addition to agricultural use, seven respondents also mentioned the use of their land for housing and living. In relation with the section 4.2.2 *Recognition of the rights*, the narrow spectrum of answers should not be understood as the result of a limitation or restrictions in the right of use, but as a manifestation of the actual use of the land and concerns of the owners.

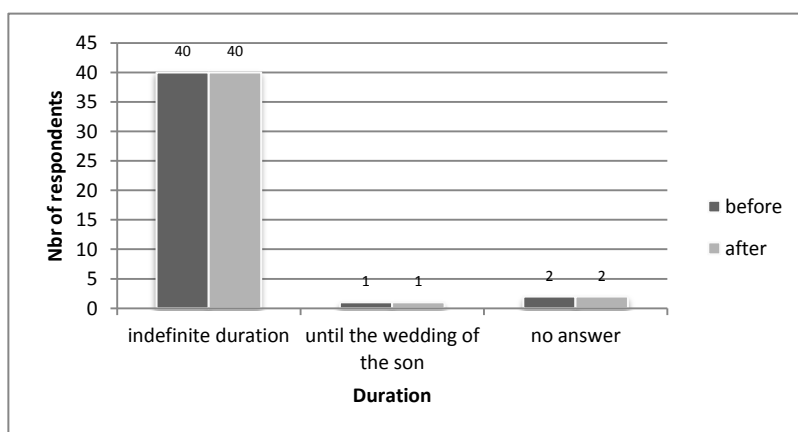


Figure 19 – Results for the questions in relation to the duration of the right to use (Q9a and Q10a)



The right to use and to modify the property is for forty respondents of indefinite duration (Figure 19). One respondent owns this right until her son get married and start a family – at this moment, she'll have to leave the place to her son's family.

In general terms, in the rural areas of Ngozi, land is mainly used for agricultural purposes and conditions how the right of use is defined by respondents. With one exception, a right to use has no limitations in terms of duration. For the respondents, the land office and land registration did not affect their right to use.

#### 4.2.1.2. Right to the products

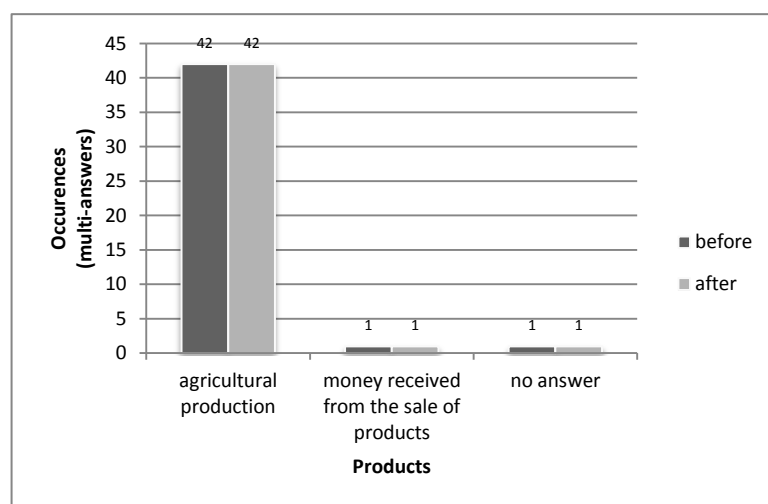


Figure 20 – Results for the questions in relation to the right to the products (Q27a and Q28a)

In relation with the agricultural use of property, forty-two respondents identify different crops (beans, manioc, potatoes, sweet potatoes, bananas, coffee, and so on) as products on which they own the right (Figure 20). Most of these products are for immediate consumption by the family. One respondent identifies the money received from the sale of the harvest as a product on which he owns the right.

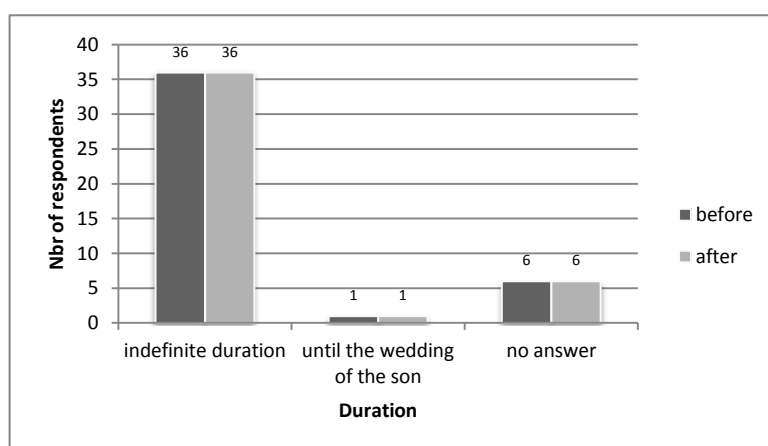


Figure 21 – Results for the questions in relation to the duration of the right to the products (Q29a and Q30a)

The right to the products is for thirty-six respondents of indefinite duration (Figure 21). One respondent owns the right to the products until her son get married.

In general terms, like the right to use and to modify, agricultural purposes of land in rural areas conditions the kind of benefits a property can produce. With one exception, a right to the products has no limitations or restrictions in terms of duration. The land office and land registration did not affect the right to the products.

#### 4.2.1.3. Right to dispose

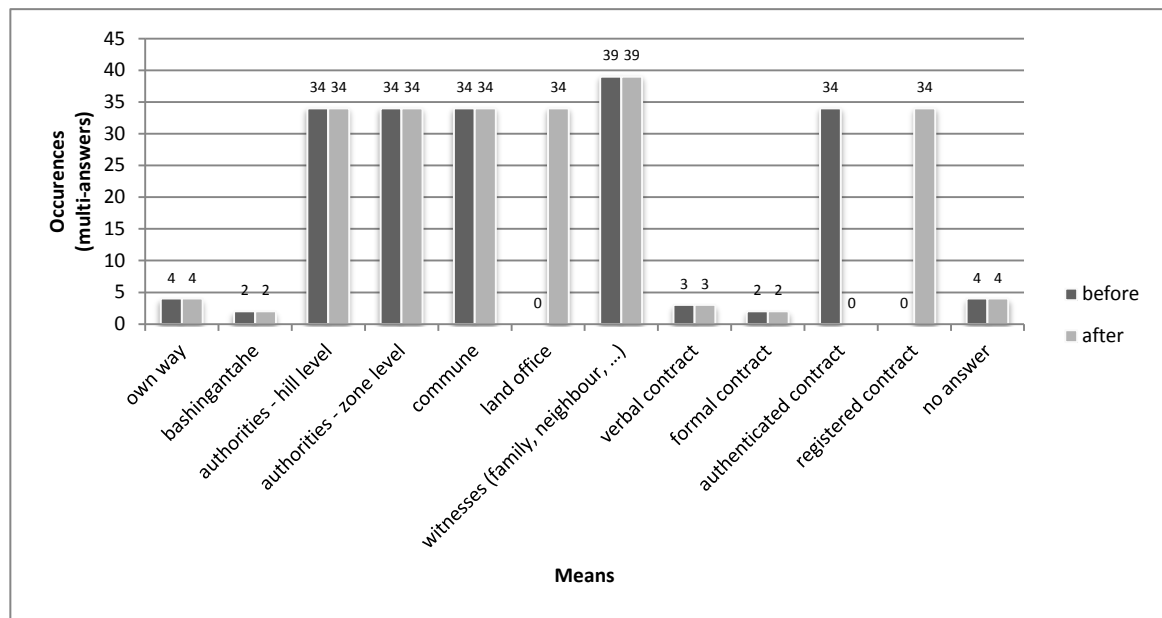


Figure 22 – Results for the questions in relation to the right to sell (Q47a and Q48a)

In regards to the right to sell, thirty-four respondents exercise their right to sell with the support of local and communal authorities (Figure 22). When a family agree to sell a property, the process consists to gather sellers, buyers, witnesses and the authorities at the hill level. Together, they write and sign the sale proceedings – seen as the sale contract. This formal agreement is then controlled, authorized and authenticated by the authorities at the zone level and the commune level. After the establishment of land office, the contract is registered by the land office employees. At the end of the process, the buyers receive a sale certificate from the communal authorities, and after the land office, the land certificate. As an alternative, four respondents prefer to proceed on their own. Two respondents request the assistance of the bashingantahe. Three respondents use only a spoken agreement. Two respondents conclude the agreement only with a private contract. Whatever the method used, respondents always conclude transactions in front of witnesses. Four respondents consider that they don't have the right to sell their property and consequently, they didn't answer to the question.

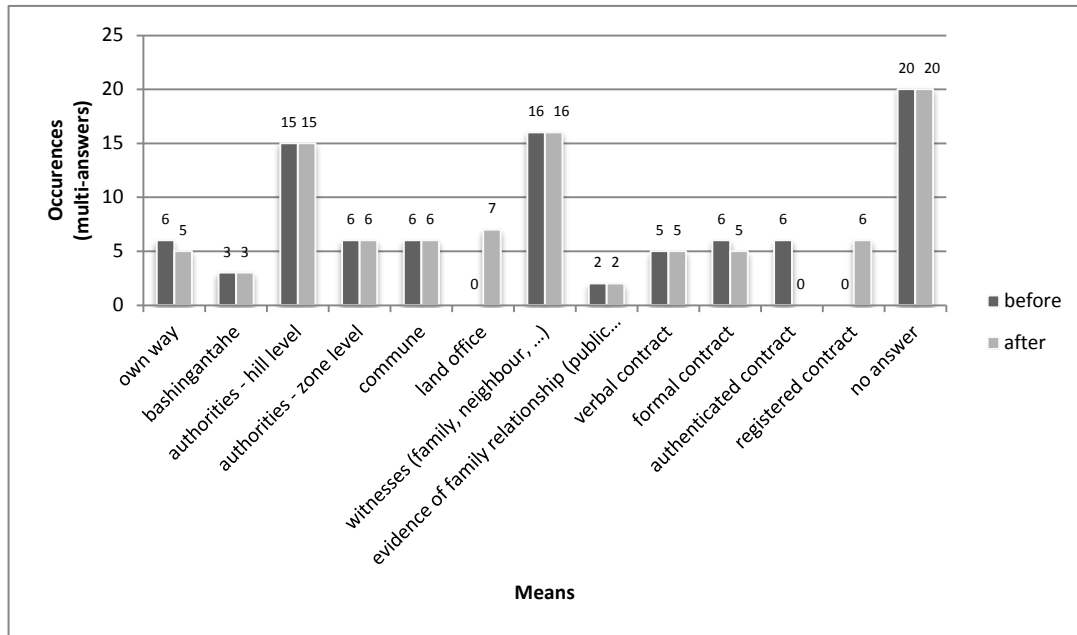


Figure 23 – Results for the questions in relation to the right to donate (Q47b and Q48b)

The right to donate, historically, was exercised in Burundi. But for many respondents, giving land nowadays in a context of starvation and paucity is no more an option. Consequently, twenty respondents did not give any answer to the question (Figure 23). Notwithstanding, some consider the possibility to donate in an intra family context. For some respondents, the relation between donation and family is close enough to perceive a donation outside family as an explicit recognition of paternity for an illegitimate child. In this case, donation is seen as a way to transmit by inheritance property – the right to transmit by inheritance in Burundi is similar in many points to the right to donate. Before concluding the donation, the father has to recognize the paternity in the civil registry at the commune. Two respondents explicitly consider this official evidence of family relationship as a necessary condition to the donation.

For sixteen respondents, donation needs to be done in front of witnesses. Five respondents conclude the donation by a verbal agreement. Before the establishment of land office, six respondents formalize the donation with a private document. One of them registered the document once the land office was operational. Six respondents follow the same process as for the sale and authenticate the contract at the commune and, after the establishment of the land office, registered the contract at the land office also.

Few donations reach the zone and commune level. Six respondents (five after the establishment of the land office) prefer to conclude the transaction without any external assistance. Three are helped by the bashingantahe. Fifteen respondents consider authorities at the hill level as part of the process. The results reflect the lack of official instructions for the process. If the practice was more common, private donation should be considered as a threat for the update and the reliability of the land registry.

In regards to the right to transmit by inheritance, in Burundi, a large part of the succession process is usually completed by the father himself during his life. They are no clear rules for the succession and a large part is left to the father's discretion. Usually, when one of his sons reaches the age of majority and gets married, the father provides to the new husband land for settling and starting a family. Eventually, the father's property is divided equally (Figure 24) between all the sons, with one part left for the parents.



Figure 24 – Traditional way to divide the land for succession:  
 (1) making of the rope from straws, (2) measurement (full length),  
 (3) folding of the rope in x equal parts, (4) measurement (individual parts).

The daughters who get married move to their husband's family and don't have any claim to the family patrimony anymore. Daughters who remain home live with their parents during their lifetime. They are the ones who inherit the parents' part when both of them die. In some cases, daughters may receive one portion – equal to one son's portion – for all of them. In relation to the responses, the status of the widow is not clearly defined once their husband dies: some may lose everything, some may remain in possession.

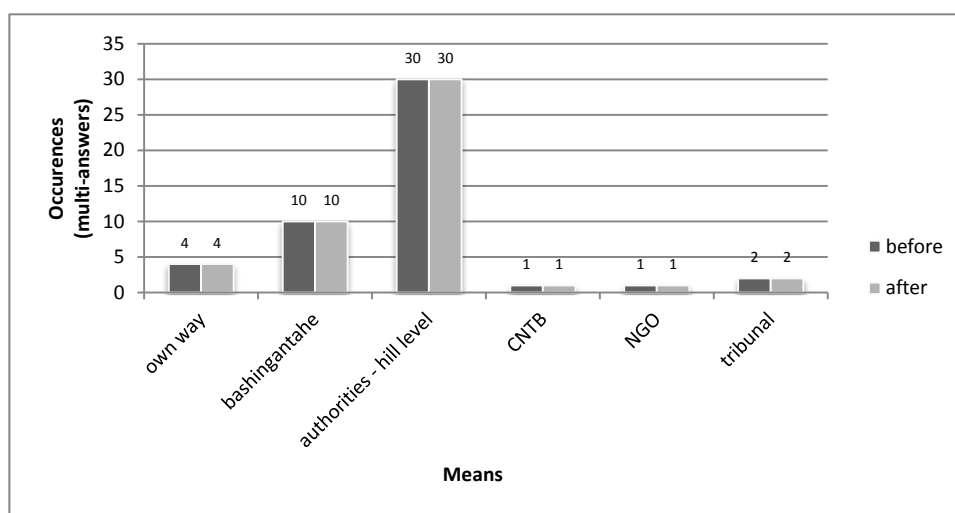


Figure 25 – Results for the questions in relation to the right to transmit by inheritance (Q47c and Q48c)

The succession is generally done by the father – in one case, the mother transmits to her daughter and sister (Figure 25). Four respondents complete the succession on their own. Ten ask for the bashingantahe assistance. Thirty are helped by the authorities at the hill level. These authorities are essentially present as witnesses – and incidentally as advisors. In the few cases of familial dispute, they could act as mediators. According to four respondents, it may also happen, when conflicts arise, that some other entities (CNTB, NGO, or tribunal) interfere and direct the succession.

The familial aspect of the succession creates a situation where the officials are kept in the sidelines of the process (with the exception of the authorities of the hill level). The land office has no grip on the process.

This process is actually the major cause of confusion and inconsistencies in the land registry, representing a real threat for the reliability of the land registry (DDC, 2014).

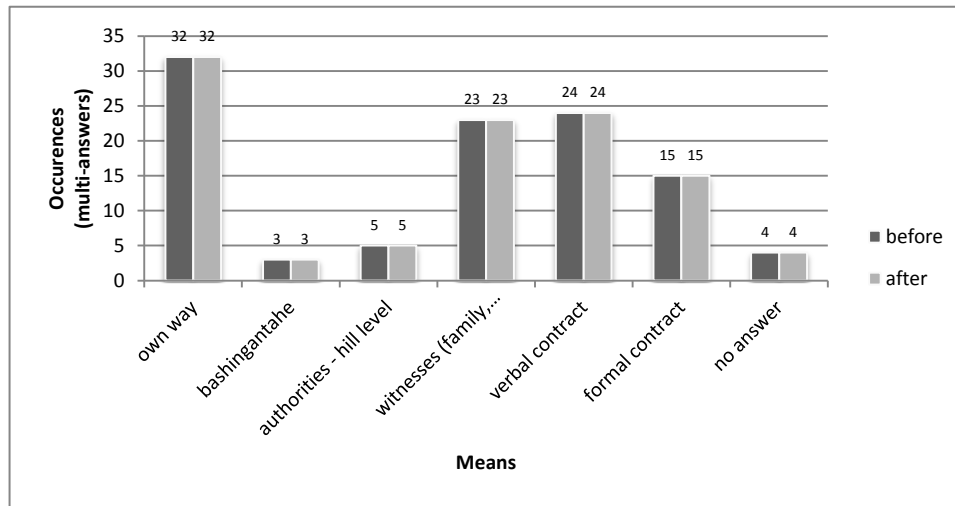


Figure 26 – Results for the questions in relation to the right to rent (Q47d and Q48d)

In regards to the right to rent, renting farmland is usually done by a family to get quickly money (to buy food or for medical reasons for example). The process is rarely done with the involvement of authorities: only three respondents are helped by the bashingantahe and five by the authorities at the hill level (Figure 26). Thirty-two explicitly responded that the process is completed without any figure of authority. Fifteen write the terms of the agreement (rental, duration) in a private contract. The rest of the respondents (twenty-four) have solely a verbal agreement. Twenty-three respondents imply witnesses in the process. The land office has no role in the process.

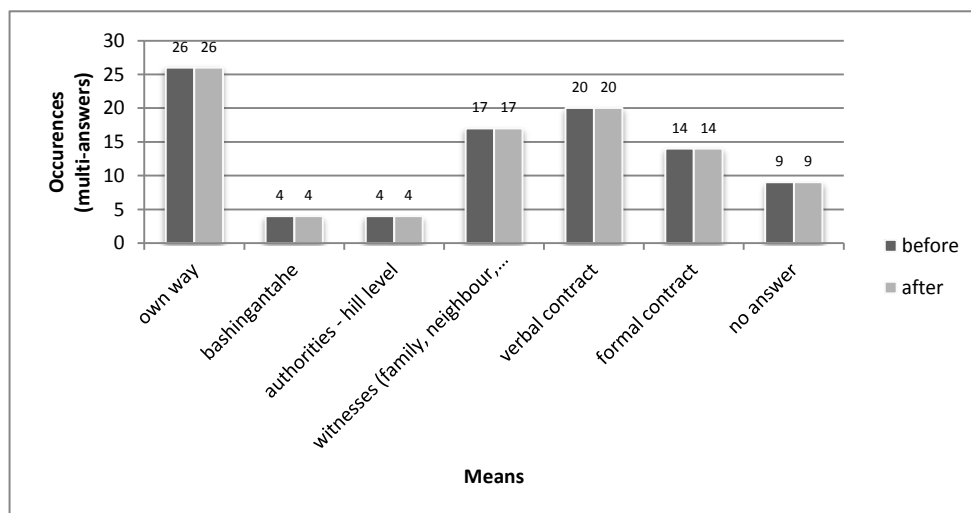


Figure 27 – Results for the questions in relation to the right to use as collateral (Q47e and Q48e)

In regards to the right to use as collateral, using the property as collateral is not a common practice in rural areas. One reason is because the processes of mortgaging or pledging are essentially unknown or obscure for many respondents. Some respondents have no notion of the processes – nine respondents didn't answer the question. A respondent even pretends falsely that it is illegal and forbidden by the government. But the main reason why the process is not practised by most of the respondents is because they consider

the process really risky. Pledging land or harvest is usually done by a family to get quickly money (to buy food or for medical reasons). Usually they prefer to rent or to sell a small portion of the property instead of risking losing the whole property if the payments could not be done. Using the land as collateral should not be understood in rural area as a contract with banking institutions. The process usually implies another farmer who gives a loan and takes possession of the land until the money is refunded.

The process is rarely done with the involvement of authorities: four respondents are helped by the bashingantahe and four by the authorities at the hill level (Figure 27). Thirty-six respondents complete the process on their own. Fourteen write the terms of the agreement (rental, duration) in a private contract. The rest of the respondents who answered (twenty) have a spoken agreement only. Seventeen respondents imply witnesses in the process. The land office has no role in the process.

#### 4.2.1.4. Origins of the rights

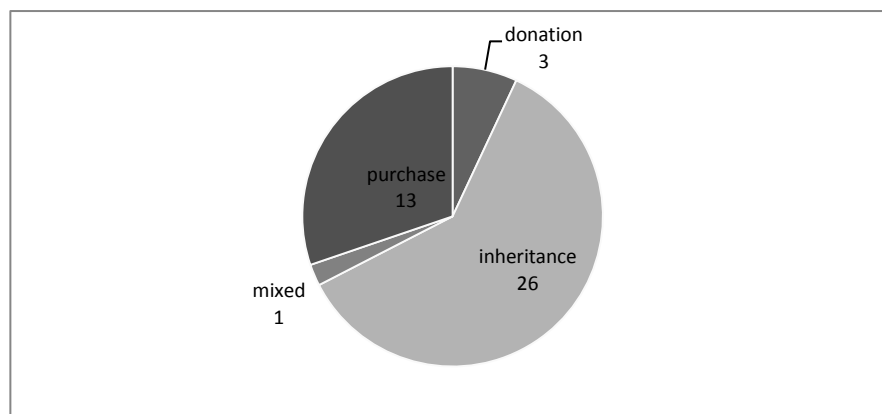


Figure 28 – Origins of rights for the respondents  
(as registered at the land office)

In relation to the data registered at the land office (Figure 28), the respondents acquired their land principally by inheritance (twenty-six respondents). The second mode of acquisition in importance was by purchase (thirteen respondents). Acquisitions by both inheritance and purchase (one respondent) or by donation (three respondents) are phenomena less important. The only parcel registered under a woman's name was acquired by donation.

The results for the sampling of this research are different from the general proportions for the land office where 49.9% of property are acquired by inheritance and 45.4% by purchase (APDH, 2013). This difference is explained by the fact that overall proportion takes to account also hills with registration based on individual and voluntary requests (non systematic registration). The fact that purchases are almost systematically registered and successions never registered creates an important distortion – especially in the area where a non systematic approach is applied.

#### 4.2.1.5. Summary for the exercise of the rights

The respondents use actually their property for agricultural purposes and in some cases for housing. They generally crop and harvest on their land without any restrictions in terms or application or duration. According to the respondents, the land office did not affect in substance the rights and the way they are exercised.

Purchase represents an important way to acquire land. The right to sell is the only right to dispose to be well instructed and supported by the authorities with the use of many evidences (witnesses, written contracts authenticated and registered). All the other ways to dispose of the land are done in the margins of any forms of authorities. All the ways to dispose of the land are generally concluded by a verbal contract or a private contract and done in front of witnesses (family, neighbours, authorities at the hill level, bashingantahe). The right to transmit by inheritance is the only exception and is exercised within the family in front of witnesses (generally the authorities at the hill level or the bashingantahe). Inheritance and purchase are the most common ways to acquire land.

#### 4.2.2. Recognition of the rights

##### 4.2.2.1. Right to use and right to modify

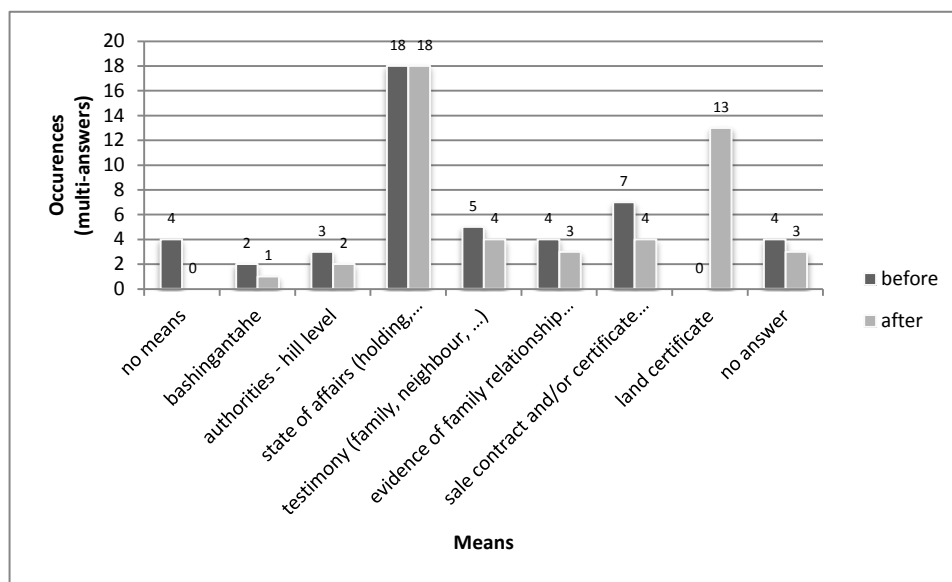


Figure 29 – Results for the questions in relation to the recognition for the right to use (Q11a and Q12a)

This part presents the results concerning the capacity of the respondent to demonstrate the content of their right to use and modify the parcel. In general, respondents consider that owners have no limitation on the way they could use or modify their land. In this context, for eighteen respondents (Figure 29), the recognition of the right to use or to modify a parcel is simply a matter of fact: they do it, so they have the right to do it. For others, the process of recognition passes through a demonstration of their ownership. Consequently, they try to prove their ownership by different means (testimonies, evidences of family relationship, deeds, or help from the bashingantahe or from the authorities at the hill level). After the establishment of the land office, the land certificate brings another means to demonstrate the ownership for thirteen respondents and induces a slight drop for the other means.

#### 4.2.2.2. Right to the products

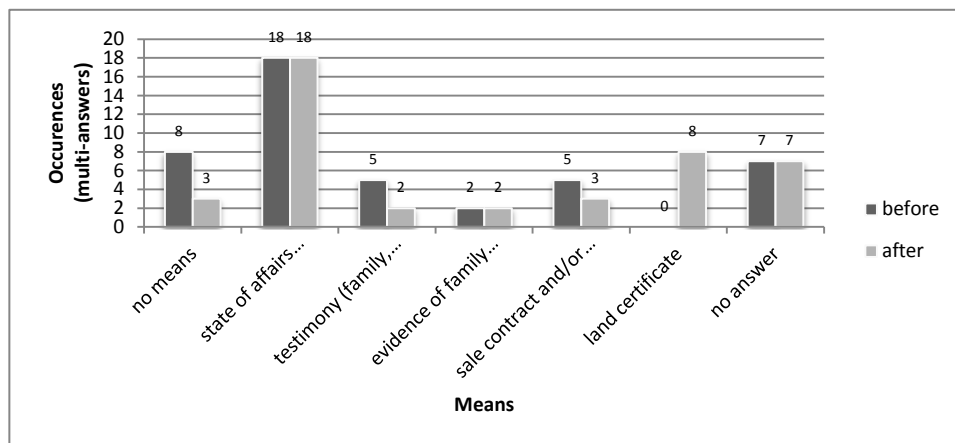


Figure 30 – Results for the questions in relation to the recognition for the right to the products (Q31a and Q32a)

This part presents the results concerning the capacity of the respondent to demonstrate the content of their right to the products. Like for the right to use and the right to modify, respondents consider that owners have no limitation on their right to the products. As owner, they don't have any restrictions and they don't have to demonstrate or justify the way they exercise their right on the products. For seven respondents, the question makes no sense (Figure 30). For eighteen respondents, the recognition of the right to the products is simply a state of affairs. For some respondents, the process of recognition passes through a demonstration of the ownership with different means (testimonies, evidences of family relationship, or deeds). For eight respondents, the land certificate became after the establishment of land office, another valuable mean to demonstrate a property right - all the other means suffers then a slight drop.

#### 4.2.2.3. Right to dispose

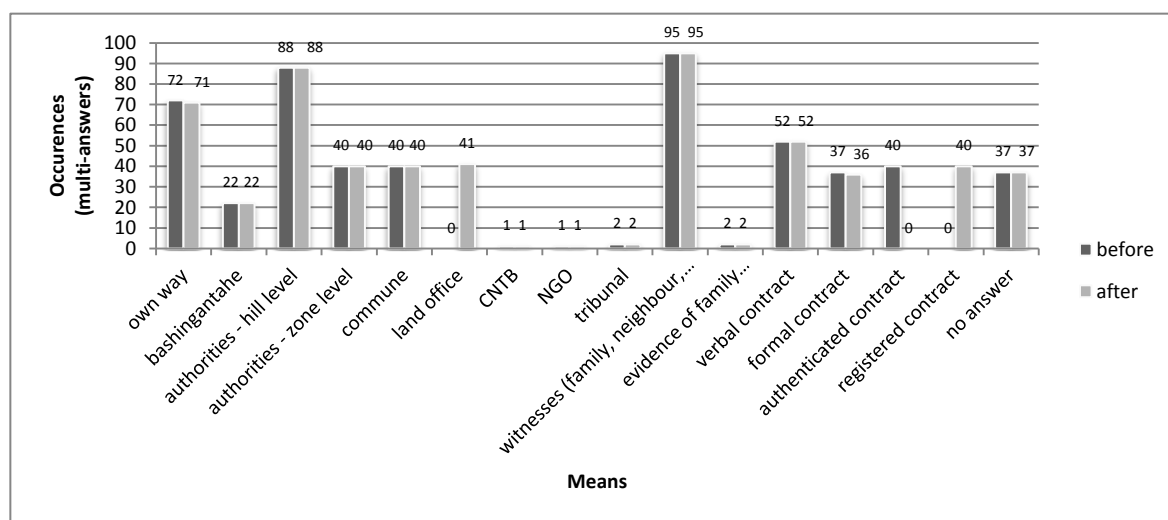


Figure 31 – Compilation of the results for the questions in relation to the right to dispose (Q47a, Q47b, Q47c, Q47d, Q47e, Q48a, Q48b, Q48c, Q48d and Q48e)



This part presents the results concerning the capacity of the respondent to demonstrate the content of their right to dispose of the parcel. With the exception of the right to sell – and in a smaller scale the right to donate –, the rights to dispose are not in relation with the officials (including the land office). Most of the processes (right to transmit by inheritance, right to rent and right to use as collateral) evolve in the sidelines of any formal definition and authorities or with the minor implication of the authorities at the hill level (Figure 31). Witnesses are the most important way of evidencing transfers. Authenticated and registered contracts are the most important mode of contracting for sale, otherwise, for all the other forms of right to dispose, verbal contract or private contracts are the most common ways to make the agreements. Outside the process of sale, land office has small impacts on the practises related to the rights to dispose.

#### 4.2.2.4. Summary for the recognition of the rights

Overall, the different rights are seen as prerogative of the ownership rights. From the respondents' perspective, they don't suffer any forms of restriction. By themselves, these rights don't have to be recognized or are recognized through a proof of property (testimonies, evidences of family relationship, deeds, land certificates). Only the right to sell and, at a very small scale, the right to donate are instructed by official authorities and receive formal directives and recognition. All the other processes are left to the owners' discretion.

#### 4.2.3. Enforcement of the rights

##### 4.2.3.1. Use without authorization

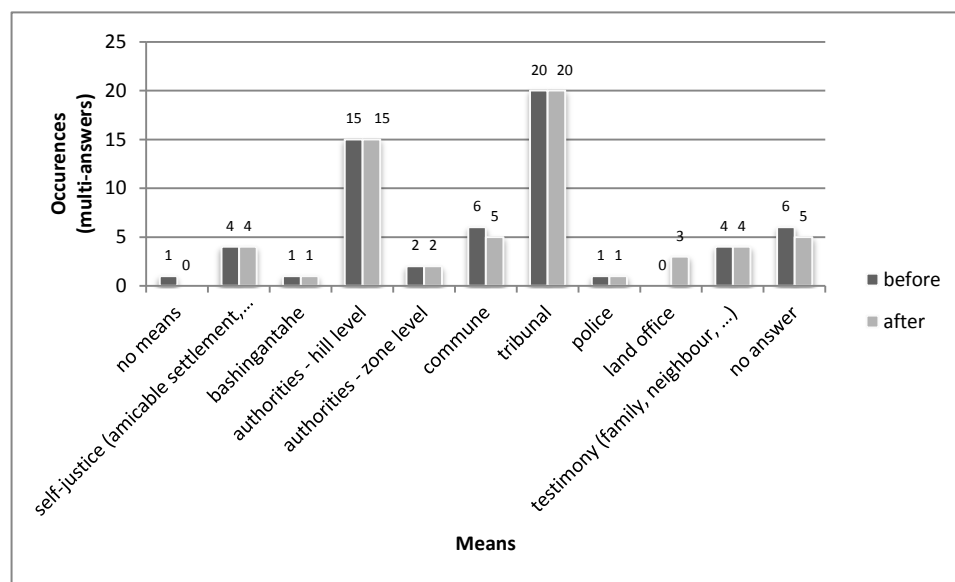


Figure 32 – Results for the questions in relation to the enforcement for the rights in relation to use without authorization (Q13a and Q14a)

In the case where persons use the parcel without authorization, four respondents make their own justice and ask these persons to leave the parcel voluntary or by force (Figure 32). In most cases, the authorities at the hill level (fifteen respondents) the bashingantahe (one respondent) or the police (one respondent) help the respondents to defend their rights. The tribunal is seen by twenty respondents as the most important and ultimate way to solve conflicts related to the use of the land. Authorities at the zone level

(two respondents) and the commune (six respondents) also could be involved in a smaller proportion. The situation is mostly unchanged after the establishment of the land office. Three respondents request the assistance of the land office. From the respondents' perspective, the capacity of land office as such to solve conflict in relation to the right to use is limited.

#### 4.2.3.2. Theft of products

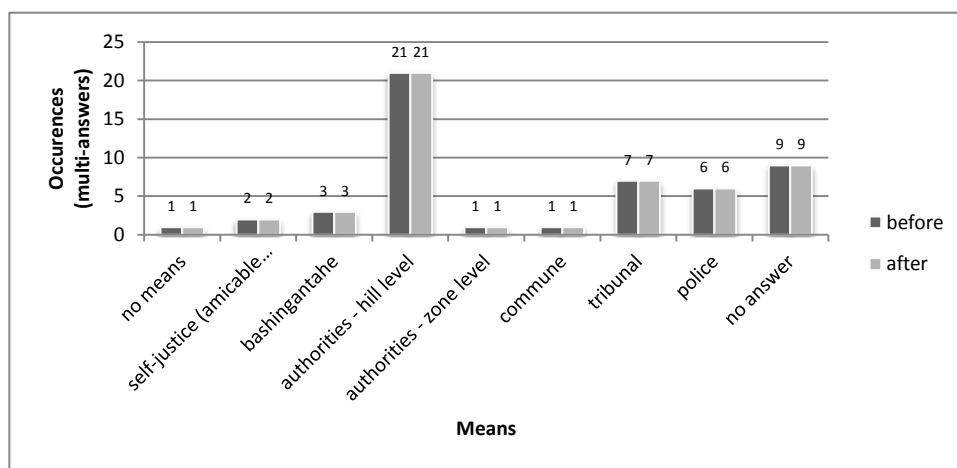


Figure 33 – Results for the questions in relation to the enforcement for the rights in relation to theft of products (Q33a and Q34a)

Before and after the land office establishment, if persons steal the products of the parcel, the authorities at the hill level and hill comities for security (for twenty-one respondents) are considered as the first responders for the conflict resolution process (Figure 33). The tribunal (seven respondents), the police (six respondents), the bashingantahe (three respondents), the authorities at the zone level (one respondent) and the commune (one respondent) could also be requested to punish and set penalties to the thief (refunding, imprisonment). Two respondents solve the problem by themselves. No change occurs with the establishment of land office. Consequently, from the respondents' perspective, the land office has no impact on conflicts resolution in relation to the right to the products.

#### 4.2.3.3. Disputed transfers

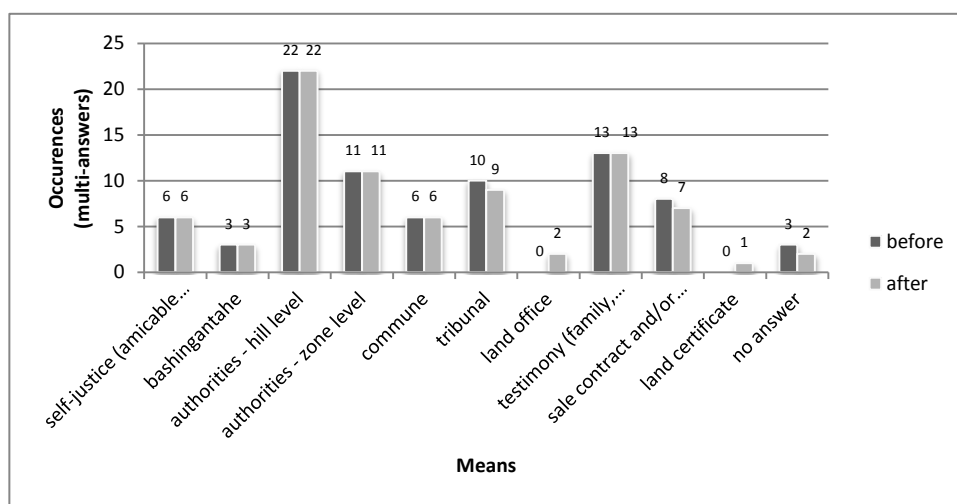


Figure 34 – Results for the questions in relation to the enforcement for the rights in relation to disputed sale (Q53a and Q54a)

With regards to disputes in relation to sale (Figure 34), before and after the land office establishment, the authorities at the hill level (twenty-two respondents) are the most important stakeholders in conflict resolution process. The bashingantahe (three respondents), authorities at the zone level (eleven respondents), commune (six respondents) and the tribunal (ten respondents) are also, in a smaller importance, stakeholders. Six respondents solve the problem by themselves. Thirteen respondents rely on testimony and eight on the sale contract for evidencing their claim. After the establishment of the land office, two respondents see the land office as an option of conflict resolution, and one considers the land certificate as important evidence. But essentially, the situation remains the same. Consequently, from the respondents' perspective, the implication of land office in the conflict resolution in relation to disputed sale is minor.

Some respondents identify the lack of family consent as an important source of disputes in relation to the right to sell. In many cases, the sale is cancelled, the buyers refunded and the parcel returned to the family.

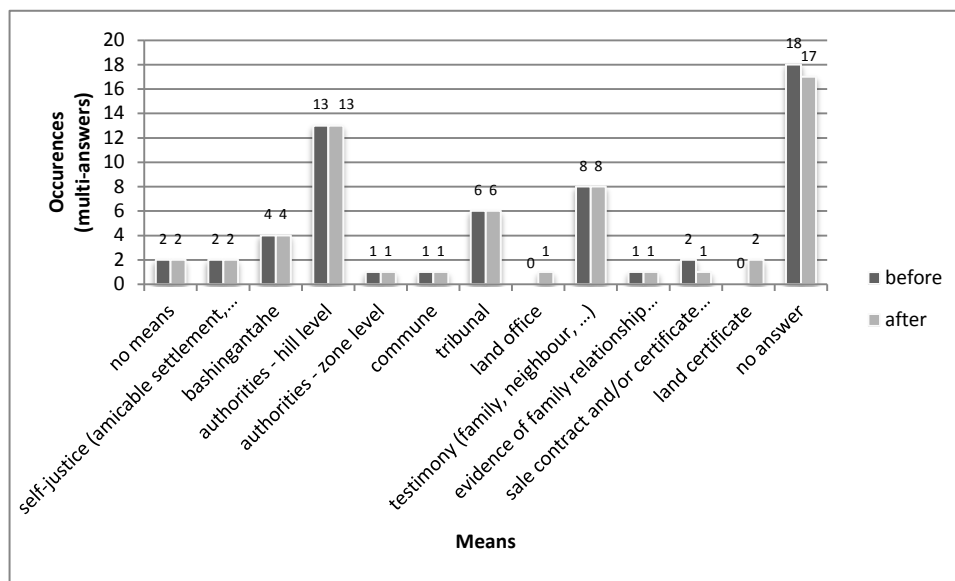


Figure 35 – Results for the questions in relation to the enforcement for the rights in relation to disputed donation (Q53b and Q54b)

In regard to disputed donation (Figure 35), many respondents do not consider the question (eighteen respondents). Before and after the land office establishment, the authorities at the hill level (thirteen respondents) are the mediators able to solve the conflict. The bashingantahe (four respondents), the authorities at the zone level (one respondent), commune (one respondent) and the tribunal (six respondents) could be also stakeholders in the process. Two respondents solve the problem by themselves. Eight respondents rely on testimonies for evidencing their claim, one on evidence of family relationship and two on the sale contract. After the establishment of the land office, one respondent consider the land office as a stakeholder, and two considers the land certificate as valuable evidence. Essentially, the situation remains unchanged. Consequently, from the respondents' perspective, the capacity of land office to solve conflict in relation to disputed donation is minor.

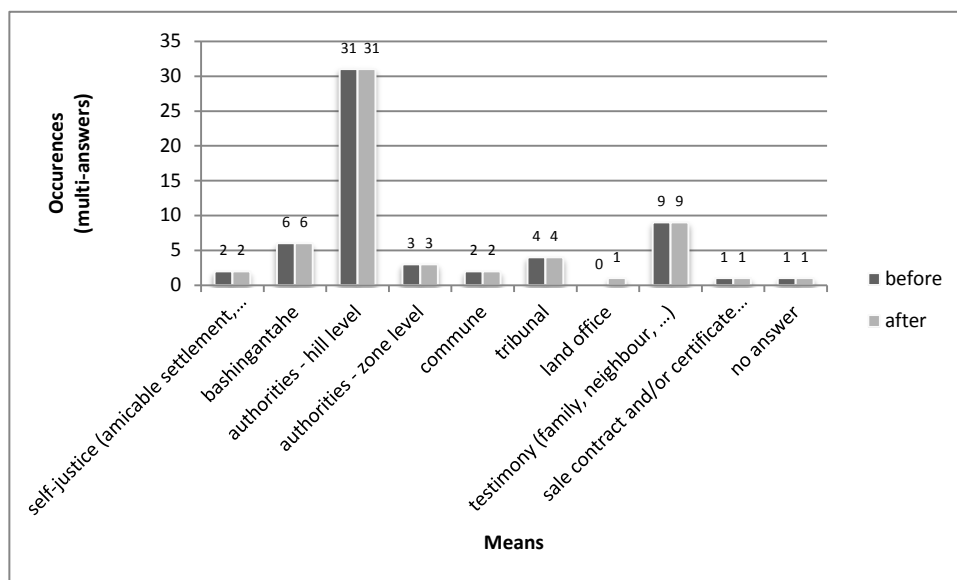


Figure 36 – Results for the questions in relation to the enforcement for the rights in relation to disputed succession (Q53c and Q54c)

In regards to disputed succession (Figure 36), before and after the land office establishment, the authorities at the hill level (twenty-one respondents) are the main actor in the conflict resolution process. The bashingantahe (six respondents), authorities at the zone level (three respondents), commune (two respondents) and the tribunal (four respondents) may have also implication in the conflict. Two respondents solve the problem by themselves. Nine respondents rely on testimony and one on the sale contract for evidencing their claim. After the establishment of the land office, one respondent consider the land office as an option for the conflict resolution. The situation, before and after the land office, is mostly identical. Consequently, from the respondents' perspective, the implication of land office in the conflict resolution in relation to disputed sale is insignificant.

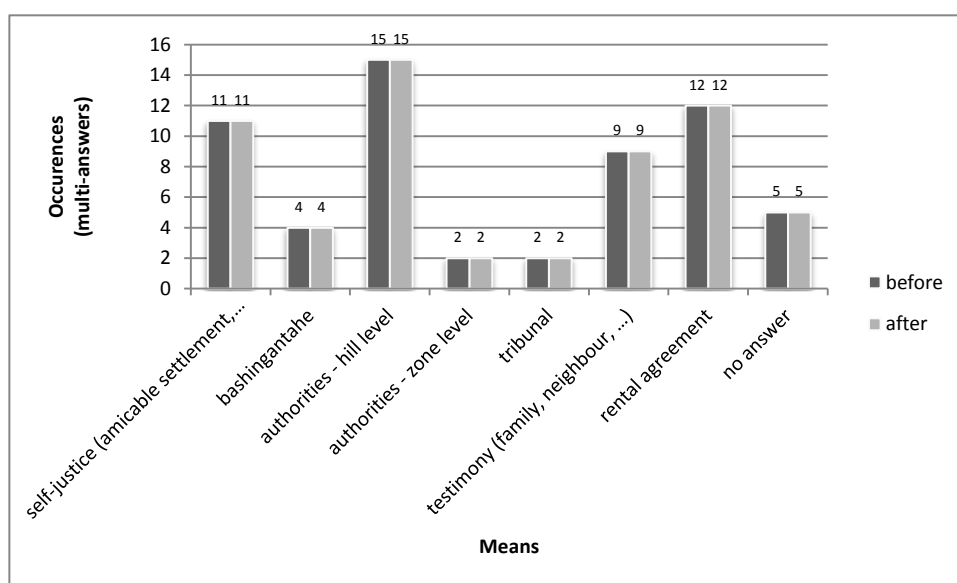


Figure 37 – Results for the questions in relation to the enforcement for the rights in relation to disputed rent (Q53d and Q54d)

In regards to disputed rent (Figure 37), eleven respondents consider that the problem should be solved in amicable agreement. Before and after the land office establishment, the authorities at the hill level (fifteen respondents) are the main actor in this kind of conflict resolution. The bashingantahe (four respondents), authorities at the zone level (two respondents) and the tribunal (two respondents) may also play a role in the conflict resolution. Nine respondents rely on testimony and twelve on the rental agreement for solving the dispute. Land office has no implication in the process. Consequently, the situation, before and after the land office, is identical.

#### 4.2.3.4. Summary for the enforcement of the rights

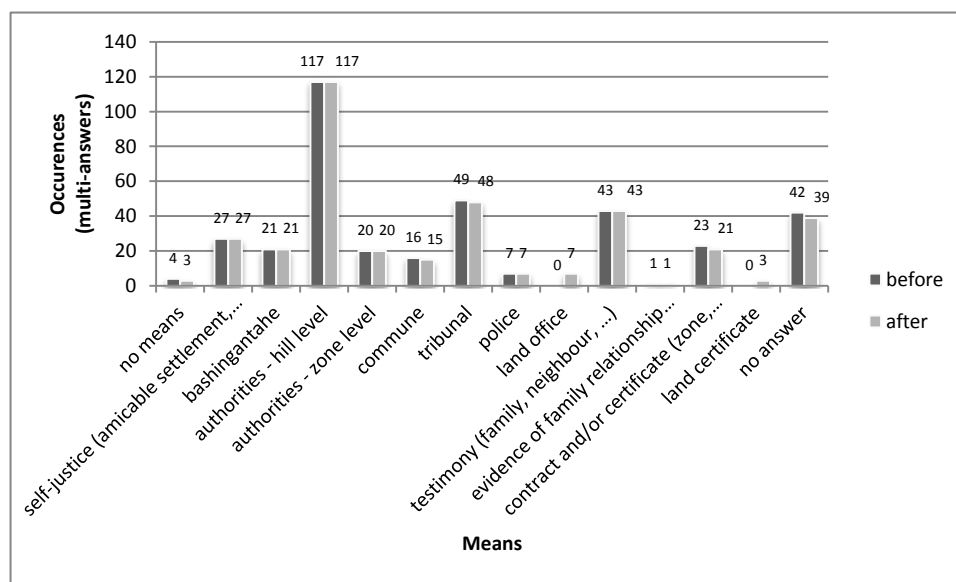


Figure 38 – Compilation of the results for the questions in relation to the enforcement for the right (Q13a, Q14a, Q33a, Q34a, Q53a, Q53b, Q53c, Q53d, Q54a, Q54b, Q54c and Q54d)

In general, the authorities at the hill level are by far the main actors for all the types of conflict (Figure 38). Authorities at hill level act as mediators, policemen and gateway to the other levels of administration and services. They are the key actors in all the enforcement processes. The only exception is the prevalence of the tribunal for the enforcement of the right to use. The tribunal dispenses justice in many enforcement processes. In many cases, they act as the ultimate recourse when mediation fails. The bashingantahe, the authorities at the zone level, the commune and the police may also play a role in conflict resolution. Self-justice is also a solution for some respondents. Testimony is the most important way to bring evidences in conflicts. Contracts and certificates are also used in some proportion. The importance of the land office and land certificates as such for conflict resolutions is negligible.

### 4.3. Object of right

The land could be conceived as a continuous surface and, in most of the cases, properties are not naturally and clearly defined. In itself, a property is an abstraction referring to the spatial extent of a right. Therefore, property has to be materialized. Behaviours, material evidences on the ground, documents are ways to demonstrate and to evidence a claim. In the first part, the aspect of defining and evidencing objects of right is considered for the commune of Ngozi (section 4.3.1). The second part (section 4.3.2) presents the way the respondents find recognition for their definition of their property. The third part presents the way the respondents enforce the definition of their property (section 4.3.3).

#### 4.3.1. Definition and evidence of the objects of right

For this study, the different modes of defining and evidencing parcels have been divided in three groups: the obstacles (section 4.3.1.1), the conventional landmarks (section 4.3.1.2) and the written evidences (section 4.3.1.3). These groups are classified according to their level of abstraction. Obstacles act like a physical constraints and force others to respect the property boundary. It could be amongst others, walls, ditches, fences, hedges. Conventional landmarks are commonly recognized and agreed physical marks, but they do not physically constrain others' behaviour. Written evidences include written descriptions, measurements, sketches, plans and maps. These evidences are material evidences but they do not have physical and concrete reality on the ground.

##### 4.3.1.1. Obstacles

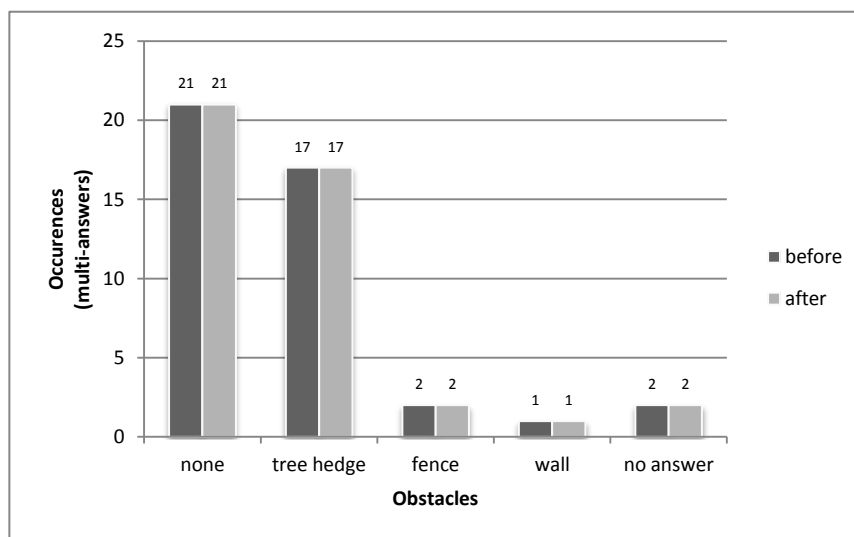


Figure 39 – Results for the questions in relation to the obstacles (Q17b and Q18b)

Twenty-one respondents don't have any obstacle for entering their land. Seventeen uses tree hedge to limit the access to their property. These hedges are sometimes constituted with the same trees used for defining conventionally the property (see section 4.3.1.2 *Conventional landmarks*). Two have fence and one a wall in concrete. According to respondents, open fields in rural area are generally not materially constrained. Only spaces used for housing are enclosed with hedges, fences or walls. The land office did not bring any change to this situation.

#### 4.3.1.2. Conventional landmarks

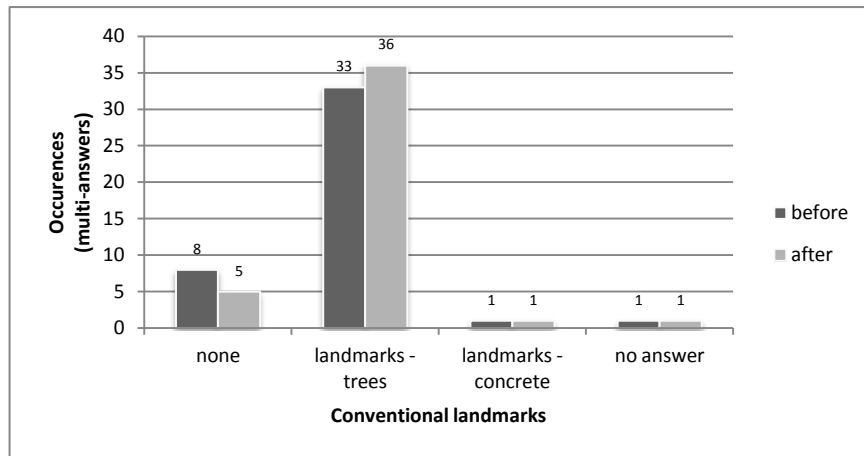


Figure 40 – Results for the questions in relation to the conventional landmarks (Q17c and Q18c)

Official landmarks are exceptions in rural area (only one occurrence for our study). Traditionally, farmers used some specific kind of trees – the *euphorbia tirucalli* (called *umunyari* in Kirundi) or the *dracaena afromontana* (called *inganigani* in Kirundi) – to materialize the limits of their property. Thirty-three parcels were already defined this way before the establishment of the land office. The land office employees followed this traditional way of defining property and systematically planted trees at every boundary extremities. Consequently, thirty-six parcels were completely defined this way after the coming of the land office employees. But in few cases, the young trees were afterward destroyed by cattle (eating, trampling on). This explains the five parcels still without any conventional landmarks after the establishment of the land office.

#### 4.3.1.3. Written evidences

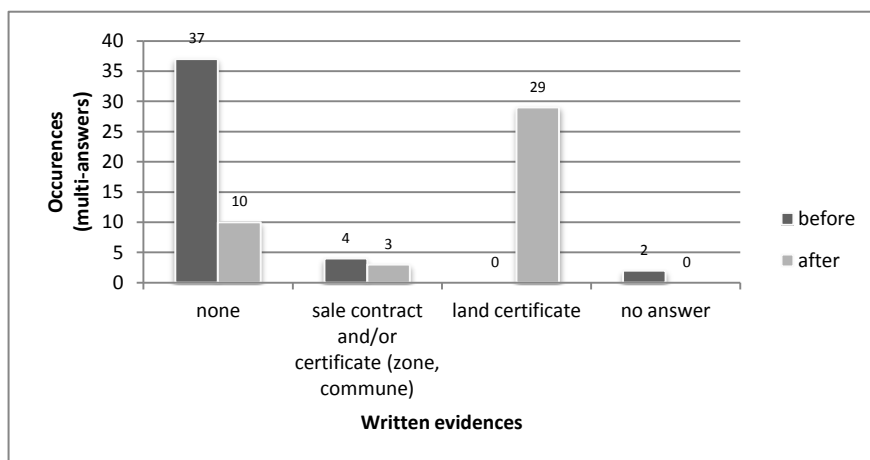


Figure 41 – Results for the questions in relation to the written evidences (Q17d and Q18d)

Before the establishment of the land office, formal definitions of the parcel exist only in some sale contracts (essentially mentioning the parcel measurements in length and width). Thirty-seven parcels were without any form of documentation. Only four respondents could pretend to have written evidence

before the establishment of the land office. The land office introduced for the first time plans of the parcels. This method brings a more detailed and systematic way of evidencing parcels. Even respondents who did not collect the land certificate consider the land office and their land certificate as a possible recourse for finding, if needed, a written evidence of their property definition.

#### 4.3.1.4. Disputed boundaries

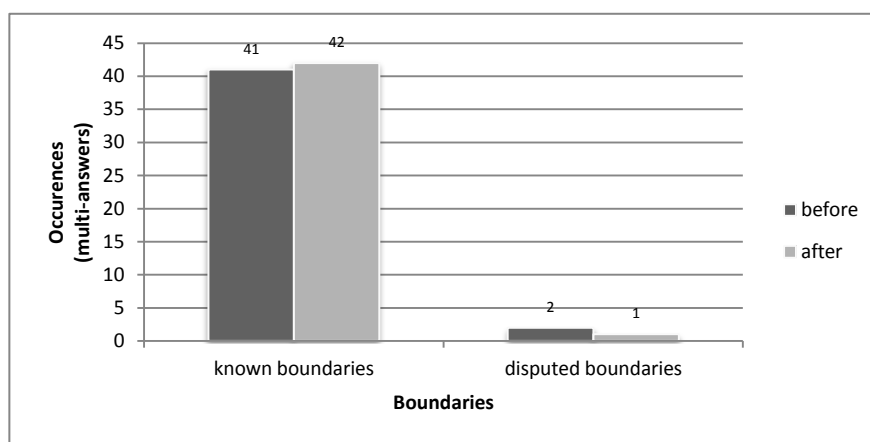


Figure 42 – Results for the questions in relation to the boundaries (Q15a and Q16a)

Before the land office, boundaries were known by the respondents in forty-one cases. Land office employees, with the help and the consent of the neighbours, officialized the boundaries and registered them in the land registry. Consequently, before a parcel could be registered in the land registry, all disputes between neighbours have to be solved. During the adjudication process, local authorities and tribunal contributed to the systematic resolution of all the conflicts in the area. Land office employees also act like mediators for conflict resolution. In our sampling, one case of boundary conflict resolution appeared. Another case is still disputed. The case appears in fact to be related to the cancellation of a contract, but it impacts as a boundary conflict also.

#### 4.3.2. Recognition of the objects of right

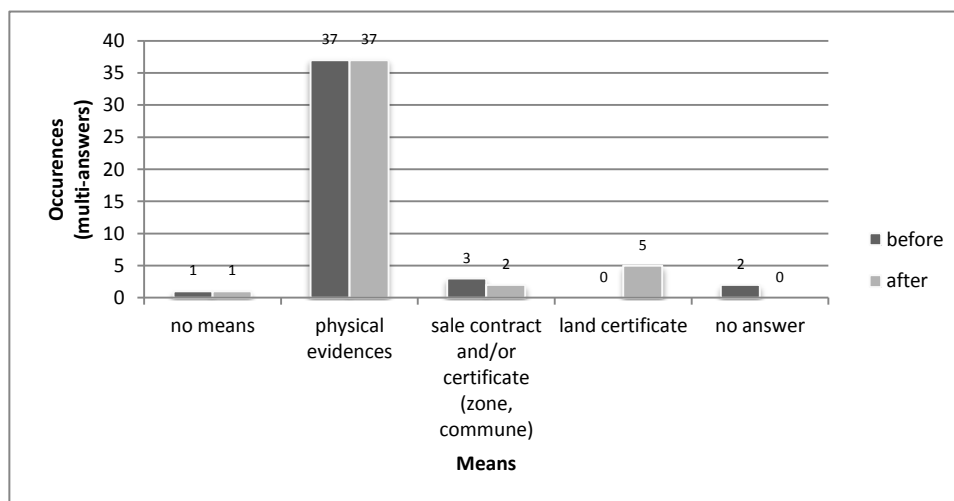


Figure 43 – Results for the questions in relation to the recognition for the object of right (Q17a and Q18a)



The major evidence for defining property boundaries was and remains for thirty-seven respondents the physical evidences. Obstacles and conventional landmarks were and remain, for most of the respondents, the authoritative way of defining property boundaries. Five respondents consider the land certificate as the authoritative way of defining property boundaries. Sale contracts and certificates are seen as a complementary source of information.

#### 4.3.3. Enforcement of the objects of right

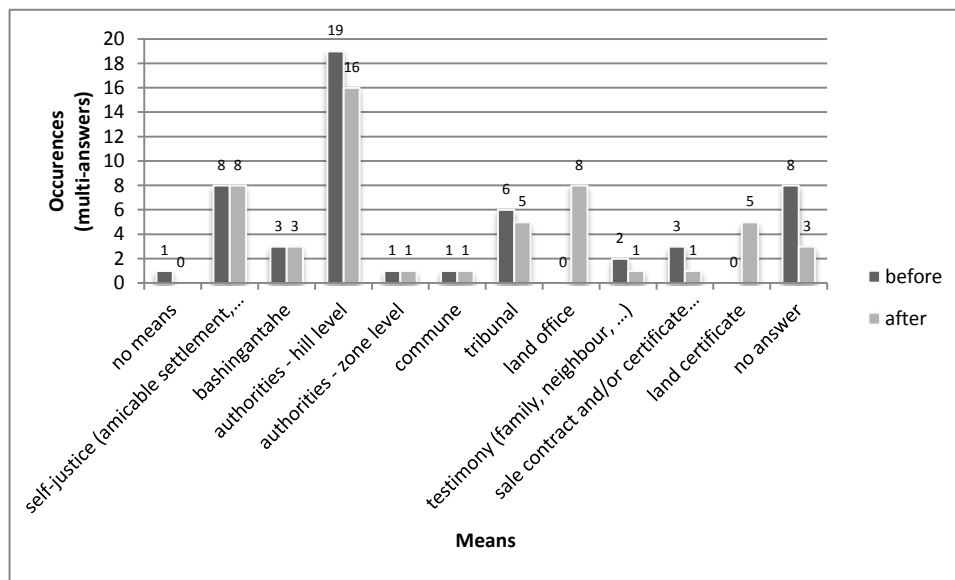


Figure 44 – Results for the questions in relation to the enforcement for the object of right (Q19a and Q20a)

Before the establishment of land office, in case of boundary conflict, nineteen respondents consider the authorities at the hill level as the first responders for the conflict resolution process (Figure 44). In a smaller proportion, the tribunal (six respondents), the bashingantahe (three respondents), the authorities at the zone level (one respondent) and the commune (one respondent) could also be requested to solve the problem. Eight respondents solve the problem by themselves. The establishment of land office brings new possibilities for some respondents: eight believe that land office could be a stakeholder in the process and five considers the land certificate as a valuable tool for the conflict resolution. Consequently, from the respondents' perspective, the capacity of land office to directly solve conflict in relation to the object of right is minor.

#### 4.4. General modes of recognition and enforcement

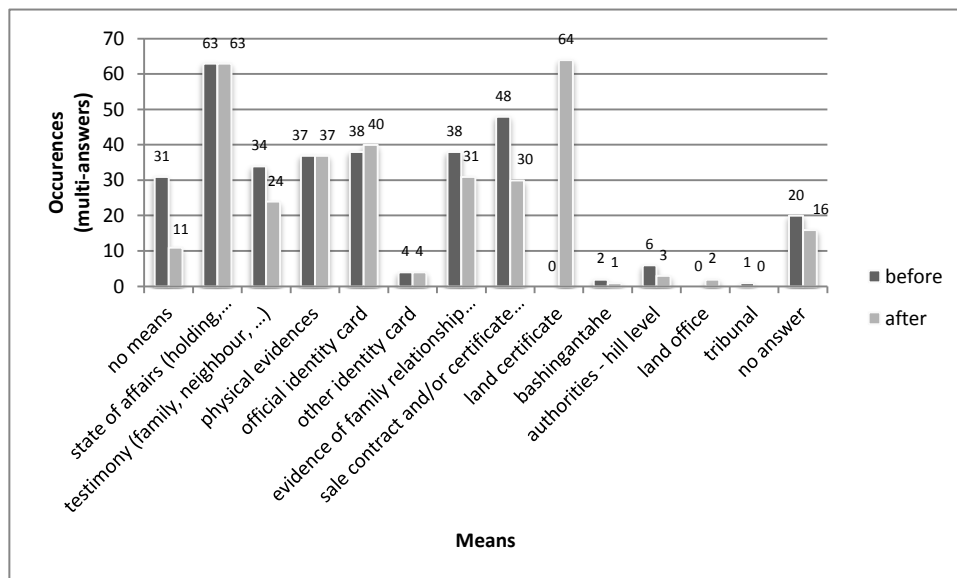


Figure 45 – Compilation of the results for the questions in relation to the recognition for the subject of right, the right and the object of right (Q3a, Q3b, Q4a, Q4b, Q11a, Q12a, Q17a, Q18a, Q23a, Q24a, Q31a, Q32a, Q43a and Q44a)

Evolving in a system of local recognition in many aspects, the respondents considered and still consider the state of affairs, the testimonies from the locals, the physical evidences on the ground and the evidences of family relationships as important modes of recognition for land rights (Figure 45). However, official identity cards, the sale contracts, the land certificates are also important means to demonstrate land rights. For some respondents who acquired their land by purchase, the land certificate replaces the sale contract and sale certificate. For other respondents who acquired their land by succession, the land certificate was the first written evidence of their ownership.

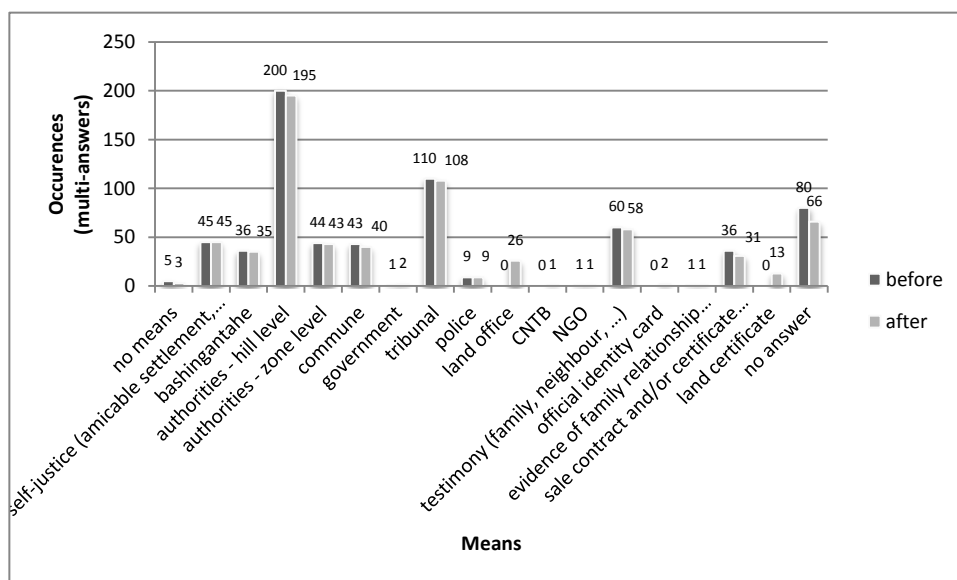


Figure 46 – Compilation of the results for the questions in relation to the enforcement for the subject of right, the right and the object of right (Q5a, Q5b, Q6a, Q6b, Q13a, Q14a, Q19a, Q20a, Q25a, Q26a, Q33a, Q34a, Q45a, Q46a, Q53a, Q53b, Q53c, Q53d, Q54a, Q54b, Q54c and Q54d)

The authorities at the hill level and, at a lower level, the tribunal are seen as the main institutions for the resolution of the land-related conflicts (Figure 46). The authorities at the hill level provide a local and affordable way to solve conflict by mediation. They are also the gateway to lawsuits in many cases. The tribunal is left without any explicit legal directives in many important matters. They judge generally according to the customs. The *bashingantahe*, the authorities at the zone level, the administrators at the commune are also seen as an alternative by some respondents.

## 5. DISCUSSIONS

In concordance with the chapter on the results, this chapter presents the discussion in relation to the division *subject of right / right / object of right*. The first part presents a discussion in relation to the subjects of right (section 5.1), the second part presents a discussion in relation to the rights as such (section 5.2) and the third part presents a discussion in relation to the objects of right (section 5.3). The chapter is concluded by a general discussion on the results (section 5.4).

### 5.1. Subject of right

The interviews revealed that the legal arrangement of owners is more complex than the situation adjudicated and registered at the land office. The situation raises the question of the flexibility of the land office in the registration process and the land rights recognition. It also raises the question of the lack of legal instruments for the recognition and the enforcement of the rights on land.

Because the registry records only full ownership rights, other legal arrangements (as the divided and the undivided co-ownerships or usufruct) are not registered. For example, registration under the name of the family leader creates a situation where all the other members of the family need also to prove their ownership through the family ties to this person: sons, daughters, brothers and sisters need to prove their family ascendance, wives and widows need to demonstrate their marriage contract and to prove they had children. The provisions of the *Land Act* (République du Burundi, 2011b) define many different land rights: full ownership (articles 16 to 22) co-ownership (articles 23 to 29), emphyteusis (articles 44 to 56), usufruct (articles 57 to 87), right to use (articles 88 to 95), servitude (article 96 to 133), hypothec (article 134 to 186). Because the registry recorded only full ownership rights, other legal arrangements are not presented in the registry and other land right owners remain without the formal recognition provided by the land certificate. The national identity card and the land certificate represent important progresses for the recognition of persons and the recognition of person as the subject of a right, but the land certificate is not, for some respondents, a sufficient proof of ownership. Some cases necessitate other evidences (testimonies of family and neighbours, evidences of family relationship, sale contracts, donation deeds) to demonstrate they can exercise rights.

Many problems in relation to land are actually related to the definition of the subject of right and not to the substance of the land right itself. What are the partner's rights on partner's property? What are the family members' rights on a relative's property? Who can inherit? These questions are related to the subject of right (who has the right to exercise land rights) and raise the issue of the absence of legal frameworks for family, succession and donation matters. Family laws are especially important for the recognition of the wives' and the widows' rights. They are also important in the issue of the family consent – which is an important source of many family disputes and transaction cancellations. Succession laws are peculiarly important for the protection of daughters, widows, single mothers, single mothers' children and orphans (ILC, 2004). Succession was the source of 43,7% land-related conflicts according to the respondents to a national survey (Elbow et al., 2014) and represented in itself 35.3% of all the land-related cases and 25,3% of all the cases judged by the *Tribunaux de Résidence* (RCN Justice & Démocratie, 2009b; République du Burundi, 2011a). The situation revealed that some problems related to the succession and

to the protection of the family (widows, orphans, illegitimate child) are mainly addressed as land related conflicts. The lack of legal framework for family rights, successions and donations, leaves the judicial actors without formal guidelines for recognizing and enforcing land rights in relation to the subject of right. The cases are judged according to the “customs”.

As the results reveal, the land office and the land certificates are seen as valuable tools to demonstrate and to evidence rights on a parcel, but they are not considerate in themselves as sufficient to solve conflicts. Authorities at the hill level are the main actors in the conflict resolution in relation to the subject of right. They act essentially as first responders and mediators. As a local authority, they have a concrete knowledge of the situation, but legally, they have few coercive powers. The tribunal is the institution legally empowered to constrain and enforce land rights. But the lack of formal guidelines for many matters in relation to the subject of right creates a delicate situation where the authorities have to apply the protection granted to land certificates by the laws in a customary context.

## 5.2. Right

The respondents use actually their property for agricultural purposes. They generally use their land without any restrictions in terms or application or duration. All the different rights are seen as prerogative of the ownership rights. By themselves, these rights don't have to be recognized or are recognized through a demonstration of the property right.

Only the full ownership, the right to sell and, at a very small scale, the right to donate, are instructed by official authorities with evidences (witnesses, written contracts authenticated and registered, land certificates) and receive formal recognition. All the other ways are exercised in the margins of any forms of authorities and risk nullity (*Land Act*, article 345, paragraph 2°) (DDC, 2013). With the exception of the right to transmit by inheritance, all the rights to dispose are concluded by a verbal contract or a private contract and done in front of witnesses (family, neighbours, authorities at the hill level, bashingantahe). The right to transmit by inheritance is exercised within the family in front of witnesses (generally the authorities at the hill level or the bashingantahe) and is almost never documented and registered (APDH, 2013).

Consequently, the enforcement processes suffer from this lack of official evidences and official guidance. Testimony is the most important way to bring evidences in conflicts. Private contracts and certificates are also used in some proportion. The authorities at the hill level are by far the main actors for all the types of conflict. They act as mediators, policemen and gateway to the other levels of administration and services. The tribunal acts as the ultimate recourse when mediation fails and dispenses justice in many enforcement processes. Self-justice is also a solution for a certain proportion of respondents. In general, with the exception of sale, the land office did not affect in substance the rights and the way they are exercised.

The situation raises the question of the lack of flexibility for the recognition of the different legal arrangement and the lack of legal instruments for the recognition and the enforcement of certain rights (especially the right to transmit by inheritance and the right to donate) – as it was previously presented in the section 5.1 *Subject of right*.

The situation raises also the issue for the government to anchor the public initiatives into the citizens' practises. Specifically, the situation raises the difficulties for land office to introduce itself into the succession and the donation processes. Until 1966, the central government had few effects on the citizens'

practices. Supplementing to the official institutions for a long time, the customary institutions (authorities and rules) are nowadays eroded – undermined by the colonial and the post-colonial policies and the years of war. They are not anymore socially recognized institutions (GRET, 2009; RCN Justice & Démocratie, 2009a; République du Burundi, 2011a). Facing the situation of a lack of authorities, the citizen developed their own initiatives. The documentation of the sale transactions in private contracts or authenticated contracts is one example (GRET, 2009; République du Burundi, 2008b). The land office took over the authentication of sale transactions and is seen by the respondents as an important stakeholders in the sale process. But the situation is very different for the succession process. A study realized in the communes of Ngozi and Ruhororo (APDH, 2013) presented some explanations about the almost absence of voluntary registrations for inherited land. The reasons were:

- 1) the lack of awareness of the citizen
- 2) the lack of financial means to complete the registration or the lack of will for assuming the costs of the registration
- 3) the small risks of conflicts related to familial transactions
- 4) the technical incapacity to register due to conflicts on the land

With regards to the lack of awareness, until recently, the laws of Burundi were totally unknown to the majority of the citizen. Even tribunals gave sentences without any access to the official laws. A lot was done in the last years to distribute copies of the official laws to officials and to make the provisions of the law known by the citizen (RCN Justice & Démocratie, 2009a). Despite of all these efforts, only 5.6% of the respondents to a national survey were aware about the revision of the *Land Act* in 2011 (Elbow et al., 2014). With regards to the lack of financial means, the explanations revealed that the need for the registration or the direct benefits in relation to its costs are sometimes not perceived by the citizen. Most of them survive only with the products of their parcels and can free the money for the registration (or for any other purpose) only with difficulty. The two last elements rise the aspect of familial conflicts and, underlying, the lack of definition for certain rights and the way to exercise them – peculiarly for the processes of donation and inheritance. Already in 2000, the *Arusha Peace and Reconciliation Agreement for Burundi* presented the “promulgation of a law on succession” (Protocol IV, chapter I, article 8, paragraph g) as one of the most importance measure to avoid conflicts over land. Marriage, succession and donation are the only important elements of the civil rights to still be judged according to customs. These are precisely the elements where the Burundians show major cultural specificities and differences from the civil laws inherited from the Belgian civil code. The lack of formal and precise definition for these practises leaves some citizen without any legal protection – or at least without any possibility to challenge the constitutionality of some discriminating customs acting as *ghost laws*. The floating situation leads to confusions and abuses and – consequently to insecurity.

### 5.3. Object of right

According to the respondents to a national survey, 18.0% of the conflicts were related to the boundaries (Elbow et al., 2014). In Ngozi, during the adjudication process, land office employees proceeded to the systematic marking of all the properties with specific trees according to the traditional customs. The registration was an incentive to solve the boundaries disputes (DDC, 2014). Even for boundaries not actually in conflict, land office employees helped to clarify and precise the objects of right. They also proceeded for the first time to the systematic mapping of the parcels, producing for the first time a graphical evidence of the parcels (DDC, 2013c). The marking of the land with trees has for consequence that disputes related to boundary are seen as very unlikely now.

For most of the respondents, the physical evidences remain the most important way to evidence the object of right. Boundary disputes are solved within a local context with the help of the authorities at the hill level.

When they introduce the land certificate with the *Land Act* in 2001, the government moved from a titling system to a dual titling/deed system. With the provision of the article 320, the government is legally responsible for all the mistakes done in relation to the land title. Consequently, the government gives guarantees over the boundaries defined in a title. In relation to the provisions of the article 409, the land certificate is a proof of registration or, in other words, an official recognition that the right is published and opposable to third parties. The legal status of the boundaries on land certificates is not clear – peculiarly in relation to other evidences like evidences of occupation, landmarks, etc. This could have impact on the effects of adverse possession for instance.

In general, the impact of the land office on the definition of the objects of right is clear and documented (DDC, 2013a, 2013b, 2013c, 2014). The issues are mainly focused on the way this definition is and will be interpreted in the recognition and enforcement processes.

#### 5.4. General discussion

Historically, in the pre-colonial Burundian society, the king (*mwami*) or his representatives (*abaganwa*) granted domains (*itongo*) to their subjects (Amani, 2009). As a counter-power, the council of elders (*bashingantabe*) has the legitimacy to judge according to the customs and consequently to limit the king's powers. In this system, the king owned, in feudal legal terms, the eminent property (*propriété éminente*, also understood as eminent domain or sovereignty) and the grantee, the useful property (*propriété utile*). Concretely, the king had the privileges to set rules and constraints and to eventually remove the grant. He also recovered the full property for unclaimed assets (by absence of heirs, abandonment or banishment). Otherwise, the grantee owned all the remaining rights on the *itongo*. Traditionally, the *itongo* was managed by the family chief and was transmitted by inheritance through the male lineage (Amani, 2009; Elbow et al., 2014; GRET, 2009). The land, passed from the fathers to the sons, and was conceived as the “fatherland”. The colonial era affected the traditional structures, but the dualist system left mainly untouched the traditional practices in rural area. The post-colonial governments brought important changes in the relation to land – especially with the introduction of a national private property system –, but they remained too weak to influence deeply everyday practices (Elbow et al., 2014; GRET, 2009). Therefore, the preservation of the “fatherland” integrity and, consequently, the importance of family ties in the access to land, are still overarching notions to approach the traditional relations to land in rural area. This explains why daughters married and leaving the family lose all their rights on their fathers' property (and consequently on his succession). This also explains why unmarried daughters keep rights on the land as long as they live on the land. This also explains why the single mothers' children (illegitimate children) don't have any claim on the land and on the succession. This also explains why widows with children conserve rights on her husband's family land, while widows without children may lose all their rights on their husband's property.

The link between land and family also explains why the state of affairs – the fact that they and their family always occupy the land –, the testimonies from the locals – stating that they and their family always occupy the land – and the evidences of family relationships are still important modes of recognition for land rights. This also explains why succession is still mainly a family matter and does not imply external authorities. This also explains why donation of the family land to a stranger could be conceived as the

recognition of an illegitimate child. In most of these cases, owners don't perceive the need, or the cost-value benefits, to evidence or to register the rights or the transfer of rights. For many cases, the land certificates (delivered after the adjudication process done for the systematic registration) was the first written evidence of ownership.

The traditional link between family and land acts as an inertial force on every relation to land. The importance of the relation between family and land explains the need for documenting sale transactions – and, in a smaller proportion, donations. Often sales are challenged by families on the basis that the land was not sold but rented. On their side, donations are challenged by families on the basis that the donor exceeded his right to dispose of the family land. To counterbalance the default situation of family ownership, the buyers or the recipient needed to evidence clearly the terms of the sale transaction or of the donation. Documenting the transaction on paper (in private contract) and, later, by authenticating the documents with local authorities, and now by registering the right at the land office, are ways to protect the buyers' and recipients' claims on the land. The importance of evidencing sale, compared to succession for example, could be seen through the facts that 86.2% of the registration done on a voluntary basis in ten communes were for sale transactions (APDH, 2013).

Nowadays, the traditional structures disappeared or are disappearing. The monarchy was abolished in 1966. The *bashingantahe*, by their political acquaintance with political regimes, their lack of transparency and accountability, and by cases of corruption, lost a lot of their traditional prestige and authority. They are no more seen by the respondents in Ngozi as important players in the enforcement process. The authorities at the hill level and the tribunal are now seen as the main institutions for the resolution of conflicts. The authorities at the hill level essentially work as mediators. In these cases, social harmony is seen more important than personal rights. Important concessions disregarding established rights could be asked to both parties to find a solution to the conflict. Sale, donation and renting could be cancelled. Succession could be resumed. On their side, the tribunal is often left without any explicit legal directives and judges according to the customs. However, mediation has limits and tribunal is not always perceived as an affordable solution. 43% of conflicts remains unsolved (Elbow et al., 2014).

The traditional institutions are at a turning point. Traditional structures are vanishing. The lack of formalization for the traditional rights, the individualization and the commoditization of the land, the rising considerations for women's rights are elements challenging the relevance of the traditional institutions (République du Burundi, 2008a). The traditional process for succession leaves the farmland fragmented and unsustainable. The scarcity of land creates a situation of harsh competition for the access to the resources – even within family. In this context, land conflicts are considered as one of the most important threats to social peace in Burundi and the traditional mode of succession is pointed out as one of the main reason. In general, citizen wish for better land recognition and enforcement processes (Elbow et al., 2014).

But the governmental initiatives still need to be anchored into the citizens' practises. Initiatives still remains unknown or inaccessible. Important topics related to family laws, succession laws and donation laws are left without any provisions. The recognition and enforcement of land rights are generally submitted to the authorities at the hill level or at the tribunal. The authorities at the hill level have the responsibility, according to the provisions of the *Communal Administration Act* (République du Burundi, 2010b), to insure on the hill, the arbitration, the mediation and the conciliation the resolution of neighbourhood disputes (article 34, paragraph 2°). They have also the responsibility to implement measures to develop and preserve the social peace on the hill (article 34, paragraph 1°). Consequently, they developed local initiatives – like voluntary comity for security. They have a direct knowledge of the reality



on the ground and they provide local, affordable and rapid services – because essentially most of them are local voluntaries (République du Burundi, 2012). They are legitimate authorities, but also, as the results of the study shown, recognized authorities. Tribunals need clear and formal definition for the subjects of right, the rights and the objects of right . The lack of legal framework for family rights, successions and donations, leaves the judicial actors without formal guidelines for recognizing and enforcing land rights. The *Arusha Peace and Reconciliation Agreement for Burundi* already addressed the problem in 2000 (Protocol IV, chapter I, article 8, paragraph g). The government of Burundi addressed the problem (République du Burundi, 2011c) and previously presented without success a proposition of law on successions, liberalities and matrimonial regimes in 2009 (République du Burundi, 2009). In the same terms that RCN Justice & Démocratie presented the situation in 2004, the OAG in 2007 and Kohlhausen in 2008, these authorities, without official guidelines, apply in some cases the provisions of the law, in other cases the customs, in other cases their personal conception of an equitable solution, in other cases they simply comply with the request of the most influent party. The results of this study reveal, even after the establishment of land offices, a lack of strong social institutions in many aspects of the land tenure.

## 6. CONCLUSION

This study sought, as a **General Objective**, to determine how the implementation of the communal land office affects the practices of Ngozi inhabitants in the recognition and the enforcement of land rights. To achieve this objective, three research questions in relation to three specific objectives were posed. Each of them was divided in three underlying questions.

The **Research Question 1** sought to determine how Ngozi inhabitants conceived and enforced their rights in relation to land before the implementation of the communal land office.

The first sub-question – the **Research Question 1.1** – researches what their rights/claims related to land were. The results shows that, before the implementation of the land office, most of the respondents, in different familial arrangements, used, enjoyed and disposed of their property without any restrictions in terms of application or duration.

The second sub-question – the **Research Question 1.2** – researches how the land rights were defined and recognized by the different authorities. The results show that, before the land office, a large proportion of the respondents evolved in a system of local recognition. They had no written evidence of ownership. In these cases, the state of affairs – the fact that they and their family had always occupied the land –, the testimonies from the locals – stating that they and their family had always occupied the land – and the evidences of family relationships were the most usual ways to demonstrate their rights. The right to transmit by inheritance was exercised within the family in front of witnesses (generally the authorities at the hill level or the bashingantahe). All the other ways to dispose of the land were generally concluded by a verbal contract or a private contract and done in front of witnesses (family, neighbours, authorities at the hill level, bashingantahe). Only the sale was, within a significant proportion, documented and supported by the authorities. Conventional trees were largely used to mark the ground and define properties.

The third sub-question – the **Research Question 1.3** – researches how the land rights were enforced by the different authorities. The results show that all the evidences were mainly used inside local enforcement processes. The authorities at the hill level were the predominant actors. The conflict resolution process passed through mediation. Also an important actor, the tribunal, without provisions of the law in many matters, mostly applied local customs for their judgement.

The **Research Question 2** sought to determine how Ngozi inhabitants conceive and enforce their rights in relation to land after the implementation of the communal land office.

The first sub- question – the **Research Question 2.1** – researches what their rights/claims related to land are. The results shows that, with the implementation of the land office, most of the respondents, in different familial arrangements, uses, enjoys and disposes of their property without any restrictions in terms of application or duration.

The second sub-question – the **Research Question 2.2** – researches how the land rights are defined and recognized by the different authorities. The results show that, after the implementation of the land office,

the land certificate is the most important mean for the recognition of land rights. Testimonies of family and neighbours, evidences of family relationship and sale contracts are also used in an important proportion. The right to transmit by inheritance is exercised within the family in front of witnesses (generally the authorities at the hill level or the bashingantahe). All the other ways to dispose of the land are concluded by a verbal contract or a private contract and done in front of witnesses (family, neighbours, authorities at the hill level, bashingantahe). Only transfers by sale are in a large proportion registered. During the adjudication process, land office employees proceeded to the systematic marking of all the properties with specific trees according to the traditional way.

The third sub-question – the **Research Question 2.3** – researches how the land rights are enforced by the different authorities. The results show that all evidences are mainly used inside the local enforcement processes. The authorities at the hill level try to find solution through mediation and the tribunal applies for most of the cases the customs outside the provisions of the law.

The **Research Question 3** sought to determine the differences in the Ngozi inhabitants' practices, before and after the implementation of the communal land office.

The first sub-question – the **Research Question 3.1** – researches if the implementation of the communal land office affects the rights/claims related to land. The results show that, from the respondents' perspective, the land office did not affect in substance their rights and the way they are exercised.

The second sub-question – the **Research Question 3.2** – researches if the implementation of the communal land office affects the practices related to the recognition of the land rights by the different authorities. The results show that, after the implementation of the land office, the land certificate becomes the most important mean for the recognition of land rights. For many cases, the land certificate is the first written evidence of ownership and the first graphical evidence of the parcels. Testimonies of family and neighbours, evidences of family relationship and sale contracts are also used in an important proportion, but their importance substantially decreased. Even if properties are now registered, the updating processes are still deficient. Only transfers by sale are in a large proportion registered. Land office employees helped to clarify and precise the objects of right, even for boundaries not actually in conflict.

The third sub-question – the **Research Question 3.3** – researches if the implementation of the communal land office affects the practices related to the enforcement of the land rights by the different authorities. The results show that all the evidences are still mainly used inside the local enforcement processes. The authorities at the hill level still try to find solution through mediation and the tribunal continues to apply for most of the cases the customs outside the provisions of the law. The registration process was an incentive to solve the land-related disputes.

In relation with the definition of the security of tenure and the proposition that security and assurance come when the social institutions are stable and predictable, the **Anticipated Results** considered that, if the introduction of the *Land Act* and the implementation of the land office have an impact, the results will show that practices related to the recognition and the enforcement of land rights have been clarified and normalized. The results show that generally the authorities are not competing and their responsibilities generally are well defined, but the rules they apply are not clearly stated, mostly unwritten and evolving between customary rights and the provisions of the law. Consequently, the practices related to the recognition and the enforcement of land rights are not clear and normalized after the implementation of the land office.

## LIST OF REFERENCES

---

- Accord d'Arusha pour la paix et la réconciliation au Burundi (2000). Arusha.
- Amani, J.-P. (2009). *Évolution historique du droit foncier et son incidence sur la propriété foncière des Batwa au Burundi*. Forest Peoples Programme.
- Annot, C. D., Luckert, M. K., & Boxall, P. C. (2011). What is tenure security? Conceptual implications for empirical analysis. *Land Economics*, 87(2), 297–311.
- Arrunada, B. (2003). Property Enforcement as Organized Consent. *The Journal of Law, Economics, & Organization*, 19(2), 401–444. doi:10.1093/jleo/ewg016
- Association pour la Paix et les Droits de l'Homme (APDH). (2011). *Mise en oeuvre de services fonciers communaux dans la province de Gitega: Vers l'amélioration de la gestion foncière*. Bujumbura, Burundi.
- Association pour la Paix et les Droits de l'Homme (APDH). (2013). *Service foncier communal: avancées, défis et incertitudes*. Bujumbura, Burundi.
- Association pour la Paix et les Droits de l'Homme (APDH). (2015). Projets en cours. Retrieved February 10, 2015, from <http://apdh.objectis.net/programmes-et-activites/projets-en-cours>
- Attas, D. (2006). Fragmenting property. *Law and Philosophy*, 25, 119–149. doi:10.1007/s10982-005-8758-0
- Belgique. Loi du 18 octobre 1908 sur le Gouvernement du Congo Belge (1908).
- Belgique. Loi du 21 août 1925 sur le Gouvernement du Ruanda-Urundi (1925).
- Bruce, J. W., & Migot-Adholla, S. E. (Eds.). (1994). *Searching for land tenure security in Africa*. Dubuque, Iowa: Kendal/Hunt Publishing Company.
- Bryman, A. (2012). *Social research methods* (4th editio.). Oxford: Oxford University Press.
- Christman, J. (1994). Distributive Justice and the Complex Structure of Ownership. *Philosophy & Public Affairs*, 23(3), 225–250. doi:10.1111/j.1088-4963.1994.tb00012.x
- Coopération Technique Belge (CTB). (2015). Burundi. Retrieved February 10, 2015, from <http://www.btcctb.org/en/countries/burundi>
- Dekker, H. A. L. (2005). *In Pursuit of Land Tenure Security* (Vol. 235). Amsterdam: Pallas Publications.
- Direction du développement et de la coopération (DDC). (2012). *Rencontres foncières, Bujumbura 28-30 mars 2011*. (P. Thinon, A. Rochegude, & T. Hilhorst, Eds.). Coopération suisse & Cardère éditeur.
- Direction du développement et de la coopération (DDC). (2013a). *Analyse de l'impact du service foncier*.
- Direction du développement et de la coopération (DDC). (2013b). *Enquête sur l'état des mutations sur les propriétés foncières certifiées en Commune de Ngozi*.

- Direction du développement et de la coopération (DDC). (2013c). *Les opérations groupées de reconnaissance collinaire: gage d'une légitimation étendue des droits fonciers et de gestion communautaire des conflits*.
- Direction du développement et de la coopération (DDC). (2014). *Rapport narratif - Projet foncier Ngozi*.
- Durkheim, É. (1895). *Les règles de la méthode sociologique*. Paris, France: Félix Alcan, Éditeur.
- Elbow, K., Bigirimana, G., Thinon, P., Sindayigaya, S., & Seberege, P.-C. (2014). *Revue du secteur foncier au Burundi - Rapport complet provisoire du 19 janvier 2014*.
- Falisse, J.-B. (2011). Résultats de l'analyse des données recueillies dans le cadre des diagnostics sociofonciers menés dans les provinces de Karusi, Ngozi, Gitega et Ruyigi. In *Rencontres foncières, Bujumbura 28-30 mars 2011*.
- Ferrari, F. (2014). L'appui de la DDC aux réformes foncières en cours au Burundi et en RD Congo: Mise en oeuvre de mécanismes de reconnaissance et de sécurisation des droits fonciers coutumiers. In *Annual World Bank Conference on Land and Poverty: Integrating Land Governance into the Post-2015 Agenda: Harnessing Synergies for Implementation and Monitoring Impact*. Washington D.C.: World Bank.
- Food and Agriculture Organization of the United Nations (FAO). (2002). *Land tenure and rural development*. Rome: Food and Agriculture Organization of the United Nations.
- Groupe de recherche et d'échange technologiques (GRET). (2009). *Étude sur la problématique foncière au Burundi*.
- Gutwara Neza. (2013). Programme d'appui à la bonne gouvernance «Gutwara Neza». Retrieved February 10, 2015, from <http://www.gutwaraneza.bi/>
- Hohfeld, W. N. (1920). *Fundamental legal conceptions as applied in judicial reasoning and other legal essays*. (W. W. Cook, Ed.). New Haven: Yale University Press.
- Honoré, T. (1987). *Making Law Bind: Essays Legal and Philosophical*. Oxford: Oxford University Press.
- International Crisis Group. (2014a). *Les terres de la discorde (I): la réforme foncière au Burundi*. Nairobi/Bruxelles.
- International Crisis Group. (2014b). *Les terres de la discorde (II): restitution et réconciliation au Burundi*. Nairobi/Bruxelles.
- International Federation of Surveyors (FIG). (2010). *The Social Tenure Domain Model - A Pro-Poor Land Tool*. Copenhagen, Denmark: International Federation of Surveyors (FIG).
- International Fund for Agricultural Development (IFAD). (2015). IFAD's strategy in Burundi. Retrieved February 11, 2015, from <http://operations.ifad.org/web/ifad/operations/country/home/tags/burundi>
- International Land Coalition (ILC). (2004). *Sécuriser les droits des femmes: enseignements tirés d'expériences au Rwanda et au Burundi*. (E. Cangelosi & S. Pallas, Eds.).
- International Monetary Fund. (2007). *Cadre Stratégique de Croissance et de Lutte contre la Pauvreté*. International Monetary Fund.
- International Monetary Fund. (2012). *Cadre Stratégique de Croissance et de Lutte contre la Pauvreté*. International Monetary Fund.

- Kohlhagen, D. (2008). La justice dans le Burundi rural: Quêtes de légitimité et quêtes du droit. *L'Afrique Des Grands Lacs*, 93–108. Retrieved from <http://www.ua.ac.be/objs/00210760.pdf>
- Kumar, R. (2005). *Research methodology* (2nd Editio.). London: SAGE Publications Ltd.
- Lavigne Delville, P. (2006). Sécurité, insécurité, et sécurisation foncières: un cadre conceptuel. *Land Reform, Land Settlement and Cooperatives*, 2, 25–32.
- Lavigne Delville, P. (2010). Sécurisation foncière, formalisation des droits, institutions de régulation foncière et investissements. Pour un cadre conceptuel élargi. *Land Tenure Journal*, 1(1), 5–34.
- Nkunrunziza, A., & Falisse, J.-B. (2012). Appui à la gestion foncière décentralisée de l'Union européenne: le programme Gutwara Neza au Burundi. In P. Thinon, A. Rochegude, & T. Hilhorst (Eds.), *Rencontres foncières, Bujumbura 28-30 mars 2011* (pp. 73–75). Coopération suisse & Cardère éditeur.
- Normand, S. (2014). *Introduction au droit des biens* (2e édition.). Wilson & Lafleur.
- North, D. C. (1990). *Institutions, Institutional Change and Economic Performance*. Cambridge: Cambridge University Press.
- Observatoire de l'Action Gouvernementale (OAG). (2007). *Analyse critique du fonctionnement de la justice de proximité au Burundi*. Bujumbura, Burundi.
- Programme Post-Conflict de Développement Rural (PPCDR). (2015). Programme Post-Conflict de Développement Rural. Retrieved February 10, 2015, from <http://ppcdr.org/>
- RCN Justice & Démocratie. (2004). *Étude sur les pratiques foncières au Burundi: Essai d'harmonisation*. (G. Gatunange, Ed.).
- RCN Justice & Démocratie. (2009a). *Burundi: La justice en milieu rural*. (D. Kohlhagen, Ed.). Bruxelles.
- RCN Justice & Démocratie. (2009b). *Statistiques judiciaires burundaises: Rendement, délais et typologie des litiges dans les tribunaux de résidence*. (D. Kohlhagen, Ed.). Bujumbura, Burundi.
- République du Burundi. Loi n°1/010 du 18 mars 2005 portant promulgation de la Constitution de la République du Burundi (2005).
- République du Burundi. Loi n°1/23 du 20 avril 2005 portant Organisation de l'administration communale (2005).
- République du Burundi. Loi n° 1/18 du 4 mai 2006 portant Missions, Composition, Organisation et Fonctionnement de la Commission Nationale des Terres et Autres Biens (2006).
- République du Burundi. (2006b). *Monographie de la commune Ngozi*. Ngozi.
- République du Burundi. (2008a). *Lettre de Politique Foncière*.
- République du Burundi. (2008b). *Transition foncière dans l'Afrique des Grands Lacs: Résultats d'enquêtes participatives*. (A. Rochegude, Ed.).
- République du Burundi. Proposition de loi sur les successions, les libéralités et les régimes matrimoniaux (2009).

- République du Burundi. Décret n°100/72 du 26 avril 2010 portant adoption de la Lettre de politique foncière au Burundi (2010).
- République du Burundi. Loi n°1/02 du 25 janvier 2010 portant Révision de la loi n°1/016 du 20 avril 2005 portant Organisation de l'administration communale (2010).
- République du Burundi. (2011a). *Les défis de la justice de proximité au Burundi: Synthèse de la réflexion nationale de 2011*. (D. Kohlhagen, Ed.). Bujumbura, Burundi.
- République du Burundi. Loi n°1/13 du 9 août 2011 portant Révision du Code foncier du Burundi (2011). Burundi.
- République du Burundi. (2011c). *Politique sectorielle 2011-2015 du Ministère de la Justice*.
- République du Burundi. (2012). *Guide des élus collinaires*. Rusama.
- République du Burundi. (2013a). *Aménagement/réhabilitation des bassins versants et marais, pistes rurales et Sécurisation foncière*. (B. Habonimana, Ed.).
- République du Burundi. (2013b). *Rapport des projections démographiques 2008-2030*. Bujumbura, Burundi.
- right, n. (2014). Retrieved July 31, 2014, from <http://www.oed.com/view/Entry/165853?rskey=nbJfC6&result=1>
- security, n. (2014). Retrieved July 31, 2014, from <http://www.oed.com/view/Entry/174661?redirectedFrom=security>
- Simbizi, M. C. D., Bennett, R. M., & Zevenbergen, J. (2014). Land tenure security: Revisiting and refining the concept for Sub-Saharan Africa's rural poor. *Land Use Policy*, 36, 231–238. doi:10.1016/j.landusepol.2013.08.006
- Simbizi, M. C., Zevenbergen, J., & Bennett, R. (2014). Measuring the Land Tenure Security of Sub-Saharan Africa's Rural Poor. In International Federation of Surveyors (FIG) (Ed.), *FIG Congress 2014 - Engaging the Challenges - Enhancing the Relevance*. Kuala Lumpur, Malaysia.
- Simpson, S. R. (1976). *Land law and registration*. Cambridge, London, New York, Melbourne: Cambridge University Press.
- Sjaastad, E., & Bromley, D. W. (2000). The Prejudices of Property Rights: On Individualism, Specificity, and Security in Property Regimes. *Development Policy Review*, 18(4), 365–389. doi:10.1111/1467-7679.00117
- tenure, n. (2014). Retrieved August 23, 2014, from <http://www.oed.com/view/Entry/199286?rskey=gIb9JI&result=1>
- United Nations Economic Commission for Europe (UNECE). (1996). *Land Administration Guidelines: With Special Reference to Countries in Transition*. New York and Geneva: United Nations.
- United Nations Human Rights Council (UNHRC). (2012). *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, on the right to non-discrimination in this context* (No. A/HRC/22/46).
- United Nations Human Settlements Programme (UN-Habitat). (2008). *Secure Land Rights for All*. Nairobi.

United Nations Peacebuilding Commission. Strategic Framework for Peacebuilding in Burundi (2007).

Van Erp, S., & Akkermans, B. (Eds.). (2012). *Cases, Materials and Text on National, Supranational and International Property Law*. Oxford and Portland, Oregon: Hart Publishing.

Van Gelder, J.-L. (2010). What tenure security? The case for a tripartite view. *Land Use Policy*, 27(2), 449–456. doi:10.1016/j.landusepol.2009.06.008

Waldron, J. (1988). *The Right to Private Property*. Oxford: Oxford University Press.

ZOA. (2013). *Foncier communal dans les communes de Mabanda et Vugizo dans la province de Makamba du Burundi*. Bujumbura, Burundi.



## ANNEX I – SAMPLING

Table 1 – List of the hills

Hills	Zones	No	Parcels Qt.
Gihoma	Makaba	1	2066
Nkero	Makaba	2	2018
Hina	Mivo	1	2575
Mirango	Mivo	2	3084
Mivo	Mivo	3	2714
Mwungere	Mivo	4	2464
Kayogoro	Mubuga	1	1123
Nyaruntana	Mubuga	2	2618
Sare	Mubuga	3	2341
Kimenyi	Mugomera	1	821
Ntaho	Mugomera	2	1467
Nyabihanga	Mugomera	3	1196
Gakeceri	Ngozi rural	1	1275
Gisagara	Ngozi rural	2	4125
Masama-Buhiga	Ngozi rural	3	2360

Table 2 – Results for the sampling

Zone	Random numbers (1) for the hill selection*	Corresponding hill	Random numbers (10) for the parcels selection*
MAKABA	1 (Random numbers generated Oct 14 2014 at 17:58:20)	Gihoma	1405 502 185 678 1605 122 14 851 1489 41 (Random numbers generated Oct 11 2014 at 17:45:45)
MIVO	4 1 (Random numbers generated Oct 11 2014 at 15:6:51)	Mwungere	264 1953 1925 815 1616 332 2096 1709 584 1731 (Random numbers generated Oct 11 2014 at 17:47:34)
MUBUGA	2 1 (Random numbers generated Oct 11 2014 at 15:7:34)	Nyaruntana	1946 161 632 2112 658 2593 2611 1109 1945 40 (Random numbers generated Oct 11 2014 at 17:49:6)
MUGOMERA	2 1 (Random numbers generated Oct 11 2014 at 15:9:35)	Kimenyi	507 14 562 757 637 37 680 238 42 557 (Random numbers generated Oct 11 2014 at 17:50:41)
NGOZI RURAL	1 2 (Random numbers generated Oct 11 2014 at 15:10:19)	Gakeceri	919 746 1052 666 1270 774 516 676 316 56 (Random numbers generated Oct 11 2014 at 17:52:12)

\* Random numbers were generated with the website [www.psychicscience.org](http://www.psychicscience.org), as proposed by (Bryman, 2012).

## ANNEX II – INTERVIEW GUIDE (ORIGINAL VERSION)

		SUJET DE DROIT		
		PRÉTENTION	RECONNAISSANCE	RENFORCEMENT
DROIT D'USAGE	APRÈS	<p>1a. Qui peut présentement utiliser cette parcelle? (Nom, Genre, Age, Métier, État civil, Année de scolarité)</p> <p>1b. Qui peut présentement transformer cette parcelle?</p> <p>1c. Qui a le droit de d'émettre des autorisations et des restrictions quant à l'utilisation cette parcelle?</p> <p><b>Dans le cas de plusieurs utilisateurs.</b></p> <p>1d. Comment sont organisées les relations entre les différents utilisateurs?</p>	<p>3a. Si quelqu'un vous demande de démontrer qui vous êtes, comment pouvez-vous le faire?</p> <p>3b. Si quelqu'un vous demande de démontrer que vous avez le droit d'utiliser la parcelle, comment pouvez-vous le faire?</p>	<p>5a. Si quelqu'un agit frauduleusement et vous vole votre identité, comment le problème peut être réglé?</p> <p>5b. Si quelqu'un prétend faussement avoir le droit d'utiliser la parcelle, comment le problème peut être réglé?</p>
	AVANT	<p>2. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010?</p> <p><input type="checkbox"/> Oui <input type="checkbox"/> Non</p> <p><b>Si oui.</b></p> <p>2a. Qui pouvait utiliser cette parcelle? (Nom, Genre, Age, Métier, État civil, Année de scolarité)</p> <p>2b. Qui pouvait transformer cette parcelle?</p> <p>2c. Qui avait le droit de d'émettre des autorisations et des restrictions quant à l'utilisation cette parcelle?</p> <p><b>Dans le cas de plusieurs utilisateurs.</b></p> <p>2d. Comment étaient organisées les relations entre les différents utilisateurs?</p>	<p>4. Est-ce que la situation était différente avant la mise en opération du Service foncier communal en janvier 2010?</p> <p><input type="checkbox"/> Oui <input type="checkbox"/> Non</p> <p><b>Si oui.</b></p> <p>4a. Si quelqu'un vous demandait de démontrer qui vous êtes, comment pouviez-vous le faire?</p> <p>4b. Si quelqu'un vous demandait de démontrer que vous aviez le droit d'utiliser la parcelle, comment pouviez-vous le faire?</p>	<p>6. Est-ce que la situation était différente avant la mise en opération du Service foncier communal en janvier 2010?</p> <p><input type="checkbox"/> Oui <input type="checkbox"/> Non</p> <p><b>Si oui.</b></p> <p>6a. Si quelqu'un agissait frauduleusement et vous volait votre identité, comment le problème pouvait être réglé?</p> <p>6b. Si quelqu'un prétendait faussement avoir le droit d'utiliser la parcelle, comment le problème pouvait être réglé?</p>

		DROIT		
		PRÉTENTION	RECONNAISSANCE	RENFORCEMENT
DROIT D'USAGE	APRÈS	7a. Comment peut être utilisée la parcelle?  9a. Pour combien de temps?	11a. Si quelqu'un vous demande de démontrer comment la parcelle peut être utilisée par les différents utilisateurs, comment pouvez-vous le faire?	13a. Si quelqu'un utilise sans autorisation la parcelle, comment le problème peut être réglé?
	AVANT	8. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010? <input type="checkbox"/> Oui <input type="checkbox"/> Non  <i>Si oui.</i> 8a. Comment pouvait être utilisée la parcelle?  10a. Pour combien de temps?	12. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010? <input type="checkbox"/> Oui <input type="checkbox"/> Non  <i>Si oui.</i> 12a. Si quelqu'un vous demandait de démontrer comment la parcelle pouvait être utilisée par les différents utilisateurs, comment pouviez-vous le faire?	14. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010? <input type="checkbox"/> Oui <input type="checkbox"/> Non  <i>Si oui.</i> 14a. Si quelqu'un utilisait sans autorisation la parcelle, comment le problème pouvait être réglé?

		OBJET DE DROIT		
		PRÉTENTION	RECONNAISSANCE	RENFORCEMENT
DROIT D'USAGE	APRÈS	15a. Savez-vous jusqu'où s'étendent les limites de votre droit d'usage? <input type="checkbox"/> Oui <input type="checkbox"/> Non	17a. Si quelqu'un vous demande de démontrer où se termine le droit d'usage, comment pouvez-vous le faire?  17b. Est-ce que la parcelle est délimitée par des obstacles physiques comme des barrières, des murs, des fossés, des haies.  17c. Est-ce que la parcelle est délimitée avec des repères conventionnels, comme des poteaux, des bornes ou des arbres.  17d. Est-ce que la parcelle est définie par un plan dans un document privé ou un document officiel?	19a. Si quelqu'un dépasse les limites de son droit d'usage et empiète sur votre propriété, comment le problème peut être réglé?
	AVANT	16a. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010? <input type="checkbox"/> Oui <input type="checkbox"/> Non	18. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010? <input type="checkbox"/> Oui <input type="checkbox"/> Non  <b>Si oui.</b> 18a. Si quelqu'un vous demandait de démontrer où se terminait le droit d'usage, comment pouviez-vous le faire?  18b. Est-ce que la parcelle était délimitée par des obstacles physiques comme des barrières, des murs, des fossés, des haies.  18c. Est-ce que la parcelle était délimitée avec des repères conventionnels, comme des poteaux, des bornes ou des arbres.  18d. Est-ce que la parcelle était définie par un plan dans un document privé ou un document officiel?	20. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010? <input type="checkbox"/> Oui <input type="checkbox"/> Non  <b>Si oui.</b> 20a. Si quelqu'un dépassait les limites de son droit d'usage et empiétait sur votre parcelle, comment le problème pouvait être réglé?

		SUJET DE DROIT		
		PRÉTENTION	RECONNAISSANCE	RENFORCEMENT
DROIT AUX PRODUITS	APRÈS	<p>21a. Qui peut présentement bénéficier des produits de cette parcelle? (Nom, Genre, Age, Métier, État civil, Année de scolarité)</p> <p><i>Dans le cas de plusieurs bénéficiaires.</i></p> <p>21b. Comment sont-organisées les relations entre les différents bénéficiaires de la parcelle?</p>	<p>23a. Si quelqu'un vous demande de démontrer que vous avez le droit de bénéficier des produits de la parcelle, comment pouvez-vous le faire?</p>	<p>25a. Si quelqu'un prétend faussement avoir le droit de bénéficier des produits de la parcelle, comment le problème peut être réglé?</p>
	AVANT	<p>22. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010?</p> <p><input type="checkbox"/> Oui <input type="checkbox"/> Non</p> <p><i>Si oui.</i></p> <p>22a. Qui pouvait bénéficier des produits de cette parcelle?</p> <p><i>Dans le cas de plusieurs utilisateurs.</i></p> <p>22b. Comment étaient organisées les relations entre les différents bénéficiaires de la parcelle?</p>	<p>24. Est-ce que la situation était différente avant la mise en opération du Service foncier communal en janvier 2010?</p> <p><input type="checkbox"/> Oui <input type="checkbox"/> Non</p> <p><i>Si oui.</i></p> <p>24a. Si quelqu'un vous demandait de démontrer que vous aviez le droit de bénéficier des produits de la parcelle, comment pouviez-vous le faire?</p>	<p>26. Est-ce que la situation était différente avant la mise en opération du Service foncier communal en janvier 2010?</p> <p><input type="checkbox"/> Oui <input type="checkbox"/> Non</p> <p><i>Si oui.</i></p> <p>26a. Si quelqu'un prétendait faussement avoir le droit de bénéficier des produits de la parcelle, comment le problème pouvait être réglé?</p>

		DROIT		
		PRÉTENTION	RECONNAISSANCE	RENFORCEMENT
DROIT AUX PRODUITS	APRÈS	<p>27a. Quels sont les produits auxquels vous avez droit?</p> <p>29a. Pour combien de temps?</p>	<p>31a. Si quelqu'un vous demande de démontrer quels sont les droits des différents bénéficiaires aux produits de la parcelle, comment pouvez-vous le faire?</p>	<p>33a. Si quelqu'un bénéficie des produits de la parcelle sans autorisation, comment le problème peut être réglé?</p>
	AVANT	<p>28. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010?</p> <p><input type="checkbox"/> Oui <input type="checkbox"/> Non</p> <p><b>Si oui.</b></p> <p>28a. Quels étaient les produits auxquels vous aviez droit?</p> <p>30a. Pour combien de temps?</p>	<p>32. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010?</p> <p><input type="checkbox"/> Oui <input type="checkbox"/> Non</p> <p><b>Si oui.</b></p> <p>32a. Si quelqu'un vous demandait de démontrer quels étaient les droits des différents bénéficiaires aux produits de la parcelle, comment pouviez-vous le faire?</p>	<p>34. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010?</p> <p><input type="checkbox"/> Oui <input type="checkbox"/> Non</p> <p><b>Si oui.</b></p> <p>34a. Si quelqu'un bénéficiait des produits de la parcelle sans autorisation, comment le problème pouvait être réglé?</p>

		OBJET DE DROIT		
		PRÉTENTION	RECONNAISSANCE	RENFORCEMENT
DROIT AUX PRODUITS	APRÈS	35. Est-ce les limites du droit d'usage sont différentes de celles du droits aux produits? <input type="checkbox"/> Oui <input type="checkbox"/> Non  <b>Si oui.</b> 35a. Savez-vous jusqu'où s'étendent les limites de votre parcelle? <input type="checkbox"/> Oui <input type="checkbox"/> Non	37a. Si quelqu'un vous demande de démontrer où se termine le droit d'utilisation de la parcelle, comment pouvez-vous le faire?  37b. Est-ce que la parcelle est délimitée par des obstacles physiques comme des barrières, des murs, des fossés, des haies.  37c. Est-ce que la parcelle est délimitée avec des repères conventionnels, comme des poteaux, des bornes ou des arbres.  37d. Est-ce que la parcelle est définie par un plan dans un document privé ou un document officiel?	39a. Si quelqu'un dépasse les limites de sa parcelle et empiète sur votre propriété, comment le problème peut être réglé?
	AVANT	36. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010? <input type="checkbox"/> Oui <input type="checkbox"/> Non	38. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010? <input type="checkbox"/> Oui <input type="checkbox"/> Non  <b>Si oui.</b> 38a. Si quelqu'un vous demandait de démontrer où se terminait le droit d'utilisation de la parcelle, comment pouviez-vous le faire?  38b. Est-ce que la parcelle était délimitée par des obstacles physiques comme des barrières, des murs, des fossés, des haies.  38c. Est-ce que la parcelle était délimitée avec des repères conventionnels, comme des poteaux, des bornes ou des arbres.  38d. Est-ce que la parcelle était définie par un plan dans un document privé ou un document officiel?	40. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010? <input type="checkbox"/> Oui <input type="checkbox"/> Non  <b>Si oui.</b> 40a. Si quelqu'un dépassait les limites de son droit d'utilisation et empiétait sur votre parcelle, comment le problème pouvait être réglé?

		SUJET DE DROIT		
		PRÉTENTION	RECONNAISSANCE	RENFORCEMENT
DROIT DE TRANSFÉRER	APRÈS	<p>41a. Qui peut présentement vendre la totalité ou une partie de cette parcelle?</p> <p>41b. Qui peut présentement céder ou donner la totalité ou une partie de cette parcelle?</p> <p>41c. Qui peut présentement transmettre par héritage la totalité ou une partie de cette parcelle?</p> <p>41d. Qui peut présentement mettre en location la totalité ou une partie de cette parcelle?</p> <p>41e. Qui peut présentement mettre en gage la parcelle pour de l'argent?</p>	<p>43a. Si quelqu'un vous demande de démontrer que vous avez le droit de transférer la parcelle, comment pouvez-vous le faire?</p>	<p>45a. Si quelqu'un prétend faussement avoir le droit de transférer la parcelle, comment le problème peut être réglé?</p>
	AVANT	<p>42. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010?</p> <p><input type="checkbox"/> Oui <input type="checkbox"/> Non</p> <p><b>Si oui.</b></p> <p>42a. Qui pouvait vendre la totalité ou une partie de cette parcelle?</p> <p>42b. Qui pouvait céder ou donner la totalité ou une partie de cette parcelle?</p> <p>42c. Qui pouvait transmettre par héritage la totalité ou une partie de cette parcelle?</p> <p>42d. Qui pouvait mettre en location la totalité ou une partie de cette parcelle?</p> <p>42e. Qui pouvait mettre en gage la parcelle pour de l'argent?</p>	<p>44. Est-ce que la situation était différente avant la mise en opération du Service foncier communal en janvier 2010?</p> <p><input type="checkbox"/> Oui <input type="checkbox"/> Non</p> <p><b>Si oui.</b></p> <p>44a. Si quelqu'un vous demandait de démontrer que vous aviez le droit de transférer la parcelle, comment pouviez-vous le faire?</p>	<p>46. Est-ce que la situation était différente avant la mise en opération du Service foncier communal en janvier 2010?</p> <p><input type="checkbox"/> Oui <input type="checkbox"/> Non</p> <p><b>Si oui.</b></p> <p>46a. Si quelqu'un prétendait faussement avoir le droit de transférer la parcelle, comment le problème pouvait être réglé?</p>



		DROIT		
		PRÉTENTION	RECONNAISSANCE	RENFORCEMENT
DROIT DE TRANSFÉRER	APRÈS	<p>47a. Comment peut présentement être vendue la parcelle?</p> <p>47b. Comment peut présentement être cédée ou donnée la parcelle?</p> <p>47c. Comment peut présentement être transmis par héritage la parcelle?</p> <p>47d. Comment peut présentement être mise en location la parcelle?</p> <p>47e. Comment peut présentement être mise en gage la parcelle pour de l'argent?</p>	<p>51a. Si quelqu'un vous demande de démontrer comment peut être vendue une parcelle, comment pouvez-vous le faire?</p> <p>51b. Si quelqu'un vous demande de démontrer comment peut être cédée ou donnée une parcelle, comment pouvez-vous le faire?</p> <p>51c. Si quelqu'un vous demande de démontrer comment peut être transmis par héritage une parcelle, comment pouvez-vous le faire?</p> <p>51d. Si quelqu'un vous demande de démontrer comment peut être mise en location une parcelle, comment pouvez-vous le faire?</p> <p>51e. Si quelqu'un vous demande de démontrer comment peut être mise en gage une parcelle, comment pouvez-vous le faire?</p>	<p>53a. Si quelqu'un prétend que la vente n'est pas valide, comment le problème peut être réglé?</p> <p>53b. Si quelqu'un prétend que la donation ou la cession n'est pas valide, comment le problème peut être réglé?</p> <p>53c. Si quelqu'un prétend que le partage de l'héritage n'est pas valide, comment le problème peut être réglé?</p> <p>53d. Si quelqu'un prétend que la location n'est pas valide, comment le problème peut être réglé?</p>
	AVANT	<p>48. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010?</p> <p><input type="checkbox"/> Oui <input type="checkbox"/> Non</p> <p><b>Si oui.</b></p> <p>48a. Comment pouvait être vendue la parcelle?</p> <p>48b. Comment pouvait être cédée ou donnée la parcelle?</p> <p>48c. Comment pouvait être transmis par héritage la parcelle?</p> <p>48d. Comment pouvait être mise en location la parcelle?</p> <p>48e. Comment pouvait être mise en gage la parcelle pour de l'argent?</p>	<p>52. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010?</p> <p><input type="checkbox"/> Oui <input type="checkbox"/> Non</p> <p><b>Si oui.</b></p> <p>52a. Si quelqu'un vous demandait de démontrer comment pouvait être vendue une parcelle, comment pouviez-vous le faire?</p> <p>52b. Si quelqu'un vous demandait de démontrer comment pouvait être cédée ou donnée une parcelle, comment pouviez-vous le faire?</p> <p>52c. Si quelqu'un vous demandait de démontrer comment pouvait être transmis par héritage une parcelle, comment pouviez-vous le faire?</p> <p>52d. Si quelqu'un vous demandait de démontrer comment pouvait être mise en location une parcelle, comment pouviez-vous le faire?</p> <p>52e. Si quelqu'un vous demandait de démontrer comment pouvait être mise en gage une parcelle, comment pouviez-vous le faire?</p>	<p>54. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010?</p> <p><input type="checkbox"/> Oui <input type="checkbox"/> Non</p> <p><b>Si oui.</b></p> <p>54a. Si quelqu'un prétendait que la vente n'était pas valide, comment le problème pouvait être réglé?</p> <p>54b. Si quelqu'un prétendait que la donation ou la cession n'était pas valide, comment le problème pouvait être réglé?</p> <p>54c. Si quelqu'un prétendait que le partage de l'héritage n'était pas valide, comment le problème pouvait être réglé?</p> <p>54d. Si quelqu'un prétendait que la location n'était pas valide, comment le problème pouvait être réglé?</p>

		OBJET DE DROIT		
		PRÉTENTION	RECONNAISSANCE	RENFORCEMENT
DROIT DE TRANSFÉRER	APRÈS	55. Est-ce les limites du droit de transférer sont différentes de celles du droit d'usage et du droit aux produits? <input type="checkbox"/> Oui <input type="checkbox"/> Non  <b>Si oui.</b> 55a. Savez-vous jusqu'où s'étendent les limites de votre parcelle? <input type="checkbox"/> Oui <input type="checkbox"/> Non	57a. Si quelqu'un vous demande de démontrer où se termine le droit d'utilisation de la parcelle, comment pouvez-vous le faire?   57b. Est-ce que la parcelle est délimitée par des obstacles physiques comme des barrières, des murs, des fossés, des haies.  57c. Est-ce que la parcelle est délimitée avec des repères conventionnels, comme des poteaux, des bornes ou des arbres.  57d. Est-ce que la parcelle est définie par un plan dans un document privé ou un document officiel?	59a. Si quelqu'un dépasse les limites de sa parcelle et empiète sur votre propriété, comment le problème peut être réglé?
	AVANT	56. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010? <input type="checkbox"/> Oui <input type="checkbox"/> Non	58. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010? <input type="checkbox"/> Oui <input type="checkbox"/> Non  <b>Si oui.</b> 58a. Si quelqu'un vous demandait de démontrer où se terminait le droit d'utilisation de la parcelle, comment pouviez-vous le faire?   58b. Est-ce que la parcelle était délimitée par des obstacles physiques comme des barrières, des murs, des fossés, des haies.  58c. Est-ce que la parcelle était délimitée avec des repères conventionnels, comme des poteaux, des bornes ou des arbres.  58d. Est-ce que la parcelle était définie par un plan dans un document privé ou un document officiel?	60. Est-ce que cette situation était différente avant la mise en opération du Service foncier communal en janvier 2010? <input type="checkbox"/> Oui <input type="checkbox"/> Non  <b>Si oui.</b> 60a. Si quelqu'un dépassait les limites de son droit d'utilisation et empiétait sur votre parcelle, comment le problème pouvait être réglé?

## ANNEX III – INTERVIEW GUIDE (ENGLISH VERSION)

		SUBJECT OF RIGHT		
		CLAIM	RECOGNITION	ENFORCEMENT
RIGHT TO USE	AFTER	<p>1a. Who can use the land? (Name, Gender, Age, Profession, Marital status, Education)</p> <p>1b. Who can modify the land?</p> <p>1c. Who can give authorization and restriction for the use of this land?</p> <p><i>In the case of many users.</i></p> <p>1d. How are organized the relations between the different users?</p>	<p>3a. If someone asks you to demonstrate who you are, how can you do it?</p> <p>3b. If someone asks you to demonstrate that you have the right to use the land, how can you do it?</p>	<p>5a. If someone steals your identity, how the problem can be solved?</p> <p>5b. If someone claims the right to use the land, how the problem can be solved?</p>
	BEFORE	<p>2. Was the situation different before the establishment of the communal land office in January 2010?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If yes.</i></p> <p>2a. Who could use the land? (Name, Gender, Age, Profession, Marital status, Education)</p> <p>2b. Who could modify the land?</p> <p>2c. Who could give authorization and restriction for the use of this land?</p> <p><i>In the case of many users.</i></p> <p>2d. How were organized the relations between the different users?</p>	<p>4. Was the situation different before the establishment of the communal land office in January 2010?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If yes.</i></p> <p>4a. If someone asked you to demonstrate who you are, how could you do it?</p> <p>4b. If someone asked you to demonstrate that you have the right to use the land, how could you do it?</p>	<p>6. Was the situation different before the establishment of the communal land office in January 2010?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If yes.</i></p> <p>6a. If someone stole your identity, how the problem could be solved?</p> <p>6b. If someone claimed the right to use the land, how the problem could be solved?</p>

		RIGHT		
		CLAIM	RECOGNITION	ENFORCEMENT
RIGHT TO USE	AFTER	<p>7a. How can be used the land?</p> <p>9a. For how long?</p>	<p>11a. If someone asks you to demonstrate how the land can be used, how can you do it?</p>	<p>13a. If someone uses the land without authorization, how the problem can be solved?</p>
	BEFORE	<p>8. Was the situation different before the establishment of the communal land office in January 2010?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If yes.</i></p> <p>8a. How could be used the land?</p> <p>10a. For how long?</p>	<p>12. Was the situation different before the establishment of the communal land office in January 2010?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If yes.</i></p> <p>12a. If someone asked you to demonstrate how the land can be used, how could you do it?</p>	<p>14. Was the situation different before the establishment of the communal land office in January 2010?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If yes.</i></p> <p>14a. If someone used the land without authorization, how the problem could be solved?</p>

		OBJECT OF RIGHT		
		CLAIM	RECOGNITION	ENFORCEMENT
RIGHT TO USE	AFTER	15a. Do you know the boundary of your right to use? <input type="checkbox"/> Yes <input type="checkbox"/> No	17a. If someone asks you to demonstrate where the right to use is located, how can you do it?  17b. Is the land defined with obstacles like fences, walls, ditches, hence?  17c. Is the land defined with conventional landmarks as poles, marks, pegs, trees?  17d. Is the land defined on a plan in a private or public document?	19a. If someone trespasses and encroaches on your land, how the problem can be solved?
	BEFORE	16a. Was the situation different before the establishment of the communal land office in January 2010? <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Was the situation different before the establishment of the communal land office in January 2010? <input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes.</i> 18a. If someone asked you to demonstrate where the right to use was located, how could you do it?  18b. Was the land defined with obstacles like fences, walls, ditches, hence?  18c. Was the land defined with conventional landmarks as poles, marks, pegs, trees?  18d. Was the land defined on a plan in a private or public document?	20. Was the situation different before the establishment of the communal land office in January 2010? <input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes.</i> 20a. If someone trespassed and encroached on your land, how the problem could be solved?

		SUBJECT OF RIGHT		
		CLAIM	RECOGNITION	ENFORCEMENT
RIGHT TO THE PRODUCTS	AFTER	21a. Who can benefit from the products of the land? (Name, Gender, Age, Profession, Marital status, Education)  <i>In the case of many beneficiaries.</i> 21b. How are organized the relations between the different beneficiaries?	23a. If someone asks you to demonstrate that you have the right to benefit from the products of the land, how can you do it?	25a. If someone claims the right to benefit from the products of the land, how the problem can be solved?
	BEFORE	22. Was the situation different before the establishment of the communal land office in January 2010? <input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes.</i> 22a. Who could benefit from the products of the land? (Name, Gender, Age, Profession, Marital status, Education)  <i>In the case of many beneficiaries.</i> 22b. How were organized the relations between the different beneficiaries?	24. Was the situation different before the establishment of the communal land office in January 2010? <input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes.</i> 24a. If someone asked you to demonstrate that you had the right to benefit from the products of the land, how could you do it?	26. Was the situation different before the establishment of the communal land office in January 2010? <input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes.</i> 26a. If someone claimed the right to benefit from the products of the land, how the problem could be solved?

		RIGHT		
		CLAIM	RECOGNITION	ENFORCEMENT
RIGHT TO THE PRODUCTS	AFTER	<p>27a. To which products do you have right?</p> <p>29a. For how long?</p>	<p>31a. If someone asks you to demonstrate what the rights on the products are, how can you do it?</p>	<p>33a. If someone benefits from the products of the land without authorization, how the problem can be solved?</p>
	BEFORE	<p>28. Was the situation different before the establishment of the communal land office in January 2010?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If yes.</i></p> <p>28a. To which products did you have right?</p> <p>30a. For how long?</p>	<p>32. Was the situation different before the establishment of the communal land office in January 2010?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If yes.</i></p> <p>32a. If someone asked you to demonstrate what the rights on the products were, how could you do it?</p>	<p>34. Was the situation different before the establishment of the communal land office in January 2010?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If yes.</i></p> <p>34a. If someone benefited from the products of the land without authorization, how the problem could be solved?</p>

		OBJECT OF RIGHT		
		CLAIM	RECOGNITION	ENFORCEMENT
RIGHT TO USE	AFTER	35. Do the boundaries for the right to use are different than those for the right to the products? <input type="checkbox"/> Yes <input type="checkbox"/> No  35a. Do you know the boundary of your right to the products? <input type="checkbox"/> Yes <input type="checkbox"/> No	37a. If someone asks you to demonstrate where the right to the products is located, how can you do it?  37b. Is the land defined with obstacles like fences, walls, ditches, hence?  37c. Is the land defined with conventional landmarks as poles, marks, pegs, trees?  37d. Is the land defined on a plan in a private or public document?	39a. If someone trespasses and encroaches on your land, how the problem can be solved?
	BEFORE	36a. Was the situation different before the establishment of the communal land office in January 2010? <input type="checkbox"/> Yes <input type="checkbox"/> No	38. Was the situation different before the establishment of the communal land office in January 2010? <input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes.</i> 38a. If someone asked you to demonstrate where the right to the products was located, how could you do it?  38b. Was the land defined with obstacles like fences, walls, ditches, hence?  38c. Was the land defined with conventional landmarks as poles, marks, pegs, trees?  38d. Was the land defined on a plan in a private or public document?	40. Was the situation different before the establishment of the communal land office in January 2010? <input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes.</i> 40a. If someone trespassed and encroached on your land, how the problem could be solved?



		SUBJECT OF RIGHT		
		CLAIM	RECOGNITION	ENFORCEMENT
RIGHT TO TRANSFER	AFTER	41a. Who can sell the land?  41b. Who can donate the land?  41c. Who can transmit by inheritance the land?  41d. Who can rent the land?  41e. Who can use the land as collateral?	43a. If someone asks you to demonstrate that you have the right to transfer the parcel, how can you do it?	45a. If someone claims the right to transfer the land, how the problem can be solved?
	AVANT	42. Was the situation different before the establishment of the communal land office in January 2010? <input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes.</i> 42a. Who could sell the land?  42b. Who could donate the land?  42c. Who could transmit by inheritance the land?  42d. Who could rent the land?  42e. Who could use the land as collateral?	44. Was the situation different before the establishment of the communal land office in January 2010? <input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes.</i> 44a. If someone asked you to demonstrate that you had the right to transfer the parcel, how could you do it?	46. Was the situation different before the establishment of the communal land office in January 2010? <input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes.</i> 46a. If someone claimed the right to transfer the land, how the problem could be solved?

		RIGHT		
		CLAIM	RECOGNITION	ENFORCEMENT
RIGHT TO TRANSFER	AFTER	<p>47a. How can be sold the land?</p> <p>47b. How can be donated the land?</p> <p>47c. How can be transmitted by inheritance the land?</p> <p>47d. How can be rented the land?</p> <p>47e. How can be used as collateral the land?</p>	<p>51a. If someone asks you to demonstrate how can be sold the land, how can you do it?</p> <p>51b. If someone asks you to demonstrate how can be donated the land, how can you do it?</p> <p>51c. If someone asks you to demonstrate how can be transmitted by inheritance the land, how can you do it?</p> <p>51d. If someone asks you to demonstrate how can be rented the land, how can you do it?</p> <p>51e. If someone asks you to demonstrate how can be used as collateral the land, how can you do it?</p>	<p>53a. If someone pretends that the sale is not valid, how the problem can be solved?</p> <p>53b. If someone pretends that the donation is not valid, how the problem can be solved?</p> <p>53c. If someone pretends that the succession is not valid, how the problem can be solved?</p> <p>53d. If someone pretends that the rent is not valid, how the problem can be solved?</p>
	BEFORE	<p>48. Was the situation different before the establishment of the communal land office in January 2010?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><i>If yes.</i></p> <p>48a. How could be sold the land?</p> <p>48b. How could be donated the land?</p> <p>48c. How could be transmitted by inheritance the land?</p> <p>48d. How could be rented the land?</p> <p>48e. How could be used as collateral the land?</p>	<p>52. Was the situation different before the establishment of the communal land office in January 2010?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><i>If yes.</i></p> <p>52a. If someone asked you to demonstrate how could be sold the land, how could you do it?</p> <p>52b. If someone asked you to demonstrate how could be donated the land, how could you do it?</p> <p>52c. If someone asked you to demonstrate how could be transmitted by inheritance the land, how could you do it?</p> <p>52d. If someone asked you to demonstrate how could be rented the land, how could you do it?</p> <p>52e. If someone asked you to demonstrate how could be used as collateral the land, how could you do it?</p>	<p>54. Was the situation different before the establishment of the communal land office in January 2010?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><i>If yes.</i></p> <p>53a. If someone pretended that the sale was not valid, how the problem could be solved?</p> <p>53b. If someone pretended that the donation was not valid, how the problem could be solved?</p> <p>53c. If someone pretended that the succession was not valid, how the problem could be solved?</p> <p>53d. If someone pretended that the rent was not valid, how the problem could be solved?</p>

		OBJECT OF RIGHT		
		CLAIM	RECOGNITION	ENFORCEMENT
RIGHT TO TRANSFER	AFTER	35. Do the boundaries for the right to transfer are different than those for the right to use and the right to the products? <input type="checkbox"/> Yes <input type="checkbox"/> No  35a. Do you know the boundary of your right to transfer? <input type="checkbox"/> Yes <input type="checkbox"/> No	37a. If someone asks you to demonstrate where the right to transfer is located, how can you do it?   37b. Is the land defined with obstacles like fences, walls, ditches, hence?  37c. Is the land defined with conventional landmarks as poles, marks, pegs, trees?  37d. Is the land defined on a plan in a private or public document?	39a. If someone trespasses and encroaches on your land, how the problem can be solved?
	BEFORE	36a. Was the situation different before the establishment of the communal land office in January 2010? <input type="checkbox"/> Yes <input type="checkbox"/> No	38. Was the situation different before the establishment of the communal land office in January 2010? <input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes.</i> 38a. If someone asked you to demonstrate where the right to transfer was located, how could you do it?   38b. Was the land defined with obstacles like fences, walls, ditches, hence?  38c. Was the land defined with conventional landmarks as poles, marks, pegs, trees?  38d. Was the land defined on a plan in a private or public document?	40. Was the situation different before the establishment of the communal land office in January 2010? <input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes.</i> 40a. If someone trespassed and encroached on your land, how the problem could be solved?

## ANNEX IV – RESPONDENTS LIST

Table 3 – Respondents list

Ref	Parcel No	Last Name	First Name	Gender	Hill	Sub-Hill	Status
1	---	---	---	M	Gihoma	Gihoma	Completed
2	---	---	---	M	Gihoma	Gihoma	
3	---	---	---	M	Gihoma	Gihoma	Completed
4	---	---	---	M	Gihoma	Gihoma	Completed
5	---	---	---	M	Gihoma	Gihoma	Completed
6	---	---	---	M	Gihoma	Gihoma	Completed
7	---	---	---	M	Gihoma	Gihoma	Completed
8	---	---	---	M	Gihoma	Gacamirunga	Completed
9	---	---	---	M	Gihoma	Gacamirunga	Completed
10	---	---	---	M	Gihoma	Gacamirunga	Completed
11	---	---	---	M	Mwungere	Runyinya	Completed
12	---	---	---	M	Mwungere	Runyinya	Completed
13	---	---	---	M	Mwungere	Karenga	
14	---	---	---	M	Mwungere	Karenga	Completed
15	---	---	---	M	Mwungere	Runyinya	Completed
16	---	---	---	F	Mwungere	Runyinya	Completed
17	---	---	---	M	Mwungere	Runyinya	Completed
18	---	---	---	M	Mwungere	Karenga	Completed
19	---	---	---	M	Mwungere	Karenga	Completed
20	---	---	---	M	Mwungere	Nyabikenke	Completed
21	---	---	---	M	Nyanruntana	Kabamba	
22	---	---	---	M	Nyanruntana	Kabamba	Completed
23	---	---	---	M	Nyanruntana	Rutegama	Completed
24	---	---	---	M	Nyanruntana	Rutegama	Completed
25	---	---	---	M	Nyanruntana	Kabamba	Completed
26	---	---	---	M	Nyanruntana	Butanganika	Completed
27	---	---	---	M	Nyanruntana	Butanganika	Completed
28	---	---	---	M	Nyanruntana	Butanganika	Completed
29	---	---	---	M	Nyanruntana	Butanganika	Completed
30	---	---	---	M	Nyanruntana	Butanganika	Completed
31	---	---	---	M	Kimenyi	Rurambira	Completed
32	---	---	---	M	Kimenyi	Rurambira	Completed
33	---	---	---	M	Kimenyi	Rurambira	Completed
34	---	---	---	M	Kimenyi	Gtanga	Completed
35	---	---	---	M	Kimenyi	Rurambira	Completed
36	---	---	---	M	Kimenyi	Rurambira	Completed
37	---	---	---	M	Kimenyi	Rurambira	Completed
38	---	---	---	M	Kimenyi	Rurambira	Completed
39	---	---	---	M	Kimenyi	Kagoma	Completed

40	---	---	---	M	Kimenyi	Rurambira	Completed
41	---	---	---	M	Gakeceri	Gakeceri	
42	---	---	---	M	Gakeceri	Nyanbeho	Completed
43	---	---	---	M	Gakeceri	Kinwa	Completed
44	---	---	---	M	Gakeceri	Nyanbeho	Completed
45	---	---	---	M	Gakeceri	Nyanbeho	
46	---	---	---	M	Gakeceri	Kinwa	Completed
47	---	---	---	M	Gakeceri	Kinwa	Completed
48	---	---	---	M	Gakeceri	Kinwa	Completed
49	---	---	---	M	Gakeceri	Kinwa	
50	---	---	---	M	Gakeceri	Kinwa	